

PUBLIC SECTOR GOVT. JUSTICE

1990

OCT. - DEC.

# Reprieve from Death Row

Sowetan  
1/10/90

252

LIFE imprisonment has been substituted by the Appeal Court in Bloemfontein for the death sentence that Robert Mda, of the Klipriver area, received for the murder of Mr Eric Ntaha. Ntaha was killed at Drumblade in the Vereeniging area on May 2 1987

Mda was convicted by Mr Justice DH van Zyl in the circuit court at Potchefstroom on August 19 1988.

Mr Justice Eksteen said that Mda was clearly a danger to the

community

It was the court's duty to ensure that society was not again threatened by Mda. He had a previous conviction for murder.

The judge said that the aggravating factors against Mda were heavier than the mitigating factors.

The question was whether the death sentence was a suitable one.

After long and careful consideration the judge

had found that this was not the case.

Although not a mitigating factor, it was important to note that the death blow had not been accompanied by any additional cruelties or denigratory actions.

Eksteen said that the new law made express provision for life imprisonment.

Its stipulations made it possible for a court to fulfil its duty to protect society against attacks by violent persons such as Mda, by the imposition of life imprisonment.

Mr Justice van Heerden and Mr Justice Milne concurred. - Sapa.

# Hani: ANC recruiting, training members

UMKHONTO we Sizwe (MK) chief of staff Chris Hani returned to SA from Transkei at the weekend after regaining his indemnity, and said the ANC's military wing was continuing to train and recruit members

Hani joined ANC deputy leader Nelson Mandela at an international news conference in Soweto yesterday where he said Umkhonto should form part of the new SA Army

He said the ANC was still consulting other countries on the regular training of MK members. Hani said August's Pretoria Minute signed by government and the ANC

LINDEN BIRNS  
referred only to military operations, not to recruitment.

Mandela — who earlier braved searing heat to do door-to-door canvassing for the ANC — added that government's unconditional granting of indemnity for Hani would help to restore "a more positive atmosphere in which discussions can take place".

Mandela said the ANC national executive committee (NEC) welcomed Hani's presence in Johannesburg and reiterated

that he would lead the ANC side of the joint government/ANC working group on the suspension of the ANC's armed struggle.

The outspoken chief of staff had always been a loyal and disciplined ANC member, Mandela said.

Hani said he had had no contact with government before it decided to renew his indemnity, and that although a recent statement he made at Transkei University regarding the continuation of the armed struggle had been taken out of context, he wanted to reiterate that the armed strug-

□ To Page 2

## Hani

gle would have to continue if negotiations for a non-racial democratic SA collapsed

On the issue of the return of ANC exiles, including MK cadres, Mandela said it was unlikely large numbers would return, as the government required detailed information on each exile — "but the process will start tomorrow"

Sapa reports that Mandela said of his canvassing drive that most residents had already joined the organisation and those who had not, signed up immediately.

He leaves next Monday on an eight-nation tour which includes the Soviet Union, France and Australia

Before leaving for abroad, Mandela will address ANC branches in Stanger, Durban and Maritzburg. He returns from the Far East on November 2

□ In a keynote speech to the ANC's regional conference in Johannesburg on Saturday, internal leader Walter Sisulu said pressure should be stepped up for government to create the right conditions for negotiations and a peaceful transfer of power to the black majority.

He said the time was ripe for government to transfer power, but warned that blacks would have to be judicious in this process

□ From Page 1

# Indemnify for arms extended

THE Government has extended the indemnity period allotted to people and organisations which willingly hand in firearms, explosives or ammunition illegally in their possession (252)

*Sowetan 11/10/90*

Minister of Justice Mr Kobie Coetzee and the Minister of Law and Order, Mr Adriaan Vlok, said the period of indemnity had been extended from October 1 to 31, because the State President's offer had apparently not reached people in the remote areas.

Announcing the indemnity earlier this month, the State President also announced a R100 000 reward for information leading to the recovery of weapons

# Hospital workers win court battle

Sowetan 1/10/90

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AN appeal by the Administrator of the Transvaal and three others against a decision that set aside the dismissal of cleaners at Natalspruit Hospital, has been dismissed, with costs, by the Appeal Court in Bloemfontein.

Mrs Evelyn Zenzile, Mrs Maria Pale and Mrs Ethelma Mngomazulu, all of Katlehong, were dismissed for a work stoppage at the hospital on August 18 and 19, 1987 after a worker had been dismissed.

On September 2, 1988 in the Witwatersrand Local Supreme Court Mr Justice J H Coetzee declared the applicant cleaners remained in the employee of the TPA

He ordered the authorities to recognise the terms of the cleaners' employment

The Administrator, Provincial Secretary of Transvaal, Director of Hospital Services and the Superintendent of the Natalspruit Hospital were ordered to pay the costs of the application.

On Thursday Mr Justice Hoexter was unable to accept the argument that the contractual relationship between the Administration and the cleaners was simply one of master and servant, governed exclusively by the common law of contract, and that the respondents' participation in the work-stoppage was an unlawful repudiation of their contractual obligation to work, or a fundamental

breach of that obligation, which entitled their employer to summarily dismiss them

The judge said what was involved here was not mere employment under a contract of service between two private individuals, but with a form of employment which invested the employee with a particular status which the law would protect

Mr Justice Hoexter said the element of public service injected by statute necessarily entailed that the respondents were entitled to the benefit of the application of the principles of natural justice before they could be summarily dismissed for misconduct

Despite the humble posts occupied by the women in the public ser-

vice hierarchy it was significant, said the judge, that neither the Public Service Act nor the Public Service Staff Code distinguished between "permanent" and "temporary" employees

In the present case the Administration was entitled to dismiss only if the employee was guilty of misconduct or unsatisfactory service

The judge found that Mr Justice Coetzee was right to hold that the failure of the Administrator and officials to apply the "audi alteram partem" (hear the other party) principle, constituted a procedural impropriety that vitiated the decision to summarily dismiss the women for alleged misconduct. - Sapa

# MK's Hani is back in South Africa

Soweto 11/10/90

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THE chief of staff of Umkhonto we Sizwe, Mr Chris Hani, who has been holed up in Transkei since the Government's refusal to renew his indemnity about five weeks ago, returned to Johannesburg at the weekend.

Hani's return followed a decision last week by the Department of Justice to renew his indemnity unconditionally until December 31.

This was after deputy leader of the African National Congress Mr Nelson Mandela had written to the Government saying he had no doubt that Hani remained "committed to the spirit and letter of the Groote Schuur and Pretoria minutes".

By SY MAKARINGE

Mandela reiterated at a Press conference at his Soweto home yesterday that Hani would lead an ANC working group, established in terms of the Pretoria Minute to look into all matters arising from the organisation's decision to suspend the armed struggle.

## Speech

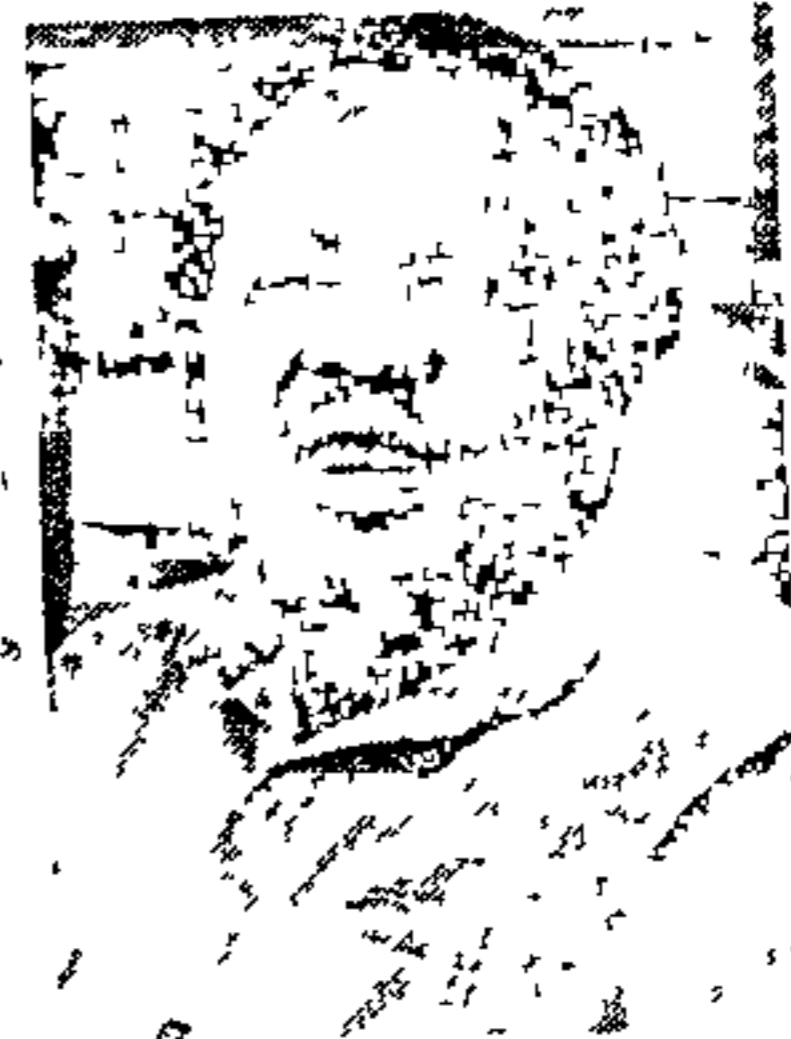
In a statement, Mandela said the national executive committee of the ANC noted with "grave concern attempts through the media to portray Chris Hani as a 'maverick' individual".

He said the ANC looked forward to Hani's free and unhindered participation in the activities of the organisation

Addressing the conference, Hani said a statement he made during a speech in Transkei - which apparently led to the withdrawal of his indemnity - was taken out of context.

"I openly said we supported negotiations and that Umkhonto we Sizwe was behind the negotiation process. I went on further to say that if they (negotiations) did not succeed, the struggle would continue, including the armed struggle, until a non-racial society was established in South Africa," he said.

Mandela said the Government had said it would not consider renewing former Umkhonto we Sizwe intelligence chief Ronnie Kasril's indemnity as long as he remained un-



CHRIS HANI

derground

In the case of Mac Maharaj, who is presently in detention under Section 29, Mandela said the Government had made it clear it would consider his situation once he had been released.

He added that the ANC was continually giving the matter serious attention.

# SAP to quiz council officials on murder

Star 2/10/90

Staff Reporter

Police have confirmed that certain Johannesburg City Council officials will be questioned in connection with the murder of Wits University academic David Webster

The 19-month-old police investigation into Dr Webster's

murder would embrace the activities of certain council officials in the light of the Hiemstra Commission spy report, said police spokesman Lieutenant Leon Engelbrecht

Lieutenant Engelbrecht said this had been confirmed to him last night by Brigadier Floris

Mostert, who is leading the investigation.

Council officials allegedly compiled a detailed dossier on Dr Webster during their surveillance activities

He was assassinated outside his Troyville, Johannesburg, home on May 1 last year

December congress to debate latest shift in thinking on economic policy

# Nationalisation: ANC softens line

By MICHAEL MORRIS

Political Correspondent  
and the Argus Foreign  
Service

AFRICAN National Congress economic policy is showing signs of becoming more flexible, with less emphasis on nationalisation as a means of redistributing wealth.

A new draft policy statement, indicating a shift in thinking on nationalisation suggests that only public utilities which have been privatised "will be subject to immediate renationalisation".

The movement's previous economic paper said nationalisation would be an essential part of the reconstruction programme.

The draft policy has been circulated to branches for discussion and will form the basis of one of the most important debates at the ANC's national congress in December.

An ANC source said today: "There is a shift in people's thinking on nationalisation. I think there is more emphasis on productivity, and an acknowledgment that just by nationalising industries you are not solving the problem of maintaining productivity."

He said some constituencies in the movement, such as the miners, still backed nationalisation strongly.

## Violence factor

Another indication of the ANC's new thinking on economic matters emerged at the World Economic Forum conference on Southern Africa in Geneva yesterday, when the movement's foreign affairs spokesman, Mr. Thabo Mbeki, said the ANC was leaving its options open on nationalisation.

Mr. Mbeki who, with Finance Minister Mr. Barred du Plessis, addressed the conference yesterday, said the ANC was not going into negotiations with specific demands on the economy and expected the government to do the same.

Mr. Mbeki also acknowledged that the violence in South Africa had become the major factor for inhibiting future investment.

Mr. Mbeki said that when the peace process was irreversible and businessmen had to make a decision on investing, they would be sure to invest in South Africa.

2/10/80

1964

Meanwhile in Pretoria — where President F. W. de Klerk has another meeting today with leaders of the self-governing territories — the government is still considering the ANC's request for a summit.

The ANC has objected to the government responding to the organisation's request for a summit "through the press" and has taken issue with bureaucracy surrounding the return of exiles.

The ANC this week asked for an urgent summit with the government to discuss a number of issues, notably the status of talks.

Government sources are reported to have expressed doubts about a full-scale summit this week to fit in with ANC deputy president Nelson Mandela's travel plans.

## Exiles' return

On the return of exiles, ANC spokesman Miss Gill Marcus said the ANC took exception to the government's plans to make exiles fill in questionnaires disclosing any possible offences they had committed before they were allowed into the country.

ANC spokesman Mr. Abba Omar said yesterday that KwaZulu Chief Minister Chief Mangosuthu Buthelezi was "more than welcome" to attend Friday's meeting between homeland leaders and the ANC in his capacity as leader of the Inkatha Freedom Party.

Dr. Lawrence Schlemmer of Wits University said yesterday that one party domination in South Africa was unlikely since the ANC could battle to draw more than 50 percent support at the polls and opposition parties were unlikely to obtain less than one third.

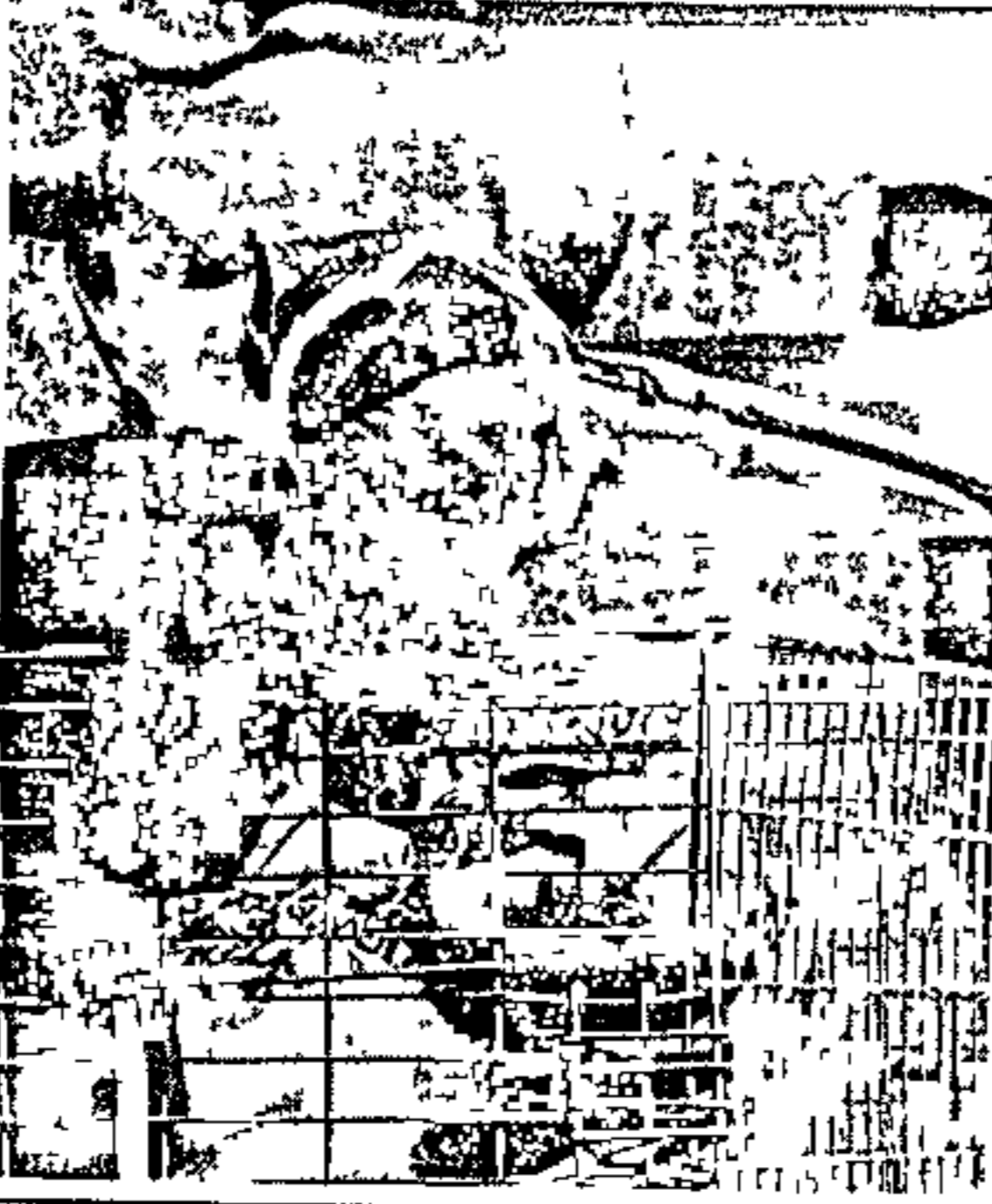
He told a World Economic Forum conference in Geneva on "The New Southern Africa Prospects for Growth" that South Africa had many elements to ensure democratic pluralism in a post-apartheid society.

But the country was not free of some depressing impediments to multi-party democracy.

Mr. Nicholas Oppenheimer, deputy chairman of Anglo American and De Beers, said after the conference that the ANC policy document was "one of the products of feeling its way towards the peace process".



**POODIECARE** Poodle Quatreau's tail is given a last brush before he enters the ring for his shot at stardom



**TRADING PLACES** "Now you know what it feels like to be cooped up in a cage all day," is what Staffordshire terrier Triple Trouble is probably thinking as Carika Visagie, 10, tries out his temporary accommodation for size



**FLAMES** Step of Howling dog unit jumps through a hoop of flames at the Cope Town Kennel Club championships in Stellenbosch at the weekend



# Council still to decide on Pearce

Star 2/16/90  
252  
Municipal Reporter

The Johannesburg City Council management committee has taken no decision yet on whether to suspend director of public safety John Pearce, who faces an internal disciplinary inquiry after the Hiemstra Commission found him grossly negligent

An unscheduled management committee meeting took place yesterday to discuss the matter. Acting town clerk Graham Collins confirmed there were complications as the issue was a legal one.

"I am dealing with the matter, but no decision has been taken as yet on convening a special council meeting to discuss the suspension of Mr Pearce," Mr Collins said

Mr Pearce left the meeting yesterday, saying: "Bad luck ... I haven't been suspended."

He is facing council charges relating to alleged misconduct or negligence or dilatoriness in the performance of his duties

# Land Act to go in '91, farmers' protest expected

By Peter Fabricius,  
Political Correspondent

A strong protest from white farmers is expected to follow the Government's announcement yesterday that the Land Act — which has underpinned rural apartheid for decades — is to be abolished during the coming parliamentary session.

At the same time, the Government has agreed to investigate temporary safeguards to prevent tribally-owned land in the homelands from being snapped up by white entrepreneurs when the Land Acts are scrapped next year. It has also agreed that the abolition of the Acts — which restrict black ownership of land largely to the homelands — should be coupled with immediate non-discriminatory access by blacks to sources of financing such as the Land Bank and agricultural credit.

This was announced after the fourth meeting yesterday between the central Government, the leaders of the six self-governing territories and the Ministers' Councils of Parliament.

"The meeting strongly urged the Government to make acceptable transitional arrangements with a view to the protection of specific community interests in connection with land tenure," a joint statement said.

## Squatting

A working group was assigned to advise the Government urgently on a broad land reform policy including matters such as financing, training, squatting, maintenance of productivity, types of land ownership, agricultural extension work and nature conservation.

One prominent member of a homeland government said after the meeting that the homelands

feared that after the restrictions on racial ownership of land under the Land Acts were gone, white money interests would snap up all the best land in their territories.

Before yesterday's meeting the Government was saying that if the Land Act restrictions on blacks owning land in "white" South Africa were scrapped, then equally the restrictions on whites owning land in the homelands should fall away.

Not to do so would be to practise reverse discrimination. However, the Government seems now to have made concessions in response to strong urgings from the homelands.

President de Klerk said at a press conference after the meeting that the issue of tribal and communal land ownership was "a problem of great sensitivity" which would require very careful investigation.

Mr de Klerk said the possibility of increasing the funds in the Land Bank to accommodate the increased demand from black farmers would be considered for next year's budget.

The joint statement urged all political movements and parties to honour their undertakings to refrain from violence, intimidation and destabilisation and from making inflammatory statements.

The meeting recognised the democratic rights of all political organisations to freely state their views and to oppose each other peacefully.

Constitutional Development Minister Gerrit Viljoen said that some "new entries into the political arena" failed to understand one of the fundamental democratic groundrules — the right of political opponents to criticise even if it caused embarrassment.

# Pearce suspended pending outcome of inquiry



Suspended Johannesburg's security chief, John Pearce

By Louise Burgers, Municipal Reporter

Johannesburg's director of public safety, John Pearce, has been suspended pending the outcome of an internal disciplinary inquiry which begins today.

Last week the Hiemstra Commission found Mr Pearce to have been grossly negligent. This is the first time in many years that a top official has faced a disciplinary hearing which could result in the loss of his job.

Acting town clerk Graham Collins took the decision to suspend Mr Pearce yesterday.

Because a town clerk can suspend an official for a limited

period only, a special city council meeting will be held at 1 pm tomorrow to vote on a management committee recommendation that Mr Pearce be suspended until the inquiry is completed.

Management committee chairman, Ian Davidson said Mr Pearce had been suspended in terms of his conditions of service. He said Mr Collins had reported to the management committee on his discussions with Mr Pearce. Mr Pearce is facing accusations of misconduct or negligence or dilatoriness in the performance of his duties. He has indicated he will fight the allegations.

Transvaal Municipal Association

president, Johan van der Merwe, yesterday paid tribute to Johannesburg's town clerk, Manie Venter, who chose to take long leave pending retirement after the Hiemstra Commission findings.

Mr van der Merwe said Mr Venter paid a high price and it reflects on the whole system of local government in South Africa. His role as town clerk and in the TMA must be seen in perspective. We have great appreciation for his role in the TMA. Mr van der Merwe said a single incident should not be seen in isolation. Mr Venter was in control of such a large organisation.

SAW  
3/10/90

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# Council must pay R2-m to attorneys

Own Correspondent

The Diepmeadow council's attempt to recover rent arrears by hiring a firm of attorneys backfired when it was presented with a R2 million legal bill

The council hired attorneys in July to collect more than R37 million rent owed by Diepmeadow residents

This was after black local authorities had been warned by Transvaal authorities that services would be cut off if they failed to pay.

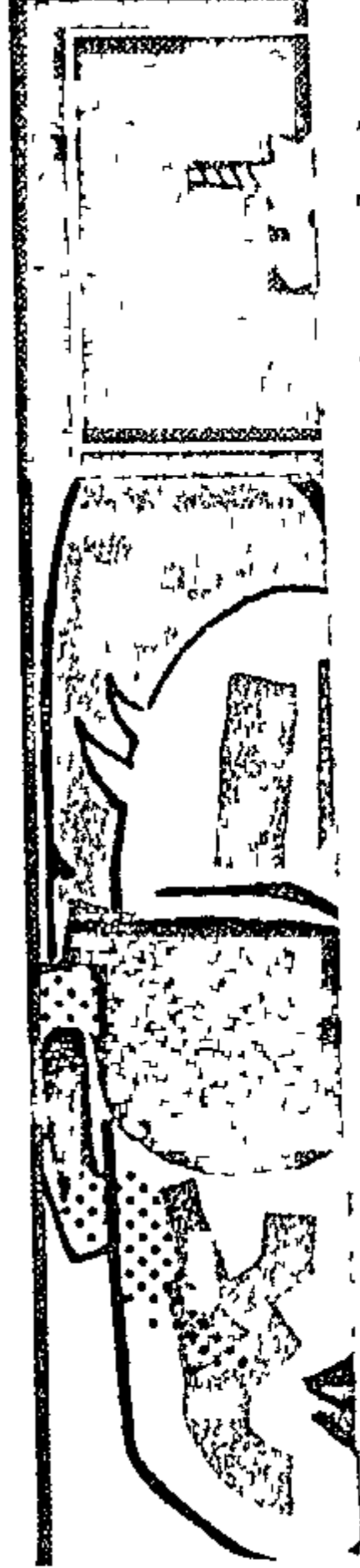
The firm of attorneys sent several letters of demand to residents in July warning them to pay their arrears

The impression given to the council at the time was that the legal costs would be borne by the residents

However, the plan to take the residents to court was halted when the Diepmeadow Civic Association intervened on behalf of the residents, and the council was left to foot the bill.

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# Vrye Weekblad editor found guilty

By Celeste Louw

The editor and publishers of the weekly newspaper, Vrye Weekblad, were guilty of contravening the Protection of Information Act by receiving and publishing a document containing information sensitive to State security, a Johannesburg Regional Court magistrate found yesterday

Max du Preez and Wending Publications were found guilty

on two charges following the publication of an article in February, titled "Storm oor Matie Prof en Intelligensiediens" (Storm over Matie professor and Intelligence Service)

Magistrate T la Grange said the document involved had been prepared by a university department for the Department of National Intelligence and discussed methods of obtaining information regarding State se-

curity

It was obvious the publication of information of this nature would be detrimental to the security of the State, he found. Therefore the accused must have foreseen that the publication of the information would be a contravention of the Act, the court found

The trial was postponed to October 26 for sentence

## Top Cosatu man in court

4/10/90  
Congress of South African Trade Unions general secretary Jay Naidoo, Sydney Mafumadi and Baba Schalk appeared briefly in a Johannesburg regional court yesterday on provisional charges of kidnapping, assault and robbery, fol-

252  
Following a police raid on Cosatu House last month.

No formal charges were put to the three and they were not asked to plead.

The case was postponed to November 5. — Court Reporter.

# SOWETAN

THURSDAY OCTOBER 4 1990

MORNING FINAL

All areas 50c (44c + 6c GST)

## Government warns over MK remarks

# Plan to deal

Sowetan 4/10/90

# WITHIN FIVE

THE Government would soon "deal with" ANC military leader Mr Chris Hanu's remarks on the continued recruitment of Umkhonto we Sizwe soldiers, according to a senior Government Minister.

Addressing a National Party

meeting in Randburg on Tuesday night, Education and Development Minister Dr Stoffel van der Merwe said Law and Order Minister Mr Adrian Vlok would do so within the next few days.

He said the Government was unhappy with the militant statements made by Hanu, Umkhonto we Sizwe chief of staff.

It was particularly concerned

about the continued training of MK soldiers after the signing of the Pretoria Minute which announced the ANC's suspension of the armed struggle.

Hanu returned to Johannesburg on Sunday after the renewal of his temporary indemnity from arrest until the end of the year.

An earlier indemnity was withdrawn after he made militant statements.

LADIES' NYLON NIGHTIES

WERE 25<sup>99</sup>

Now 10<sup>00</sup>

ELOFF ST., KERK ST., CARLTON CENTRE

### Hani is warned

From Page 1

ments in Transkei. The ANC subsequently refused to take up a 41-hour indemnity granted to Hanu to attend a session of the joint Government/ANC working group on the armed struggle *Sowetan* 4/10/90. His new indemnity, granted last week, has been interpreted as the removal of a stumbling block in the negotiation process, particularly the activities of the working group.

Hanu was chosen by the ANC to head the organisation's representatives on this committee. *Sowetan* 4/10/90

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**2 found guilty  
of Rive murder**

CAPE TOWN — Vincent Donald Aploon, 23, and Suleiman Turner, 18, were yesterday found guilty in the Cape Supreme Court of murdering writer and philosopher Richard Rive.

They were also convicted of robbery with aggravating circumstances.

Aploon was also convicted on five counts of fraud.

Both pleaded not guilty to murdering and robbing Rive at his Heathfield, Cape, home on June 3 1989.

Medical evidence was that Rive had been stabbed 22 times — Sapa (252)

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# City councillor 'enjoying' jail spell

821 5/10/90

By Louise Burgers,  
Municipal Reporter



Dave Verster . . . "as good a place as any".

Johannesburg city councillor Dave Verster professes to be enjoying his enforced absence from the municipal scene

He is having a relaxing time in his temporary home — Diepkloof Prison — and is even learning to cook

In a conversation with visitors, Mr Verster said life at Diepkloof Prison in Johannesburg was an escape from the "mad world"

"It's nice to be here

"The solitude is refreshing after the pace of life outside

"I am making friends, I work in the kitchens, read, draw. We are allowed to make our own coffee

"It's like a holiday — they do call it Sun City.

"I get plenty of exercise and the authorities are very good," said Mr Verster

He said he had decided to grow a beard because he had run out of his type of razor-blade

He may also write a book if he remains incarcerated until Christmas.

"I can weather this, I've weathered worse storms"

Mr Verster was jailed for 90 days for contempt of court after failing to comply with a judgment ordering him to pay a debt of R8 000.

"I decided to come to jail — it was my own choice

"There are things that need sorting out in court and I will wait until then.

"I am quite prepared to stay here

"I am enjoying it, it's a nice place, not like a prison at all

"If you want to get away from Civvie Street, this is as good a place as any," he said cheerfully.

Weekblad  
to fight  
actions for  
damages

Damages of more than R1 million are being sought in two actions against the editor and publishers of Vrye Weekblad newspaper

The actions are being brought by Witwatersrand Attorney-General Klaus von Lieres and General Lothar Neethling, chief of police scientific technical services.

Vrye Weekblad editor Max du Preez said he had also received notice from Law and Order spokesman Brigadier Leon Mellet that he intended to sue for R200 000, based on his claim that the newspaper had implied he was a liar.

Mr von Lieres served notice yesterday of intent to sue for R35 000, claiming that Vrye Weekblad had alleged selective prosecution of the newspaper

General Neethling's action starts on Monday in London, where former policeman Dirk Coetzee will give evidence

Mr du Preez said: "We are defending whatever comes our way, as we believe we have a right to criticise civil servants."

This week he and Wending Publications were convicted of contravening the Protection of Information Act by publishing a document containing information sensitive to State security — Staff Reporter

# With forms like these, who needs indemnities?

SOMEWHERE in Tanzania, sometime in early October. Pen poised, Comrade "Sizwe" sits face to face with the document that will bring him home. The East African sun glints off the "Application for Indemnity" before him, the first official South African document he has seen since he threw his *dompas* into the Limpopo river in 1976. He shakes his head with incredulity. Has nothing changed?

Well, the first few questions are simple. He'll put in his real name, of course, even though he hasn't used it since he left, and for his address he'll write "c/o ANC, Tanzania".

But here comes a difficult one: "South African Identity Number". No way he'll remember that. It's cavorting with the crocodiles somewhere on the bed of the Limpopo. Oh well, he'll make one up.

But how is he going to answer this one? "Furnish sufficient particulars of the event(s) in respect of which indemnity is sought." Well, at least that parenthetical "s" acknowledges that he might have committed more than one "event" against the South African state. That's the problem. He's committed several.

Must he admit, on a signed document that will be handed to the authorities, his record of resistance, from the first time he read a dog-eared copy of the Commu-

*An official application form has been issued to ANC members wishing to return. But, as MARK GEVISSER discovers, it's not that easy to complete.*

nist Manifesto to the odd power-station explosion to which he contributed?

First of all, he'll never be able to fit it into the eight dotted lines allocated, and second, how will he know that it won't be used against him and the movement? Whether or not they grant him indemnity, there'll be a lovely little dossier on him in The Blue Hotel. Should he lie?

Here's a much more exciting one: "Applicant's motivation for regarding said action(s) as political." At last, an opportunity to tell those *boere* what I think. But then reality hits him like a *konstabel's* knobkerrie. He sees himself at the dock, a red-faced judge glaring at him. No way. He'll have to leave this one blank too.

He looks at the last question: "If applicant currently resides outside the RSA, state (a) date of departure (b) point of departure." He laughs out loud. "Put it this way," he writes, "it certainly wasn't Beit Bridge."

# Mail's libel case begins in London

By CHARLES LEONARD

LEGAL history will be made in the Press Centre in London on Monday morning when South Africa's biggest-ever personal defamation case — involving a staggering R1,5-million claim — begins

General Lothar Neethling, assistant-commissioner of police and head of their forensic laboratories, is claiming R1-million from *Vrye Weekblad* and R500 000 from *The Weekly Mail* after both papers published claims by former security policeman Captain Dirk Coetzee alleging that Neethling provided poison and knock-out drops to "deal" with state opponents.

Coetzee, who is in exile in Zambia and cannot give evidence in South Africa, will give evidence in front of a commission *de bene esse* — a commission appointed prior to the official trial. Advocate Sean Naidoo has been appointed by the defence to hear and record evidence to be presented to the trial judge. Naidoo will not make any judgments or pronouncements on the evidence.

The trial begins on November 12 in the Rand Supreme Court.

The general, who came to South Africa after World War II as a German orphan and made a meteoric rise in the police, claims that the "reasonable" reader would interpret from the articles that he (Neethling) made himself guilty of serious crimes, because he provided poison with which people may have been killed. Advocates Bobby Levine SC and Frans Rautenbach are appearing for *The Weekly Mail* and *Vrye Weekblad* and Willie Oschry SC and Manny Witz for Neethling.

*w/m on 5/10 - 11/10/90*  
*252*

W/M and Slovo 11/10/90

# We may have to do away with lawyers - Slovo

JOE Slovo has done it again. Faced with a pressing socio-legal problem, he has come up with a solution which raises more questions than answers and is likely to ruffle plenty of feathers.

General secretary of the South African Communist Party and former member of the Johannesburg Bar, Slovo has suggested that if no way can be found to ensure that all accused are represented in court, the "dramatic step" should be considered of not letting anyone be represented by "doing away with" lawyers in most cases.

Guest speaker at the annual dinner of the law students' council at the University of the Witwatersrand Slovo, who chaired the students' law society in his days at Wits, said that the present system was a "travesty of justice".

"If we are unable to put right what's presently wrong we will have to think in terms of entirely new structures, in which the delivery of justice does not depend on the wealth of the person who asks for it."

Slovo also argued for better access to legal advice and representation in the field of civil law, saying that if the legal order were to be just "in substance as well as form", provision needed to be made for those who could not afford to pay for lawyers themselves.

He suggested that some of the worst aspects of the present system could be improved through providing state support for advice centres, law clinics, law centres, public defenders and conventional legal aid.

"I hope that it will be possible to find the human and financial resources needed to achieve this purpose. But if this is ruled out because of the expense involved,

then serious consideration will have to be given to the alteration of the system so as to make it more simple, and to do away with the need for lawyers in most cases."

Slovo said the legal system moved into the future "with a most terrible legacy" for the bulk of the population, especially the younger generation, the law and its representatives are perceived as foe rather than as friend."

He listed the statistics of crime, including assassination against left-wing opponents of the government, which had been left unsolved. "Not a single conviction has ensued. Instead the officer under whom the notorious Civil Co-operation Bureau death squads operated is rewarded with promotion to the highest position in the army."

In a stinging attack on security laws, and particularly section 29 of the Internal Security Act which allows indefinite detention in solitary confinement, Slovo said the 78 000 who had been detained under these laws over the last 30 years knew "from stark experience" that section 29 "is not much less than a torturer's charter."

"It provides a fiat to detain under conditions which in themselves constitute torture. In addition, it enables the interrogator to ignore the factor of public scrutiny and allows for the unbridled use of illicit methods."

"The Judges' Rules are turned on their head. A police officer no longer has to warn an arrested person that he is not obliged to say anything. On the contrary, the section 29 detainee is warned that if he does not say anything he could face imprisonment in isolation and

interrogation forever.

"The sole purpose of section 29 is to obtain a confession from a detainee or to pressurise the detainee to turn informer."

"Is it too much to expect our judiciary in principle to regard as inadmissible all confessions and statements elicited during section 29 detention?"

Slovo said over the last three centuries the law had been used as an instrument of coercion through which white governments have sought to impose their will upon the people of South Africa.

More recently, "it has been the instrument through which the apartheid state has attempted to secure compliance with its policies and to quell the widespread resistance to its policies. The courts have been inextricably linked to this process."

Another issue raised by Slovo was the need to ensure that the institutions of the legal system "become more representative of the population", by changing their racial character and by restructuring the institutions to bring them closer to the needs and understanding of the ordinary people.

Several options were available, including lay participation through the jury system as used in many parts of the world, or "through the establishment of community courts or the appointment of judicial officers."

However, he said much more debate and discussion was needed on the best way of ensuring lay participation in the judicial system so as to make it "more democratic and closer to the needs and understanding of ordinary people."

CARMEL RICKARD

## Human rights award winner to be named

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THE winner of *The Indicator* Human Rights Award 1990 will be announced today at a function in Lenasia, Mr Ameen Akhalwaya, the newspaper's editor, said yesterday.

The nominees are advocates Mr George Bizos, SC, and Mr Ismail Mahomed, SC, Father Smangaliso Mkhathshwa of the Human Rights Com-

mission and doctors Prakash Vallabh and Refik Bismilla of the South African Health Workers Congress, who do voluntary work in camps for homeless people. *Sowetan 5/10/90*

Dr Joe Veriava, former Azapo health secretary and now acting head of the department of medicine at Coronation Hospital, has also been nominated

# SAP ordered not to tamper with detainee

A RAND Supreme Court judge yesterday ordered police not to visit or interrogate a detainee, who is a patient at the Johannesburg Hospital, without the permission of a psychiatrist.

Mr Justice Leveson said that from papers before the court it was evident that psychological stress induced by the police officers had reduced detainee Mr Yusuf Mohammed to depression.

Hospital clinical records show that the presence of the police has had a profoundly adverse effect on Mohammed," he said.

Leveson refused to

By FARHANA ISMAIL

grant an order that Mohammed be kept in the General Hospital.

"There is no evidence in Mohammed's affidavits that the police wanted to remove the detainee from the hospital.

"Although an order for a patient's discharge lies in the hands of the hospital authorities, police have total control over the detainee once he is discharged," Leveson said.

An application for Mohammed's release will be heard in court on October 16.

# Interim order prohibits police from interrogating detainee

(252)

SUSAN RUSSELL

AIRAND Supreme Court judge yesterday granted an interim order prohibiting the police from interrogating an Internal Security Act detainee who, according to evidence placed before the court by his family, was suffering from severe depression and had tried to commit suicide three times since his arrest.

The detainee, Yusuf Mahomed, was detained on August 19 in terms of Section 29 of the Internal Security Act and admitted to Johannesburg Hospital three days later where he has been treated for depression ever since.

In terms of the interim order granted yesterday the police may not interrogate Mahomed without the permission of one of the senior psychiatrists treating him.

## Postponed

An urgent application for his release and an order declaring his detention unlawful was launched by his brother Yunus this week.

The application for Mahomed's release has been postponed for hearing until October 16.

Mr Justice Leveson granted the interim order pending the outcome of the application for Mahomed's release.

The judge also temporarily restrained Mahomed's interrogators from visiting him pending the out-

come of the application.

Mr Justice Leveson said this did not exclude other police officials going about their duties such as guarding the detainee.

In papers in support of his application, Yunus Mahomed said his brother's detention and interrogation had caused his depression and suicidal behaviour and there was a real fear that any further interrogation would endanger his life.

By yesterday counsel for the Minister of Law and Order and the Commissioner of Police had not yet filed any answering affidavits in opposing the application.

Therefore, Mr Justice Leveson said, the only version of the facts before him were the averments by Mahomed's brother.

So, in granting an interim order, the judge said, he was not making any finding of fact whatsoever.

He added that the averments made by the detainee's brother in his affidavit were nothing more than a layman's opinion, but for the purposes of an urgent application averments were evidence and had to be treated as such.

Mr Justice Leveson said the interim relief would necessarily be of short duration and would cause no prejudice to the police.

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# An interrogator who forgot how he did it

W/Mail Staff - 11/16/90

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FOR security policeman Frans Mostert, accustomed to doing the interrogating himself, his court appearance must have been something of a unique experience. The 34-year-old Stellenbosch University graduate occasionally allowed a small smile to play over his face as he repeatedly responded with the words "I can't remember."

He told the court he had taken no notes while interrogating Jennifer Schreiner, one of six accused of terrorism in the marathon Yengem trial, and thus had no means of refreshing his memory.

Mostert, a state witness, was not on trial. But his methods of interrogation were

A Cape security policeman was put on the other side of the interrogation chamber this week — and quizzed about his own methods of extracting information from detainees

**GAYE DAVIS attended the case**

Schreiner refused to co-operate with her interrogators for almost three months after she was detained and held under section 29 of the Internal Security Act in September 1987. But soon after Mostert interrogated her, she made a statement to a magistrate.

The state claims it was freely and voluntarily made, and therefore admissible as evidence against her.

Defence counsel maintains it was not that Schreiner was so intimidated by Mostert's treatment that she made the statement out of fear she would have to face him again.

Mostert served with the security police in the Western Cape from 1985 to 1988, when he was transferred to Pretoria. During his sojourn with the Terrorist Investigation Unit in the Western Cape, he faced allegations on many occasions that he had used unlawful and improper methods to get women detainees to talk. At least two charges were laid with po-

lice against him, one of them by Schreiner after her first encounter. He was also named in civil actions against the state brought by former Cape Town trade unionists Zubeda Jaffer, June Esau and Shaheda Issel, all of whom underwent interrogation by him, the court heard.

According to the defence, the methods he allegedly employed in those cases were similar to the ones Schreiner complained of and were in contravention of 1982 regulations governing the treatment of detainees.

They included sexual advances and threats; putting himself forward as someone who had acted improperly towards female detainees in the past, breaking their resistance, and threatening he and the detainee would be left alone where no-one would see what he did to her.

Mostert, who denied the allegations,

He maintained one could use "levers" to get a detainee to talk, yet still handle them humanely. He identified one such as his refusal to grant Schreiner immediate access to a senior police officer to lay a complaint about his treatment until she had agreed to answer his questions.

If he "bent" the regulations "a little" by doing so, he accepted full responsibility, he told the court, he had the impression Schreiner thought she was in control of the situation, and that her chief interrogator — Warrant Officer Schalk van der Merwe — had been too soft on her.

During their first session, Mostert said he had handcuffed her hands behind her back — not to prevent her protecting her face from his hands as she maintained, but as a "disciplinary step" because he "wasn't satisfied with her attitude".

Brought to him again early the following day, Schreiner, who had already laid a complaint about his treatment, refused to speak to him until she had seen a colonel, the court heard.

Mostert denied telling her this was "out of the question" or taunting her by asking if she "fancied" the colonel.

It was "possible" he may have kept her on her feet for the two and a half hours before he allowed her access to a colonel. But he denied responding to her request to be allowed to sit by taking her by the arm and making her walk fast around the room before shoving her against a wall.

He also denied taking her face in her hands and squeezing her mouth open, saying he would force her to answer questions, or putting his hand on her throat, threatening to strangle her, and telling Van der Merwe it was perhaps "time to bring in the machine".

At that stage, Schreiner maintains Mostert told her he was sure she was "very tense" from being under section 29 for so long and that she needed a neck massage. He rejected the allegation that he then used his thumbs to apply painful pressure, while Van der Merwe tried to persuade her to co-operate.

According to her defence counsel, Schreiner at this point agreed to answer questions from Van der Merwe.

Before leaving her alone, in tears, Van der Merwe "warned her that if she did not answer satisfactorily", Mostert would return.

Mostert denied this. He also rejected the defence's suggestion that this threat hanging over her head may have unduly influenced Schreiner to answer questions subsequently put to her by Van der Merwe and shortly afterwards, make the statement to a magistrate.

His explanation of Schreiner's sudden change in attitude was that Van der Merwe had perhaps received "a bit of direction" from him.

# Strikers walk free

Given 7/10/90  
By MARTIN NTSOELNGOE

252/10  
1002

THERE was jubilation in a Johannesburg Regional Court this week when six strikers were acquitted on six counts of intimidation

Said Simon Hlashanele, 43, of Thembisa, a member of the Zion Christian Church "God is great We did nothing that warranted our arrest, we didn't intimidate or attack anyone"

The six pleaded not guilty before magistrate IJJ Luther, and were making their ninth court appearance. They are: Hlashanele, David Nkibi, 29, of Orlando East, George Phiri, 32, of Braamfontein, John Maimela, 49, of Braamfontein, Jan Maletse, 24, of Thembisa, and Willie Makoba, 30, also of Thembisa

Trouble for the six started on August 9, 1988, when there was a strike at the Environment Panelling System works. During the strike more than 100 workers were dismissed for ignoring a call by

management to go back to work. The State argued they were among a group of dismissed workers who encouraged non-strikers to stop work. It was also alleged the six acted as a group to intimidate them

A witness, Samuel Mofolo, earlier told the court that after the strike had lasted six months he and other workers were confronted by a group, including the six, who assaulted them and threatened to burn their houses and take their pay packets

Lucas Radebe said Makoba told them "You are working Your children are not starving Our children have nothing to eat We want to show you that if we say you must stop working we mean it"

The accused told the court after they were dismissed they all went to their homelands

Before acquitting them the magistrate said most of the evidence of the State witnesses was confused

# Judge spikes union's picket

ONE of the country's largest trade unions has been barred by a judge from picketing a law firm, heralding a new phase in industrial action that could outlaw secondary picketing.

In a landmark legal judgment handed down in the Rand Supreme Court, Deputy Judge President Justice HCJ Fleming found the right to picket and any other form of free expression "is not absolute. It is not unbridled".

When picketing and other styles of "pressurising" were misused, he said, it put at risk not only democracy but also the judicial process. It also promoted social and political polarisation.

He was ruling in the case of the Johannesburg law firm Deneys Reitz vs the SA Commercial, Catering and Allied Workers' Union, which goes back to the long and bitter wage dispute with the OK Bazaars earlier this year.

Deneys Reitz, the legal representative of the OK, was dragged into the fight when Saccawu passed a resolution at its national congress pledging to "wage a campaign against the attorneys", which it accused of "union-bashing tactics".

Saccawu proposed to stage pickets outside the Sandton head office of Deneys Reitz attorneys.

The law firm immediately applied for a rule nisi declaring the resolution illegal and an interdict preventing picketing of its offices — which it won.

The union challenged both.

It contended the right to picket was indivisible from the right to freedom of expression and supported its standpoint with extracts from various other constitutions.

Justice Fleming rejected this. In a 30-page judgment that upheld the rule nisi, he said:

"Saccawu has decided on behaviour towards 'isolation' or harassment or some other lesser form of 'pressurising' because the other man believes or thinks or pleads in a way not acceptable to a specific group.

"If the law is ready to regard that reaction as justified (or even as reasonable), there is no hope of true democracy (unless the word is used in a warped sense) or a true substance to the fundamental right to free expres-

By MARION DUNCAN

sion of thought."

Saccawu's resolution, he said, affected "to an impermissible extent" the right and duty of attorneys to practise and to do the best for their clients. This he saw as a direct threat to the judicial process.

He also discussed the principle of picketing in particular, asking why people were required to take part

"Why not just place unaccompanied placards in the desired position?"

The presence of a "human body" holding the placard, he said, added a new dimension to the issue by introducing an element of intimidation.

"Mere criticisms by (Saccawu) of (Deneys Reitz's) opinions is lawful. However, (Saccawu's) campaign is not comment on opinions but pressure on the man holding the opinions."

Sunday Times 7/10/90

VS



Manie Venter at home . . . considering steps following the release of the Hiemstra Commission report. "I want my name cleared," he says. ● Picture by Karen Fletcher.

## Union to decide on Pearce's fate

*Stack 9/10/90*  
Municipal Reporter  
The Johannesburg Municipal Employees Association (JMEA) will meet next week to decide whether to appeal against the suspension of public safety director John Pearce.

JMEA general secretary Theo Crouse said the union understood that Mr Pearce had been suspended pending the outcome of the disciplinary inquiry, which is expected to start early next year.

The union contended from

the start that it was only necessary for acting town clerk Graham Collins to take the decision to suspend or not and that the matter did not have to be ratified by council.

### Legal advice

The Johannesburg management committee is still taking legal advice on the exact position, because of the conflicting terms of the conditions of service and the relevant council ordinance which deals with the

suspension of senior officials

Mr Crouse said "According to the conditions of service, a head of department may be suspended with full pay

"But any suspension can be withdrawn at any time without prejudice to the proceedings in connection with the charge.

"The acting town clerk acted within his powers in suspending Mr Pearce, but that suspension can be lifted at any time

"We will decide next week on further action"

# I did nothing wrong, says Manie Venter

By Louise Burgers,  
Municipal Reporter

Johannesburg town clerk Manie Venter has vowed to clear his name following the release of the Hiemstra Commission findings and his untimely departure from the Johannesburg City Council

"I haven't reached the end of the road yet and one day I will be vindicated," he told The Star yesterday.

"I will have the opportunity to prove that what I did was legal and within what I considered to be the council ambit. I want my name cleared and I am considering my position with regards the Hiemstra report," he said.

He refused to elaborate on the steps he was considering.

Judge V G Hiemstra found that Mr Venter had authorised more than 60 payments for spies under an Act that did not exist, but which he thought pro-

vided for the safeguarding of assets.

The commission found that Mr Venter knew of the infiltration of organisations, although he was not apparently kept informed by officials operating the spy network.

But the judge found Mr Venter was not grossly negligent, because he was entitled to rely on his senior officials. However, over a period of four years, he should have been more critical.

## Terrible

In a frank interview, Mr Venter, who has decided to take long leave before his retirement in September next year, said he felt he did nothing wrong.

"I acted on orders from the council. But, if you're not wanted, there's no sense in staying," he said.

"It's a terrible thing when one has had a career of 37

years and reached the two top positions available in local government to be branded because of certain things. Even if I must say so myself, I was highly regarded in local-government circles.

"I think that in my career I have saved the council millions of rands and I don't accept responsibility for the amount quoted in Hiemstra. It hurts me to think they blame me for the R1,8 million."

Mr Venter said there were many misconceptions surrounding his role in the spy scandal.

"I have served the city at a price — my health, my family. And now all the efforts and sacrifices my family and I have made are forgotten."

He joined the Johannesburg City Council in 1954 at the age of 17. After completing a B Comm degree part-time, he was promoted to the treasury department. He was appointed city treasurer in 1981.

FW, Mandela hone in on violence

# Govt stops the clock for indemnity

BIDAM 9/10/90



GOVERNMENT had "activated" the indemnity process and set yesterday as the cut-off date for people to qualify for clemency or immunity from prosecution, President F W de Klerk announced yesterday

Anyone who committed a political offence after noon yesterday would not be eligible for the clemency or indemnity provided for in the Pretoria Minute, he said

In a statement issued after his meeting in Cape Town with Nelson Mandela and other senior ANC leaders, De Klerk stressed that no pending or current legal process would be suspended because of his announcement, and that no indemnity would be granted automatically

De Klerk and senior Cabinet members met the ANC delegation to discuss the recent wave of violence in the country

In a separate, joint statement after their meeting, Mandela and De Klerk said they had reviewed in depth "the recent spate of violence in SA. The different perceptions of the causes and handling of the violence were noted"

There was general agreement that all sides must do their utmost to bring this violence to an end

The ANC delegation also made submissions concerning the detention of some of its leaders and members under security legislation. The government agreed to deal expeditiously with these submissions

Both sides reaffirmed the need to keep the negotiation process on course and to act in such a way as to sustain and strengthen the atmosphere of trust neces-

ALAN FINE and LESLEY LAMBERT

sary to achieve this objective," they said

De Klerk was accompanied by Constitutional Development Minister Gerrit Viljoen and Law and Order Minister Adriaan Vlok. Other members of the ANC delegation were Alfred Nzo, Joe Slovo and Jacob Zuma

Sapa reports that after the meeting Mandela read the joint statement aloud to a large gathering of media representatives at the gates of Tuynhuys, and said there would be no questions as "this is a very sensitive issue"

De Klerk said government had decided to "activate" the indemnity process after the ANC indicated its acceptance of the latest report of the working group on immunity and indemnity.

Details of the report are not available. The August 6 Pretoria Minute and the earlier working committee report appended to it did not deal with the question of a "cut-off date" regarding political offences

ANC and government sources indicated at the time that this was deliberate because, while it was accepted the ANC required time to spread word of its decision to suspend armed action, government did not wish it to appear that potential offenders would have carte blanche to commit violent political acts until a cut-off date had been set

An ANC official said yesterday the organisation would not comment on De Klerk's statement until tomorrow, as it

□ To Page 2

## Indemnity

BIDAM 9/10/90

raised complex issues and needed to be considered thoroughly

"Application for indemnity must be made through pre-determined channels, and only those who fall within the guidelines for so-called 'political offences' will qualify for indemnity," he said

The same applied to the release of prisoners, 45 of whom had been freed since August 6. Fifteen more would be released this week

De Klerk said Justice Minister Kobie



From Page 1

Coetsee would announce "relevant procedures, guidelines and related matters by Friday"

Dullah Omar, a prominent ANC member and lawyer in the western Cape, said last night it appeared that all exiles would have to submit individual applications for indemnity

"According to my information, the ANC has handed in a list of the names of the 3 000 people who wish to return now. I do not think it has submitted separate applications yet"

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# Sebokeng probe 'too restricted'

JOHANNESBURG. — The announcement yesterday of an inquest into the deaths of 11 Sebokeng residents killed when soldiers opened fire on a crowd in September was insufficient and belated, a political analyst and civil rights lawyer said.

Justice Minister Mr Kobie Coetsee yesterday announced he had appointed Mr Justice E H Stafford to head the inquest — a date for which has not yet been set.

Soldiers reportedly opened fire on 5 000 people near a hostel in the township early in September at the height of bloody fighting in Rand townships.

An inquest is usually presided over by a magistrate. This is the first time that a judge will preside in South Africa.

The date of the probe has not yet been set, and the minister said it would be placed on the roll of the Transvaal Provincial Division of the Supreme Court

"in the normal course of events". Human rights lawyers Mr Brian Currin and Mr Ahmed Motala welcomed the announcement of the inquest, but added that it had limited terms of reference. The ANC dismissed it outright.

"In this instance the circumstances in which they (the deaths) took place are well known," ANC spokesman Mr Sakki Macozoma said.

Mr Currin said: "The end result could be similar to a commission of inquiry, though it (an inquest) is more restrictive."

The ANC had called for a judicial commission to probe the shootings, which came shortly after the Goldstone Commission found police had acted improperly when they opened fire and killed demonstrators in March.

"The minister is not offering a big deal. An inquest has a very limited scope," Professor Alf Stadler, head of police studies at the University of the Witwatersrand, said.

The announcement of the in-

quest was rather delayed "considering the magnitude of the casualties", he said.

Mr Motala warned the inquest could be hampered if soldiers did not co-operate with the judge and if all evidence was not placed before him for a proper finding.

Mr Macozoma added that he saw little chance of residents who witnessed the shootings giving evidence unless they saw the inquest as "legitimate".

"People must see justice being done for them to co-operate," he added.

Mr Motala said "What needs urgent attention from the government is the appointment of an independent ombudsman with his own independent investigating team. This would lead to a less biased investigation of such incidents."

The Defence Force set up a board of inquiry immediately after the killings, but no findings of the investigation have been announced. — Sapa

...fans, playing to an estimated 100,000  
fans at Lombamba

CAT 7/15 9/10/90

# 'Peoples' courts': 42 held

JOHANNESBURG — Forty-two people were arrested in the Winterveldt squatter settlement, north of Pretoria, over the weekend in connection with the running of peoples' courts. Bophuthatswana police also confiscated large quantities of petrol during the swoop.

with





## Coetzee gives evidence at UK hearing

LONDON — A detailed description of the office and home of SAP forensics chief Lt Gen Lothar Neethling, and details of how he allegedly provided poison to kill anti-government activists, were led in evidence at a special hearing in London yesterday.

Alleged former police hit squad leader Dirk Coetzee was giving evidence at the start of Neethling's R1.5m defamation and damages suit against the editors and publishers of Vrye Weekblad and the Weekly Mail

## Defending

The newspapers are defending their publication of allegations by the former security force police captain that he obtained "knock-out" drops and poison from Neethling

Coetzee said it was intended to kill activists and ANC members in 1981, when he was in charge of the alleged Vlakplaas death squad camp near Pretoria.

The civil action is linked to the inquiry into hit squads by the Harms Commission, before which Neethling denied Coetzee's claims, suggesting Coetzee might have seen his office and home during the course of his duties while he was posted to the police narcotics bureau, Sanab

The Rand Supreme Court, which is to begin hearings on November 12, gave permission for evidence to be heard in London from Coetzee, who is now in exile — Sapa

# No end yet in sight to township rent boycotts

RENT and service payments in Transvaal townships improved in September, but there was still no indication that the payments boycott had been broken, TPA official Liesl Vermeulen said yesterday

Residents of 57 Transvaal townships are refusing to pay rent and services charges. Of these, 26 owe Eskom R70m in electricity arrears

Meanwhile a body representing southern Transvaal township civic organisations yesterday reiterated a call for the rent boycott to continue until the authorities had met its demands

A conference of 30 civic organisations, organised by the Civic Association of Southern Transvaal (Cast), unanimously resolved to co-ordinate "mass activity" within the next three weeks to demand the scrapping of rent arrears and abolition of racially based local authorities

At a Press conference yesterday, Cast president Moses Mayekiso said the envisaged mass activity would include protest marches and mass meetings

Vermeulen said in a statement that payments improved last month after agreements had been reached in Greater Soweto, eastern Transvaal and the East Rand townships of Daveyton and KwaThema

"However that is no indication that the boycott has been broken as yet, as only two regions (eastern Transvaal and far northern Transvaal) had payments of over 50%"

WILSON ZWANE and  
TIM COHEN

It was the TPA's view that any township that did not maintain a payment percentage of 80% was engaged in a rent and services boycott, she said

Talks on how to resolve the boycott were under way, but were not going well in some affected townships such as Atteridgeville and Zithobeni, Vermeulen said

She added that Mamelodi and Atteridgeville faced power cuts unless electricity payments were made to the Pretoria City Council by Friday.

Eskom communications manager Johan du Plessis said Eskom would not consider writing off any of the R70m electricity arrears as it still hoped to recoup them.

He said Eskom had a strategy to achieve this

Rand Water Board PRO Louise Fourie said the board would not discontinue or reduce any water supplies before exhausting all legal remedies

The Cast conference also rejected flat rates for township services

Instead, the TPA would be given a specific period to repair or install working meters and charge affordable rates

Cast intended requesting urgent meetings with Eskom, the Rand Water Board and the TPA to discuss guidelines for negotiations between provincial bodies and civic organisations, said Mayekiso.

See Page 9

## Maguire fears for life after being freed

BULAWAYO — The Zimbabwean government has unconditionally released Rory Burt Maguire, 39, who two years ago was jailed for failing to report the presence of SA agents and of assisting them in carrying out sabotage

Maguire — who prison sources said was freed about two months ago — told Ziana national news agency on Monday he was afraid for his life

He was jailed for seven years on July 14

1988 for withholding information from authorities about the fatal bomb attack on January 11 1988, at a house in Trenance suburb, Bulawayo, which resulted in Obert Mwanza being killed and a number of SA refugees being injured

It is not clear whether Maguire's release was in terms of the presidential amnesty proclaimed last July, when President Robert Mugabe pardoned a wide range of criminals — Sapa

# Coetsee urges need to protect a State witness

URGENT attention will have to be given to the protection of witnesses in the interest of the administration of justice in South African courts, including the possible detention of witnesses, Justice Minister Kobie Coetsee said this week.

Speaking at the official opening of a new Supreme Court building in Port Elizabeth, Coetsee said instances of witness intimidation were becoming an increasing problem in the administration of justice, especially in the trouble-torn areas of Natal.

## Urgent

He said the intimidation of State witnesses effectively undermined the judicial process and hindered police investigations.

Without witnesses police could not get to the bottom of their investigations.

"Urgent attention will have to be given to a form of protection of witnesses," he said.

The cheapest and most effective method is a form of detention, (but) we are also looking at other methods of witness protection.

To give witness is a primary duty and a privilege which should be exercised unhindered.

It is strange that some of the people who criticise the judicial system are apparently heavily involved in the intimidation of witnesses.

"It is now time that all communities became adult enough to observe the law and take part in good government."

The Justice Minister said the new Supreme Court building, an extension of the Supreme Court of South Africa in the Eastern Cape Division, was erected in recognition "of the vast number of people" in and around the city.

Coetsee said it was vitally important that South Africa maintained a strong judiciary capable of dealing with present and future challenges.

It was precisely because the country had such a strong judiciary independent of the executive that people did not realise what a positive and stabilising influence the courts already exerted during the transitional period.

He said it was therefore not surprising that those who sought to further dent South Africa's reputation abroad constantly attacked the country's judicial system.

# Bid to save

# Youth leader from prison

South 11/10-17/10/90  
252

By REHANA ROSSOUW

WESTERN Cape president of the South African Youth Congress, Mr Maxwell Moss, will go to jail next week unless a last-minute application for the date to be postponed is successful.

Moss, organiser for the West Coast Council of Churches, has also appealed to ANC deputy president Mr Nelson Mandela to intervene on his behalf.

Moss recently lost an appeal against a three-year sentence, with 18 months suspended, for public violence.

Last week he received a letter from the Bellville magistrate's court saying he must report before October 19 to begin his sentence.

## Reprive sentence

Moss's attorney, Mr Taswell Papier, petitioned the State President last month, calling on him to exercise his powers to reprive the sentence.

The petition was based on the agreements of the Pretoria Minute.

Moss wrote a letter to Mandela last week, asking him to intervene.

Papier said both the state president's office and the ANC acknowledged receipt of the letters.

De Klerk's office said the matter had been referred to the Minister of Justice for further attention.

"We are now considering court action to ask for an extension of the date Maxwell has to report until the State President has made a decision," Papier said.

"We are going to do everything in our power to keep Maxwell out of jail."

**JAIL THREAT:** South African Youth Congress Western Cape president Maxwell Moss faces jail next week unless a court application succeeds

unlawful and interdicted the respondents prospect of frightening off customers

# Coetzee testifies on poisons

Blom 11/16/90 (252)

KIN BENTLEY

LONDON — Former hit squad captain Dirk Coetzee yesterday refused to co-operate with SAP forensics expert Lt-Gen Lothar Neethling's advocate who asked him to use salt to show how much poison powder he allegedly received from Neethling for use in murder attempts

Coetzee, now in exile, was giving evidence at the London sitting of a libel action being brought by Neethling against Vrye Weekblad and the Weekly Mail arising from articles they published last year.

These contained Coetzee's allegations that Neethling supplied him and other policemen with poison and "knock-out drops" to kill people

Neethling is suing Vrye Weekblad, its editor Max du Preez, Caxton Limited, Wending Publications, and reporter Jacques Pauw for R1m. He is also suing the Weekly Mail, Seculo Printers, WM Publi-

cations Ltd and reporter Gavin Evans for R500 000 The cases have been combined

Advocate Willy Oshry, QC, for Neethling, placed a packet of salt and three glass containers in front of Coetzee

Advocate R D Levine, SC, for the newspapers, described the experiment as "impermissible" because the poison and salt were of different densities.

Oshry told Coetzee the samples would be used as exhibits when the case resumed in SA on November 12 but Coetzee declined

Coetzee later said he had told Pauw he was given 60g of the powder which was increased to 360g when the first quantity did not kill the intended victims But the quantity was in fact in milligrams

Coetzee said poisons had been used as part of an "experiment" by Neethling

SACP calls for

# Union seeking to deflect damage after court ruling

BID 11/10/90

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ALAN FINE

THE SA Commercial, Catering and Allied Workers' Union (Saccawu) is "exploring various avenues" in reaction to a judgment, with potentially crippling costs, handed down against the union and two officials last month

It is understood the costs of the case heard by Mr Justice Fleming and brought by legal firm Deneys Reitz against Saccawu, Vivian Mtwa and Jeremy Daphne could be tens of thousands of rands.

The judgment permitted Deneys Reitz to request the fees of an attorney and two counsel. The respondents were represented by a similarly sized team.

The Saccawu official was unwilling to comment any further, saying the matter was "very sensitive". But it is understood the union might seek Cosatu involvement and/or some form of settlement with the firm. The possibility of an appeal is also under consideration.

The case followed a Saccawu congress decision in June to "wage a campaign" against Deneys Reitz including picketing, claiming the firm had been responsible for union-bashing tactics.

In a far-reaching judgment, Mr Justice Fleming declared the congress decision unlawful and interdicted the respondents

from calling for, inciting or participating in any action contemplated by the decision

In a passage which could have a significant impact on the generally held view of the right to picket, Mr Justice Fleming said in SA law — unlike, perhaps, US law — the right to free expression did not include the right to hold a placard.

He found the object of the campaign included "instilling in applicants a reaction of fear, apprehension or something similar which would tend to discourage representation of clients or expression of thoughts not to the liking" of Saccawu.

In its evidence, Saccawu specifically cited representations by the firm on changes to the Labour Relations Act.

Mr Justice Fleming found Saccawu's right to express its views was not absolute or unbridled, and that the right of the applicant, Deneys Reitz, to freedom of expression deserved protection.

He said the resolution suggested behaviour which would affect, to an impermissible extent, the right and duty to practise as attorneys. Further, any business had the fundamental right to trade without "the prospect of frightening off customers".

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... on poisons

# Coetzee testifies on Neethling's <sup>252</sup> links to poisoning

Weekly Mail Reporter London

W/Mail 12-18/10/90

STARTLING evidence was heard this week in South Africa's biggest-ever personal defamation case when former security police captain Dirk Coetzee gave evidence of how he allegedly received poison and knock-out drops from General Lothar Neethling.

Neethling, who is head of the police forensic laboratories, has libel suits of R1-million against *Vrye Weekblad* and R500 000 against *The Weekly Mail* after the papers published Coetzee's allegations of the general's involvement with the alleged police hit squads.

Exiled Coetzee this week gave evidence here for the first time on external operations of the security police and more detail about the poison he allegedly received from Neethling.

Coetzee's old telephone book — handed in as evidence — proves, he said, that he already met or contacted Neethling in 1981. That is the period during which Coetzee claims he received the poison, from Neethling, who earlier testified did not know Coetzee during that year.

At the same time advocate Bobby Levine, SC, for the newspapers, revealed a police document corroborating Coetzee's version of the illegal detention and eventual murder of Eastern Cape activist Mathew Kondile.

Coetzee said he took part in the doping, killing and burning of Kondile on a farm near Komatipoort in the Eastern Transvaal in 1981. He claimed that he received the knock-out drops, with which Kondile was doped, from Neethling.

Advocate Willie Oshry, for Neethling, raised objections about the range of Coetzee's evidence saying that it did not apply to Neethling or poisonings.

Further evidence will be heard today and it is expected the commission might sit until tomorrow morning.

# Homecoming prospects look bleak for thousands of exiles

By JO-ANNE COLLINGE <sup>Winnipeg</sup> 12/10 - 18/10/90  
ONLY a narrow range of political exiles is likely to be granted unconditional immunity from prosecution in the near future, while thousands seeking to return to South Africa will have to submit to a process of individual scrutiny in which the State President holds an unassailable final say

This is the implication of the report of the joint government-ANC working group mandated in terms of the Pretoria Minute to plan the phased release of political prisoners and the return of exiles

While a "consulting body" — whose composition has not yet been announced — may receive appeals against refusals of indemnity by the government, its powers extend no further than "advising" the state president

And, although ANC spokesman Saki Macozoma yesterday denied that the organisation had agreed to its members detailing in application forms the acts for which they required amnesty, it appears the working group has a substantial check-list of information applicants will have to provide

This is likely to be clarified today when Minister of Justice Kobie Coetsee make a formal announcement on the report and the amnesty and clemency procedures

Earlier this week President FW de Klerk announced that "clemency and indemnity will only be considered for involvement in events which have taken place before noon on October 8"

The working group report recommends in relation to exiles that

● The state president grant "unconditional indemnity" to those whose sole

offence was to leave South Africa illegally

● The government receive recommendations on other categories of exiles to be eligible for unconditional indemnity, in line with the mutually accepted definition of a political offence

If these proposals are accepted, any trained member of Umkhonto weSizwe — even if not deployed inside South Africa — will not be immediately cleared for unconditional amnesty

There is considerable interest in whether such statutory political offences as terrorism and subversion, as defined in the Internal Security Act, will be added to the categorised list

The working group's report also suggests that only a limited number of political prisoners will qualify in terms of parole and reduction of sentence

Where uncertainty exists about convictions for murder, arson, or public violence — common law offences which may be rendered "political", the final

decision vests with the government and a specially constituted advisory body

So far, according to the ANC, no more than 60 political prisoners have been released since talks began

The ANC has also attacked the government for failing to suspend political trials already under way

It asked this week: "What is the logic of determining a cut-off date (for amnesty) and in the same breath pursuing legal processes or continuing to punish those whose only crime is their opposition to the criminal system of apartheid?"

The HRC reckons that there were at least 290 political trials in progress or pending in September



FW de Klerk has final say

# Sayco 32 in court today

THIRTY-TWO people are to appear in the Protea Magistrate's Court today in connection with a confrontation between police and South African Youth Congress members at Elkah Stadium in Soweto on Saturday

Soweto police spokesman Colonel Tienie Halgryn said yesterday the youths were to be charged either with participating in an illegal march or hindering the police in their duties

The youths were arrested and released on warning to appear in court after ANC deputy president Mr Nelson Mandela negotiated their release with Soweto police commissioner Major-General Johan Swart

Hours before leaving for his overseas tour, Mandela appeared at the stadium in Rockville to intervene in the confrontation

Earlier, police had fired rubber bullets and teargas at the youths, who had intended to march to Protea Police Station to present a memorandum demanding the release of political prisoners

Police kept a low profile when Mandela arrived and after Major Steve Olivier explained why the youths were arrested, Mandela told ANC supporters to remain disciplined

He also asked them to apply for permission to march next week - *Sowetan Reporter.*

Sowetan 15/10/90

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# 6 000 ANC exiles on indemnity list

THE ANC will soon submit to government the names of 6 000 exiled supporters needing indemnity — double the previous number it hoped would be allowed to return to SA immediately

A spokesman for the National Co-ordinating Committee (NCC), overseeing repatriation and reception plans, confirmed that the number of exiles expected to return after receiving government's go-ahead had doubled to about 6 000

The NCC was also facing a shortage of funds. Only half the R8m pledged by foreign donors for its short-term budget had been forthcoming and it was operating on a small grant from Australia

ANC sources said all but a few of the

exiles expected to return in the next few months were guilty only of having left SA illegally

They predicted the ANC would decide today or tomorrow how to respond to government's decision on Friday not to release the joint working group reports on political offences, indemnity and the release of prisoners

Justice Minister Kobie Coetsee decided not to release the reports after an ANC attack on President F W de Klerk's integrity and its release of details of the ANC-government summit on October 8

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**N**OW that the mandatory death sentence has been abolished, the Appeal Court is setting new guidelines as it reviews cases in which judges previously had no option but to hand down the death sentence.

No hangings have taken place since November 14 last year.

A formal moratorium on executions has been in place since February 2 when President F. W. de Klerk told Parliament that the law would be changed.

With the promulgation in July of the Criminal Law Amendment Act, the appeals of all Death Row prisoners are being judged according to new criteria.

In one of its first judgments since the new law on the death penalty, the Appeal Court has overturned death sentences imposed on three Umkhonto we Sizwe guerrillas — the Delmas Three — for four politically inspired murders, and substituted effective jail terms of 25 years each.

The Appeal Court confirmed Transvaal Supreme Court judge Mr Justice de Klerk's finding that the socio-political circumstances which led the three to take up arms in what they *bona fide* believed was a war of liberation, constituted extenuating circumstances.

This gave him the discretion not to impose the death sentence.

However, Mr Justice de Klerk was compelled to pass the death sentence and follow the majority finding of the court after his two assessors at the trial found no extenuating circumstances.

**O**bed Masina, Frans Ting-Ting Masango and Neo Griffith Posaane were sentenced to death on April 27 last year.

The three were subsequently granted leave to appeal on the question of extenuating circumstances. Their appeal was heard in Bloemfontein on August 15 this year and the Appeal Court handed down its judgment overturning the death sentences almost a month later.

The Delmas Three appeal was heard a month after the promulgation of the Criminal Law Amendment Act, which did away with the

# Appeal Court breaks new ground on death sentence guidelines

6/29/1990

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**New criteria apply for the imposition of the death sentence. SUSAN RUSSELL reports on one of the first cases to reach the Appeal Court.**

compulsory imposition of the death penalty and gave the trial judge discretion in sentencing an accused person to death.

It also gives an individual who has been sentenced to death an automatic right of appeal to the Appeal Court.

The amending Act has abolished the concept of extenuating circumstances. This has been replaced with the concept of mitigating or aggravating factors which the trial court must consider before deciding on an appropriate sentence.

Thus the Appeal Court has to decide whether it would have imposed the death sentence in the light of the mitigating and aggravating factors which appeared on the trial record.

In the Delmas Three case, Mr Justice Friedman with Justices Joubert, Smalberger, Milne and Eksteen concurred in finding that, having regard to these factors, the death penalty was not an appropriate sentence.

The Appeal Court also found that the assessors had misdirected themselves in concluding that no extenuating circumstances were present.

Both assessors had accepted that the factors relied upon by Mr Justice de Klerk could constitute extenuating circumstances. However, they held there was no factual basis for a finding that the minds of the three had been influenced by the socio-political factors accepted by Mr Justice de Klerk.

The assessors also found that even if the three had been influenced by these factors, this influence was not regarded as less reprehensible by the community.

Mr Justice Friedman said both these findings by the assessors amounted to misdirections. The assessors failed to apply the threefold inquiry into the presence of extenuating circumstances.

influence did, according to the objective judgment of the court, render their crimes less blameworthy.

The factors which Mr Justice de Klerk accepted as extenuating circumstances and set out in full in his judgment read like a case history of many of the black youths who left SA to join the ANC after 1976.

They believed themselves to be soldiers, generally under the command of their ANC leaders, fighting a war of liberation for their people. They were highly trained members of Umkhonto we Sizwe.

While undergoing training, they were indoctrinated to believe their actions and conduct of this nature were fully justified and necessary.

The indoctrination was intensive and of a political as well as a military nature.

They were loyal, dedicated members of the ANC who were acting under the instructions of their superiors in carrying out the missions they were sent to perform.

The cumulative effect of the unrest during 1976, the poverty and frustrations experienced by black people at that time, and the general

hostility which existed between the police force and the black community, was so traumatic that it could radicalise even moderate black people.

On the probabilities and in all the circumstances, the situation which existed in 1976 and thereafter was the direct reason for the decisions taken by the three to leave SA to join the ANC and to undertake the functions assigned to them.

Mr Justice Friedman said the evidence did not reveal that the three were mere puppets obeying the orders of their superiors without thought or question.

Although they were under the general command of their leaders, he said, "they themselves identified as targets for assassination people whom they considered, in accordance with ANC policy, to be appropriate victims."

Subject to this rider, I agree with all the findings of the trial judge," Mr Justice Friedman said.

Subject to this qualification, Mr Justice de Klerk's factual findings constituted mitigating factors.

"Political considerations can, depending on the circumstances, constitute mitigating factors.

"In the circumstances of the present case the factors mentioned by the trial judge, which formed the basis for his finding that extenuating circumstances were present, do constitute mitigating factors."

**M**r Justice Friedman said there were also aggravating factors. As the trial judge had pointed out, two of the murder victims had been killed because of their reputations as members of the police force.

They and a third victim were denied the opportunity to defend themselves.

These murders, Mr Justice Friedman said, were committed in cold blood. While the death sentence was not warranted, a substantial period of imprisonment clearly was.

Noting that the accused were sentenced to an effective 25 years' imprisonment on the other counts on which they were convicted, Mr Justice Friedman substituted the death sentence with this sentence.

LETTERS

## Illegal march: 30 in court

16/10/90

By Abel Mushi

Thirty of the 32 people arrested in Rockville, Soweto, on Saturday for taking part in an allegedly illegal march appeared briefly in the Protea Magistrate's Court yesterday.

The trial was set for November 15.

Warrants of arrest have been issued for two of the accused who failed to appear.

The accused, who are said to be supporters of

the South African Youth Congress, held the march to call for the release of Mac Maharaj, an executive member of the SA Communist Party and ANC.

He was arrested in July for alleged involvement in an arms-smuggling plot.

The accused, some of whom were accompanied by their parents because they were under age, were not asked to plead.

# WORK STOPPAGE

By SHARON SOROUR, Labour Reporter

THOUSANDS of public servants have stopped work — a move which is expected to seriously affect pension payouts, teachers' salaries and school examinations

The employees, from the House of Representatives' administration section, have stopped work over disparate salary adjustments

A Public Servants' League spokesman said they were demanding an immediate 20 per cent increase on the "living wage"

The employees were also demanding the immediate scrapping of the system of "occupational differentiation," in which people in other departments who do the same job are paid more.

The spokesman said more than 3 000 Western Cape employees had stopped work yesterday in the departments of budgetary and auxiliary services, health and welfare and teaching personnel

The stoppage would have a serious effect on pension payouts, teachers' salaries and school examinations

## Cut services

The personnel who work directly with these matters have threatened to cut the services to the community if their demands are not met," the spokesman said.

A working committee had been formed to represent the majority of the workers, who were not members of the Public Servants' League

"We are having discussions with Cosatu about whether or not to let them take up our demands"

A meeting between workers' representatives and the chief director of the Department of Health and Welfare was scheduled for today

"At this stage services at schools and clinics are not affected. But if the strike continues it will definitely affect both

*AK61 17/10/90*  
**Pay rises halt the police exodus**

Crime Reporter  
 SALARY increases seem to have ended the exodus of policemen

A police spokesman said today the number of police had increased by 702 after the pay rises in July

Paltry pay was one of the reasons for hundreds of policemen buying their discharge last year

The loss was considered a catastrophe before the government announced in April that salaries would be increased

The spokesman said 2 063 policemen had bought discharges since April and 2 286 had been recruited

After the increases 1 509 had joined the force and 807 had bought discharges

## Flights to Comoros

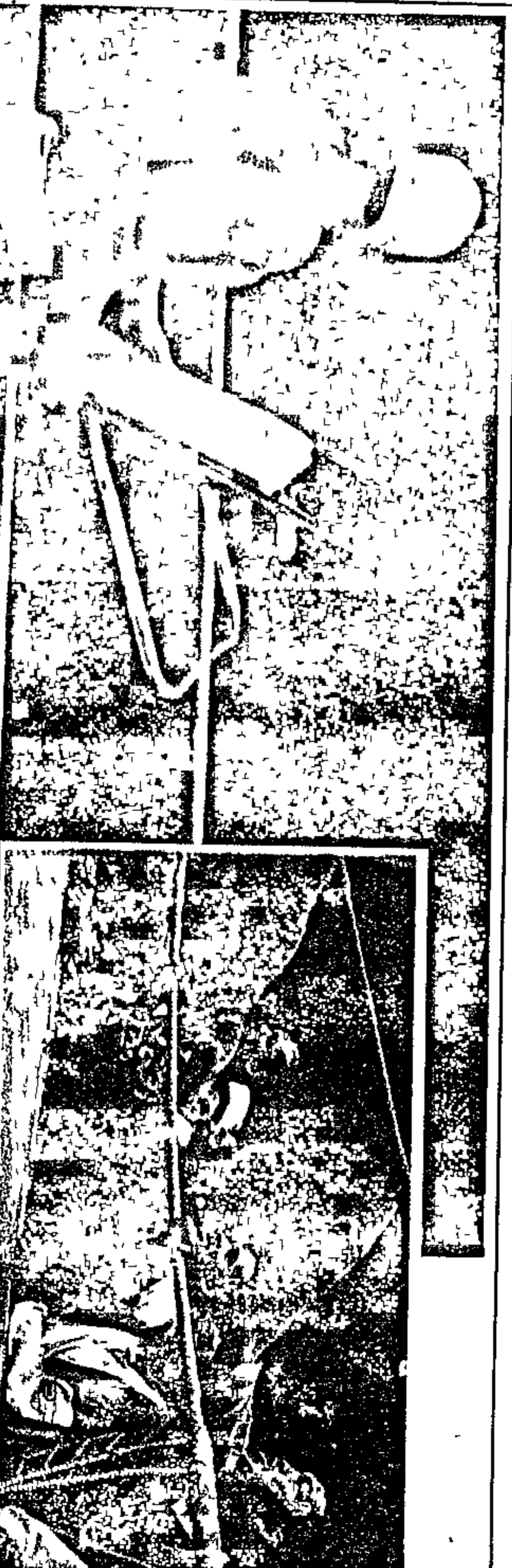
PRETORIA — South African Airways is set to resume flights to the Comoros in March. Comoran Minister of Tourism Soudhi Youssouf said here two of his country's major tourist hotels would reopen at the beginning of March — The Argus Correspondent

## The weather

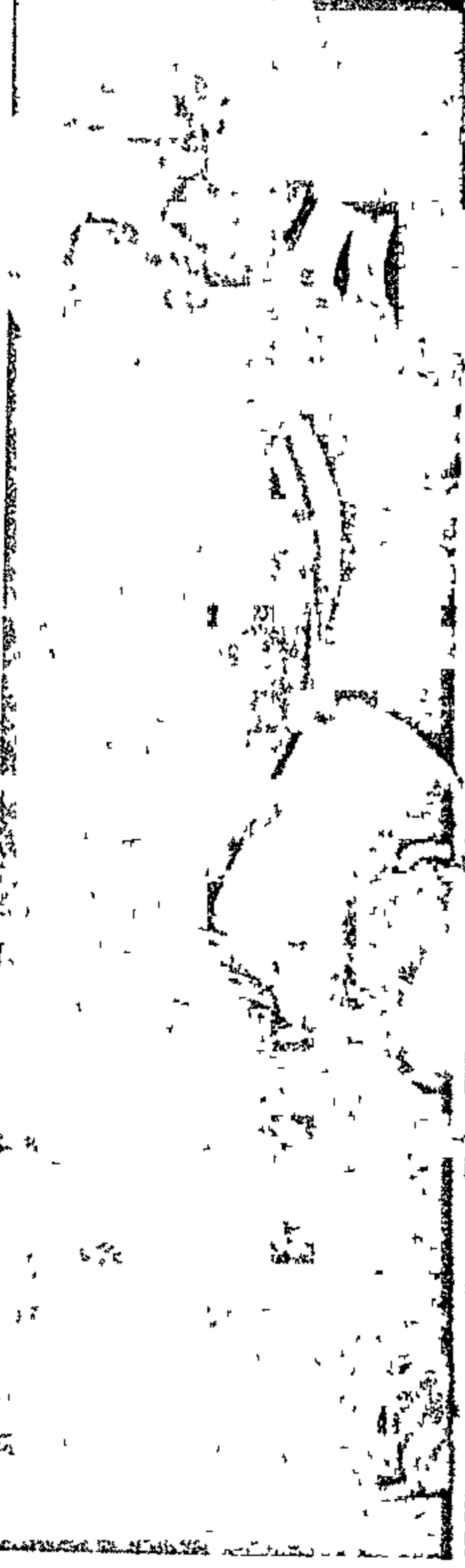
## Cloudy and cool

(Details, page 2)

# 20% pay increase demanded by thousands of Repps public servants



**Black night for the White Angel**



The return of professional wrestling to the Good Hope Centre was last night marred by an angry crowd which stormed the ring demanding their money back, after two top South African wrestlers did not show up. Here angry fans at the apron of the ring demand their money back from promoter Shane Jaipal. Left: Masked American wrestler White Angel with one of the chairs thrown at him by fans.

more

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"At this stage services at schools and clinics are not affected. But if the strike continues it will definitely affect both the payout of teachers' salaries and pensions"

### Main centres

Clerks, child-care officers, labourers and social workers attached to the regional offices in Wynberg, Mitchell's Plain, Athlone, Bellville were involved in the stoppage, as well as workers from the Bonnytoun Place of Safety, the Ottery and Faure industrial schools and the Porter correction school in Tokai

Workers in Worcester, Paarl, Johannesburg, Kimberley, George and Port Elizabeth had also downed tools

All the country's main centres were affected

"The administration section is the only government department in which workers have received only a 10 percent increase"

A letter requesting a 20 percent increase had been sent to President De Klerk 10 days ago

"We were very disappointed with the way he dealt with the issue"

### High priority

Dr L Kathan, chief director of budgetary and auxiliary services in the administration section of the House of Representatives, said "There is no large-scale strike in the true sense of the word"

"The core of the problem is occupational differentiation, which affects the entire public service"

"This issue was taken up with the Commission for Administration. Their reply reflected that the matter would receive a high priority"

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### Flights to Comoros

PRETORIA — South African Airways is set to resume flights to the Comoros in March. Comoran Minister of Tourism Saidali Youssouf said here two of his country's major tourist hotels would reopen at the beginning of March — The Argus Correspondent

### The weather

### Cloudy and cool

(Details, page 2)



### Free colour map of Middle East on Friday

LOOK out on FRIDAY for the detailed page colour map of the Middle East to be included free with every copy of

The map's topicality — as a result of the threat in the Gulf — makes it of importance and interest to people of all groups.

This specially commissioned map of its kind produced in South Africa focuses specifically on the Middle East centres on the Persian Gulf and Kuwait, which was invaded by Iraq on August 2

Bulk orders from educational institutions should be made to The Argus Circulation Department, Newspaper House, 122, Street, Cape Town or by phoning

Don't miss YOUR Middle-East map on FRIDAY.

### Inside today: Exam

A 12-page special section which includes matric science, biology and mathematics which goes with the SABC TV review — is inside The Argus today

● See also page 4

# Man guilty of refusing to do SADF camp

By Sue Olswang

A Durban man who has completed two years of national service has been found guilty by a magistrate of refusing to attend a South African Defence Force camp.

He will be sentenced in the Maritzburg Magistrate's Court on October 24.

Michael Graaf pleaded guilty when he appeared in court last week. A Legal Resources Centre spokesman said the court had been asked to impose a community service sentence on Mr Graaf.

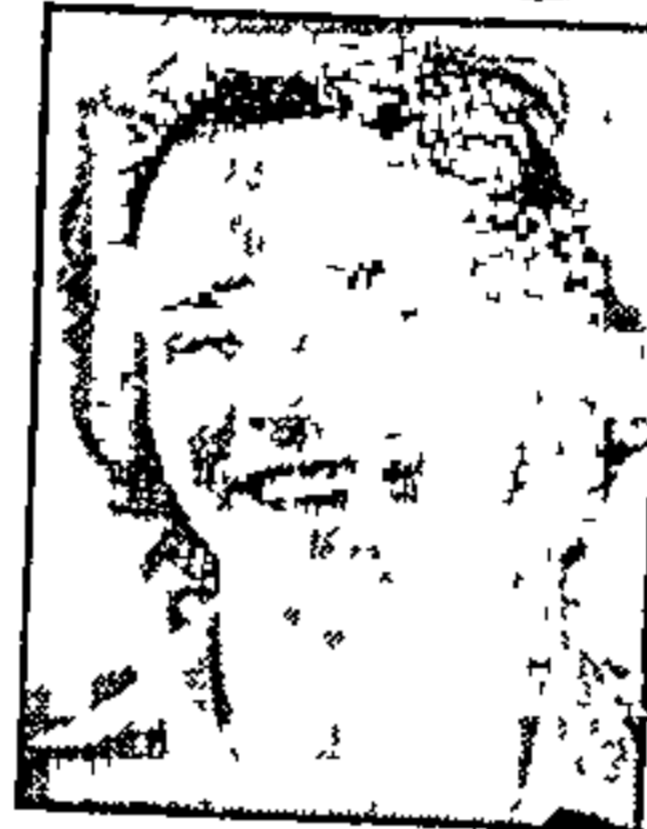
● The register of people who publicly pledged not to serve in the SADF for reasons other than religious beliefs has grown from 23 in 1987 to 143 in 1988, 771 in 1989 and more than 1 300 this year.

Chris de Villiers, chairman of the End Conscription Campaign (ECC), said yesterday that not all of these people would be tried.

"Very few have been pursued," he said, adding that some of the 1 300 this year were liable for full national service and others for camps.

"The ball is in the SADF's court — they can either call them up or not."

● Conscientious objector David Bruce was re-



From six years to 20 months . . . objector David Bruce.

leased from jail in June this year after serving 20 months of his original six-year sentence.

● Anglican Priest Douglas Torr, who refused to serve in the SADF on religious grounds, was sentenced in August to 12 months' jail. He is out on bail pending an appeal.

● Conscientious objector Charles Bester — jailed in December 1988 for six years for refusing to serve in the SADF — was freed in August this year after serving 20 months in prison. His six-year sentence was reduced on appeal to 20 months by a Rand Supreme Court judge.

His successful appeal followed a landmark Appellate Division ruling in March this year.

The ruling was that the six years prescribed by the Defence Act for refusing to serve in the SADF was to be a maximum and not a mandatory sentence.

# Bus massacre: three suspects arrested

Star 18/10/90 Staff Reporters

Three alleged members of the Afrikaner Weerstandsbeweging are being held by police in connection with last week's Natal bus ambush in which six people died and 27 were injured

The men — all from the Richards Bay area on the Natal North Coast — are Adriaan Smuts (38), Eugene Marais (28) and David Botha (46)

An AWB spokesman yesterday said the names of two of the men appeared on the AWB's registration list for northern Natal

Speaking from her home in Richards Bay yesterday, Mrs

Smuts said her husband had been arrested.

It is understood police confiscated an AK-47 assault rifle as well as empty R-1 cartridges found in a car

Forensic tests are being carried out to determine whether there is a link between the spent cartridges and bullets found at the scene of the Putco bus massacre

According to information given to The Star, the attack on the bus is being viewed by police as revenge for a bloody rampage last Tuesday morning along Lower West Street, Durban, by members of a fanatical

black religious group. Eight whites, including a woman, were stabbed and injured

Police have so far arrested 11 suspects

● The bail application for five men arrested in connection with the death of 26 people in the train massacre near Jeppe station last month was postponed in the Johannesburg Regional Court yesterday to November 1

Martin Ngcubo (49), Baso Nkosingondle (27), Mmengela Magabane (54), Solomon Khumalo (33) and Mabinela Majozi (23) have not been charged and are being held in custody

# Tabata's widow in bid to bury husband at home

By MUSANDWANDWE *South 18/10 - 24/10/90*  
THE bereaved 86-year-old widow of former president of the Unity Movement of South Africa (Umsa) Mr Bangani Tabata who died last weekend, is involved in a battle to secure indemnity which will enable her to attend her husband's funeral in the Eastern Cape

Lawyers for the Unity Movement have approached the South African Trade Mission in Harare to clear the way for Tabata's Cape Town-born wife, Ms Jane Gool, and several other Unity Movement members to enter the country to bury their former president.

Funeral arrangements have already been delayed because it is not certain whether Gool and Tabata's colleagues will be indemnified from prosecution and arrest

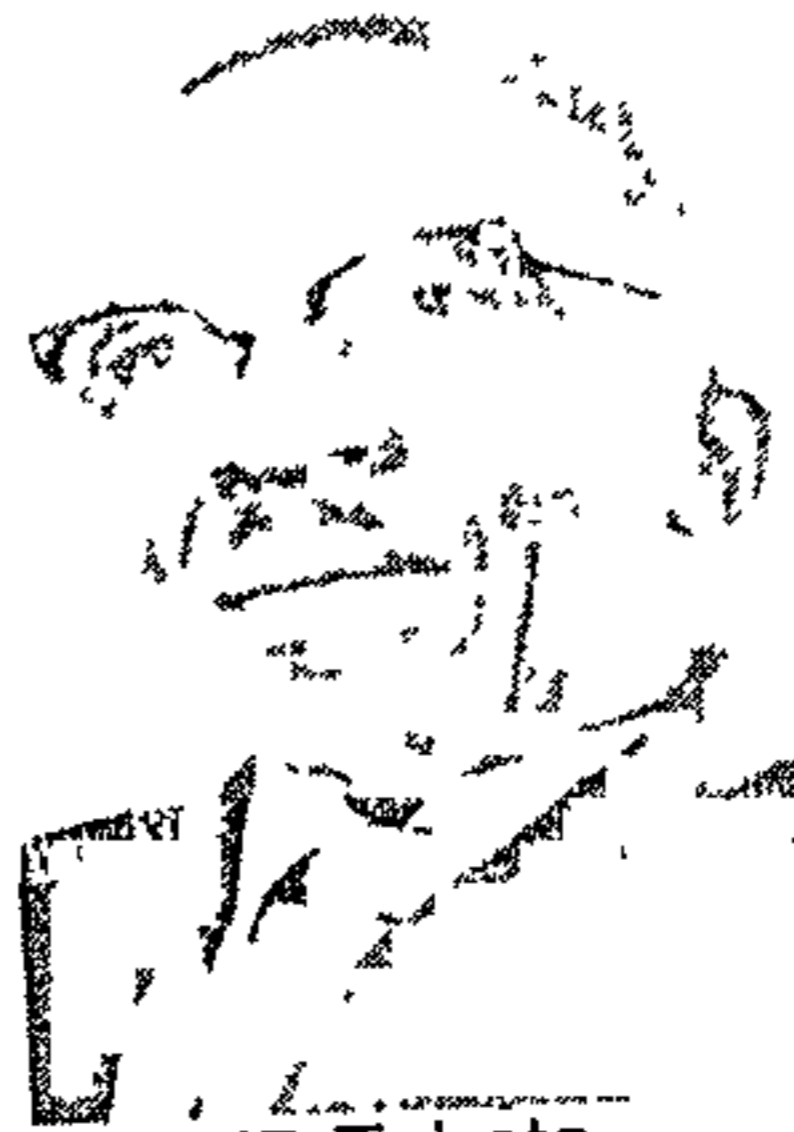
He died after a long illness. The funeral will take place in Lexington near Queenstown. If Gool fails in her bid for indemnity, the funeral will take place in Harare, where Tabata, 81, died last weekend

"The movement's leaders and members, including Mrs Tabata, who want to come to the funeral are all liable for prosecution," said Mr Alan Wilcox, spokesperson for Umsa

He could not say how many people were expected to attend next week's funeral

"Nothing has been finalised yet," said Mr Ali Fataar, spokesperson for the New Unity Movement in Harare. Tabata, whose political career spanned 60 years, was born in Bailey near Queenstown in the Cape. A founder member of Umsa in 1935, he was also president of the African People's Democratic Union of Southern Africa (Apdusa). He was also noted for his writings which includes "The Awakening of a People" and "Education for Barbarism"

Members of the New Unity Movement in Harare described him as an "outstanding orator and theoretician". In 1963, Tabata and other members went into exile to seek support for the Unity Movement



IB Tabata

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# INDEMNITY CHALLENGE

South 18/10 - 24/10/90

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By REHANA ROSSOUW

THE provisions of the Pretoria Minute have been challenged for the first time in a South African court by a 28-year-old youth leader facing an 18-month jail sentence for public violence.

In an 11th-hour bid to stay out of jail, Mr Maxwell Moss, Western Cape president of the South African Youth Congress, brought an urgent application in the Supreme Court in Cape Town on Wednesday, saying he qualified for indemnity in terms of the minute.

Moss, a father of five, was to begin his sentence on Friday after losing an appeal against a conviction on one count of public violence.

## Groundswell of anger

He won a short reprieve and was granted a stay of execution until next Tuesday.

Since the signing of the Pretoria Minute on August 6, there has been a groundswell of anger among prisoners across the country because of constant delays in implementing crucial aspects of the agreement on indemnity for political prisoners and exiles.

This has already led to widespread protest action by prisoners and families anxious to secure their early release.

Last week, 20 political prisoners held at Grahamstown embarked on a five-day hunger strike in support of their demand that indemnity be granted immediately.

Residents of Saldanha Bay on the West Coast have since embarked on their own battle to keep Moss out of jail.

## Peace shattered

Workers and students responded to a call to stay at home on Wednesday and joined in a rally and march to the local police station in support of Moss.

At the rally, attended by about 500 people, youth and student leaders warned that the peace of the community would be shattered if Moss went to jail.

"We will not allow Maxwell to sit behind bars on Friday night," warned the vice-chairperson of the Saldanha ANC branch, Mr Gerrit de Bruyn.

The marchers handed the station commander a memorandum which they asked to be forwarded to the State President and the Minister of Justice.



**BIG STICK:** A policeman, wielding a baton who protested against the clearing of

South 18/10 - 24/10/90

See fu

● TURN TO PAGE THREE

P.T.O.

**FROM PAGE ONE**

The memorandum asked them to set aside the jail sentence in terms of the Pretoria Minute — which includes in its definition of political offenders, people already sentenced or waiting execution of their sentences 252

Later on Wednesday afternoon Mr Justice HL Berman granted a stay of execution until Tuesday when he would grant final judgement on the application South 18/10 - 24/10/90

Moss said in an affidavit to the court that he had sent a petition to the State President on September 18, asking him to reprieve the sentence. No decision had been made

● Political prisoners in Grahamstown ended their five-day hunger strike, even though their demands to De Klerk to "abide by the spirit of the Pretoria Minute" were not met

The 20 prisoners demanded that indemnity for all political prisoners be granted immediately, all political trials be discontinued and the Internal Security Act be scrapped

The Prisons Department confirmed that 20 prisoners in the Grahamstown prison had embarked on a hunger strike but began taking meals again on Monday

**REPRIEVE:** Mrs Linda Moss (third from left), wife of Maxwell Moss, leads a march in Saldanha Bay this week to demand his reprieve after a public violence conviction

# 'People's courts' approved by ANC

18/10/80

**MARITZBURG** — The controversial so-called "people's courts" have been approved in principle by the African National Congress, it was reported here yesterday

This emerged from an ANC document entitled "The Genesis of People's Courts and March to People's Power", which was apparently drawn up as part of the organisation's political education programme

ANC spokeswoman Ms Gill Marcus confirmed that the organisation recognised people's courts and that it had provided guidelines for them

Prof David McQuoid Mason, Dean of the Faculty of Law at the University of Natal (Durban), when approached for comment, said he agreed with the ANC's application of people's courts — but only in civil matters

"People's courts were, and still are, part of organs for people's power

These structures are supposed to be accountable to the people and have a clear political goal. People have no faith in the racist law and order," the document argues

It noted, however "To be true to ourselves, we must say that this revolutionary concept has in the past five months, in some areas, become discredited and abused and there have been a lot of excesses

"We have heard of people being sentenced to 330 lashes and some unconfirmed reports said some people have been sentenced to death. In some of our areas some kind of anarchy, sponsored by so-called activists, prevails"

Members of people's courts and disciplinary committees must be "politically educated and have strict discipline and understanding of the movement's policies", the ANC document recommended. — Sapa

# INSIDE MAIL

## LAW AND THE COURTS

# Will a jury of one's peers bring law back to the people?

**T**HE jury system, abandoned by South Africa in 1969, is being widely discussed as a way of "bringing law to the people".

It might sound like the kind of move needed to enhance the image of the administration of justice, but there appear to be a number of drawbacks to the system which suggest it may well be a mistake to turn back the clock in this way.

Among those urging that serious consideration be given to the jury system are prominent Johannesburg advocate Jules Browde SC and the general secretary of the South African Communist Party, Joe Slovo.

Both suggest it is a way of enabling black people to play a more visible role in the administration of justice.

However, in the latest edition of the attorney's journal *De Rebus*, a strong cautionary note is sounded by Cape Town lawyer Louis Rood.

He concedes the idea is initially attractive as it would allow "ordinary citizens from every community" to be able to "participate directly in the very essence of the judicial process".

No formal legal training would be needed to act as juror, and the jury system is an essential part of the legal structure in a number of countries, including the

United States, where human rights and democratic values have high priority.

The concept of being tried by one's "peers" would also be familiar to South Africans with access to television and films as popular courtroom dramas often feature juries.

Rood says he believes a closer examination of the issue raises doubts about whether the jury system could be successfully reintroduced, or whether it would achieve any of the aims its supporters seek.

He quotes US Department of Justice figures which indicate juries usually hand out harsher sentences than do judges.

This would mean a higher prison population with all its attendant problems including greater costs.

Implementing the jury system would also mean a significant increase in other costs to the taxpayer.

Allowances, travel and accommodation costs will have to be paid to each juror, and these costs would have to be paid in each case heard by a jury.

There is already a shortage of funds available for legal aid so it is unclear where this money would be found.

Extra funds would also be needed to run related administrative services, in-

cluding the infrastructure to select members of juries, deal with requests for exemption and co-ordinate attendance.

Jury service is not likely to be welcomed by ordinary people — or their employers, and if the system were introduced it would probably be accompanied by a wide variety of applications for exemption.

Another serious drawback for potential jurors would be the fear of intimidation.

This problem is already plaguing trials in areas hit by continuing violence, and officials of the attorney-general's office complain of the difficulty in obtaining witnesses. Jurors would be even more vulnerable to intimidation.



**GARMEL RICKARD**

If the state and the accused were given the right to object to the appointment of individual jurors this could become a "potentially explosive process", Rood

says. Objections might be based on a juror's racial views, political affiliations, religious conviction, standing — or lack of it — in the community, state of health, marital track record and education — or lack of it.

The qualification of jurors could also be a problem. While race, sex or language should not bar anyone from serving on a jury, Rood suggests age might have to be a qualification, as would minimum education because "documentation forms an inevitable part of every trial".

"Some sort of geographical restriction also seems unavoidable. Jurors would ordinarily be drawn from the area of jurisdiction of the court in question. But should they be exclusively drawn from the city, town, suburb or neighbourhood of the accused, or of the victim; or both; or neither?"

"Sometimes crimes are committed far from the home of the accused, in another part of the country. Some persons have no fixed abode. In fact the entire concept of one's 'peers' smacks of a group, class, ethnic or social category which is unacceptable to many proponents of a new judicial order."

Rood quotes a number of damning references to the jury system in South Africa going back more than a century.

In 1956 an eminent East London attorney wrote: "Times without number have judges expressed shock at acquittals by juries. ... The jury system has been given a far trial in South Africa for over a century and has failed."

In 1906 the *South African Law Journal* commented: "During the last 60 years nothing has transpired to warrant the continuance of the jury system, but rather the reverse ... surely it is time that juries were relegated to the scrap-heap."

A number of authors have commented that the jury system works best in a homogenous society, warning that in a polarised society severe difficulties could be experienced.

Rood comments: "In South Africa at present political polarisation is as high as it has ever been, with politically motivated or related crime forming the subject of a substantial number of trials in the criminal courts."

"Within ethnic and racial groupings there are deep and often bitter political divisions. It will be appreciated that finding a jury that will ensure justice is done in many of these trials where there are often a number of accused, and where allegiance to a cause is made central to the proceedings, is no simple matter."

W/Week 19/10 - 25/10/90 (252)

# Policemen charged with suspect's murder

Blom 19/10/90

FOUR young policemen who allegedly fatally assaulted a black suspect and dumped his body next to a highway before reporting that the man had escaped, pleaded not guilty to murder in the Rand Supreme Court yesterday

Petrus Rudolph de Villiers, 19, Andries Wilhelmus Vorster, 20, Johannes Martinus Olivier, 21, and Gulleame de Witt, 22, also pleaded not guilty to defeating the ends of justice when they appeared before Mr Justice G Gordon and two assessors yesterday

De Witt was a sergeant at the time of the alleged murder while the three others were constables

It is alleged that the four arrested George Ndaba and another suspect on the morning of July 19 last year and took the pair to the Bramley police station where they were booked on a false charge

## False

The state alleges the four killed Ndaba by fatally assaulting him and then dumping him next to the R28 highway

De Villiers and Olivier then allegedly made false statements that Ndaba had escaped from custody.

When the trial began yesterday, a statement made by De Villiers to a Randburg magistrate on July 29 last year was handed in to the court

In his statement De Villiers said they had stopped Ndaba and another suspect in Alexandra in a car with a calculator and video machine on the back seat

He said after Ndaba told them the car belonged to himself and they had bought the goods for R100, both they and the vehicle were taken to Bramley police station

De Villiers said Olivier held the two there on a false charge saying this was because he did not have the time and had to go out again That night Ndaba was booked

SUSAN RUSSELL

out for further questioning

"George Ndaba took us to Alexandra and showed us where he had bought the goods In the house, for the first time Vorster hit George Ndaba with his flat hand," he said De Villiers said he and Ndaba stood by the door of the house while the others searched it Nothing was found

As they walked back to their vehicle, Olivier kicked Ndaba from behind and stood on his ribs De Witt and Vorster took Ndaba to the vehicle and Olivier kicked him two or three times in the face

De Witt picked Ndaba up by his clothes, De Villiers said, and threw him hard on to the ground

"George Ndaba lay there — I do not know if he was dead"

De Villiers said Olivier told him to help Vorster put the man into the vehicle and they left, driving to a piece of veld

"When I felt Goege Ndaba, I felt he was ice-cold and said to Constable Olivier that we must take George to the clinic He said George was not yet dead and he would come round shortly"

De Villiers said De Witt also felt Ndaba and stated he was dead A suggestion was then made that Ndaba be thrown out next to the highway

"I am not sure who made the suggestion," De Villiers said "It was said that if George was found next to the highway it would be thought that it was a hit-and-run accident."

He said Olivier told him to kick Ndaba out of the vehicle

"I told Constable Vorster he could do it, but I would not and we swapped places

"Constable Vorster opened the car door and kicked George Ndaba on to the tar road" Olivier then reported that Ndaba had escaped, De Villiers said

The trial continues

# Coetzee speaks of poisons

By Chris Whitfield,  
The Star Bureau

LONDON — Former police captain Dirk Coetzee, who shocked South Africa with allegations that he was part of a hit squad, yesterday gave evidence in exile for the second time this year.

A starkly decorated room in the International Press Centre in London is the setting for this week's hearing, in which Lieutenant-General Lothar Neethling is claiming R1,5 million for defamation from two newspapers, Vrye Weekblad and the Weekly Mail. The claim arises from articles published in both papers linking him to alleged police hit squad activities.

In August the newspapers were granted leave by Mr Justice Roos in the Rand Supreme Court to take evidence from Mr Coetzee before a commissioner in London this week.

## Converted

In April, Mr Coetzee, who fled South Africa before making his allegations, gave evidence to the Harms Commission into alleged hit squad activities. A cinema in the basement of the South African Embassy in London was converted into a courtroom for the occasion.

This week's makeshift courtroom — with tables for the legal teams' desks and two rows of four chairs as a public gallery — heard Mr Coetzee describe details of General Neethling's home and office in Pretoria.

He also repeated allegations that General Neethling had supplied poison powders and drops to help dispose of two men.

Mr Coetzee said he first met



Rebel policeman Dirk Coetzee.



Lieutenant-General Neethling.

General Neethling — then a brigadier — in October 1981 when he visited him at his Pretoria office and was given the poisons.

He described the general's office in detail, saying he had seen a picture of Oostelikes Rugby Club on one wall with General Neethling standing in the middle row. A certificate on another wall stated that General Neethling had flown in the Concorde.

The drugs had had little effect when they were administered to the men, Selby Mabuso and Peter Dhlamini, and a Captain Koos Vermeulen returned to Pretoria to get more of the poison.

Mr Coetzee said Captain Vermeulen told him the brigadier could not believe the poisons had not worked, but the in-

creased doses failed to have any effect when they were put into the men's drinks.

Mr Coetzee and Captain Vermeulen again went to Pretoria to get more poison from General Neethling. He described how they had gone to the general's house on a Sunday morning and he had come out to talk to them in pyjamas.

Mr Coetzee described the general's house, saying it had wooden floors.

Later the general changed into shorts and took them to a laboratory, where he gave them more poison.

Again the poison failed to work and another policeman finally shot the two men in the head. Mr Coetzee said the man who carried out the killings was from the "far right, with no love for black people".

## Rubber tyres

The bodies were then burnt on a pyre of rubber tyres until there was no trace left.

Mr Coetzee told the hearing that General Neethling was known in the police force as the "chemicals expert" and was the person to go to if poisons were needed.

The hearing was also told that Mr Coetzee's official police case book (*sakboek*) from the time he was at Vlakplaas, the alleged hit squad headquarters, had General Neethling's name written in it, with two telephone numbers.

The commissioner presiding at the hearing, which is expected to last four days, is advocate Sean Naidoo. Advocates Willie Oshry and Mannie Witz are appearing for General Neethling, and Bobby Levine, SC, and Frans Rautenbach for the newspapers.

# Judge answers hanging critic

"NOT unlike Don Quixote of fictional fame, Professor Davis waxed eloquent attacking somebody whom he thought could not answer back.

"This is the second time he has seen fit to give himself some publicity at my expense in the public Press, and this time, with the full approval of my Judge-President, I am going to set the record straight

"Judges traditionally cannot, and do not, debate with others the merits of their judgments once delivered. No doubt fortified by his knowledge Professor Davis criticised fearlessly and boldly

"I do not now, or ever, propose to enter into such a debate, especially not with a man like Professor Davis, who so obviously is not well informed on questions of criminal practice

"Professor Davis levels his attack on me personally and advises the Judge-President of my division to accommodate me in civil trials rather than criminal trials in future.

"He bases this view on the fact that the Appeal Court recently on appeal set aside a conviction of murder in a case where I was a member of the court

## More cautious

"Professor Davis does not appear to know that a court in a criminal trial involving a capital crime consists of three members, viz a judge and two assessors, each having an equal vote in deciding the facts

"Nor for that matter does he seem to grasp that very fact from the judgment of the Appeal Court, where Mr Justice Goldstone held that the lower court should have been more cautious in drawing certain inferences

"Professor Davis's criticism of me, either wittingly or in ignorance, is based on the premise that I was the court. Perhaps he should in future first seek the advice of his colleagues in the criminal law faculty before he again so boldly ventures into a field of which he apparently has a very limited knowledge

"They will tell him that a judge sitting with assessors (as

CAPE Supreme Court judge Mr Justice Braam Lategan has responded sharply to a University of Cape Town law professor's questioning of his competence to preside over criminal trials.

The criticisms were made by Professor Dennis Davis, head of the Society for the Abolition of the Death Penalty and a professor of law at UCT, in a report in Weekend Argus of September 29 under the heading: 'Hanging judge' under fire from abolitionists.

It followed the Appeal Court's decision to free Mr Easter Ndwanyana of Beaufort West who had spent a year on Death Row after being sentenced in the Cape Supreme Court.

The report pointed out that it was the sixth death sentence imposed by Mr Justice Lategan which had been overturned on appeal, and it quoted Professor Davis as saying the judge should no longer sit on criminal trials.

In his statement to Weekend Argus Mr Justice Lategan said the report came to his attention only recently as he had been out of town for a fortnight. This is his full response:

is the case in trials involving a possible death sentence) is merely a minority member of a criminal trial court

"I do not seek to escape the consequences of, or responsibility for my role in a decision-making process. I merely ask that a balanced and informed view should be applied in judging that

"To err is human, and judges are human. From time to time, in the view of the Appeal Court, all judges make mistakes, as is only too frequently and regularly pointed out by the Appeal Court

"A quick reference to the South African Law Reports will inform Professor Davis of this fact. That, I may add, is the primary task of the Appeal Court, its *raison d'être* — to serve as a last legal check point for decisions that have been arrived at often with great anguish and circumspection by trial courts

"Because of that very circumspection in fact, I gave leave to appeal to the convicted person in the matter under discussion to take the verdict on appeal

"I am astounded that a man of Professor Davis's position, to whom has been entrusted the task of teaching and moulding the minds of very young law-

yers, arrogates to himself the right to rush into this sensitive and finely balanced process apparently in an effort to promote his oft-professed cause — the abolition of the death penalty

"Professor Davis arrogates to himself not only this right. He also assumes the right to advise the Judge-President how to allocate the work of the Supreme Court to the judges at his disposal

"Only when Professor Davis has had the hard practical experience of a lawyer acquired in the hurly-burly of practice and operating in the tough and demanding real world of sorting out conflicting rights and dispensing justice in cases involving the most heinous crimes will I concede to him the right so to pontificate

"I am quite willing to invite Professor Davis some time to come and serve as an assessor in a criminal trial with me. But perhaps again Professor Davis would prefer not to let the heartbreaking realities of crime interfere with his preconceived academic views

"Finally I must point out that the five previous convictions and death sentences (referred to in the report) set aside by the Appeal Court in cases wherein I had presided, extend chronologically over a

period of about 10 years during which period I presided in a great number of criminal trials, having sat in crime virtually every week

"I am prepared to state without fear of contradiction that, perhaps because of my background, during those 10 years on the Bench the Judge-President saw fit to use me more frequently in criminal trials than most other judges of this division

"It was, and is, his exclusive prerogative to do so, and if he, with his intimate knowledge and comprehensive command of all the factors bearing on the competence and suitability of any given judge for any given type of trial, chose to do so, Professor Davis's attempt to prescribe to him in this regard can only be labelled presumptuous

"I do not keep statistics but would be surprised if the percentage of judgments delivered by me in criminal trials during the past 10 years, upset or varied on appeal, amounts to more than two percent

## 'So few mistakes'

"I am only thankful that I had been found to have made so few mistakes over so many years in so many trials, and that the Appeal Court was there to rectify these mistakes

"Perhaps Professor Davis who appears to have more time for research at his disposal than busy Cape Provincial Division judges would like to do a survey of the whole South African Bench over the last 10 years and determine the percentage of cases in which the Appellate Division has interfered with the judgments and verdicts of each trial judge in civil and criminal matters

"This task (to arrive at a true overall picture) would involve of course taking into account all cases tried, all judgments delivered, the number of cases in which no appeal was lodged, the cases in which leave to appeal was refused by the Appellate Division and of course the fate of the appeals actually heard, including the number in which the appeal was upheld or dismissed by a split decision

"His findings should make interesting reading"

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A-G applies to court

# Winnie's trial date contested

TRANSVAAL Attorney-General Klaus von Lieres yesterday challenged a magistrate's decision to postpone until February the trial of Winme Mandela and seven others on charges of kidnapping and assault.

Mrs Mandela, wife of African National Congress leader Nelson Mandela, and seven of her former bodyguards are charged with abducting and beating four young men at her house in Soweto

The leader of her bodyguards, Jerry Richardson, has been convicted of murdering one of the four. He was sentenced to death.

### Trial date

The eight defendants appeared on September 24 in the Protea Magistrate's Court in Soweto, where Mrs Mandela's attorney, Ismail Ayob, argued that the original October 30 trial date left his client insufficient time to prepare.

Magistrate T F Veldman postponed the trial, which will be held in the Supreme Court, until February 4

Yesterday Transvaal Mr von Lieres asked the Supreme Court to rule that the magistrate lacked the power to change the date

"For the administration of criminal trials in

the Supreme Court, it would have worrisome consequences if each and every magistrate or regional magistrate in each of the more than 100 magisterial districts could determine when an accused should stand trial in the Supreme Court," Mr von Lieres said in an affidavit supporting his challenge.

There was no indication of why Mr von Lieres waited until yesterday to challenge the postponement. The Supreme Court reserved judgment on the application.

The charges against Mrs Mandela and the others stem from a December 1988 incident that killed 14-year-old Stompel Sepei.

During Richardson's trial, the other three alleged victims testified they were abducted by members of the Mandela United Football Club — Mrs Mandela's bodyguards — and taken to her home. They said Mrs Mandela beat them with a whip and that the others also assaulted them.

All eight defendants face four counts each of kidnapping and four of assault with intent to commit grievous bodily harm. If convicted, they could receive punishment ranging from a suspended sentence to the

death penalty. Lawyers said the death sentence has never been imposed for kidnapping in South Africa.

Mrs. Mandela has denied any wrongdoing.

White and black leaders fear Mrs Mandela's trial could strain relations between the ANC and the government as they try to start talks on ending apartheid.

The charges are the latest in a series of controversial or damaging incidents involving Mrs Mandela. Many have been linked to the soccer club she formed that served as her protection. The two dozen teenagers played few matches and were accused of terrorising the Soweto neighborhood where Mrs Mandela lived.

### Minister

According to testimony at Richardson's trial, Mrs Mandela's bodyguards accused Sepei of being a police informer and the other three of having homosexual relations with the white minister at their church home.

No evidence has been presented that Sepei, a well-known anti-apartheid activist despite his young age, was a police spy. The Methodist Church cleared the minister of any misconduct. — Associated Press



S, October 21 1990 7

# Winnie trial sparks law row

STimes 21/10/90  
By DOMINIC JONES

THE trial of Mrs Winnie Mandela, on charges of kidnapping and assault could be brought forward if an application by the Attorney-General of the Transvaal to the Supreme Court is successful.

Mr Klaus von Lieres is challenging a magistrate's ruling to postpone Mrs Mandela's trial date until February 4 on the grounds that it was not within the magistrate's jurisdiction to do so.

Mrs Mandela, 58, and seven of her former Mandela United Football Club bodyguards are charged with abducting and then beating four young men at her Soweto home.

Mrs Mandela — who denies the charges — appeared in court in Soweto on September 24 but her attorney, Mr Ismail Ayob, argued that the original trial date of October 30 left him too little time to prepare. Magistrate T F Veldman postponed the case to February. But yesterday Mr Von Lieres said:

"As Attorney-General, I am responsible for the setting of trial dates in the Supreme Court. If the magistrate's decision had gone unchallenged it would have set a precedent on the administration of criminal trials in the Supreme Court."

He said the application was not specifically aimed at bringing the case forward.

"It is a matter of principle. It just happened to be Mrs Mandela's case where the magistrate decided to dictate to the Supreme Court."

# EXAM THEFT: MORE APPEAR

By MARTIN NTSOENGOE

THE number of people facing theft charges of Vista University examination papers swelled to four this week when three more appeared in court.

Joining teacher Eunice Zonke Gumede, 33, before magistrate TF Veldman in the Soweto Magistrate's Court were Halo Nkateko, 22, of Meadowlands; Johannes Sebata, 27, of Atteridgeville, Pretoria, and Herman Edward Winter, 26, of Verwoerdburg.

The four accused were not asked to plead and their case was postponed to December 6.

Gumede was granted R2 000 bail two weeks ago on condition she does not leave Protea township, Soweto.

The appearance of the four is a sequel to the police busting

of an alleged examinations paper racket last month in which students allegedly bought papers for R50 each. Police raided a Protea North house and arrested Gumede. They also questioned another woman who had allegedly bought an exam paper for R50.

As the result of the theft university examiners were compelled to reset the papers. According to Vista acting rector Prof Ernst Neuland, the theft was discovered before the start of the examinations two weeks ago. The papers were traced to the Protea North house and recovered.

The theft of examination papers has been a regular occurrence in the townships in recent years, with education authorities being criticised for their lax security.

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2/11/90

# Man escapes necklace just before match is lit

By CHARLES MOGALE 252

LUCKY Lucas Masombuka still can't believe he is alive. He escaped a gruesome necklace death just seconds before the match was struck.

"They had already doused me with petrol," he said this week, still shaking and speaking from a hideout.

Masombuka, 28, an Azapo member in Siyabuswa, KwaNdebele, was relaxing in his room last Sunday when four alleged ANC members knocked on his door.

"I opened the door and saw four ANC supporters well

known to me. They asked me why I belonged to Azapo while the ANC was in the area. Before I could even answer them, they poured petrol over my head," he said.

"I thought I was a dead duck. With all my strength - I don't know how I gathered it - I shook them off and fled. I ran and only stopped when I was sure they were not following me. I looked back and saw large flames coming from the direction of my home."

He did not bother to investigate any further. "I slept in the open veld.

The following day I learnt my outside room at home had been burnt. I have not been home since, but I am told all my furniture, clothes and other personal belongings have been burnt," he said.

Masombuka has not been to the Department of Justice, where he works as a clerk.

"However, I was told my assailants went there to finish me off. I did nothing, except to belong to Azapo. But even if it means I must die, I will not switch my membership because some people won't tolerate my organisation," he said.



Lucas Masombuka ... still shaking this week.

[The remainder of the page contains extremely faint and illegible text, likely bleed-through from the reverse side of the paper.]

# Cops charged for brutal murder

By MARTIN NTSOELNGOE

A GROUP of young white policemen kicked and punched an Alexandra man to death and flung his body from a moving police vehicle, the Rand Supreme Court heard this week.

In papers before the court, one of the accused alleged George Ndaba was assaulted by three other policemen on July 19 last year. This resulted in Ndaba's death.

Petrus Rudolph de Villiers, 19, of Pretoria, Andries Wilhelmus Vorster, 20, of Randfontein, Johannes Marthinus Olivier, 21, of Donkerhoek, Ladybrand, and Guilemme de Witt, 22, of the SAP Quarters, Sandown, are charged with murdering Ndaba and defeating the ends of justice.

All have pleaded not guilty. They were released and asked to

appear again

De Villiers made damning allegations against his co-accused. He alleges Vorster slapped Ndaba, Olivier kicked him and De Witt threw him to the ground.

He said on the day of the alleged murder he and Vorster had chased a speeding car in Alexandra. They stopped two black men, one of whom was Ndaba. They saw a computer and video player in the car. After questioning the men the police found the goods had been bought for R1 000.

The men were ordered to drive to the Bramley police station and were booked on false charges to keep them in the cells.

Later that afternoon, Ndaba was booked out of the cells, and taken to his house which was searched. Nothing was found.

That night Ndaba was again

booked out of the cells and was taken by the four accused to point out where he had bought the goods.

De Villiers stated that Vorster kicked Ndaba before he was thrown to the ground by De Witt.

After the assault Ndaba was placed in the minibus and when De Villiers touched Ndaba's body, it was "ice cold".

De Villiers later told Olivier Ndaba should be taken to a clinic, but was told the man was still alive and would soon wake up.

Later De Witt touched Ndaba's body and confirmed he was dead.

Olivier then told De Villiers to throw Ndaba's body out of the mini-bus, but he refused.

Vorster then opened the door and threw Ndaba's body out of the moving vehicle, De Villiers said.

# Winnie could be tried soon

By DESMOND BLOW

252  
21/10/90  
TRANSVAAL Attorney-General Klaus von Lieres und Wilkau wants Winnie Mandela's kidnapping and assault trial to be heard at the end of this month - and not in February next year

She and seven others appeared in the Protea Magistrate's Court on September 24 and were remanded to the Rand

Supreme Court on October 30. However, after argument by Mandela's attorney Ismail Ayob, magistrate T Veldman agreed to postpone the matter to February 4 1991 in the Supreme Court

This week Von Lieres asked the Supreme Court to rule that the magistrate lacked the power to set a new date. Judgment will be given next week

# Winnie's case sparks a jurisdiction dispute

BIPAM 22/10/90

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WITWATERSRAND Attorney-General Klaus von Lieres has applied for a Supreme Court order which precludes magistrates from changing the dates set down by the Attorney-General for the hearing of cases in the higher courts

Von Lieres applied on Friday for an order declaring that a magistrate or regional magistrate does not have the jurisdiction to change the dates of hearings already decided by the Attorney-General and is compelled to postpone matters to the date set by the Attorney-General

The Attorney-General's application, heard by Mr Justice Van Dijkhorst and Mr Justice Swart follows the first appearance of Winnie Mandela and seven others before a Soweto magistrate on assault and kidnapping charges last month

At the hearing on September 24 the case was postponed until February 4 for hearing in the Supreme Court

In an affidavit in support of his application Von Lieres said he had set down the matter for hearing in the Supreme Court on October 30

However at the magistrate's court hearing Mandela's attorney Ismail Ayob had objected to the date for various reasons.

SUSAN RUSSELL

Von Lieres said State counsel H Joubert had informed the magistrate of the date set down for the Supreme Court hearing

Despite this, he said, the magistrate granted Ayob's application that the matter be postponed until February 4

Von Lieres accepted the date "decided" by the magistrate in the Mandela case, but sought a general order precluding this in future He said it was the practice in the Witwatersrand Division for the Attorney-General to arrange the dates of criminal matters heard in the Supreme Court with the Judge President

A magistrate or regional magistrate did not have the jurisdiction to change these dates or decide his own dates for the hearing of Supreme Court matters

Von Lieres said it would be cause for concern if each magistrate and regional magistrate could decide when an accused should appear in the Supreme Court It also meant that every accused person summoned in this way could object to the date set down for his trial because it did not suit him This would lead to chaos

Judgment was reserved

ulating  
cheduled  
RINE ROSS

Soviets' visit

REPORTER ORDERED TO EXPLAIN EVENTS IN COURT

# Reporter ordered to explain events in court

A Business Day journalist appeared in Alberton Magistrate's Court yesterday after being summonsed to answer questions in terms of Section 205 of the Criminal Procedures Act.

Mr Linden Birns arrived at the court accompanied by his editor, Mr Jim Jones, and legal representative Mr David Dison of Bell, Dewar and Hall, *Sowden* 23/10/90

The proceedings were not open to the public or media.

Under the Section 205 subpoena, Birns was required to answer questions relating to an eyewitness account describing alleged police partiality during recent township violence in the Alberton district.

Birns told The Star before he appeared in court that he would be "contesting the validity of the subpoena".

Dison said he was not in a position to reveal the proceedings.

24/10/90

# Police save Soweto men from necklacing

By Gien Elsas  
West Rand Bureau

Two men were rescued from a mob of schoolchildren who planned to necklace them after they were apparently caught stealing money from an elderly woman in Soweto on Monday morning.

Lieutenant Colonel Tieme Halgryn, liaison officer for the Soweto police, said an elderly woman had been robbed of R419 in cash.

A huge crowd of schoolchildren apparently apprehended the two suspects and decided that they should be necklaced.

A Soweto police photographer and a member of the Murder and Rob-

bery Squad were on their way to another scene when they saw the mob leading the men, who had their hands tied behind their back, to their execution site.

The policemen questioned the group and were told that the men had been caught stealing. The money was produced as evidence.

The mob, numbering about 300, then said they were going to necklace the suspects.

After negotiating with the policemen, they agreed to hand over the men.

The men, aged 25 and 24, were then taken to the Orlando police station. They will appear in court today.



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# Winnie's trial date still set for February

Staff Reporter

The trial date of Winnie Mandela still stands at February 4 in spite of a ruling by two Rand Supreme Court judges yesterday that the magistrate who postponed the date from October 30 to February had no authority to do so.

Mr Justice van Dijkorst concurring with Mr Justice Swart found that a magistrate did not have the authority to change or decide the trial date of a case to appear in a Supreme Court.

It was not under the jurisdiction of the magistrate to change the date or place of a criminal trial determined by the

Attorney-General.

The application was brought by the Attorney-General of the Witwatersrand, Klaus von Lieres, who had set the trial date for Mrs Mandela for October 30.

But Soweto magistrate T F Veldman, who was asked by Mrs Mandela's attorney to postpone the hearing, had "misdirected himself" by changing the date.

The court was not asked to change the date from February 4.

Mrs Mandela and seven others face charges of kidnapping and assault.

● Other side of Winnie

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# Two convicted of R22-m Eskom fraud

Staff Reporter

Two men who obtained cheques after falsely claiming to represent construction companies which had sub-contracted on work done for Eskom, were yesterday convicted of fraud involving R22 million

Pretoria construction businessman Donald Hempel (47) was sentenced in the Johannesburg Regional Court to

four years in jail suspended for five years.

Johannesburg land surveyor Angelo Capo was found guilty on four counts of fraud and two alternative counts of theft. His case was postponed for three weeks to allow Mr Capo's defence time to prepare for pleas in mitigation

Eskom employees at Megawatt Park have testified that on September 29 1987 they gave a cheque for

R17 million to a man believed to represent Sieva Construction and, on the same day, three cheques for R5 million to another man allegedly representing Powerlines Construction

Later both companies sent legitimate employees to collect the cheques. Eskom immediately cancelled the cheques, but R25 000 had already been drawn on the accounts opened by the men.

# Pretoria Minute pardon refused

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AN application for a pardon in terms of the Pretoria Minute was yesterday refused in the Cape Town Supreme Court.

Maxwell Moss (29) an ANC member and field worker for the West Coast Council of Churches was ordered to begin his 18-month sentence at 9am on October 25.

Vredenburg Regional Court sentenced Moss on February last year after he had been charged with participating in the stoning of a police vehicle.

In a letter to Moss, instructing attorneys, the Department of Justice stated that he failed to fall within the category of political prisoners in terms of the Minute.

Pretoria Minute and on that ground alone he

qualify as a political offence in terms of the Pretoria Minute.

Once this has been done, your client will

be at liberty to bring an application for his release.

Mr Justice H L Berman presided. Mr D Potgieter, instructed by C E MacDonald and Papier, appeared for Moss. Mr A P Tredoux appeared for the Attorney-General.

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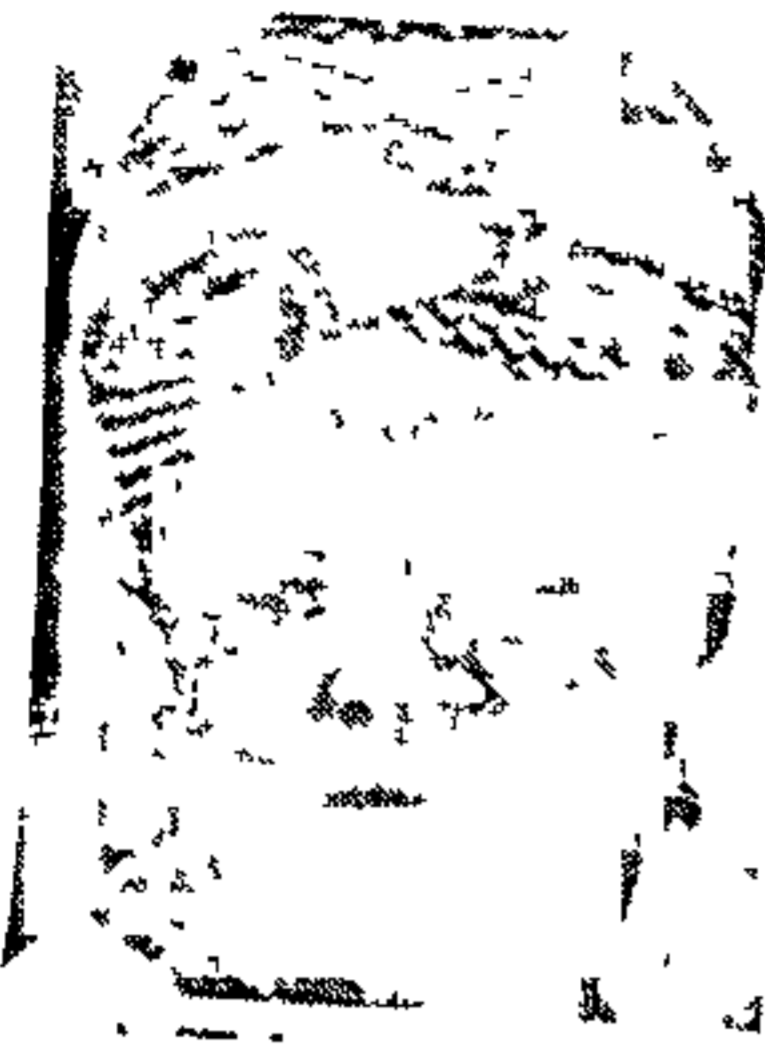
Mr Justice H L Berman presided. Mr D Potgieter, instructed by C E MacDonald and Papier, appeared for Moss. Mr A P Tredoux appeared for the Attorney-General.

Sowetan 24/10/90

# Magistrate erred in Winnie's case

Savelan 24/10/90

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WINNIE MANDELA

A RAND Supreme Court judge yesterday ruled that a magistrate had erred when he postponed the trial date of Mrs Winnie Mandela, who is scheduled to appear in court on charges of kidnapping and assault

Mr Justice KV Dijkhorst, in a 30-minute judgment, granted an application by Transvaal Attorney-General Mr Klaus von Lieres, who sought a declaratory order

## SA PRESS ASSOCIATION

Von Lieres launched his application on Friday after magistrate Mr TF Veldman postponed Mandela's trial on kidnapping and assault charges to February 4.

The Supreme Court had set October 30 as the trial date but after an application by Mandela's defence lawyer Veldman agreed to postpone the

trial. In his challenge, Von Lieres said he agreed with the new date but contested the right of a magistrate to change a Supreme Court decision.

Justice Dijkhorst subsequently ruled that a magistrate was not empowered to change a trial date set by the Supreme Court.

In an earlier hearing, Mandela's lawyer, Mr Ismail Ayob, argued that the complexity of the case with eight accused represented by two different attorneys and over 30 witnesses to be called by the State - left too little time for preparation.

He said Mandela would be abroad with her husband on October 30 on a long-standing arrangement and would not be available for trial on that day or for the necessary consultation prior to the case.

# Now Tvl hospitals face drip probe

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By Carina le Grange  
and Marguerite Moody

The Transvaal Provincial Administration has launched an investigation into allegations of klebsiella infection in certain provincial hospitals, chief liaison officer Piet Wilken told The Star yesterday.

The announcement follows reports that some of the babies who recently died of klebsiella septicaemia, allegedly linked to Sabax drips, died at provincial hospitals.

Hospitals already named include Garankuwa, Far East Rand, Coronationville, Tembisa, Boksburg/Benoni and Kalafong.

Johannesburg attorney Peter Soller said at least 25 babies had died from septicaemia.

The privately run Park Lane, Morningside and Garden City clinics have confirmed klebsiella-related deaths.

Sandton Clinic's Dr Antoinette van der Merwe yesterday strongly denied that a baby had died there in September as a result of drip contamination.

She also said the clinic did not use the specific product which had been linked to the deaths.

Adcock Ingram Limited, holding company of Sabax, has welcomed the TPA inquiry.

The company expects the results of its internal and external investigations, by independent outside specialists, to be tabled with the Department of Health by the end of the week.

Don Bodley, group chief executive of the company, said the company's prime concern was for patient safety.

"We are also extremely concerned regarding the anguish of the parents," he said.

Mr Bodley said the contamination could have come from several sources.



# Moss goes into hiding on prison D-day



**MAXWELL MOSS: 'I prefer life on the run to jail.'**

PIC: YUNUS MOHAMED

By REHANA ROSSOUW

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YOUTH leader Mr Maxwell Moss went into hiding today rather than to jail *South 25/10 - 31/10/90*

Moss, a West Coast Council of Churches field worker who is also president of the South African Youth Congress (Western Cape), has decided to defy a court order to present himself to begin serving an 18-month sentence for public violence.

He told SOUTH, in an exclusive interview shortly before embarking on an indefinite period of "life on the run", that a last-ditch attempt to stay out of jail by appealing to the Dutch Prime Minister, had failed.

On Monday he lost a Supreme Court application for an extension of the date he had to report for jail, on the basis that the State President had not responded to his petition for indemnity in terms of the Pretoria Minute

### Petition for indemnity

Influencing the judge's decision was a letter from the Minister of Justice, informing him that the petition for indemnity had failed

"My refusal to go to prison is based on principled grounds," said Moss

Moss said a principle motivating his decision was the fact that he believed his

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case was covered by the Pretoria Minute, and he was entitled to immunity. He had by going to the Bellville Magistrate's Court to report for prison would be playing into the government's hands in delaying the process of indemnity. He had exhausted the "correct channels" in an attempt to stay out of jail and had no option but to embark on defiant action.

He appealed after being sentenced, petitioned the State President for indemnity, consulted ANC deputy president, Mr Nelson Mandela, to raise the matter, with

President FW de Klerk and finally brought an application to the Supreme Court.

On Tuesday afternoon Moss petitioned the Prime Minister of the Netherlands — where De Klerk was visiting — to intervene and assist him.

His petition was received by staff at the Netherlands Embassy with assurances that it would be forwarded.

Moss said he was preparing himself for a life in the shadows until the Pretoria Minute was implemented by the government and people in his position could exercise the rights "we clearly have".

He said his decision to embark on a life on the run would "obviously create hardships".

### Running

Even worse was the fact that he would not be able to see his wife and five children, the youngest of whom is a year old.

"I won't be able to show my face near the people I love for some time," he said.

"I will be creating my own prison, running away not only from the system but my family, my comrades and my responsibilities."

Moss is the sole breadwinner in his family, which includes his elderly mother. "I discussed it with my family and they support me. For as long as it takes for the Pretoria Minute to be implemented, I will stick by my decision."



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**Editor Du Preez  
to be sentenced**

Vrye Weekblad editor Max du Preez will be sentenced in the Johannesburg Magistrate's Court today for contravening the Protection of Information Act

Du Preez and the publishers of his newspaper, Wending Publications, were found guilty earlier this month of receiving and publishing a document containing information sensitive to State security

The charges related to a report in the Vrye Weekblad in February titled "Storm oor Matie Prof en Intelligensiediens". — Staff Reporter

Sto 26/10/90

# Eskom to sue 13 councils for arrears

LSZ

By Therese Anders  
Highveld Bureau

Eskom is in the process of summoning 13 defaulting black town councils for multimillion-rand arrears.

In all, 27 local authorities now owe the electricity giant R70 million

This amount is growing daily, says Eskom distribution and marketing deputy general manager Allen Morgan.

Some townships are

three months behind in their power payments

Mr Morgan said Eskom could be forced to cut off supply to some of these townships "if all else fails".

## Pleaded

He would not name any township in immediate danger of having its service suspended

He stressed that Eskom's policy was to negotiate with township authorities before legal action was taken

Adam Engelbrecht,

town clerk of KwaGuqa, near Witbank, has pleaded with the township's residents to pay their accounts before Tuesday

If R833 000 has not been paid to the Witbank Town Council by Tuesday, the township faces a blackout

At Wesselton, where water was restored on Wednesday after a nine-day suspension, the township's acting town clerk, Hannalie du Bruyn, said residents had until November 15 to pay the next water account

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40 arrested in  
SFO 26/10/90  
swoop on hostels

By Montshiwa Moroke

Forty men and women were arrested in a pre-dawn swoop by municipal police on Dobsonville hostels in Greater Soweto yesterday, according to Soweto police liaison officer Lieutenant Govindsamy Mariemuthoo.

He said they were held for being on the premises without permits. "They were taken to the Dobsonville police station. Later, they were taken to court where they appeared on charges of trespassing."

The outcome of the court proceedings could not be established last night.

Dobsonville council executive committee member V Thusi recently said the greater section of the hostels would be converted into family units.

## GRINDING WHEELS

11/11/90  
Not even Winnie Mandela's trial date is without controversy.

At the trial, the attorney-general, Klaus von Lierke, has well-taken the unusual step of seeking a declaratory order in the Rand Supreme Court. Judge J. H. Veldman changed the Mandela trial date to October 30. Mandela and seven others are due to stand on charges of kidnapping and a

The date was changed after a request by Mandela's lawyer, Ismael Ayob, on September 21. In the meantime, the Protector of the Prisons, Judge J. H. Veldman, said an October date would be insufficient time for the defence.

On Monday, the judge ruled that the trial date set by the Supreme Court

was not sufficient for bringing the action, but he was establishing a principle that the trial should be held in February next year. Lands

Funeral-goers get  
month's indemnity

By PETER AUF DER HEYDE 252  
THE government has granted a month-long indemnity to several members of the Unity Movement of South Africa so they can attend the funeral of the organisation's president, Isaac Bangani Tabata, tomorrow in Lessyton, near Queenstown. Amongst those granted indemnity is Tabata's widow, Jane Gool. Tabata was elected as the first UMSA president and served in that capacity until his death after a long illness in Harare two weeks ago.

# Frustrated police are using iron-fist tactics

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**H**UMAN rights lawyers report a sharp increase in the number of allegations about police brutality since the February 2 unbanning of outlawed organisations.

Lawyers for Human Rights director Brian Currin has had to conclude some policemen are using "iron-fisted tactics to alleviate frustrations at the concessions government is making to extra-parliamentary political organisations"

The claims about brutality, both in political and "ordinary criminal" matters, came to light through a special LHR project — Project Article 7. This focuses on Article 7 of the Universal Declaration of Human Rights — that all are equal before the law and all are entitled to equal protection by the law.

LHR has already sparked controversy with statements claiming evidence of "a distressing lack of equality" emerging from a number of courts

Looking at conviction and sentencing statistics, Currin concludes that where a group of black people is involved in a killing, invariably as many as can be identified are charged with murder using the doctrine of "common purpose". The case is vigorously prosecuted, and often results in most of the accused being sentenced to death.

"On the other hand, where a group of white people (particularly farmers and policemen) is involved in the killing of a black person, only the main perpetrator is charged with murder; the others are charged with offences ranging from culpable homicide to assault. The prosecution proceeds almost apologetically and the accused are given relatively light sentences."

LHR officials are quick to qualify this particular criticism of the courts, saying there are many judges and magistrates who dispense justice fairly.

However, they point out this makes the unfair actions of those who do not dispense justice fairly all the worse as they discredit the entire judiciary and legal system.

Currin says while LHR was collecting documentation for Project Article 7, researchers became increasingly convinced of the need to keep a closer watch on the police

LHR has already called for a judicial commission of inquiry into allegations of police brutality, and Currin says he is still far from satisfied that government officials are taking these claims serious-

ly enough. Currin says there are many police who are not involved in any brutality and who try to be objective and to administer justice fairly

But there are also many who do not. "We think it is a political reaction from certain members of the force, some of whom seem to be strongly against reform"

"The extent of the brutality is horrendous and it must be stamped out. If it continues it will encourage racial violence. Every time brutality is reported and nothing is done about it, we move closer towards unleashing naked black versus white and white versus black violence in this country."

Allegations of brutality usually by white policemen against black suspects have come from all over the country, although some police stations feature more strongly, and the result is a kind of administrative schizophrenia. "While the state president and the government are making overtures of conciliation, the contrary is mirrored in the actions of the police force"

Apart from the damage these allegations, if true, are doing to race relations and

the reputation of both the police and the administrators of justice, they are also costing the taxpayer a lot of money through civil claims against the police

In Stellenbosch alone an LHR member is currently involved in three such claims

• An inquest into the death of a 22-year-old woman shot at point-blank range during a peaceful march. Her child is bringing a civil action following the inquest

• A civil claim of R2,4-million following police action in which a 14-year-old was shot in the head by a police rubber bullet and subsequently paralysed and brain damaged

• A claim for R120 000 on behalf of a 19-year-old shot in an eye by police

Apart from civil actions currently being made in other parts of the country, it is expected that there will be further large claims following the result of the Goldstone inquiry into the Sebokeng police shootings

If the authorities are set against a judicial inquiry into allegations of police brutality, Currin suggests another route to improving the situation. At the first opportunity, even before constitutional negotiations, if necessary, the government should pass new legislation which outlaw laws racism in any form — and ensure all members of the police uphold the law



# Policeman changes plea in murder case

to vsm 26/10/90

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ONE of four young policemen who pleaded not guilty to murdering a suspect changed his plea to one of guilty of assault in the Rand Supreme Court yesterday

Johannes Marthinus Olivier admitted in a statement submitted before Mr Justice G Gordon that he had assaulted George Ndaba on July 19 last year after he and his three co-accused arrested the man in Alexandra with what were suspected to be stolen goods

Initially Olivier, 21, Petrus de Villiers, 22, Andries Vorster, 20, and Gulleame de Witt, 22 all pleaded not guilty to murdering Ndaba. They also pleaded not guilty to defeating the ends of justice by claiming that Ndaba had escaped from custody when they knew that he was dead. Yesterday, Olivier pleaded guilty to this charge as well.

It is alleged that they arrested Ndaba on a false charge and then fatally assaulted

SUSAN RUSSELL

him after booking him out of police cells to point out various spots in Alexandra.

In his statement Olivier said the four of them took Ndaba to a house in Alexandra which he indicated was the place where the sellers of the goods in his possession lived.

Olivier said nothing was found and believing Ndaba had misled them, he kicked him in his ribs from behind as they walked back to their vehicle.

Ndaba, he said, suddenly broke out of De Villiers' grasp and lay on his back.

Olivier said he then rolled Ndaba over with his foot and stepped on his rib cage, telling him he had better tell the truth.

Later, he said, Vorster also seemed to have aimed a kick at Ndaba, but he could not say where it landed. Afterwards, they discovered Ndaba had died.

The case continues today.

# Judicial inquiry into babies' deaths likely

By David 2-6 [10/90]

GOVERNMENT is set to appoint a judicial commission of inquiry into the deaths of at least 25 babies, most of them born premature, who died after being placed on drips in private hospitals.

And Sabax, manufacturers of the allegedly contaminated drips, will later today release the findings of its investigation into the product. This will include a report from UK microbiologist Andrew Bill.

A general tightening of procedures, not only by manufacturers but also by clinics, seems certain to be contained in the report

TANIA LEVY

and will most likely be endorsed by any inquiry, sources said yesterday.

An announcement on the judicial commission is believed to have been postponed until President F W de Klerk returns to SA today. A call for the inquiry, made by attorney Peter Soller, has been supported by parents of the dead babies.

A National Health Department spokesman said yesterday the Medicines Control Council would hand its findings concerning

# deaths likely

the drip mixture to the department towards the end of next week.

Our Cape Town correspondent reports that Soller has taken on his first case there, that of Alexandra Farna who died in the Red Cross Hospital in July from liver failure and multiple organ haemorrhage.

Although the 13-month-old baby was on a drip, the doctor who treated her does not believe her death was connected to contaminated medical products.

The Red Cross Hospital is awaiting the results of an investigation into the death.



# Winnie fails to appear in court

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FOR the second time this year, Winnie Mandela has failed to appear in court to face charges of alleged business irregularities.

A warrant for her arrest was issued on Thursday when she missed an appearance in the Johannesburg Magistrate's Court on the charges involving alleged failure to pay unemployment insurance for employees of her food shop, reports Sapa. She allegedly failed to pay contributions to the insurance fund between January and August and also allegedly failed to file necessary documents.

In March, a warrant for her arrest was issued for failing to appear in court to face similar charges. That warrant was cancelled, and a fine of R100 and more than R200 owed to the unemployment insurance fund were paid on her behalf in April. — Associated Press.

DURING the 1989 calendar year 193 complaints against the life assurance industry were referred for advice and mediation to the ombudsman for life assurance, Mr Justice G P C Kotzé.

Of these, 47 were not within the jurisdiction of his office while another 18 were never followed up by the complainants, presumably because they were satisfied with the initial explanations given.

Judge Kotzé was able to reach finality in 101 of the remaining cases

The office of the ombudsman was established five years ago to help promote the interests of the life assurance industry in South Africa.

The number of complaints dealt with has increased substantially over the years, due largely to increased public awareness of the institution.

The ombudsman's services are provided free, being funded by various life assurance companies as part of their efforts to ensure equitable treatment for policyholders or their beneficiaries

In his annual report, published recently, Judge Kotzé says that even when his advice was adverse it was usually accepted in good spirit by both defendants and complainants "as emanating from an independent and uninfluenced source".

This, plus the fact that matters which do not strictly fall within his sphere of influence are often referred to the ombudsman for informal arbitration rather than risking expensive litigation costs, is an indication of the high regard in which the office is held and the reputation it has earned both within the life assurance industry and among the public for handling complaints without bias.

In almost all instances requests from Judge Kotzé to member

# The ombudsman rights the wrongs

27/10/90 FINANCE STAFF (252)

companies to reconsider decisions adverse to the policy holder or beneficiary met with a favourable response.

Of the 101 cases where final decisions were reached 53, or just over 50 percent, were resolved wholly or partly in favour of the complainant.

In instances when a substantial degree of doubt existed, Judge Kotzé said that he followed "the human tendency to incline towards the less affluent policyholder rather than towards the financially strong assurance company" and this approach generally "met with unquestioning compliance from member companies"

As ombudsman he was required to take "consideration of equity" as well as legal principals into account in evaluating complaints — to test an assurer's decision against standards of reasonableness and thereby avoid a purely legalistic approach.

"This imaginative provision exemplified the determination of the member companies to treat policyholders or their beneficiaries fairly, to enhance the image of the insurance industry and to promote equitable insurance practice"

The nature of the complaints lodged with the ombudsman varied considerably, with surrender values that were too low being the most common problem (28 cases during the year under review, almost double the figure for 1988, of which 11 were decided in favour of the complainant)

Judge Kotzé exhorted life as-

surers to continue their efforts to educate unsophisticated policy holders on the serious disadvantages of surrendering policies early simply in order to obtain ready cash in times of financial need

He said this tendency, added to the increased use of the ombudsman's services, was probably largely responsible for the upsurge in the number of complaints in this category.

The repudiation or reduction of disability benefits was the subject of 13 complaints, and in eight of the 13 cases the ombudsman found in favour of the complainant.

In the area of unsatisfactory performance or inadequate returns on life assurance policies and retirement annuities 11 complaints were registered, and the ombudsman's decision went in favour of the complainant in eight of these cases.

Because he firmly believed that proposers for life assurance seldom deliberately set out to mislead their would-be assurers about their state of health, the ombudsman urged all life companies to continue to impress on prospective policyholders the importance of full disclosure.

He also stressed the need for stringent controls to eliminate human error in the preparation of computer printouts as several instances had been brought to his attention where incorrect printouts had been supplied by assurers.

# Azanla terror trial on hold

C/PRES 28/10/90

By DAN DHLAMINI

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SIX of the seven alleged Azanian National Liberation Army (Azanla) cadres facing terrorism charges in Klerksdorp, will only know their fate next year

The case of Lawrence Kondile, 21, Matikela Mashiqana, 27; Patrick Nthako, 24, Nelson Joyi, 27; Doris Tlhako, 18, Simon Ndlovu, 19, and Saxon Mokonyana, 20, which has been dragging on for more than a year now, was this week adjourned to January 10 for judgment

Mokonyana is said to have escaped from police custody in May after he was arrested, allegedly for another crime. The accused were then on R2 000 bail

The seven are accused of having received military and political training between 1986 and 1988 in Botswana and in Libya with the aim of overthrowing the South African government.

They are also alleged to have recruited people to join the Black Consciousness Movement of Azania (BCMA) and its military wing Azanla, and having established a cell in Qwa-Qwa.

Prosecutor Louw Pienaar argued the accused had admitted in their confessions that they left the country, and underwent military and political training

Advocate Dikgang Mosenke submitted his clients be discharged, as after receiving training, they had not engaged in acts of terrorism and had never tried to overthrow the government

He further argued Magistrate DP Pretorius should re-evaluate his decision to accept the confessions, because they were made under duress

This was proved by evidence showing Nthako lost two teeth during police interrogation

Political comment and newsbills by ZB Molefe, headlines and sub-editing by K Naidoo, both of 2 Herb Street, New Doornfontein, Johannesburg.

# Babies lawyer to be probed

By MARION DUNCAN

THE South African Law Society has launched an official investigation into the conduct of attorney Peter Soller, who is representing the parents of babies who allegedly died as a result of contaminated Sabax drips.

The probe confirmed this week by Law Society president Edwin Letty, centres on another medical case.

In an appeal against an interim interdict granted to Mr Soller earlier this year, Mr Justice J. Spoelstra criticised the lawyer's conduct, reversed the ruling and ordered him to pay the costs.

Mr Justice Spoelstra ruled that anaesthetist Dr Jack Millner need not disclose information on why Mrs Katherina Dorothea van Rensburg had sustained severe brain damage during a routine operation for the removal of a cataract.

The judge also criticised Mr Soller's conduct in obtaining the interdict on behalf of the woman's son.

He said Mr Soller had wrongly, and using "false statements", accused Dr Millner, the anaesthetist in the operation, of "serious misconduct" and of being responsible for Mrs van Rensburg's condition.

He also found that Mr Soller had not disclosed important information when he applied for the interdict, and that he had based his application on "false" and "incorrect" information.

Mr Justice Spoelstra added that Mr Soller had not approached the matter objectively, but had become "personally and emotionally involved in his client's cause".

He dismissed the lawyer's claim that he "was merely acting on instructions and should therefore not be blamed in any manner".

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# Confidentiality of companies vs the public's right to know

*8 Times 28/10/90*

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DOES the right of the public to be informed about financial matters outweigh a company's right to have its confidential communications respected?

Under Roman-Dutch law, individual privacy has been recognised in a number of cases, but there has been a reluctance to extend a legal remedy to an artificial person, such as a company

The reason for this reticence is that a company, so it is said, lacks a dignity, which is seen as the essence of individual privacy, and so "cannot blush" or be insulted

Recently, the Witwatersrand Local Division of the Supreme Court reached an important decision on the conflict between the protection of corporate confidences and the right of the public to be informed on financial matters

## Bugging

The Financial Mail wished to publish an article concerning Sage Life and the relationship between this company and the Allied Group

The source of the proposed article was based on information obtained from the bugging of telephone conversations between a director of Sage Life and other persons and a document which both the chairman of the Allied Group and Sage Life regarded as strictly private and confidential

The Financial Mail played no part in the bugging of the telephone conversations and had nei-

**JONATHAN BURCHELL** assesses the recent Supreme Court judgment which affects the privacy of business operations

ther paid for nor solicited the material on which the article was to be based

The two applicants, Louis Shill, the chairman of Sage Life, and Sage Life itself sought an interdict prohibiting the Financial Mail from publishing or disseminating information based on this unlawful telephone tapping and the confidential document.

The Financial Mail argued that the public had a right to know of certain financial matters gleaned from these sources

Mr Justice Joffe granted the interdict, holding that the Financial Mail did not have an overriding right to publish information derived in part from an unlawful source (none of the parties disputed that the telephone tap was unlawful) and material which the magazine had been told by the chairman of the Allied Group was strictly confidential

The judge affirmed the right of a human being to privacy and acknowledged that, although a company did not have feelings or a dignity, it did have a right to trade without wrongful interference from others, and this right encompassed the right to have the confidentiality of its internal oral and

written communications respected

This right could be enforced against whomever was in possession of the confidential material

The judge recognised that the public, in particular those members who had a financial or other interest in Sage Life, were entitled to be informed as fully as possible of its financial affairs, including the relationship between Sage Life and the Allied Group, but this did not entitle them to know all that was confidential to the company.

Although he accepted that in certain circumstances the public's interest could require disclosure of even confidential information, on a balancing of the interest of the public and the company in the present case, the judge held the scales were tipped in favour of corporate confidentiality

## Safeguard

The court also held that the proposed article contained material defamatory to the applicants

Any curious reader of the judgment, when it is reported, will most probably be disappointed to find the content of the court papers and the argument advanced in court are not published

Only the judgment of Judge Joffe will be reported. Obviously, this form of limited publication of the details of the case is an essential safeguard to prevent further publication of unlawfully ob-

tained and confidential information

The judgment constitutes a development of the law, as it is clearly stated that a company is entitled to protect its confidential sphere not only from intrusion by business competitors (as was previously the case) but also from the media

The decision is important because other artificial persons, such as non-trading corporations, trade unions and universities, for instance, also have confidential spheres which may in future require protection by the law

## Yield

But the central message of the judgment is that a court has to balance the interest of the public in being informed of current issues against a natural or artificial person's interest in non-disclosure

Even confidential information may have to yield to the public interest in disclosure in special circumstances

The Watergate revelations, the Spycatcher trials in numerous countries and the proceedings of the Harms and Hiemstra commissions of inquiry demonstrate the need for public scrutiny of certain surreptitious activities

● Professor Burchell teaches at Natal University's School of Law, Maritzburg

# 'Makgotla' lashes man 200 times

By BERENG MTIMKULU <sup>252</sup> ~~252~~

TWO 18-year-old youths who inflicted 200 lashes on a man with a sjambok after finding him guilty at a 'makgotla' or people's court, were this week convicted in the Johannesburg Regional Court.

Albert Tikilili and Absalom Sibisi both of Alexandra were found guilty of assault with intent to do grievous bodily harm. They appeared before magistrate DS Jacobs.

The victim, Josiah Madonsela, 37, of Alexandra lost consciousness and had to spend two days in bed following the assault. He later underwent a skin graft on the buttocks at Tembisa Hospital.

Madonsela told the court that during April his wife slept out with another man. He became angry and went to the man's shack and confronted the pair.

In his anger he demolished the shack "looking for his wife".

Two days later, on April 26, the accused and a group of "comrades" fetched Madonsela from a coal yard where he was employed. He was taken to 16th Avenue where he met another group of "comrades".

The two groups surrounded him and accused him of destroying someone's property. When Madonsela tried to explain, his account was considered unsatisfactory. He was sentenced to 200 lashes.

## His assailants found guilty in other court

Madonsela was made to lie face down on a bench. Tikilili and two other men held his hands "so that he could not move".

His trousers were pulled down and water mixed with salt and pepper was poured on his buttocks.

The accused and other men each inflicted 15 lashes on Madonsela.

At the request of their defence counsel, Tikilili and Sibisi were not called to give evidence.

Defence advocate Aber argued that Madonsela could not have positively identified Tikilili and Sibisi because he slightly lost consciousness while the lashes were administered on him.

The magistrate said the complainant had positively identified the accused even though they were among the group. He also suspected the accused had something to hide since they elected not to give evidence.

The hearing was postponed to October 29 for pleas in mitigation of sentence. Tikilili and Sibisi were remanded in custody.

# Warrant for Winnie

By BERENG MTIMKULU

2510/92  
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A WARRANT for the arrest of Winnie Mandela was issued this week in the Johannesburg District Court when she failed to appear in connection with an Unemployment Insurance Fund wrangle.

According to the charge sheet, Mandela, wife of ANC deputy president Nelson Mandela, owns a food outlet in Johannesburg.

She is charged with failing to pay her contributions as an employer between January 1 and August 10 this year and failing to submit an official document.

At the request of prosecutor CF Oberholzer, a warrant of arrest was issued.

# Legal hitch over report on Sebokeng

By Helen Grange

The finding of the Goldstone Commission — that the killing of 11 people by riot policemen in Sebokeng was unjustifiable — could well be turned on its head in court, Transvaal Attorney-General Don Brunette indicated yesterday

Despite the "media created" impression that the policemen in the incident were guilty, it was proving difficult to indict them legally, he said

By the same token, leaders of the protest group fired on by the police line on March 26 could well face legal action for having broken the law

They had marched illegally and therefore precipitated the shootings, he said

"There may be prosecutions on both sides. And once the matter is in court, the Goldstone findings will be judged very strictly indeed

"The problem is that the Goldstone Commission did not

examine the incident from a legal position. It is possible that no policemen will be prosecuted by the State, although policemen involved in incidents prior to this may face charges," Mr Brunette said

This probably refers to an incident that occurred earlier the same day, when a Sergeant Rudgerd van Huysteen and Constable Jurie Geldenhuys had opened fire on groups they confronted looting and burning shops, killing four. The men claimed they were being attacked

Mr Brunette said that while policemen who participated in the firing line may be found to have been negligent, this would only constitute a case for civil action and not criminal prosecution

It is understood that civil claims of between R2 million and R3 million brought by families of victims are being processed

He and a legal team are still reviewing the Goldstone findings and a decision on legal action would be made soon, he said

Star 30/10/90

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# Vula group 'had 15 safe houses'

Own Correspondent

DURBAN — Leaders of a planned armed insurrection smuggled large quantities of arms and ammunition into South Africa and bought or rented 15 properties to be used as "safe houses" for the operation, the Durban Regional Court was told yesterday

Eight people, including Sathyndranath (Mac) Maharaj (65), alleged overall commander of Operation Vula, are facing allegations of terrorism

They are alleged to have conspired with Communist Party leader Joe Slovo and others to seize power through an armed uprising by a "people's army"

Mr Maharaj, Siphwe Nyanda (40), Raymond Lala (32), Catherine Mvelase (25), Susanna Tshabalala (30), Dipak Patel (26), Pravin Jamnadas Gordhan (41) and Amnesh Munnessar Sankar (22) were greeted with shouts and clenched-fist salutes from the public gallery

The noisy spectators were rebuked by the magistrate, Mr TD Reed

Billy Nair, whose name appeared on the list of accused, was not present. Prosecutor P J Blomkamp said he had not yet been arrested

According to the charge sheet, between July 1988 and July this year the eight conspired with Mr Slovo, Ronald (Ronnie) Kasrils and others to create a national underground network

## Recruiting

The network's task was recruitment, training, arming and leading a "people's army" or "revolutionary army". The "army" would be used to seize power from the Government in an armed insurrection

The network, code-named "Vula", allegedly unlawfully transferred large amounts of money into the Republic to finance its activities and infiltration

It is further alleged that they possessed large quantities of arms, ammunition, explosives, detonators and other equipment. They had smuggled these arms into the country and planned to smuggle in more

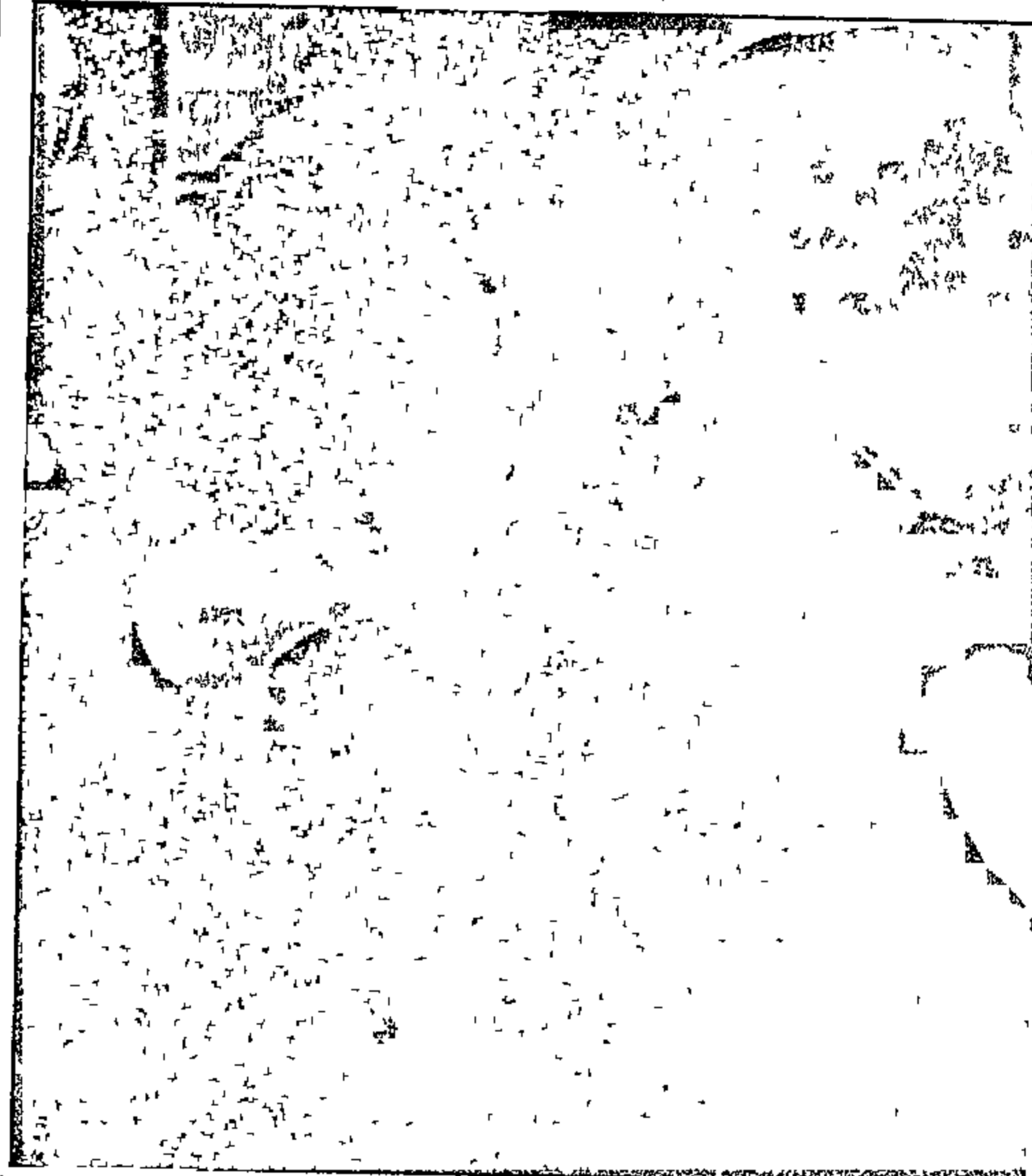
Of the 15 houses they had acquired, 10 were in Durban and surrounding areas and five in the Johannesburg area. They also bought 10 cars, some of which were modified so that arms could be hidden in the petrol tanks

Mr Z Yacoob, appearing for all the accused, said it was intended that a bail application be brought

Mr Yacoob added that all the accused were members of the ANC and regarded it as the organisation to which they gave their loyalty

All the accused claimed to have been assaulted in some way or other while in police custody. There were allegedly assaults, suffocations and interrogations for long periods without rest

It was agreed that all eight should be remanded to Friday for a bail application



My daddy . . . a child reaches up to her father as relatives cling to him after he arr

## Babies' deaths: inquest to be held

Medical Reporter

An inquest into the death of babies from klebsiella septicaemia at Johannesburg private clinics — in which Sabax intravenous drips have been implicated — is to be held, the Department of Justice confirmed today

The Minister of Health Services, Welfare and Housing, Sam de Beer, responsible for private clinics, said in a statement late last week that he would ask Minister of Justice Kobie Coetsee to appoint a judge to head inquiries into the deaths of the babies in terms of the Inquests Act

Mr de Beer said that in the interim, "all relevant documentation" was to be submitted to the Attorney-General of the Witwatersrand

The announcement of an inquest comes despite calls for a commission of inquiry into the matter to clear up how contaminated drips could have been administered to babies

Sabax said last Friday that the source of the contaminations had not yet been established

© Sabax unit closed — Page 2



Beauty packs a punch  
Katya Malova (23), an employee in the information department of the KGB in Moscow, became Miss KGB after winning a competition which included shooting, karate, cooking and dancing  
Picture: Reuter

# SPECIAL

# 90% DISCOUNT

7/11/90

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# Arrest warrant on Moss

A WARRANT of arrest has been issued for the Western Cape president of the South African Youth Congress, Mr Maxwell Moss, after he failed to report at a police station to begin serving an 18-month sentence for public violence *South 1/11 - 7/11/90*

Moss went into hiding last week rather than go to jail

His wife, Mrs Linda Moss, of Saldanha Bay, said two detectives came to her house on Monday looking for her husband

"I told them I hadn't seen him since last Thursday and they left saying he shouldn't make it difficult for himself," she said

On Wednesday, Saldanha residents held a picket demonstration calling on the government to implement the Pretoria Minute and grant indemnity to Moss

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# 37 Inkatha men appear in court

BY SONTI MASEKO

FRANSVAAL Inkatha Youth Brigade leader Mr Themba Khoza and 36 supporters appeared before a Vanderbijlpark magistrate's yesterday in a sequel to the unrest in Sebokeng in September during which scores of people were killed.

The state yesterday withdrew charges against another 16 men, and dropped all charges of murder and public violence pending the outcome of an inquest into the deaths of people during clashes between hostel inmates and residents. The inquest begins on November 14. In September the state withdrew charges against 100 men who were arrested with the 37.

The others will appear on January 31 next year and they will face lesser charges including the theft of weapons, possession of firearms and ammunition and malicious damage to property. No charges were put the men.

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Inkatha Youth Brigade leaders Themba Khoza ... at the Vanderbijlpark magistrates' court with jubilant supporters, some of whom were discharged yesterday, and Inkatha central committee member, Mr Vitusi Mvelase. Pic by GEORGE MASHINI.

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Six 11/11/90

## Land appeal off court roll

**BLOEMFONTEIN —**  
The postponed appeal on the Magopa land dispute has been removed from the roll of the Appeal Court for November 20.

The appeal was postponed on August 24 to allow the parties to negotiate a settlement.

The appeal is against the confirmation of a rule nisi in 1989, whereby all members of the Bakwena ba Magopa tribe — except those with written permission from the Minister of Education and Development Aid — had to vacate Zwartrand farm.

The Magopa tribe was moved from Zwartrand in 1983 and the farm was expropriated by the Government.

The Magopa contend that the expropriation was invalid. — Sapa.

**S**OME of the mystique surrounding judicial appointment could be stripped away if a new suggestion for changing the procedure is taken up.

An editorial in the latest edition of the attorneys' magazine *De Rebus* urges that the method of judicial appointment ought to be reformed now.

*De Rebus* editors argue the present system should be replaced by a system which would put judicial appointments "above all reasonable suspicion" as this would help draw the most able people to the bench.

Recently the Association of Law Societies has made strong calls for far-reaching changes to the legal profession and for the re-introduction of the jury system, saying there was a need to make the legal system "more responsive to the needs of all South Africans." Another major step in this direction

## Time to strip judicial appointment of mystique

W. H. M. 2/11/30 - 2/11/30

ASA

LAW AND THE COURTS

will be the introduction of a Bill of Rights, which the ALS believes will add greatly to the responsibilities of judges, who will for example, be able to set aside legislation which offends the principles of the Bill.

"In these circumstances it will be more important than ever that the appointment of judges should be, and should be seen to be, impartial, strictly on merit and above any reasonable suspicion of bias or favouritism."

Seven years ago the Hoexter Commission report noted that "individual merit has not always been the decisive factor" in the appointment of judges and warned that the way in which judges were appointed should not allow

"any room for gossip about the independence of those elevated to the bench."

At the moment judicial appointment is the "sole prerogative of the executive".

The minister of justice by custom consults the Chief Justice or the Judge President of the relevant province before recommending an appointment to the state president, but there is no legal compulsion to do so.

There have been times in the past when this custom was not observed.

At the time of the Hoexter Commission, the Transvaal Law Society recommended the establishment of the principle that "appointments to judicial office should not be made in the unfe-

tered discretion of a holder of political office and a representative of the executive arm of the state."

Once judges have to adjudicate on constitutional matters and a Bill of Rights, the state as represented by the executive will be even more directly involved as a party and for this reason changes should be made as soon as possible to the mechanism of judicial appointment.

One of the recommendations of the Hoexter Commission was that the minister of justice be legally obliged to consult with the relevant senior judges before recommending appointments to the state president. *De Rebus* comments: "We do not be-

lieve that recommendation, although an improvement on the present system, goes far enough."

Since the government has never acted on this recommendation of the Hoexter Commission, there is nothing in the way of implementing the "more radical reform" suggested by the Association of Law Societies, the introduction of an independent judicial appointments commission which would advise the state president directly.

The commission, to be chaired by the Chief Justice, "would comprise representatives of the judiciary, the profession, the Department of Justice, and possibly the public or parliament."

"In the public mind, our judges constitute the prime representatives of South Africa's legal system.

"We hope that they will increasingly come to represent the whole citizenry" the article states.

CARMIEL RICKARD

# Residents lose in electricity battle

By MONK NKOMO

AN application by the Atteridgeville/Saulsville Residents Organisation (Asro), challenging the local city council's decision to cut off electricity supplies to houses of rent defaulters, has been dismissed with costs in the Pretoria Supreme Court.

Mr Justice H Daniels ruled that the council's action in disconnecting the power supply was sanctioned by its by-laws. "Only upon payment of the amounts involved (in respect of electricity charges in the present instance) and the continued payment thereof would entitle all residents involved to claim the reconnection of the electricity supply", the judge said.

The application was brought against the council, the administrator of the Transvaal and the City Council of Pretoria, by

Asro and Mr John Legong, a resident.

A similar application by four representatives of Daveyton's residents and business community, was also dismissed with costs by Mr Justice Van Dijkhorst in the Rand Supreme Court yesterday.

Angry 252

The Atteridgeville Council yesterday started to switch off electricity again to the houses of people who owe rent amid angry reaction from the residents.

Mr David Barn, attorney representing Asro and Legong, yesterday said they were going to appeal against the judge's ruling. An application for leave to appeal will be filed within 14 days, he said.

# Magoppa land dispute taken off roll

THE postponed appeal on the Magoppa land dispute has been removed from the roll of the Appeal Court in Bloemfontein for November 20.

The appeal was postponed by the court on August 24 this year to allow the parties to negotiate a possible settlement.

It is understood that the negotiations are progressing well, but that no settlement has so far been reached.

The appeal is against the confirmation of a "rule nisi" of February

24, 1989, whereby all members of the Bakwena ba Magoppa tribe - except those with written permission from the Minister of Education and Development Aid - had to vacate the farm Zwarttrand and remove all residential structures.

Mr Justice W J van der Merwe, in the Transvaal Supreme Court on May 2, 1989, ordered that, if the members of the tribe did

not comply with the order within seven days of its issue, the Minister of Agriculture and Water Affairs and the Minister of Education and Development Aid were authorised to have the people and structures removed.

The Commander of the SA Police at Ventersdorp was authorised, with members of the SAP, to assist. When the appeal of Mr

Daniel Molefe, of Zwarttrand, and Mr Mathew Mphise, of Mimosa section of the Orderstepoort Group Farms, who is chairman of the Mogoppa committee, was called on August 24 Acting Chief Justice Mr Justice Joubert raised the question of a possible settlement.

After several hours of negotiation about a possible settlement, the

parties agreed to a postponement of the appeal to allow them to negotiate.

The appeal was postponed "sine die", with November 20 being suggested as a possible date for the appeal to continue if negotiations were unsuccessful.

The appeal has now been removed from the roll to allow more time for the negotiations.

The Magoppa tribe was moved from Zwarttrand in 1983. The farm was later expropriated by the Government.

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## Winnie fined R200 over UIF

By Adam Gordon

Winnie Mandela was fined R200 or 10 days' jail in the Johannesburg Magistrate's Court yesterday for failing to pay unemployment insurance for her fish-and-chip shop workers.

Mandela (54) pleaded guilty of failing to pay a premium of R127,74 to the Department of Manpower and of failing to submit an insurance statement on behalf of employees at

her shop in Empire Road.

Mandela's attorney, Ismail Ayob, produced a Department of Manpower Unemployment Insurance Fund receipt showing that the arrears from January 1 to August 10 had now been paid.

Mandela was meant to appear in court on October 25.

Mr Ayob said the summons had been received by an employee and the media had alerted Mandela.

The magistrate accepted this.



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# Train atrocities suspects seek bail

COURT REPORTER

THE first of five men allegedly involved in two separate train massacres in September yesterday claimed police at the Brixton Murder and Robbery squad tore up a statement in which he had proclaimed his innocence

Martin Ngcobu (47) appeared with Basi Nkosingondle (27), Mmengela Magabane (54), Solomon Khumalo (33) and Mabinela Majozi (23) at the start of their bail application in the Johannesburg Magistrate's Court

The men are alleged to have killed 21 people in train massacres on September 6 and September 15 this year

Although no formal charges have been laid the men are likely to be accused of 21 counts of murder, 49 counts of attempted murder and illegal possession of arms and dangerous weapons

Mr Ngcobu claimed to know nothing of either massacre

He claimed police had torn up his original statement and written another one which they forced him to sign He told magistrate Mr J van Heerden he had been tied up, beaten and given electric shocks

on his private parts

"I know nothing of the killings and would not have signed the statement if I had not been tortured," Mr Ngcobu said

He admitted owning a gun which he had bought this year to defend his cattle in KwaZulu.

He could not explain how he could defend his cattle while he and his gun were in Johannesburg

The State Advocate said one of the major reasons for opposing bail was the possibility the men could commit further atrocities

It was therefore in the public interest that the men remained in jail.

# Young cop guilty of kicking man to death

Sunday Times Reporter

4/11/90  
A YOUNG constable who kicked a suspect to death "because he had deliberately misled me" was convicted of culpable homicide in the Rand Supreme Court this week

5/7/mb  
Constable Johannes Marthmus Olivier, 21, was one of three young policemen found guilty of the death last year of taxi owner George Ndaba, whose badly beaten body had been thrown from a moving police minibus on to the freeway between Pretoria and Krugersdorp

He was also found guilty of attempting to defeat the ends of justice by laying a false charge of escape against Mr Ndaba to try to cover up his death.

The other officers — Petrus de Villiers, 19, and Andries Vorster, 20 — were found guilty of being accessories to the homicide. On the charge of defeating justice, Constable De Villiers was found guilty while Constable Vorster was acquitted.

## Charges

All three will be sentenced this week.

A fourth policeman, Constable Guileame de Witt, 22, was acquitted on both charges on a technicality.

The court heard earlier that father-of-three George Ndaba, 31, was arrested on July 19 last year for being in possession of a video recorder and computer which police suspected were stolen.

Mr Justice G Gordon told De Witt that he was "very lucky" to get off. It was apparent that he had been present during the assault, but there was a lack of admissable evidence to prove it.

He also said the fact that none of the four had given evidence "created an unfavourable impression" and implied that they were hiding something.

# Revealed — that bomb plot to murder Tambo

By MARION DUNCAN

DETAILS of a bomb plot to kill ANC president Oliver Tambo in Zimbabwe were revealed this week in documents lodged with the Supreme Court for a damages suit against Minister of Defence Magnus Malan.

They tell how former Zimbabwean detainee Guy Bawden, who was released in February this year after serving 25 months in Harare's Chikurubi prison, worked with "SADF operatives" in an attempt to assassinate Mr Tambo in September 1987.

A defiant Mr Bawden went ahead with his legal action this week despite being threatened by the state attorney's office with prosecution under the Protection of Information Act if he revealed details of covert cross-border operations.

Mr Bawden refused to comment on information detailed in the documents, copies of which are in possession of the Sunday Times.

The agents involved are named in the papers as Christopher "Kit" Bawden (Guy's brother and the alleged commander of the special forces group), Michael Smith, Kevin Woods and Barry Bawden



GUY BAWDEN  
Legal action



OLIVER TAMBO  
Hit-squad target

STues 4/11/90

Threat after lawsuits blame SADF for plot to kill Tambo

## STATE GAGS SA HIT MAIN

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This is how the Sunday Times last week exposed Zimbabwean Guy Bawden's plans

(Guy's cousin) Kit, who is living somewhere in South Africa, is one of Zimbabwe's most wanted men.

The other three are all still in prison in Harare.

### Conference

Details of their operations — some of which have never before been made public — are listed in the Particulars of Claim accompanying the summons issued by Guy Bawden against General Malan (case number 20392/90)

The first is the "Tambo Operation", in which a homemade bomb was placed next to the main Bulawayo-Harare road near Hero's Acre, a patch of consecrated ground commemorating the dead of all sides in the

Rhodesian war. Mr Tambo was supposed to drive past on his way to a conference in Harare.

According to the documents, Guy helped Kit make the bomb with materials smuggled into Zimbabwe

He also allegedly hid Kit in his flat, drove him to the site of the attempted assassination and cached unused equipment.

However, the plot was abandoned. The second operation mentioned in the papers, the "Brickhill Operation", tells how the group — again with the help of Guy Bawden — tried to kill British journalist and anti-apartheid activist Jeremy Brickhill

A car bomb was planted in the parking lot of a Harare shopping centre in October

1987, a month after the abortive attempt on Mr Tambo's life.

Guy allegedly drove Kit to the Brickhill house to "survey" it and at the same time showed him other houses belonging to ANC members in Harare

He also helped Kit buy the second-hand Citroen that was eventually blown up and again helped him build the bomb

The car was parked and detonated by remote control in the Avondale shopping centre on October 13 1987. Mr Brickhill suffered severe injuries he was peppered with shrapnel, his left leg and hip were smashed, his spleen and diaphragm were ruptured and his eardrums perforated

### Gelignite

Three years later he is still permanently disabled and disfigured and has to undergo continuing medical treatment. He has filed damages suits for R1.2-million against the South African government, the ministers of law and order and defence, and both Guy and Kit Bawden

Guy's own papers say that after the Brickhill operation, Kit returned to South Africa. He phoned his brother about 11 days later and told him to get rid of a quantity of gelignite left over from the car bomb because "it was probably weeping"

In December 1987 Barry Bawden asked Guy to go to his farm and pick up equipment which had been parachuted in by the SADF

Guy found clothing, grenades and firearms for six men as well as explosives and chemicals, which he had disposed of the parachutes. He says in the documents that a third operation took place later that month

On December 21 Michael Smith and another agent, Harry Thompson, contacted him for help with the kidnapping and "getting out of

Zimbabwe of ANC member Jabulani

The papers do not say whether or not this particular exercise was successful.

### Claiming

Less than a month later Guy Bawden was arrested and charged with attempted murder and espionage. He never came to trial because the charges were dropped, but he spent over two years in detention

Now he is claiming compensation through the courts for the loss of his farm, his home and his business in Zimbabwe, as well as for the "pain and suffering" he endured in prison.

# Politics a minefield for human rights

252  
STimes 4/11/90

THE human rights movement in South Africa has always been vigorous and independent of government

The question is will the human rights movement retain that independence after apartheid is gone?

In South Africa, the struggle for human rights and the political struggle for liberation, democracy and justice have been synonymous. The result is that many human rights organisations are very close to and even part of political organisations that are on the threshold of political power.

Before February 2, political organisations participating in the extra-parliamentary political movement had no foreseeable prospect of being part of a future government. For that reason, there was no difficulty in being both a political activist and a human rights activist.

Post-February 1990 has changed all of that.

## Competing

We can no longer simultaneously be human rights organisations and political or quasi-political organisations. Extra-parliamentary political organisations are beginning to participate in the political arena, they are competing for political power; they are potential governments.

Human rights organisations are non-government organisations. They do not participate in power politics, they represent the rights and the interests of the people in their relationship with governments, they work within that space between the people and the politicians.

Even a close working relationship with a political organisation is undesirable. What happens to the credibility and effectiveness of a human rights organisation when its political party participates in government? Can it be trusted to then uncompromisingly represent the rights and interests of the people in their relationship with that government?

The moment we flirt with political organisations there is a risk that we get pulled into the political power game which inevitably means a political constituency, which inevitably means a political agenda, which must result in

**BRIAN CURRIN** calls on human rights bodies in South Africa to steer clear of involvement with political parties

compromise on human rights values and principles

There are many South African organisations which for decades have been at the forefront of the political struggle for justice, democracy and human rights. As the political process begins to open up, a large number of them have emerged and will continue to emerge as political organisations. Obviously there is nothing wrong with that.

However, it would be a tragedy for South Africa if all those organisations were to move either directly or indirectly into the political arena.

I believe that politically independent, non-government human rights organisations are absolutely essential in all societies for the proper functioning of democracy.

Just as the individual worker is powerless — and there cannot be

**Simon Barber** is on paternity leave. His column will be resumed next week.

democracy in the work place without the bargaining power provided by a trade union through collective action — so, too, is the individual citizen powerless without the collective action provided by an effective non-government organisation.

A human rights organisation that insists on maintaining its political ties in the future must surely fall into the same category as a sweetheart union.

In recent times, a fair amount has been written about the so-called "civil society". It is argued that just as important as the nature of the post-apartheid state will be the nature of the society outside the state. This society, the civil society, has, for example, been the base for overthrowing injustices and oppression in South Africa.

Our immediate history is living proof of the power of a civil

society. The Mass Democratic Movement is surely a civil society par excellence. The South African government, which maintained all the traditional levers of power — parliament, military, police and civil service — lost its grip on all other aspects of society.

If civic associations, trade unions, church groups, human rights organisations and cultural and youth groups maintain their independence under majority rule, they could become the bulwarks of democracy in a truly free South Africa.

On the other hand, if all or most of these groups choose to merge with the various burgeoning popular political movements, they will lose their independence, cause the demise of that civil society which, ironically, will be the end, not the beginning, of "people's power".

If, as members of human rights organisations, we confuse this crucial issue and fail to entrench our unequivocal independence, we will not only be precipitating our own demise but will also be doing irretrievable harm to the achievement and maintenance of democracy in South Africa.

## Perspective

Many of the human rights issues with which we will have to contend in the coming years will depend largely on the contents of both the constitution and a bill of rights. Human rights organisations ought to be participating far more vigorously in that debate.

I doubt whether it is wise to leave the negotiations solely in the hands of the major political actors. The fundamental question is should human rights organisations not be represented at the negotiating table?

We are politically independent, we do not have a political agenda and we represent internationally accepted values and principles which promote dignity and respect for human kind.

The South African human rights movement faces a daunting challenge, but we cannot succeed without the support of the people whose rights and interests we claim to represent.

● **Brian Currin** is national director of **Lawyers for Human Rights**.

● YOUR LETTERS today are on Page 24

# Stored arms for 'war'

By MARTIN NTSOELNGOE

4/11/90 252  
A MAN charged with five others for the Jeppe Station massacre, which left 26 people dead and more than 100 injured, told a Johannesburg magistrate's court he was forced to store arms for an impending hostel "war"

Manyebo Magubane, 55, told the court how Jericho Ntuseni Manyoni ordered him to store two firearms and ammunition, in preparation for the bloody hostel war

Manyoni is one of the three suspects wanted by the police for the massacre and maiming of people in a

Soweto-bound train in September. The other two are Mkehezwa "Sout" Mbele and John Mahlazi "Matak" Nxumalo

He said two other men sent unknown youths to him to store traditional weapons

Magubane is appearing with Martin Ngcobo, 49, Baso Nkosingondle, 27, Solomon Khumalo, 33, and Mandla Majozi, 23

Magubane further said he was not a member of Inkatha, but knew his co-accused, and came from the same area as some of them - Inkandla in Zululand

In a statement made before a police officer, Magu-

bane said people who did not want to join Inkatha could get killed

He further said police arrested him at the place where he works, and after a search found two firearms, ammunition, and several traditional weapons

Magubane told the court that after his arrest he was kicked, punched and given electric shocks on his private parts by police

Ngcobo and Nkosingondle also claim they were tortured

# Jail for policeman whose 'act was evil'

By Cathy Stagg

A 21-year-old policeman was jailed for seven years by the Rand Supreme Court yesterday for killing a man he had arrested

Lance-Sergeant Johannes Marthinus Olivier of Donkerhoek, Ladybrand, was convicted of culpable homicide.

The court heard that Olivier arrested George Ndaba in Alexandra on July 19 last year. Later, he and three colleagues took Mr Ndaba out for further investigation

## Assaulted

Mr Ndaba was assaulted and his body thrown on to the R28 freeway

Olivier was the leader of the patrol and influenced the others, the court found.

Mr Justice Gordon said what

Olivier had done was "not only against the law, it was evil".

The judge referred to Olivier's good family background and how well he had done at school and in his career

"One must also think of the widow who went from police station to police station trying to find out what had happened.

"She is left with three small children and no husband.

"The sentence must also act as a deterrent and it must be remembered that the accused was convicted of culpable homicide and not murder," he said

Olivier and Petrus Rudolph de Vilhiers (19) of Voortrekkerhoogte were sentenced to two years, suspended for five years, for attempting to defeat the ends of justice by falsely reporting that Mr Ndaba had escaped from custody

Andries Wilhelmus Vorster (20) of Randfontein was given a

two-year suspended sentence for attempting to defeat the ends of justice and for being an accessory after the fact of culpable homicide because his silence meant he had not fulfilled his duties as a policeman.

De Villiers made a statement to a magistrate in which he said Olivier had kicked Mr Ndaba. Olivier had chosen to remain silent, the judge said.

## Lucky

There was no evidence that De Villiers and Vorster had taken part in the assault, the judge and his two assessors found.

The fourth member of the patrol, Gulleame de Wit (22) of SA Police Quarters, Kaserne, Sandton, was acquitted on both charges on Friday.

The judge said Mr de Wit was very lucky there was no satisfactory evidence against him

Star 6/11/90

# Wits terror accused 'may get political indemnity'

Court Reporter

A University of the Witwatersrand student facing charges of terrorism and attempted murder appeared briefly in the Johannesburg Regional Court yesterday

Jeremy Seeber (24), the son of a Unisa economics professor, has not yet been asked to plead

Mr H van der Riet, who appeared for Mr Seeber, asked for a postponement of the case because of changes in the law which may make his

client eligible for political indemnity

Mr van der Riet said the State would publish procedures for applying for indemnity in the Government Gazette on Friday

## Terrorism

The Government had recently set up a new office of political immunity and indemnity in the Department of Justice, Mr van der Riet said

Mr Seeber was detained in terms of section

29 of the Internal Security Act on August 24

He is to be tried on a charge of terrorism and other charges, including attempted murder, causing explosions, importing explosives, and undergoing military training for the ANC

In a letter on September 6, Attorney-General Klaus von Lieres und Wilkau refused Mr Seeber permission to apply for bail in the interests of State security

The hearing was postponed to November 20

6/11/90  
**Suspend  
Vula trial,  
urges ANC**

By Kaizer Nyatumba  
Political Staff

The ANC yesterday called for the immediate suspension of the trial of ANC national executive committee (NEC) member Mac Maharaj and other ANC members in Durban in connection with Operation Vula, and urged the Government to release them on bail pending the outcome of the indemnity hearing.

Mr Maharaj, a member of the SACP's central committee, appeared in court for the first time last week in connection with Operation Vula, alleged to be an SACP plot to seize power in the event of negotiations failing.

A statement issued by the ANC said the organisation, "mindful of the continued propaganda and distortions about Operation Vula being a communist plot", wanted to reiterate that Vula had been authorised by the NEC.

**Deadline**

"As such, the entire NEC is responsible for Operation Vula," said the ANC.

The organisation said that during its May and August 6 discussions with the Government it had been "fully understood" that its underground was "fully operational".

The ANC said that since all "so-called offences" in connection with Operation Vula had occurred before the agreed October 8 cut-off deadline, the trial had to be suspended and all eight on trial in Durban released on bail pending the outcome of the indemnity hearing.

Immediate measures also had to be taken against those members of the security forces who allegedly tortured prisoners in detention.

"We see the continued prosecution of our cadres as not only persecution but also a politically motivated smear campaign against the ANC, pursued to try to drive a wedge between us and our firm allies, the SACP," the ANC said.



# Death train trial bail is opposed

Sp wifes 6/11/90

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THE train massacre in Johannesburg in September could have been prompted by information that a group of people had insulted Inkatha leader Chief Mangosuthu Buthelezi and Zulu king Goodwill Zwelethini, a Johannesburg magistrate was told yesterday.

This evidence was led by Warrant-Officer Deon Wessels when he opposed the bail application of five men who appeared in the Johannesburg Magistrate's Court yesterday in connection with the killing of 21 people.

The men, Mr Martin Ngcobo (49), Mr Baso Nkosingondle (27), Mr Mmengela Makobane (54), Mr Solomon Khumalo (33) and Mr Mandla Majozi (23) have not been formally charged.

Wessels said there had been an Inkatha meeting at Jeppe Hostel where it was discussed that there was a group which had insulted Buthelezi and King Zwelethini.

Subsequent to that

**By SONTI MASEKO**

meeting another group met where it was possibly decided that a group of hostel dwellers were to attack people in a train between Jeppe and Benrose stations.

Twenty-one people were killed and many others injured in two separate attacks, one on September 6 and another on September 13.

Under cross-examination by the men's attorney Mr Ian Small-Smith, Wessels said the men would disappear if granted bail.

Wessels said one firearm recovered during police investigations was linked to the Jeppe killings through ballistic tests. One of the accused had also identified an assegai from weapons recovered by the police.

He said there was a possibility the men might interfere with potential State witnesses if released on bail.

The hearing continues tomorrow.

# First black judge in SA: Three in line

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## The Argus Correspondent

DURBAN — South Africa has only three senior counsel of colour and one of them will probably become the country's first black judge

Those in line are

Ismail Mahomed, the first black in the country to take silk, in 1974

Hassan Mall, who was appointed the first black acting judge, in 1987

Louis Skweyiya, the first African advocate to become a senior counsel, in 1989

## Appointments elsewhere

Although Mr Mahomed has not served on the bench in the country of his birth, he has for many years been a judge in several neighbouring countries, including Botswana, Lesotho, Zimbabwe and Swaziland. Early this year he was appointed an acting judge in Namibia

He has excelled in trials of a criminal and political nature but it has been in the field of human rights and civil liberties that Mr Mahomed has won international acclaim

Mr Mall became South Africa's first black acting judge when he was appointed to the bench for a month in February 1987

But his temporary appointment was the subject of criticism by the anti-apartheid Democratic Lawyers' Association and the Natal Indian Congress

The DLA said the appointment was incompatible with the principles of the association because of the vast number of oppressive laws which a judge could be called on to administer

The judiciary is jealous of its independence and many believe Mr Mall's appointment should really comfort those who believe in that independence. He has experienced apartheid at its worst and he has first-hand experience of the restrictions on the liberty of the individual

Judges are not appointed after the age of 70 and there are fears that unless Mr Mall — who is already 67 — is appointed to the bench soon, the country could lose the opportunity of enhancing the image of its judiciary

Durban advocate Mr Louis Skweyiya became South Africa's first African advocate to be appointed a senior counsel

Educated in the Cape, Mr Skweyiya studied law at the University of Natal where he later became a part time lecturer

Called to the bar in 1970, he was admitted as an advocate of the High Court of Lesotho in 1974

In 1976 his passport was confiscated by the security police while he was investigating the death in detention of Mr Joseph Mdluli.

He serves as chairman of the board of trustees of the Sached Trust and is a trustee of the Legal Resources Centre, the Black Lawyers' Association and the Legal Education Centre

## Human rights

In addition, he is a member of the editorial board of the South African Journal on Human Rights

Mr Skweyiya is head of a commission probing the appointment of two security officers at the University of Transkei

# Dealer awarded R20 000 by Vlok



Sowetan 6/11/90

**A POTCHEFSTROOM** businessman who was unlawfully arrested, assaulted and had electric shocks administered on his private parts allegedly by the police three years ago, has been awarded R20 000 damages by the Minister of Law and Order Mr Adriaan Vlok in an out-of-court settlement.

Mr Daniel Nomcoiya,

**By Monk Nkomo**

a motor car dealer of Ikageng township, initially claimed R50 000 damages from Vlok and two police officers - Sergeant Ivan Van Wyk and Constable Pheffer - both of whom were based at the Potchefstroom police station.

In his particulars of claim, Nomcoiya said he was arrested on July 24 1987 and detained for two days. His car was confiscated by the police.

He said during his

detention he was assaulted, kicked and a black bag pulled over his head. Electric shocks were also administered on his body including his private parts.

Despite the fact that a Potchefstroom magistrate, Mr AP Bezuidenhout, granted him bail of R200 during his absence the day he was arrested, police refused to release him until three days later.

He appeared in the local magistrate court a day after his release. No

charges were put before him and the case against him was withdrawn.

Nomcoiya's lawyer, Mr David Bam, of Stegmanns, a firm of attorneys in Pretoria, yesterday confirmed that the Minister of Law and Order offered to pay R20 000 damages and legal costs last week Thursday - hours before the matter was scheduled to be heard in the Pretoria Supreme Court.

Vlok made the offer without accepting responsibility for what may have happened to Nomcoiya.

# Cop sentenced to seven years' jail

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A 21-year-old policeman, who was convicted of culpable homicide after the death of a black man, was yesterday sentenced in the Rand Supreme Court to seven years' imprisonment.

Lance Sergeant Johannes Marthinus Olivier, of Donkerhoek, Ladybrand, arrested George Ndaba in Alexandra on July 19 last year. Later he and three other policemen took Ndaba out for further investigation. Ndaba was assaulted and his body later thrown onto the R28 freeway.

## Leader

Olivier was the leader of the patrol and influenced the others, the court found.

Mr Justice G Gordon said what Olivier did was "not only against the law, it was evil".

"He must have known how careful a policeman has to be in his difficult task to get answers from a suspect. His duty was to

protect people and to treat suspects reasonably."

The judge noted that Ndaba had not been taken to a nearby clinic. He referred to Olivier's good family background and how well he had done at school and in his career until the crime then said: "One must also think of the widow who went from police station to police station trying to find out what had happened. She is left with three small children and no husband.

"The sentence must also act as a deterrent and it must be remembered that the accused was convicted of culpable homicide and not murder," he said.

Olivier, Petrus Rudolph de Villiers (19) of Voortrekkerhoogte, Pretoria, and Andries Wilhelmus Vorster (20) of Randfontein, were all sentenced to two years, totally suspended for five years, for attempting to defeat the ends of justice.

# Council takes 500 workers to court

By MONK NKOMO

THE Atteridgeville Council yesterday brought an application in the Pretoria Supreme Court to have more than 500 of its employees convicted for contempt of a court order.

The action followed an illegal strike on July 23 by 516 workers, all of whom are members of the Transvaal Association of Employees of Black Local Authorities.

In papers before court

the council cites as respondents five former executive committee members of Taebela who are presently on suspension.

They are Mr Harry Mäuoane, Mr Simon Moropa, Mr Noel Madiba, Mr Simon Mashigo and Mr Patrick Khomola.

Mr Justice Preiss ruled

on July 31 that the five should not be permitted to enter council premises pending the finalisation of the council's application.

The council submitted yesterday that the respondents should be convicted for having failed to honour a court order prohibiting them from striking or holding meetings on council premises.

The matter was postponed to tomorrow.

# Five <sup>can't</sup> years' <sup>8/11/60</sup> jail for <sup>252</sup> killer <sup>252</sup> employee

**Supreme Court Reporter**  
A FORMER death row prisoner who had put a cord around the neck of his widowed Constantia employer after a dispute over wages was yesterday in the Supreme Court sentenced to five years' imprisonment.

Siphoyipoyi Madotyeni, 53, pleaded guilty to a charge of culpable homicide for causing the death of Mrs Jean Brenda Yates, 68, at her home on July 13 last year.

He told the court that on the day of her death they had argued about money "I became angry and wanted to give her a fright so that she would give me my wages, so I took out of my pocket a cord I use to tie my pants

"As I put the cord around her around her neck she shouted at me 'Jimmy, what are you doing?'

He had not intended to hurt or kill Mrs Yates and was "dreadfully sorry" for what he did.

Mr Justice H.C. Nel said Madotyeni, who had been jailed for murder in 1966, had very little regard for human life.

Mr B. Lewin and Mr P. Avenant were the assessors. Mr J. Theron appeared for the state. Ms Melissa Mort, instructed by Bernadt Vukic and Potash, appeared for Madotyeni.

WITNESSES 'SCARED  
to go to ID parade'

*CMT 7/10 8/11/70 (252)*

JOHANNESBURG. — Some victims and witnesses of two separate train massacres in which 21 people were killed may have been too scared to come to a police identification parade, a Regional Court here heard yesterday.

Police investigating officer Detective Deon Wessels said about half the 49 people who were supposed to help in the identification had not turned up.

He was testifying in the bail application of Mr Martin Ngcobu, 47, Mr Basi Nkosingondle, 27, Mr Solomon Khumalo, 33, Mr Mengela Magabane, 54, and Mr Mabinela Majozi, 23, who are alleged to have been part of a group of men who killed six people on Jeppe station on September 6, and 15 people on a moving train near Benrose on September 13.

Detective Wessels said all the men had been positively identified.

Final argument in the application will be heard today. — Sapa

St. 8/11/90

# 'Hit squads' report out soon

Pretoria Bureau

The report of the Harms Commission into alleged hit squad activities involving the South African Police and the SA Defence Force's now-disbanded Civil Co-operation Bureau is to be released within a few days.

A spokesman for the Department of Justice said in Pretoria today no date had been set for its release.

Appointed by President de Klerk earlier this year, the commission, under the chairmanship of Mr Justice Harms, sat for 53 days in Pretoria and London to take evidence



## Police ordered to pay court costs

By CARMEL RICKARD, Durban

POLICE are to pay the costs of a Supreme Court application brought against them by African National Congress military trainee, John Fonono Mchunu, following allegations of abduction and torture which are being investigated by the Attorney-General.

Mchunu was picked up by police in September and allegedly held for some time against his will, after initially being interrogated by police at Kings Park rugby stadium.

He claims he escaped after being kept by a group of "askans" — former ANC trainees who have since joined the police — in Pietermaritzburg, and then went into hiding before emerging in the United State consulate in Durban, seeking refuge.

At the time regional commissioner Ignatius Coetzee claimed Mchunu had helped the police voluntarily. (S) (S2)

However, when the matter came to court yesterday, the police submitted no reply to Mchunu's claims and withdrew their opposition to the order against them being made final.

## Harms <sup>(25)</sup> report out <sup>South Africa 11/11/90</sup> this month

THE long-awaited report of the Harms Commission of Inquiry into alleged political violence is expected to be released before the end of the month.

A spokesman for the Ministry of Justice said the State President was currently studying the report and would decide when to release it.

She dismissed rumours that the report would be released this week, but said the Minister of Justice, Mr. Kobie Coetsee, had indicated it would be released "soon".

The report is likely to be a final and not an interim report, the secretary of the commission, Mr. Chris Erasmus, said yesterday.

Unless dramatic new evidence were presented, the commission would not have any further sittings, he added.

# NOT A GOOD CASE

**A regular contributor to the FM, Radford Jordan is an attorney and a former senior lecturer in Political Studies at Wits University. Here he criticises proposals by the Association of Law Societies (ALS) regarding the constitution of "the new SA".**

Most of the changes the ALS wants — they have been published in *De Rebus* — could not suitably be entrenched in a constitution. On the contrary, many of these are of an experimental nature and might have to be scrapped. It would be convenient for a bare majority of the legislature to be able to scrap any of them that did not work out well. In any case, most of them lack obvious merit. Government will not want to put on the agenda items that are at once inessential and possibly controversial.

I propose to discuss the memorandum under these headings: the proposed independence of the legal profession, its unification, the structure of the courts; and training for, and admission to, the profession.

□ The ALS's chief aim is to have the profession's independence entrenched in the constitution. The primary meaning of independence is that judges should be appointed by bodies representing the profession as a whole. Unhappily, early NP ministers of justice tended, while choosing some judges of real talent to keep the wheels going round, to find room on the Bench for a good sprinkling of rather mediocre performers. Black politicians will want to do the same and it will be hard for anyone, let alone the NP, to convince them that this will make the roof fall in. If black politicians were to agree that judges should be appointed on ability alone, the present system, as it has operated for some time, would not be easy to improve on; □ The memorandum does not even mention the issue of unifying the bar and side bar. It says that the bar should remain as it at present exists, but with two qualifications: it should give up its exclusive right to appear in superior courts so that attorneys would also be able to do so and allow advocates to take instructions direct from the public if they choose (they have hitherto only done so

through attorneys) This looks like a compromise between reformers and conservatives on the unification issue.

The US, Canada and Australia — all much more affluent than SA — each have a single legal profession. It will not be easy to convince black lawyers that SA imperatively needs to retain its divided one — and it might be better not to try,

□ The ALS wants the structure of our courts changed. We now have one Supreme Court, consisting of provincial and local divisions and an appellate division, ALS wants a High Court, a Supreme Court and an Appeal Court, all of them superior courts. The High Court would do the lion's share of the work. Meanwhile our greatest legal luminaries would languish in the Appeal Court, hearing only appeals on pure points of law and in civil rights cases. It is difficult to comment, as ALS does not specify the faults in the present system which they seek to remedy; and

□ It is generally agreed that a law graduate needs a period of practical training before being let loose on the public. In the case of advocates, this is called reading in chambers; in that of attorneys, two full years must be served under articles of clerkship. Some whites and most blacks experience difficulty in finding clerkships.

Here an imaginative suggestion has been made by Arthur Chaskalson SC, national director of Legal Resources. Law graduates should be allowed to defend in the magistrates' courts accused persons who would otherwise be undefended. They would be designated "public defenders," and any period for which they held this office would be in substitution for, or reduction of, the time that articulated clerks are required to serve under articles.

This proposal was supported by Nic Swart, ALS's director of practical legal training, but did not find favour with the ALS itself. Yet the scheme had the merit of killing two birds with one stone: the provision of a service which would lighten the burden on legal aid organisations and offer the "public defenders" valuable experience.

The ALS has an alternative scheme which seems manifestly inferior to that of Chaskalson. They propose to fragment the divided profession still further by the creation of a category of legal practitioners called law agents. These would have lower qualifications, charge lower fees and only have a right of appearance in the magistrates' court in criminal matters. In due course, they might be able by further study to qualify as attorneys.

History does not always repeat itself, but this does not mean that it should be ignored. The ALS does not mention that law agents existed in the past with substantially the functions now proposed for them. They were not noted for their competence or integrity and were eventually abolished at the instance of the Law Society — but not before it had been said of them "In SA we have not only a bar and a side bar, but a backside bar."

A great flaw in the ALS memorandum is that it fragments the role of the State in court proceedings. It wants magistrates appointed from the ranks of the bar and side bar.

There are grounds for doubt about the calibre of those who would accept such appointments. Moreover, this change would leave public prosecutors no avenue of promotion in the administration of justice as such. It seems possible that this difficulty might be overcome by allowing, as an alternative to service under articles, time spent by a law graduate as a public prosecutor, this, like the office of public defender, would then provide another point of entry into the profession.

This might well be an alternative that blacks would be particularly glad to take. Why not a year as defender followed by a year as prosecutor? There has long been criticism of prosecutors on the ground that they never have the human contacts with accused persons that are made by attorneys when interviewing in the smelly cells, battling to arrange bail and finally conducting a defence.

Unlike most of the rather abstract objectives on which ALS seems to be intent, here is one that is genuinely worth pursuing.

W. M. ... 9/11/15/11/90

# People's courts: Fuelled by legal flaws

THE people's courts which continue to flourish in many parts of the country ought to cause deep concern to all South African lawyers, and anyone else who believes respect for the law is a basic pillar of a just and well-ordered society.

The excesses of some of these courts — including the "death penalty" or hundreds of lashes inflicted on an accused — are well-known and have been criticised by African National Congress officials and other supporters of the basic concept embodied by the PCs.

Another serious issue is that the established legal system may well be undermined by the growth of these courts and the allegiance to them enforced in many areas.

Where the disciplinary courts are strong, the established legal system tends to be off limits and seen as for whites only. Victims of "ordinary" crimes are often afraid of reporting to the police as they fear they will be punished for bypassing the PCs.

Most alarming of all however is that the legal establishment appears unwilling to admit that shortcomings within the legal system could be helping keep the people's courts alive.

action of the existing system of justice from the people are not being adequately dealt with, and so far there has not been any significant change in the legal system to improve involvement by ordinary people.

The longer valid criticisms of the system are ignored, the longer the life-span of the PCs is likely to be.

This point has made strongly by SAP Commissioner of Police Johan van der Merwe.

Speaking in Port Elizabeth last weekend, he talked of the "unbelievable and misplaced popularity" of the PCs, and said they should be dealt with by addressing the needs which gave rise to them.

"Instead of the legal system being accepted as a rock of justice, it is seen as a tool for suppression," he said.

Van der Merwe said three main problems with the existing legal order emerged to account for the growing popularity of the PCs — the legal process was seen as too protracted; legal technicalities were often

The excesses of people's courts are well-known, but their continued existence could be due to shortcomings in the existing legal system.

## GARMEL RICKARD reports

regarded as unfair and there was a perception that the punishment handed down did not satisfy the needs of the complainant.

Last weekend the Natal branch of the National Association of Democratic Lawyers, Nadal, held a conference on the issue of the PCs.

Officials said the organisation did not take a position on these courts, but provided a forum for the communities to debate questions which have emerged.

Opinions ranged from those who said the PCs should be abolished, to two delegates who backed the right of the PCs to pass the death sentence.

Projects co-ordinator Jeff Radebe said the PCs arose in response to a call by the then banned ANC, for apartheid to be made unworkable. They were, initially at least, very democratic, and "charged with the task of administering people's justice".

"It is clear that in many parts of the country the police, the courts and other organs of the apartheid state have lost every semblance of credibility. The masses of our people seem to have identified the police and the courts as instruments whose primary objective is to persecute the oppressed and hence they developed a strategy of replacing the racist courts.

"In our Natal region the so-called criminal justice system has virtually collapsed, largely arising from the endemic violence unleashed against the people."

There was general agreement at the conference that the PCs should not deal with crimes such as murder and rape. "We explained that people who control the courts

and impose 'death sentences' were enemies who have 'captured' the PCs. "The ANC has never called for the death sentence to be passed by the PCs. It is criminal elements which have moved in and hijacked the courts."

Radebe said the delegates called for a further conference to discuss whether the PCs should continue, and Nadal would convene this conference early next year.

One question which had to be asked however, was whether these courts should continue if many have, by admission, been taken over "by the enemy".

The ANC's guidelines on the PCs make some suggestions for "bringing back the dignity of disciplinary committees or people's courts", but adds, "as time goes on it might be necessary to review the need for continued existence of the PCs."

Radebe felt the communities represented at the workshop had a number of questions which indicated that — for the time being — they want the PCs to continue.

"They believe the PCs have a role to play when cases are referred to the courts. The PCs can act as a pressure group to see charges are brought even when the authorities appear reluctant to bring someone to trial."

# Operation Vula, trialists granted bail pending indemnity rulings

**DURBAN** — The State yesterday asked that the "Operation Vula" trial involving senior ANC leader Mac Maharaj and SA Communist Party leader Mac Maharaj and seven co-accused be adjourned to January to give the trialists a chance to seek indemnity. The Durban Regional Court, acting on orders from the National Court, had had to withdraw its prosecution against the eight ANC members accused of having been involved in Operation Vula, a plot to overthrow the government.

The State yesterday asked the Durban Regional Court to grant bail to various conditions. The men and women were to be released on bail for various conditions. The men and women were to be released on bail for various conditions. The men and women were to be released on bail for various conditions.

Guidelines for the granting of indemnity were set by Justice Minister Kobie Coetsee last week. The guidelines were set by Justice Minister Kobie Coetsee last week. The guidelines were set by Justice Minister Kobie Coetsee last week.

**Indemnity rulings**

The correct one was granted R30 000 bail. The correct one was granted R30 000 bail. The correct one was granted R30 000 bail. The correct one was granted R30 000 bail.

- Raymond Lala, 32, Catherine Mvelase, 25, and Susanna Tshabalala, 30, were each granted R30 000 bail.
- Dipak Patel, 26, had bail fixed at R40 000.
- Pravin Jemadas Gordhan, 41, was granted bail of R20 000 and 22-year-old Amresh Munnessar Sankar's bail was set at R5 000.
- No formal comment was available from the ANC yesterday.
- Comment was available from

# 'Vula' accused get R300 000 bail

By CARMEL RICKARD

THE eight accused in the Operation Vula case have been granted bail totalling R300 000.

In a surprise move yesterday at the start of an application for bail, the prosecutor announced the attorney general had withdrawn his opposition to granting bail.

He said this would be granted to all eight accused under certain conditions.

The amount set for each individual varies, with the highest standing at R80 000 for South African Communist Party official Mac Maharaj. All eight must also report daily to the police and must not change their home address, they may not leave the magisterial district where they live and must hand over all travel documents.

They are accused of terrorism and of illegally possessing arms and ammunition. According to the state they were involved in setting up an army to overthrow the government.

All eight have applied for indemnity and it appears there's a good chance it will be granted. Their alleged offences took place before the October cut-off date announced by the president, and were also committed before the ANC decided to suspend the armed struggle. The prosecutor said the case would continue on January 15 next year, only if indemnity was not granted.

# Legal aid project for lower courts

PRETORIA. — A two-year test project using public defenders to provide legal assistance in lower courts is to be launched next year, the Legal Aid Board announced here yesterday

The decision was taken after investigations by a working group to examine ways of alleviating the dire shortage of legal representation in criminal cases in lower courts

The LAB said about 80% of all accused appearing in lower courts were not represented and 100 000 of them were committed to prison last year without having been assisted by lawyers

The project is expected to cost between R1,5m and R2m — Sapa

# Bawden spy case file empty

*Bawden 9/11/90*

*252*

PAPERS relating to a Supreme Court case for damages brought by a former Zimbabwean against General Magnus Malan, Minister of Defence, have mysteriously disappeared from the records office at the Pretoria Supreme Court.

Staff were yesterday mystified by an empty file for case number 20322/90 after *The Star* applied to check documents lodged by Guy Bawden, who was detained for 25 months by Zimbabwe police on allegations of having been involved in assassination

and kidnap attempts. They could not be found despite a search of the general office on the ground floor of the Palace of Justice and of the records filing office in the basement of the building.

There is no security at the door of the records office - frequented by lawyers and journalists in particular - to ensure that files are not removed.

Bawden is suing General Malan for an undisclosed amount despite a warning earlier by the State Attorney's Office in Pretoria of prosecution under the Protection of Information Act.

Bawden's claim is for

compensation for the loss of his farm, home and business in Zimbabwe.

Alleged South African agents named in the missing papers are Bawden's brother, Christopher, their cousin, Barry, and Michael Smith and Kevin Woods. Barry Bawden, Smith and Woods are still in Chikurubi.

The papers are said to reveal an alleged SA connection in regard to assassination attempts on ANC president Oliver Tambo and British journalist Jeremy Brickhill as well as a plot to kidnap an ANC member identified only as "Jabulani".



10/11/90 (252)

# Plea for execution reform

Democratic Party MP Tony Leon has asked the Minister of Justice to allow Death Row prisoners to choose observers of their own choice to attend their executions

In a letter to Minister Kobie Coetsee, Mr Leon said this suggestion was not eccentric or ghoulish, but one in keeping with the American system of criminal and penal justice, to ensure that interested parties were given full access to the condemned and that the system of capital punishment was open to full scrutiny

Mr Leon forwarded this request to Mr Coetsee on behalf of The Society for the Abolition of the Death Penalty in South Africa

He said the conditions and proce-

**ESMARE VAN DER MERWE**  
Political Reporter

dures of execution were being shrouded in secrecy

"It is my firm viewpoint that the greater the public knowledge of hangings and the gruesomeness involved, the less the public demand for this barbaric punishment

"In a society which aspires to being a democracy, there can be no justification for shielding from the public the manner in which punishment is carried out in the public interest"

The society thus requested permission to interview condemned persons, permission to see the scaffold and the preparations for execution

# STOP STOPS STOP THE

By SOPHIE TEMA

AN eyewitness was stabbed and died soon after he had confronted a municipal policeman who had knocked down a 59-year-old woman in a hit-and-run accident in Alexandra Township on Wednesday night.

A municipal policeman has been arrested in connection with the killing of Klaas Bowes Khumalo, 30.

The woman, Lettie Maleka, was admitted to Themba Hospital in a serious condition. Witwatersrand police liaison officer Eugene Opperman confirmed the incident and said, "It is alleged the woman was knocked down by a marked police vehicle at about 6pm on Wednesday. Eyewitness Khumalo followed the vehicle and allegedly confronted the policeman.

"The policeman produced a knife and stabbed Khumalo in the chest. Khumalo feared for his life and was trying to drive away from the scene when shots were allegedly fired at his car. He lost control of the car, which overturned."

Gertrude Khumalo, the grandmother of the dead man, said her son Sipho told her he, Klaas and two others had gone to collect money from a certain house.

When they arrived at the house Joseph got out of the car and entered the house while the other three remained in the car.

A police van approached, traveling at high speed, and ran over a pedestrian.

The driver of the van did not stop, and Klaas and his two friends decided to follow the van. They managed to stop it and told the driver he had run over a person. An argument ensued. The policeman then drew a knife and stabbed Klaas in the chest.

Another man who was with the policeman drew a pistol.

A bullet hit the boot and penetrated the petrol tank as the men tried to escape. Klaas lost control of the car and it overturned. Sipho and Norman ran away.

Later Klaas's uncle, Michael "Mille" Bowes, went to the scene where he found Klaas lying dead. He found a bullet shell at the scene, which he handed to police.

Police have made no further arrests.

## Special constable held after hit-and-run incident in Alexandra

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Rep

11/11/90

Michael Bowes... his nephew found dead after confronting a municipal policeman who allegedly sped away after knocking over a 59-year-old woman

# WITNESS

By MARTIN NTSOELINGOE

FIVE men charged with the murder of 21 people in the Jeppe train massacre will apply to the Rand Supreme Court for bail, their lawyer Ian Small-Smith has said.

They were refused bail in a Johannesburg magistrate's court on Friday and their case was postponed to December 4.

In rejecting their application, Magistrate CJ van Heerden said the five were evading questions put to them by the State.

Van Heerden agreed with advocate David Gordon from the Attorney-General's office that if

## No bail yet for Jeppe accused

they were granted bail, they might flee.

They are Martin Nqobho, 49; Basi Nkosingondle, 27; Manyebo Magubane, 55; Solomon Khumalo, 33; and Mandla Majozi, 23, all of Jeppe Hostel.

Twenty-one people died and 47 were injured when eight men moved through a tram at Jeppe in September, shooting and hacking passengers.

If granted bail, the ac-

cused might repeat the offences they were charged with, the magistrate said.

They could also tamper with State witnesses and public safety must be considered.

"The public witnesses with horror the daily killings that go on throughout the country, and this cannot be condoned," the magistrate said.

Van Heerden said the AG was opposed to the bail application.

First accused Nqobho — an Inkatha member — is married with four children.

Nkosingondle is also married with one child.

Magubane — married with five children — was allegedly found with two rifles and other weapons.

Earlier he told the court that one of three suspects on the run — Jericho Ntuseneni Manyoni — ordered him to keep the firearms.

Khumalo denied being a member of Inkatha but failed to answer questions put to him by the State, while Majozi — who was arrested in Bergville — was brought to Johannesburg where police found a cache of weapons.

# Police to pay legal costs after torturing ANC man

By S'BU MNGADI

POLICE were this week ordered to pay ANC guerrilla Fonono John Mchunu's legal costs after he lodged an interdict demanding police stop harassing, abducting and torturing him.

Natal Attorney-General Mike Imber's office is already investigating allegations of abduction and torture against certain members of the Security Branch, including Askaris - former ANC members who joined the police.

When the matter came before Judge Wilson this week, police submitted no reply to Mchunu's allegations and withdrew their opposition to the order against them being made final.

Mchunu's attorney Kwenza Mlaba later told *City Press* that he had received a letter from the police saying they wished to investigate Mchunu's allegations and asking Mchunu to make a statement to them about his alleged abduction and assault.

According to affidavits, Mchunu and his friend David Shezi were picked up by security policemen, assisted by Askaris, in Durban on September 5 this year.

Shezi was released later that day, but Mchunu was allegedly held at private homes in Durban and Maritzburg until he escaped on September 23. The homes were occupied by Askaris, some of whom he knew from military training camps in Angola.

He went into hiding before emerging at the American consulate in Durban on October 1, seeking refuge.

Mchunu left the consulate that afternoon after obtaining a Supreme Court interdict barring the police from harming him in any way.

Mchunu's version of his "arrest" contradicted information given to the Durban Supreme Court by a senior Security Branch member, who claimed Mchunu was not held after 11.30pm on September 5.

Col Andrew Taylor said Mchunu was released that day, and that Sgt Aubrey Mngadi had taken Mchunu to his home in Lamontville, Durban.

Wilson ordered an inquiry into why security policemen had not interrogated their suspects in a police station, but took them for questioning to Kings Park stadium.

In his founding affidavit, Mchunu said for the duration of his "detention" he was handcuffed and shackled.

He claimed he was interrogated and tortured on several occasions.

# Death squad cop lied, says McNally

By DRIES VAN HEERDEN

TWO key witnesses in the police death squad controversy have been branded as unreliable in a report by Free State Attorney-General Tim McNally.

The findings of his inquiry, commissioned by Justice Minister Kobie Coetsee, were released yesterday after being withheld by the government for almost a year.

Mr. Coetsee said the report had been released in view of "pending legal action".

Mr. McNally found that

- Convicted killer-cop Almond Nofomela lied about SA Police involvement in a series of murders and attacks on anti-apartheid activists.

## Credence

Nofomela is on death row for the murder of an elderly Northern Transvaal farmer in 1987.

- Former security policeman-turned-ANC activist Dirk Coetzee is "unreliable, unpredictable and erratic" and it is "very difficult to attach any credence to his allegations". Mr Coetzee has claimed he was involved in death-squad activities.

The McNally report is expected to have a direct influence on a R1,5-million defamation claim laid by police Lieutenant-General



TIM McNALLY

Lothar Neethling against Vrye Weekblad. The newspaper published allegations by Mr Coetzee that the 54-year-old forensic scientist supplied poisons and "knock-out drops" to hit squads.

Mr Coetzee has already testified in London and his evidence will be read into the record of the proceedings conducted by Mr Justice E.L. Goldstone.

Mr McNally, who was assisted in his investigation by CID deputy chief Lieutenant-General Alwyn Conradie, presented his report to Mr Coetzee in November last year.

The Harms commission also investigated death squad claims and the activities of the SA Defence Force's Civil-

ian Co-operation Bureau. The report, by Mr Justice Louis Harms, has been presented to the government and is expected to be released soon.

Mr McNally questioned the trustworthiness of Dirk Coetzee. His report said it was important to refer to Mr Coetzee's history of diabetes and the influence it had on his credibility as a witness.

"There is no doubt in the mind of the committee that the most irresponsible and ill-considered actions can be expected from such a person," the report said.

## Deviant

Referring to Mr Coetzee's history of "deviant behaviour", the report said his allegations should be treated "with great circumspection".

According to Mr McNally the evidence and facts presented to him indicated that the allegations made by Nofomela were false. "It is no strange phenomenon that convicted criminals incriminate themselves in crimes or alleged crimes of which they have knowledge," he stated.

Mr McNally found that Nofomela was not involved in the stabbing to death of Durban lawyer Griffiths Mxenge in 1981. Nofomela could have learnt of details

□ To Page 2

# Hit-squad claims rejected

□ From Page 1

surrounding the murders from newspaper reports.

Nofomela's claimed roles in other incidents were also questioned.

- The murder of Japie Maponya in Krugersdorp in April 1985. Key facts of the police investigation refuted Nofomela's evidence.

- The abduction of an ANC activist code-named September in 1986. Nofomela's evidence contradicted September's own version.

- The murder of two ANC members in Swaziland in 1983. Nofomela testified that he and seven other policemen were responsible. Mr McNally found that the testi-

mony of the other men allegedly involved refuted Nofomela's statements.

Wits law professor John Dugard, a member of the Independent Board of Investigation into Informal Repression which helped Nofomela prepare his testimony, said yesterday he had not yet studied the McNally report.

However, Professor Dugard said he found it strange in the light of the report that Mr McNally led evidence on death squad activities before the Harms Commission.

"It is now evident that Mr McNally had already made up his mind before he joined the Harms investigation," Professor Dugard said. "He should either not have been appointed or he should have recused himself."

"This obvious conflict of interest will seriously affect the findings of the Harms report."

# Our Bill of Rights could be a world showpiece

A SOCIETY in the process of change has a certain inherent instability. It needs a constitutional structure which provides stability.

A Bill of Rights makes a fundamental difference to the rôle of the law (and therefore of the courts)

Power is divided not just two ways (between the executive and the legislature) but three ways — between the executive, the legislature and the judiciary.

The judiciary takes on a completely new rôle and a new status, as the third leg of the separation of powers. It is vital to restructure for stability

All over the Third World people are crying out for the protection of fundamental human rights. At the fourth international appellate judges' conference in Kuala Lumpur,

**MR JUSTICE NICK McNALLY**, a Zimbabwean judge, advises South Africans to press for a strong independent judiciary

Judge Rahman of Bangladesh said

"The rhetoric of fundamental rights has gained such an emotive content in developing societies that no one will now dare ignore it"

So the timing is perfect for South Africa. I am firmly convinced that the world is ready to accept powerful, independent judiciaries

I am convinced that the people of South Africa will not simply accept, but demand, a judicial arm of government which is strong enough to protect their basic rights

In order to attain this situation I think two things are important. First, one needs a Bill of

Rights which has strong, built-in safeguards which make it difficult to amend

Article 131 of Namibia's constitution, for example, goes so far as to make it impossible to amend the Bill of Rights in any way which derogates from the fundamental rights and freedom contained therein.

Second, I think there is a great deal to be said for the proposal by Professor Tony Honoré of Oxford University that South Africa should establish a constitutional court as an entity separate from existing court structures

On 29 June this year Professor Honoré, speaking in Cape Town, put it this way: "A new South African consti-

tution, whether unitary or federal, will be a mockery unless it contains effective guarantees of the values of racial equality and political freedom

"This will inevitably mean restraints on legislative and executive power. But such restraints cannot in practice be monitored by the new parliament or executive, whatever form they take, since these are the very bodies whose powers are to be restricted. Only a court can fulfil this rôle."

He then went on to suggest that, politically and psychologically, these new powers in the new South Africa should be exercised by a new court and not just an existing court with extended jurisdiction. In short, a constitutional court rather than a reformed appellate division.

I agree. And if that happens,

the law and the legal profession in South Africa will be transformed. South Africa will live, for the first time, in a constitutional democracy in which the judiciary and the legal profession will have a creative and constructive function

The governance of this country will stand on three legs instead of two. One does not have to be a structural engineer to understand that a tripod is more stable than a biped.

Is this a bid for power by the lawyers? The answer becomes clear when you think about what I mean by power

The power of the judiciary is quite different from the power of the executive or the power of parliament. Both these parties can use their power positively and sometimes with disastrous effects

But the power of the judiciary under the doctrine of the sep-

aration of powers is essentially a negative power not a power to do things but a power to stop things being done

It is very important that such a negative power should exist. And it is difficult to abuse that power in a selfish way. It is really a power to protect minorities and individuals against the majority

South Africa faces the change which many others have faced. This is the last and the greatest of them all. South Africans are prepared as none of the rest were prepared. The state of the world is propitious for a smooth transition.

Mr Justice McNally is an appeal judge of the Zimbabwean Supreme Court. This is an extract of a speech given at the centenary banquet of the Johannesburg law firm Bell, Dewar and Hall

# Pilot project will give accused a better deal

(252)  
Sowden 12/11/90

A TWO-year pilot project for public defenders to represent indigent accused is to be launched next year, the Legal Aid Board announced at the weekend.

The decision was taken after investigations by a working group to examine ways of alleviating the dire shortage of legal repre-

sentation in criminal cases in lower courts.

Justice Minister Kobie Coetsee also requested an investigation into the feasibility of a public defender system such as that operating in the United States.

The LAB said about 80 percent of all accused appearing in lower courts are not

represented and 100 000 of them were committed to prison last year without having been assisted by lawyers.

The shortage of legal representation in the lower courts was due to lack of adequate funds by legal assistance groups and a shortage of attorneys and advocates to handle the cases.

The pilot project is expected to cost between R1,5 million and R2 million.

An announcement on the number of public defenders, where and how they will serve and how they will be recruited and trained is expected to be made in the next few weeks, the LAB statement added. - Sapa

# Hit squads probe findings queried

SA Press Association

THE credibility of the Harms Commission has been questioned following the release of findings by the McNally inquiry at the weekend.

Professor John Dugard, a member of the Independent Board of Investigation into Informal Repression, said the participation of a member of the McNally inquiry in the Harms Commission would, in light of the committee's findings, affect the credibility of the commission on its findings regarding police investigations.

The McNally inquiry

has dismissed allegations by Death Row prisoner Almond Nofomela and former police Captain Dirk Coetsee that they were members of a police hit squad

Free State Attorney-General Tim McNally and SAP CID Chief Lieutenant-General Alwyn Conradie said in a report released in Pretoria on Saturday that Nofomela's allegations were untrue.

They said it was "difficult to attach any value to Coetsee's allegations and utterances".

They signed the report in November a year ago but it was only released on Saturday

Dugard said he was surprised that in the light of his findings, as chairman of the McNally committee - that Nofomela's allegations were false and that it was "difficult to attach any value" to Coetsee's allegations - McNally was prepared to act as a so-called independent pre-

sender of evidence for the Harms Commission

"In my view he clearly should have recused himself," said Dugard

"It seems he had already made up his mind in the committee on matters that came before the Harms Commission."

In the mind of the public there would be a belief that he selected the evidence in the commission to accord with his previous findings

"If it affects the credibility of the Harms Commission as far as its

findings on the police are concerned," said Dugard

He said the Independent Board of Investigation had merely provided information to the McNally Committee and had not made its own findings and therefore did not want to comment on the findings of the McNally Committee.

Justice Minister Kobie Coetsee said on Saturday the report of the commission, which also investigated the allegations, was still under consideration by the Government

by the Government

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Star 12/11/90 252

# Winnie may sue over report on R600 000 purchase for exiles

Winnie Mandela said last night that she was contemplating legal action against the Sunday Star which claimed she had ordered handpainted, designer duvet covers for returning ANC exiles from a Johannesburg shop at a cost of more than R600 000

Mrs Mandela, head of the ANC's social welfare department, said she was disappointed about any-

thing whatsoever which "seeks to hamper efforts to assist our people to return home decently"

Two partners in the fabric shop also said they were taking legal advice with a view to suing the Sunday Star

Partner Carlos du Mont — a card-carrying ANC member — said yesterday it appeared the story was an attempt to prevent the ANC from

getting funds for the repatriation of returning exiles.

The newspaper reported that a third party, Judy Henshall, had "clinched" the deal, but she denied ever having spoken to Mrs Mandela or the journalist who wrote the story.

The editor of the Sunday Star said last night that he stood by the story

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NEWS

# CCB's Verster to retire early

By Norman Chandler  
Pretoria Bureau

Joe Verster, managing director of the one-time secret Civil Co-operation Bureau — a unit of the SA Defence Force which is now being closed down — has gone on early retirement rather than be transferred to another branch of the SADF, Pretoria sources said yesterday.

Mr Verster, who testified before the Harms Commission about the CCB's activities, leaves officially at the end of November.

A spokesman for the SADF yesterday referred inquiries about Mr Verster to a statement made by the Ministry of Defence on Sunday.

The statement said Defence Minister General Magnus Malan declined to comment on a report that Mr Verster had been "dismissed".

It is expected, however, that comment about officers and other ranks allegedly involved in CCB activities will be made public when the Harms Commission report into certain alleged murders is published. It is expected to be made available this month.

A number of generals, brigadiers, colonels and other offi-

cers gave evidence to Mr Justice Louis Harms during 52 days of testimony.

Mr Verster, who held the rank of colonel in the SADF but did not use the title while managing director of the CCB, gave evidence to the Harms Commission while wearing an elaborate disguise.

Mr Justice Harms ruled that Mr Verster's identity, address, or photograph could not be published. This rule also applied to some other CCB operatives.

The closing down of the CCB as an operational unit was formally announced on July 31 by General Jannie Geldenhuys, then Chief of the SADF.

WILL BE PUBLISHED

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Lt Gen Lothar Neethling, left, outside the Rand Supreme Court yesterday with former Police Commissioner Mike Geldenhuys who gave evidence in the R1,5m defamation claim brought by Neethling against Vrye Weekblad and the Weekly Mail. Picture: ROBERT BOTHA

# Report on police general was shocking, court is told

SUSAN RUSSELL

FORMER SAP Commissioner Mike Geldenhuys told the Rand Supreme Court yesterday he was shocked when he saw a Vrye Weekblad report alleging that police forensics expert Lt-Gen Lothar Neethling had supplied poison to Dirk Coetzee to poison ANC activists

Geldenhuys was giving evidence in a R1,5m defamation claim brought by Neethling against Vrye Weekblad and the Weekly Mail in the wake of articles containing claims by Coetzee that the general had manufactured and supplied him with poison to eliminate victims of a covert police hit squad.

Neethling is suing Vrye Weekblad for R1m in connection with two articles it published in November and December 1989 which broke the hit squad story and contained allegations of his involvement.

He is suing the Weekly Mail for an article containing a similar allegation which was published during the last week of November 1989

Neethling claims the articles defamed him because, from the allegations, readers would be led to believe he was the leader of an illicit criminal organisation which committed murders and that he prepared and supplied poisons to murder or attempt to murder individuals.

Both newspapers are defending the action on the grounds of truth and public benefit.

Coetzee, who is in exile, has already

given evidence on commission on behalf of Vrye Weekblad and Weekly Mail.

Geldenhuys told the court yesterday he knew nothing about any police death squads.

He also testified that when he was head of the security section of the SAP it had not been policy to assassinate people.

It was police procedure when dealing with cases of terrorism to investigate them and take them before the courts.

Neethling had been appointed a lieutenant-general on his recommendation, Geldenhuys said. (252) (253)

## Moral standards

He also told the court Neethling had not been connected in any operational way with the security police, and it had definitely not been part of his function to supply poisons to members of the force.

Geldenhuys said he had reacted with shock when reading the Vrye Weekblad report containing Coetzee's allegations.

"I could not believe it," he told the court.

He said he would never have appointed Neethling a lieutenant-general if he had had any doubts about him. It was no secret, Geldenhuys said, that Neethling was an outstanding officer.

"There is absolutely nothing that can be said about this man's moral standards," he said.

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B/pam 13/11/90



Sta 13/11/90  
The Human Rights Commission  
focuses on political trials

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## Cut short this judicial detour

**T**he futility and inhumanity of pursuing political trials in the face of the build-up to negotiations is sharply illustrated by the case of Umkhonto we Sizwe veteran and convalescent cardiac patient Billy Nair

One of 11 on trial, Mr Nair stands accused of the Internal Security Act offence of terrorism, and of unlawful possession of arms and ammunition. He failed to appear in court when the trial opened in Durban late last month because of ill-health.

Only weeks earlier, Mr Nair had cardiac surgery after having a heart attack while detained incommunicado under section 29 of the Internal Security Act. His role in the ANC's Operation Vula, according to the charge sheet, amounted to serving on the security committee of the operation, holding meetings with other Vula operatives, conveying money between certain of his co-accused and studying and discussing how

to build underground structures.

Even if the judge were to find that he did these things, and even if he were to consider that amounted to terrorism, Mr Nair, along with any other convicted Operation Vula cadres, will be eligible for amnesty.

This much is clear from the guidelines for amnesty agreed on by the Government and the ANC, which draw even "politically related" common law crimes within the ambit of amnesty.

The continuation of this and other political trials leaves one with a bizarre sense that one arm of the Department of Justice is working furiously to achieve convictions, while another arm is refining the tools to nullify the fruits of prosecution.

Do we need this futile, self-negating exercise? Can it possibly be in keeping with the air of reconciliation of the Pretoria Minute? Can it be seen as anything less than cruelty when inflicted on a sick man? □

Star 13/11/91

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## ECC slams council for 'soft line' on town clerk

By Shirley Woodgate

The threatened return to office of Johannesburg town clerk, Mame Venter on Thursday was the result of "pussyfooting" by the management committee, says the End Conscription Campaign (ECC)

The chairman of the Johannesburg branch of the ECC, Chris de Villiers, whose organisation was infiltrated by the council's security department, said

"The current council's approach is to brush the whole matter under the carpet. The way they have treated public safety director John Pearce is typical of the low-key response to the findings of the Hiemstra Commission, and Mr Venter has escaped an internal inquiry

"Other implicated individuals in the security department, particularly Tony Bennet, have all got off lightly," he said

Mr de Villiers was reacting to Mr Venter's letter informing acting town clerk Graham Collins that he planned to return to office on Thursday because he did not believe he was obliged to conform to the terms of a retirement agreement reached with the council's management committee

He had taken long leave prior to retiring next year after being named by the Hiemstra Commission as one of the key figures in the spy scandal

Veteran ratepayer campaigner Flo Bird, said "I was appalled to hear they had all got off so lightly and, where Mr Venter is concerned, I want to know exactly where the buck stops if the top man simply tells a commission of inquiry 'I don't know, the others know'

"If the town clerk and former city treasurer does not know what ratepayers' money is being spent on, then who does?"

# General denies police took part in killings

By Brendan Templeton

Former Chief Commissioner of Police General Mike Geldenhuys denied in the Rand Supreme Court yesterday that police were ever involved in the bombing and murder of anti-apartheid activists

He was giving evidence in the case in which the Chief Deputy Commissioner of the SAP, Major-General Lothar Neethling, is claiming R1,5 million in damages from Vrye Weekblad and the Weekly Mail

General Neethling claims he was defamed by articles published last year in the newspapers, which are alleged to have said he supplied poison to former police captain Dirk Coetzee for use against ANC activists

The newspapers have denied the articles were defamatory. Failing that, they were the truth published in the public interest

Earlier, a close friend of General Neethling, Matthys Pieterse, agreed with counsel R D

Levine, SC, that it was necessary that the public be informed about charges against the police involving death squads, particularly after Death Row prisoner Almond Nofomela said in a sworn statement he had been a member of a death squad under Captain Coetzee.

General Geldenhuys also agreed this was necessary, "but at the right time and to the right people"

Mr Coetzee's allegations should have been taken to the police before being published so that they could be investigated properly, he said

Mr Levine asked him if it was not asking too much that one could expect an organisation to investigate allegations for which it was supposedly responsible

General Geldenhuys said if an officer refused to investigate allegations, there was always someone higher up in the force who would be willing to open an investigation

He knew General Neethling as a person of high moral prin-

ciples. If an officer approached the general asking for poison with which to kill someone, he would have immediately reported the incident.

Mr Pieterse said he regarded General Neethling very highly. The general was a fully fledged member of the Academy of Science and Art, and was respected worldwide as an authority on forensics

He said he spoke only once to the general about the allegations against him

"He said: 'Yes, they have said all types of things against me and I must defend myself and clear my case'"

General Neethling's counsel, Willie Oshry, QC, earlier drew the court's attention to "irregularities" in Mr Coetzee's statements published in Vrye Weekblad on November 17 and December 1 last year.

Mr Oshry told Mr Justice Kriegler that Mr Coetzee had changed his statement concerning the dosage of poison he allegedly received from the general.

The case continues.

Star 14/11/90

BRIEFING

The Star Wednesday November 14 1990

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RESPONSIBILITY for the 1986 murders of Mameleth activists Dr Fabian Ribeiro and his wife, Florence, has been laid at the doors of the Civil Co-operation Bureau.

The Harms Commission has found that SADF employee Noel John Robey might have been involved "in an official capacity" along with two black men, and that top officials of the CCB authorised the payment of Robey's legal expenses. One was Colonel Joe Verstler, managing director of the CCB,

# Ribeiro murders — finger points to CCB

"who did not turn up" to give evidence about the Ribeiro murders.

Mr Justice Harms has referred the matter to the Attorney-General for further investigation into Mr Robey's involvement.

The judge reveals for the first time that lawyers acting for the CCB had offered a potential fe-

male witness free legal representation.

The unidentified woman, said in the report to be the "fiancee" of former CCB operative Willie van Deyventer, had told commission officers she knew about the Ribeiro killings and "as she refused to divulge the information, it was decided to subpoena her and to ascertain in camera

whether in fact she had such knowledge."

Mr Justice Harms adds that the CCB attorney approached her and she accepted the offer of free legal representation.

"Just before the examination, it was pointed out to the attorney there was at least a potential conflict of interest between his client and the witness. He

withdrew and she then denied under oath that she had any knowledge of any activities of the CCB or that she had any knowledge of the Ribeiro murders," the judge said.

Mr Robey, now believed to be living in England, was found by Mr Justice Harms to have been a member of the CCB "at all material times."

Evidence given during a preparatory examination into the killings was that the Ribeiro couple were shot, probably by two black people, on December 1 1986, and that the killers had driven off in a red Opel car. This was followed by witnesses who saw the occupants get into a Land Rover and a white man into the Opel before driving off.

The Land Rover was found to be registered in the name of N J Robey.

"An identification parade was held but Robey was not identified. The persons who were identified had beards. Robey was clean-shaven. Previously (it is not known when), Robey had a beard," says the report. An investigation by commis-

sion officers found that Mr Robey had been a member of the CCB.

"The CCB paid Mr Robey's legal expenses (and) this payment was authorised by the then-chairman of the CCB, General Joubert, and the managing director, Colonel Joe Verstler.

"The administrator of the (CCB) funds and Colonel Verstler certified that the expenditure was incurred 'for bona fide activities in the pursuit of the organisation's aims,'" the judge says. □

**The Harms Commission**



The Harms Commission report, published yesterday, finds that members of the Civil Co-operation Bureau were involved in unlawful activities and absolves the South African Police of allegations they harboured hit squads. **NORMAN CHANDLER** reports on the conclusions of commission chairman Mr Justice Louis Harms

**T**HE covert Civil Co-operation Bureau gave itself the power to try, sentence and punish people, the Harms Commission has found.

Mr Justice Louis Harms also says in his report that it is more than likely that members of the CCB participated in crimes which did not form part of the commission hearings.

He also finds that Minister of Defence General Magnus Malan was politically responsible for his department, of which the CCB was a part.

The commission does not apportion blame to the Minister nor to General "Witkop" Badenhorst, at the time Chief of Military Intelligence.

In his 200-page report, covering CCB "sector six" operations and claims of a police hit squad — which he has found did not exist — Mr Justice Harms says: "The CCB arrogated to itself the powers to try, to sentence and to punish persons without the persons knowing of the allegations against them or having had the opportunity to defend themselves. The information on which the verdict is based is inherently suspect and untested."

The penalty imposed is also out of proportion to what would have been imposed in a civil court.

These actions had "contaminated the whole security arm of the State", and the CCB's conduct before and during the commission "creates suspicions that they have been involved in

more crimes of violence than the evidence shows. These suspicions are not necessarily unfounded."

The CCB had its own political agenda which did not correspond to the "expressed agenda of the political authority there are also indications that the CCB puts its own interests and those of its members above the public interest or the interests of the State."

Mr Justice Harms says it is "normal" for a defence force to establish and make use of a covert organisation.

"The question that arises is who is responsible if the covert organisation or its members do not abide by the prescribed rules, or if they commit offences," the Minister of Defence is of course politically responsible for his department and that includes the CCB."

He says the commission's function did not include the nature and extent of political responsibility, and that the Minister's knowledge of the existence of the group "therefore did not concern the commission."

The judge says there was sufficient evidence to prove that the CCB — which is now being closed down as an operational unit — was responsible for a bomb incident as well as conspiracy to murder. These were the bombing of the Early Learning Centre at Athlone, Cape Town, and attempts on the lives of human rights lawyer Dulla Omar and journalist Gavin Evans.

a Durban lawyer, T Mahlaba, was threatened "by means of poison." The judge found this "appalling."

It had been argued that General Malan and, in particular, General Badenhorst would have been aware of what was taking place.

Mr Justice Harms says his view was that "no alleged or proven misdeeds with which the CCB is charged were committed" during the period during which General Badenhorst was head of Military Intelligence.

"The fact that he knew how the authorisation procedure worked is of no consequence because, as he himself puts it, the authorisation procedure applied to all Special Forces operations."

There were also no facts available which indicated that General Malan, for instance, needed to be called as a witness before the commission — "in fact, a consultation with him (as with many other witnesses) did not produce anything of assistance to the commission," the judge adds.

By the same token, the commission had also not called for Minister of Law and Order Adriaan Vlok to give testimony. Lawyers for the Afrikaans weekly newspaper "Vrye Weekblad" and the Webster Trust had applied for Mr Vlok to take the stand after a witness claimed to have told Mr Vlok about the CCB.

Mr Justice Harms found "the request bordered on the absurd and was therefore rejected." □



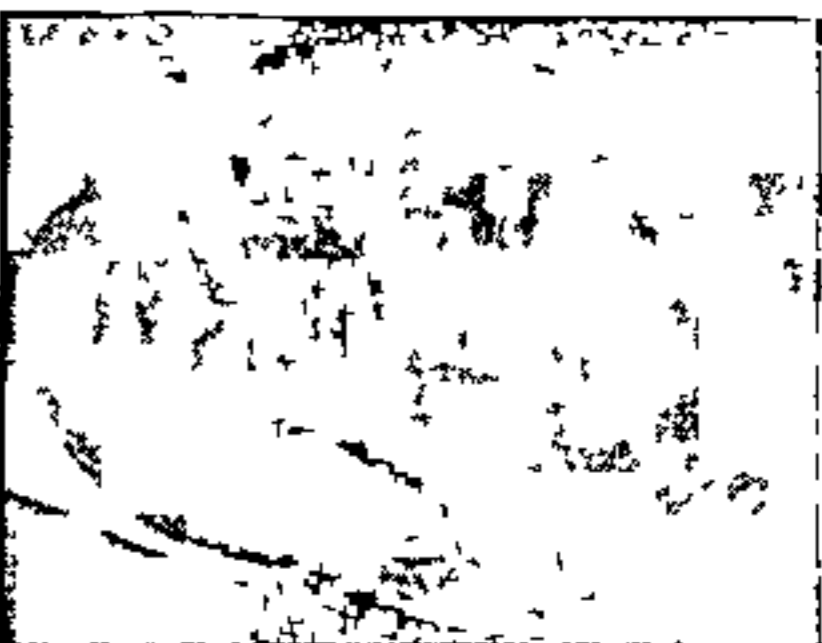
**MAGNUS MALAN** politically responsible



**RICK TURNER** no clues to murder



**NOEL ROBEY** in official capacity



**'WITKOP' BADENHORST** was not blamed



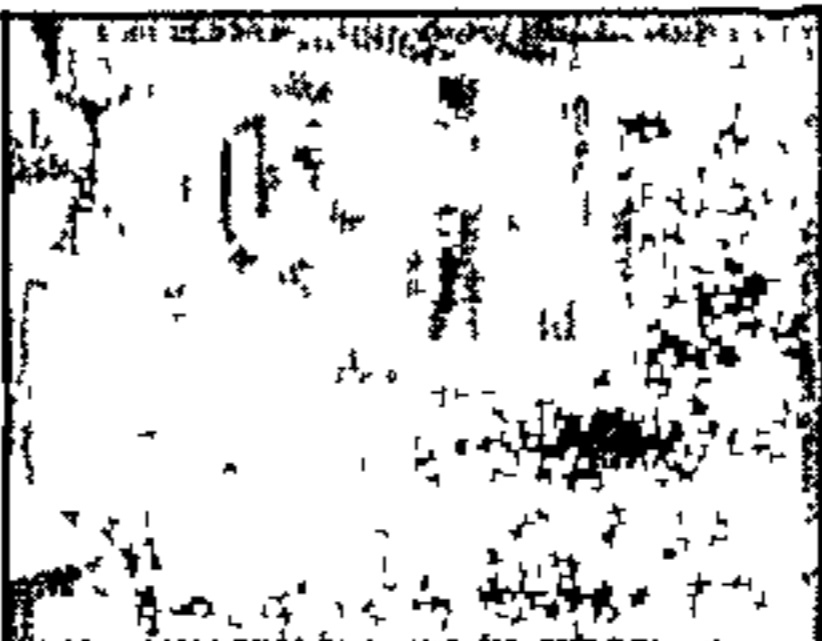
**DAVID WEBSTER** CCB suspected



**DIRK COETZEE** fabricated evidence



**ADRIAAN VLOK** was not called



**ANTON LUBOWSKI** SA agent



**MARTIN DOLNICHEK** out of the country

**Mxenge killing remains a riddle**

**T**HERE was no clear-cut answer to who murdered Durban lawyer Griffiths Mxenge, says the Harms Commission report.

Mr Justice Harms says there are five possibilities.

First, that former policemen Butana Almond Nofemela and Dirk Coetzee — both of whom claimed that a police hit squad based at Vlakplaas, outside Pretoria, was involved — had lied, second, that Nofemela and another former policeman, David Tshikalange, had performed the killing as "a private enterprise", and third, that Mr Coetzee gave the order to kill on his own accord.

A fourth possibility was that Mr Mxenge was murdered by someone else, and a fifth was that a group had done so "on the instructions of higher authority and with a political motive."

**Dispute**

"There is no reason to prefer the evidence given by Mr Coetzee, Nofemela and Mr Tshikalange (with their shortcomings) above that given by the respective members of the Security Police (with their shortcomings)." This does not mean to say that parts of the disputed evidence given by the three cannot be true, it is just that those facts could not be established on a preponderance of probabilities.

Mr Justice Harms says there are a number of points in favour of Nofemela and Mr Coetzee having fabricated their version.

"The witnesses fabricated evidence several times. In these cases they even incriminated themselves, gave contradictory evidence, and some was untrue."

"Nofemela and Tshikalange's ignorance of the way in which the murder was committed and their inability to identify the locally physically also speak volumes," the report says.

Mr Justice Harms pours scorn on the fact that Nofemela knew that the Mxenge family dogs were poisoned, that Mr Mxenge's body was found at the Umlazi stadium, the nature of the wounds, and that his car was found burnt at Plet Reef.

"Any member of the Security Police with some interest in his work would have been aware of these facts."

He has also reached the conclusion that Nofemela — who is under sentence of death for an unrelated murder — was "prepared to commit murder even when he knew that the possible loot would be minimal."

Mr Justice Harms, commenting on the possibility of Mr Mxenge having been murdered by other persons, said that "it is a myth to believe that in the South African society there are not private individuals who would, whether with a political or some other motive, commit such a crime."

He also says that a final possibility is that the murder was committed by a group on instructions of higher authority — "this is structured round the fact that Mr Mxenge was a thorn in the flesh of the Security Police and could not be criminally prosecuted." □



# itioner

Star 14/11/90 (252)

## Mxenge killing remains a riddle

**T**HERE was no clear-cut answer to who murdered Durban lawyer Griffiths Mxenge, says the Harms Commission report

Mr Justice Harms says there are five possibilities

First, that former policemen Butana Almond Nofemela and Dirk Coetzee — both of whom claimed that a police hit squad based at Vlakplaas, outside Pretoria, was involved — had lied, second, that Nofemela and another former policeman, David Tshikalange, had performed the killing as “a private enterprise”; and third, that Mr Coetzee gave the order to kill on his own accord

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He also says that a final possibility is that the murder was committed by a group on instructions of higher authority — “this is structured round the fact that Mr Mxenge was a thorn in the flesh of the Security Police and could not be criminally prosecuted” □

# Hanging in Bop is SA's first in a year

CAT TUP  
14/11/90  
252

PRETORIA. — The first execution in the Southern African region in 12 months was carried out in Bophuthatswana yesterday morning.

Alpheus Sekoboane, 33, was hanged at dawn at Rooigrond Central Prison

A petition for clemency, filed on Mr Sekoboane's behalf by human-rights activists, was turned down by the Bophuthatswana Supreme Court

Yesterday's execution came a day after President Lucas Mangope accused the ANC of plotting to assassinate him

and overthrow the government, and rounded up at least 32 ANC officials in Bophuthatswana

Reacting to President Mangope's accusations, the convenor of the ANC in Bophuthatswana, Mr Michael Molefe, says the ANC is prepared to meet the president to iron out any problems that might exist in Bophuthatswana

Mr Molefe appealed to the Bophuthatswana government to release all ANC members detained there and to stop harassing its members — Sapa and UPI

# Lubowski was framed — ex-wife

8/2 14/11/90  
By Dale Lautenbach  
Star Africa Service

WINDHOEK — Gabi Lubowski, former wife of assassinated Swapo advocate Anton Lubowski, dismissed as "ridiculous" the Harms Commission findings that he had accepted money from Military Intelligence because he was desperate.

Mrs Lubowski said that during the 17 years she had known Anton, he had always lived beyond his means, but this had never worried him.

He was always "absolutely correct" about receiving

money.

The money that he did receive in June last year was from someone he thought was a trusted friend and fellow Swapo supporter, she said.

Mrs Lubowski said Anton was an idealist who had become deeply disillusioned about the "political game" in the last months of his life.

"I think Anton was a stumbling block for some people because he was fighting for the true independence of all the people of Namibia."

She said Mr Lubowski was "framed" as a spy for an unknown reason.

NEWS Star 19/11/90

# I didn't give poison to him, says Neethling

By Brendan Templeton

Lieutenant-General Lothar Neethling denied yesterday in the Rand Supreme Court that he had ever supplied Captain Dirk Coetzee with poison, as alleged in articles in *The Weekly Mail* and *Vrye Weekblad*

He is claiming R1,5 million in damages from the newspapers for defamation

"I deny that, my lord," he said when his counsel, Willie Oshry, asked him if he had ever handed any poison to Captain Coetzee

Earlier, a warrant signed by former Commissioner of Police General Mike Geldenhuys, authorising the release of Joe Pillay, who was abducted from Swaziland by security police in 1981, was produced as evidence General Geldenhuys denied on Monday any knowledge of Mr Pillay

He could not remember signing the release form because he signed "hundreds, perhaps thousands" every year

Counsel for the newspapers, Bobby Levine, SC, put it to him that his answer was unacceptable.

Mr Pillay's abduction had nearly caused an international incident and could not have passed by the general unnoticed, he said

"My lord, that is the advocate's opinion," General Geldenhuys said

Later, when General Neethling was asked if he knew Cap-

said "I know him now"  
On the publication of the articles, he said "I did not think it was possible that the written word could have such an impact on a man

"Maybe it is because at this stage in my life, I would have to think about retiring due to health reasons, which would have nothing to do with what was written (in the reports)"  
"One can also ask if one can run away from it, but one cannot. Over the year, it has worsened rather than improved"

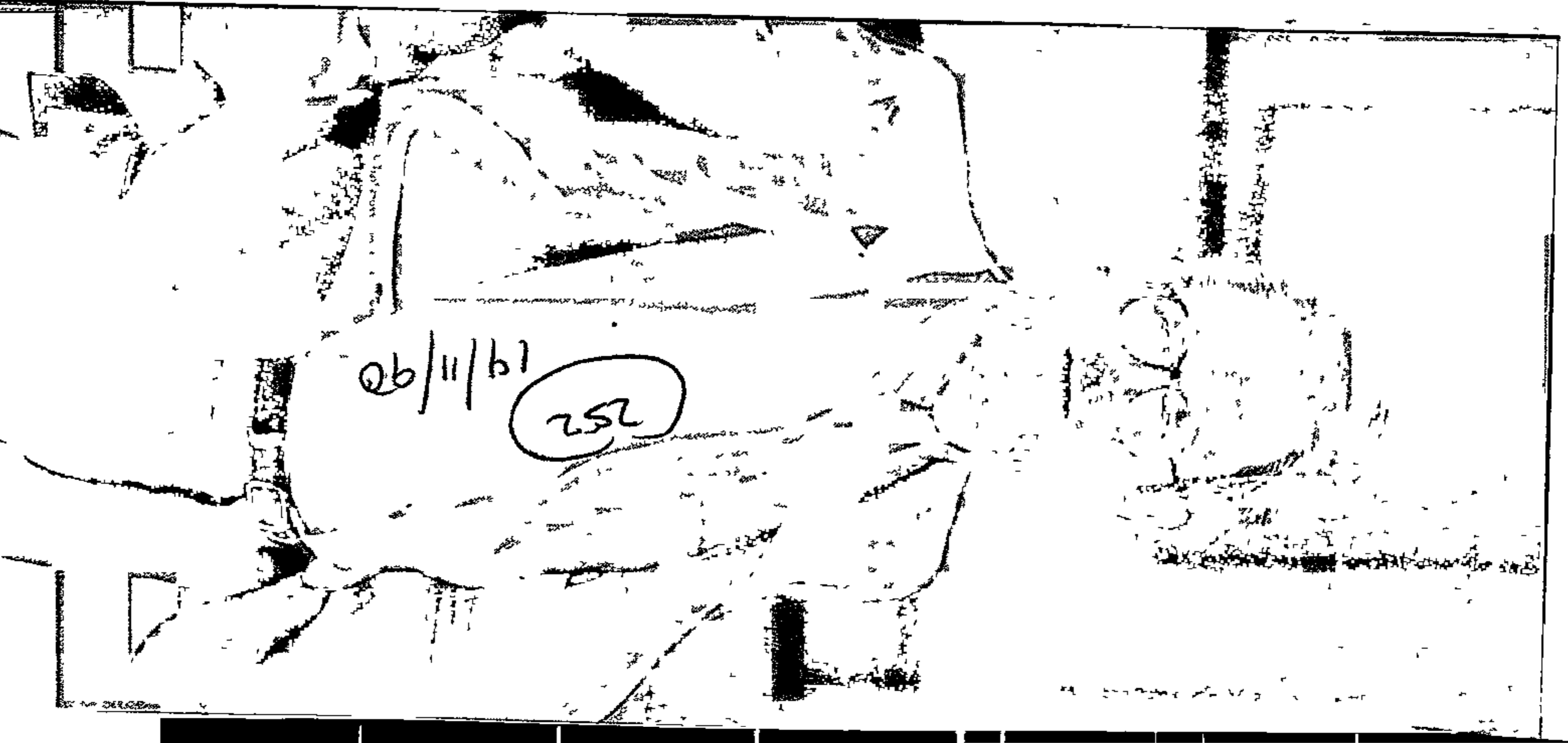
Mr Coetzee claimed before the Harms Commission and in newspaper articles that he and a Koois Vermeulen had visited the general's house and office to get poison from him in 1981

General Neethling said Mr Coetzee's description of his house and his office was riddled with inaccuracies  
Earlier, General Geldenhuys denied that security policemen were not required to carry personal notebooks detailing their daily activities so that their "tracks" could easily be covered up

He denied statements in a television interview by former police spy Craig Williamson that it would be "silly" not to believe that some bombings at ANC houses in other countries had been carried out by South African security forces

"My lord, that is Major Williamson's opinion. If he believes that security forces did those things, it is his opinion. If they did do it, then I did not know about it. It was not part of their official duties," he said

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Lieutenant-General Lothar Neethling said the articles had a traumatic effect on his life.

Max du Preez, the editor of *Vrye Weekblad*, which is

# Terror trial 6 seek indemnity



252

Sowetan 14/11/90

THE State yesterday applied for the Yengeni terrorism trial to be postponed for a month while applications for indemnity by the six accused are processed.

The application was made by State counsel Mr HG Klem, SC, on behalf of the prosecution and the defence and on the advice of the Attorney-General.

On trial are Mr Tony Yengeni, Miss Jennifer Schreiner, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla and Mrs Lumka Yengeni. 14/11/90

## Custody

Yengeni and Schreiner were released on bail on Friday after being in custody for more than three years.

Mr Justice S Selikowitz, however, did not grant the adjournment and asked Klem to obtain clarity on the extent to which the indemnity process had been finalised.

He adjourned the court until later yesterday.

Sowetan Correspondent

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# Ex-police chief denies court claim

252

Sowetan  
14/11/90

A WARRANT signed by former Commissioner of Police General Mike Geldenhuys authorising the release of a Joe Pillay who was abducted from Swaziland by Security Police was yesterday produced in the Rand Supreme Court.

This was during evidence in the action in which two newspapers are facing defamation damages of R1,5 million.

Geldenhuys yesterday denied any knowledge of Pillay, who was abducted in 1981 while he (Geldenhuys) was still Commissioner of Police

He said he could not remember signing the release form because he signed "hundreds perhaps thousands" each year.

Geldenhuys was giving evidence in the hearing where Chief Deputy Police Commissioner Lieutenant-General Lothar Neethling is claiming damages from *Vrye Weekblad* and the *Weekly Mail*.

Neethling claimed he was defamed by articles published last year which are alleged to have said he supplied poison to former police captain Dirk Coetzee for use against ANC activists.

Counsel for the newspapers, Mr Bobby Levine, put it to Geldenhuys that his answer was unacceptable. Pillay's abduction almost caused an international incident and could not have passed by Geldenhuys unnoticed, he said.

"Your Honour, that is the advocate's opinion," Geldenhuys replied.

Levine also put it to Geldenhuys that Security Police were not required to carry personal notebooks so that their activities could not be easily monitored.

A television interview with former police spy Craig Williamson reported in *The Star* was also referred to.

In the interview Major Williamson said it would be silly not to expect security forces to be behind the bombing of ANC offices in neighbouring territories.

"Your Honour, that is Major Williamson's opinion. If he believes security forces did those things, its his opinion. If they did do it then I didn't know about it. It wasn't part of their official duties."

(Proceeding).  
*Sowetan Correspondent.*

Young children, walking in crocodile file on their way to school yesterday, pass an overturned car in a Paris street. The city's police chief yesterday took responsibility for allowing Monday's massive student demonstration to deteriorate into a rampage in which stores were looted, cars burned and more than 100 policemen injured. Picture REUTERS

# Neethling denies supplying police captain with poison

51 Day 14/11/90

SUSAN RUSSELL

SAP forensics expert Lt-Gen Lothar Neethling denied in the Rand Supreme Court yesterday that he had given Dirk Coetzee poison, as alleged by the former police captain in an interview published by Vrye Weekblad newspaper last year.

Coetzee's allegations that Neethling had supplied him with poison to murder people were contained in an interview in which he gave details of an alleged police death squad of which he claimed to have been a member.

Neethling was testifying in the R1,5m defamation action he has brought against Vrye Weekblad and Weekly Mail over three articles which contained the poison allegations.

He is suing Vrye Weekblad for R1m for two articles which appeared in November-December last year and Weekly Mail for a further R500 000 for an article which contained Coetzee's allegations.

Neethling, who is chief deputy commissioner scientific technical services of the SAP, claims that the articles would have been understood to mean or were intended

to mean that he was the leader of an illicit criminal organisation and had supplied poison to murder individuals.

The newspapers are defending the claims against them on the grounds of truth and public benefit.

When asked what effect the Vrye Weekblad disclosures had had on him, Neethling replied "It would be needless to say it has been a traumatic experience over the last year."

Neethling said he had not thought it possible that the written word could have such an impact on a man, his lifestyle and his thoughts.

Coetzee's allegations had introduced family tension and were something one was not able to run away from, he added.

Neethling said he had attempted to keep contact with colleagues to a minimum because of the awkwardness caused by the situation.

He will continue his testimony before Mr Justice Kriegler today.

## Fines could spell doom for phone firms

MELANIE SERGEANT

HEFTY fines for owning illegal cordless phones, and the prospect of hundreds of job losses through the clampdown on sales, could force a number of dealers out of business.

With the granting of the

first cordless phone licence to TMSA, and new laws relating to owners and vendors of illegal models, owners can face fines of R2 000 and dealers R10 000.

Direct response advertising company Homestar says it is not possible to trim the estimated R3 000 price tag of legal cordless phones. However, other methods of making the phones more affordable are being studied.

The company is still consulting the Post Office

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Day 14/11/90

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# Lubowski probably an agent report

ASSASSINATED. Namibian advocate and Swapo executive member Anton Lubowski was, the Harms Commission of Inquiry found, probably a paid agent working for SA's Military Intelligence Division (MID).

Mr Justice Harms found that as an agent Lubowski would not have been a military target.

However, the possibility of the Civil Cooperation Bureau's (CCB's) complicity in Lubowski's murder could not be ruled out.

This was because the covert Special Forces unit operated independently of and without access to military intelligence, and the facts did not show "the CCB was not responsible for the act".

Mr Justice Harms quoted Defence Minister Gen Magnus Malan, who told Parliament on February 26 that Lubowski "did good work for the SADF".

## Contrary evidence

In his report, Mr Justice Harms said his commission was not appointed to investigate who was responsible for Lubowski's death.

The commission was shown documentary proof, in the form of original cheques and deposit slips, that SADF money was paid into the Namibian lawyer's personal and business bank accounts.

Mr Justice Harms found there was no evidence contradicting Malan's claims that Lubowski had been paid as an agent. He said until contrary evidence was brought to light, there could not be further useful investigations.

He found that Lubowski had been recruited by the SADF during the first half of 1989 because of his access to Swapo.

He was also recruited because of his financial vulnerability "through having lived far above his income" and his desire to find funds to keep his overdraft below the limit allowed by the bank," Mr Justice Harms found.

He found that Lubowski was a willing Military Intelligence agent for a "consideration of R100 000" which was paid in advance both to alleviate his financial position and to compromise him.

"The particulars regarding the work done by Advocate Lubowski as a paid MID agent cannot be divulged."

"However, the fact of the matter is that his death on September 12 1989 came as a serious setback to MID," Mr Justice Harms said.

Evidence before the commission showed Lubowski's mortgage loans on his properties

totalled about R160 000, while his bank account was overdrawn by an amount of about R75 000. Mr Justice Harms found

Most of the R100 000 paid to Lubowski by Military Intelligence was first laundered through a company called Paradiso Trust, for which Lubowski had sole signing power, in order to make



● LUBOWSKI

tracing difficult.

Only one of the instalments was paid directly into Lubowski's private account because the lawyer was having problems getting his laundered money out of Paradiso fast enough, and because he needed the funds urgently, Mr Justice Harms found.

He said it was significant that Lubowski's family had also only withdrawn its representation to the commission after this evidence had been studied by its legal representatives, even though they no doubt wanted to establish who was responsible for the lawyer's murder.

# Police unit at Vlakplaas was not a hit squad, says finding

NO HIT squad was ever stationed at the Vlakplaas farm near Pretoria although police members at the unit were guilty of common law offences, the Harms Commission found in its report released yesterday.

Evidence showed that the Vlakplaas SA Police counter-insurgency unit was officially set up in September 1981 and comprised white handlers, black police members and "turned" ANC/PAC members known as Askaris.

Their task was to track down and identify insurgents who had infiltrated SA, and they fell under the control of the Security Branch head office.

Mr Justice Harms found there was "no indication that the aim and the purpose of the unit was formally altered".

Former Police Capt Dirk Coetzee, now an ANC member in exile, was the commander of the unit, situated on the farm near Erasmusia, south-west of Pretoria, between July 1980 and December 1981.

Coetzee, together with former colleague and Death Row prisoner Almond Butana Nofemela, last year confessed to being a member of a police death or hit squad, which Coetzee said he led.

Among the murders in which the two claimed to have been involved was that of Durban lawyer Griffiths Mxenge, whose stabbed and mutilated body was found outside Umlazi Stadium near Durban in November 1981.

Coetzee's former gardener, and later a Vlakplaas member, David "Spyker" Tshikalanga, further corroborated some of

Coetzee's and Nofemela's allegations.

The commission found that although some of the incidents to which the three testified "undoubtedly took place", the police denied any involvement in the acts.

Mr Justice Harms said it would be difficult to prove the allegations in criminal proceedings as the evidence did not always corroborate with claims of the existence of a hit squad operating from Vlakplaas.

The commission found there was a general probability that members of the SAP might have committed violent crimes for political ends, especially in the light of both the ANC and PAC — whose members were regarded as legitimate targets — having declared war on the SAP and SADF.

Mr Justice Harms said Coetzee had showed strong psychopathic tendencies.

Meanwhile, Law and Order Department spokesman Brig Leon Mellet said yesterday the SAP would not stop using anti-insurgency "experts".

He said even though Vlakplaas had been converted to a training base, the SAP still required an anti-insurgency capability and was now operating such a force on a countrywide basis.

Mellet said former Vlakplaas members of the unit had been integrated into other sections of the SAP and were being trained for use in all aspects of police work.

He announced that all former ANC or PAC guerrillas, known as "Askaris" and stationed at Vlakplaas, had subsequently joined the SAP.

# No new light shed on some 'political' deaths

SEVERAL, apparently politically motivated murders remain unsolved after investigation by the Harms Commission, although in some cases enough evidence has been unearthed to warrant further attention by the various attorneys-general.

Cases in which new ground has been broken include the December 1986 murders of Dr Fabian and Florence Ribeiro.

Mr Justice Harms found former Selous Scout Noel Robey was a CCB member at "all material times" and might have been involved with the murders.

It was also found the CCB had paid Robey's legal expenses at the authorisation of both CCB MD Col Joe Verster and the then CCB chairman and Special Forces Commander Gen Jaap Joubert.

The commission found Robey worked with former CCB member Willie van Deventer, who originally claimed to have information on the murders.

Five possible explanations were found by the commission in the case of the November 1981 murder of Durban ANC lawyer Griffiths Mxenge, to which Almond Butana Nofemela and Dirk Coetzee both confessed to having played a part.

Conflicting evidence led Mr Justice Harms to remark that it was impossible to form an overall picture.

Firstly he concluded that both Coetzee's and Nofemela's versions of the murder were as a whole fabrication. The second possibility was that Nofemela, David Tshikalanga, and whoever actually did go with them, committed the murder as a private enterprise for their own gain.

There were also factors pointing to the plausibility of Coetzee having ordered the

killing of his own volition.

The fourth scenario was that Mxenge was murdered by "other persons".

The fifth was that Mxenge was murdered by the Vlakplaas group on higher authority and with a political motive.

He found it could be assumed that Vlakplaas members watched Mxenge.

Mxenge's wife, Victoria, was murdered four years later but, according to the commission's report, no evidence throwing any light on her murder was available.

## Unsolved

Cases which remain unsolved include the 1978 murder of Rick Turner, the murders of eastern Cape left-wing supporters Matthews Goniwe and four others, and the May 1 1989 slaying of David Webster.

Several disappearances were also reported to the commission, but no firm evidence linking them to police or SADF misconduct was presented to substantiate any suspicions and, in most cases where Coetzee testified, Mr Justice Harms found this was most likely to be a fabrication.

Mr Justice Harms said all those people whose disappearances were reported to the commission — Nkosinathi Peter Dhlamini, Vuyani Mavuso, Isaac Moema, Gimsizwe Kondile, Siphiso Maxwell Mtinkulu — were ANC members and at various times detained by the security police. Since April 1982, neither their families nor the police had heard from them. "This therefore leads to the submission that Coetzee's evidence that these people were killed by the security police is probably true."

## President defends Magnus Malan

# FW orders a shake-up of covert actions

MIKE ROBERTSON

SPECIAL or covert operations were being totally reviewed in light of the findings of the Harms Commission of Inquiry into certain murders, President F W de Klerk said yesterday.

Although Mr Justice Harms found the military's Civil Co-operation Bureau was linked to crimes of violence, De Klerk defended Defence Minister Magnus Malan, saying he could find no reason to condemn the politicians in charge.

De Klerk said shortcomings in the control of covert or secret operations which came to the fore in the commission report were being rectified.

New instructions had been issued dealing with the responsibilities of politicians and others in command of such operations.

He had instructed Malan, Law and Order Minister Adriaan Vlok and Justice Minister Kobie Coetsee to act on recommendations of the commission.

De Klerk said the purpose of introducing changes was to ensure effective and just administration and to allow the normal legal process to run its course. It was not to satisfy unrealistic expectations.

"It is now time for calm to prevail in the country and for witch hunts on individuals to stop. The events dealt with in the report took place in an era of serious conflict and strife, now belonging to the past."

In his report, Mr Justice Harms said Malan was politically responsible for his department, which included the CCB. But the nature and extent of this political responsibility was not a matter that called



● MALAN

● VLOK

for the commission's attention.

In a statement yesterday, Malan said the commission found no internal operations of the CCB had been submitted to higher authority for approval.

"This is clearly a case of employees or officials who, in the course of their service, committed crimes for which I or anyone else cannot be held responsible."

Malan said although CCB activities had been suspended in February and the unit operationally disbanded on July 31, it had not been possible to terminate the CCB with a "sweep of the pen".

Administrative activities such as renting of offices and running of front companies had to continue and CCB members, most of whom had not been guilty of misconduct or crime, all had contracts.

□ To Page 2

## Covert actions

Members had been offered the chance to remain in the SADF's service or to retire. This process would be completed by the year end, he said.

It was expected that 80% of the front companies would have been disposed of by the end of this month.

Malan added that an important factor in the disbanding of CCB overseas projects was to ensure SA was not embarrassed and that individuals' identities were protected in order not to endanger their lives.

The CCB, he said, had not been disbanded because of its methods or operations but because of the "unauthorised activity of five or six people whose alleged actions have been referred to the attorneys-general".

SADF chief Gen Kat Liebenberg said no unit had been set up to replace the CCB. He said criticisms by the commission

regarding the control of money and documentation — Mr Justice Harms called the disappearance of CCB documents unpardonable — had been noted and action was being taken.

Coetsee said matters such as the Ribeiro murders — the commission found that CCB member Noel Robey might have been involved in an official capacity — had already been referred to the attorneys-general concerned.

He said allegations made by Almond Nofemela regarding alleged police death squads had led to the stay of his execution. His case would now be reconsidered.

Vlok said he hoped those who questioned the SAP's integrity would now accept the commission's finding that no police hit squads had been set up at Vlakplaas.

● See Page 6

● Comment: Page 10

# Nofomela 'dishonest'

ALTHOUGH members of the police unit at Vlakplaas near Pretoria were guilty of common-law offences it was common cause that no hit-squad was established there, the Harms Commission of Inquiry found.

The commission's chairman, Mr Justice Louis Harms, said the police counter-insurgency unit was officially set up in September 1981 and was made up of white handlers, rehabilitated terrorists known as Askaris, and ordinary black members of the SA Police.

The operation fell under the control of the Security Branch head office and team members were to be used "exclusively to assist in tracking down, arresting and identifying terrorists".

Between July 1980 and December 1981 the unit was under the command of former police captain Dirk Coetzee who

left South Africa in November last year and joined the ANC.

Coetzee and Death Row prisoner Almond Butana Nofemela, also a former Vlakplaas member, were the two people most instrumental in the establishment of the Harms Commission due to their claims of police death or hit-squads.

Coetzee, in statements to the Afrikaans weekly *Vrye Weekblad* from Mauritius shortly after his departure from South Africa, "gave credibility" to allegations made by Nofemela on October 19 last year - the day before he was due to hang for the murder of a Brits farmer not related to the police operation.

The commission found Nofemela too was prepared to perjure himself if it suited him and had been rejected in his own trial as a mendacious and dishonest witness.

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14/11/90

# No proof CCB killed Webster

Go Weber 14/11/90

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EVIDENCE shows that the CCB may have killed Wits academic Dr David Webster, but there is no real evidence to prove this, the findings of the Harms Commission of Inquiry into politically-motivated violence said.

The commission's findings, released yesterday, said despite the commission being instituted due to press reports that Webster was killed by a rightist organisation, there was no evidence that the CCB murdered Webster.

Commission chairman



David Webster

Mr Justice Louis Harms said, however, the CCB had been linked to other crimes of violence.

"All that the evidence shows is that the CCB might have murdered Dr Webster. There is however no prima facie evidence that elevates this

suspicion to anything more than a mere suspicion," Harms found.

There was one fact that indicated the CCB might not be responsible for the murder and that was the evidence of a number of witnesses that the director of the CCB's Region 6, Col Staal Burger, "feverishly" made enquiries to ascertain whether any member of his region had been responsible for the academic's death.

"He would not have made such enquiries if he had authorised the operation," Harms concluded.

- Sapa

# CCB linked with Ribeiro, Harms



*Sowetan 14/11/90*

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**NO** recommendations regarding the SADF's shadowy Civil Cooperation Bureau have been made by the Harms Commission which published its report yesterday.

The Commission - which investigated politically motivated violence between March and August this year - made no recommendations as the organisation had been officially disbanded in June this year.

Although no findings were made in regard to the CCB, dockets have been passed on to attorneys-general concerning plots to kill political activists and the CCB's involvement in the murder of Dr Fabian Ribeiro and his wife Florence.

The commission as-

certained that the CCB was a covert organisation operating under the wing of the SADF's Special Forces.

The responsibility of the Special Forces is "to disrupt maximally the enemies of the State in support of other parts of the force."

It was established the CCB had similar objectives.

There seemed to be no documentary evidence referring to the setting up of the CCB.

"It is hard to accept that the SADF would have authorised the establishment of an organisation that had a budget which, with the passage of time, was to amount to R27 million per annum without any documentation or written authority," Harms said.

In its evaluation the commission found the

CCB had given itself the powers to "try, sentence and punish" persons without those persons knowing of the allegations against them or having the opportunity to defend themselves.

Harms said the actions of the CCB had contaminated the whole security arm of the state.

There were indications that the CCB put its own interests and those of its members above the interest of the public or the state.

There were also indications that the organisation, or at least some of its members, had their own political agenda which did not correspond with the agenda "of the political authority".

Harms said the CCB did not recognise any higher authority.

"Orders by the State President, the Minister of

Defence and the Chief of the Defence Force were simply ignored.

Allegations that the CCB had connections with Inkatha or the Afrikaner Weerstandbeweging were followed up but led nowhere, the report said.

The only major crime to be passed on to an attorney-general for further investigation is the December 1, 1986, murder in Mamelodi of the Ribeiros.

A CCB agent, Noel Robey, now missing but thought to be in England, was discharged at a preliminary hearing into the murders.

The CCB also paid Robey's legal expenses, payment of which was authorised by the then chairman of the CCB Gen Joep Joubert and the organisation's managing director, Col Joe Verster.

## Harms cannot grant immunity

**THE Harms Commission of Inquiry was not mandated to investigate acts of violence committed outside South Africa or to investigate the security arm of the state, "the so-called CCB or, for that matter, the ANC or PAC".**

**It also was not able to investigate acts of violence or police brutality which were not committed with the necessary political in-**



**Dr Fabian Ribeiro ... may have been killed by the CCB.** (252)

**tent, the report on the findings of the Commission said.** (252)

**The commission was constituted not to expose a member of the public or officials to moral censure or ridicule or to investigate matters interesting to the public or Press.** Sowetan 14/11/90

**"Commissions are not there to satisfy public curiosity."**

**Commission chairman Mr Justice Louis Harms said he had serious reservations about giving immunity against prosecutions.**

**"It assumes that a commissioner can act as a father-confessor who can grant absolution.**

**"The whole object of the present commission is to establish whether crimes have been committed so that exposed criminals can be prosecuted ... Such a power would be out of place in commissions," Harms said. - Sapa**



# Terror trial 6 seek indemnity

THE State yesterday applied for the Yengeni terrorism trial to be postponed for a month while applications for indemnity by the six accused are processed.

The application was made by State counsel Mr HG Klem, SC, on behalf of the prosecution and the defence and on the advice of the Attorney-General.

On trial are Mr Tony Yengeni, Miss Jennifer Schreiner, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla and Mrs Lumka Yengeni.

## Custody

Yengeni and Schreiner were released on bail on Friday after being in custody for more than three years.

Mr Justice S Selikowitz, however, did not grant the adjournment and asked Klem to obtain clarity on the extent to which the indemnity process had been finalised.

He adjourned the court until later yesterday.

*Sowetan Correspondent.*

# Mxenge family to lay charges

By Esmaré van der Merwe <sup>Star</sup>  
Political Reporter 14/11/90

The family of slain Durban lawyer Griffiths Mxenge plans to lay murder charges against Death Row prisoner Almond Nofemela, a self-confessed police hit squad member.

Reacting yesterday to the finding of the Harms Commission that there was no clear-cut answer as to who had murdered Mr Mxenge, Dr Fumbatha Mxenge — a younger brother of the brutally murdered anti-apartheid activist — said the family had been left with no other option but to take legal action against "the one

man who has confessed to the murder".

Dr Mxenge, who was informed of the Harms Commission's findings by The Star, said he was absolutely flabbergasted and infuriated by the report.

"We will instruct our attorneys to institute action against Nofemela, since he has admitted to having killed my brother."

"We remain committed in our belief that the CCB killed him. I am disappointed that a person of Mr Justice Harms's stature could not reach a similar conclusion, since this case was absolutely clear-cut."



Journalist Gavin Evans welcomed the commission's findings

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## Journalist hopes that prosecutions will follow

By Esmaré van der Merwe  
Political Reporter

Journalist Gavin Evans yesterday welcomed the Harms Commission's finding that the Civil Co-operation Bureau had conspired to eliminate him.

He said he trusted that the finding would lead to the prosecution "of those responsible, in particular Abraham 'Slang' van Zyl (a former policeman), and perhaps those higher up such as (CCB managing director) Joe Verster" on charges of attempted murder or charges of conspiracy to commit murder.

An End Conscription Campaign member, Mr Evans said there were disappointments in the commission's findings

He firmly believed the CCB had eliminated and harassed Government opponents.

The finding that Defence Minister Magnus Malan had been aware of the CCB's activities, but had yet not been called to testify, "is very disappointing for those of us who were victims or potential victims"

Commenting on the finding that there had been no conclusive evidence as to who had killed University of the Witwatersrand academic David Webster, Mr Evans maintained there was strong evidence in the media and to the commission that he had been killed by CCB agents.

"The commission should continue to look into this"

## DP condemns commission as a failure

Political Staff

CAPE TOWN — The Harms Commission must be judged a "failure" because it had not succeeded in establishing the truth about any substantial portion of unsolved political murders, the Democratic Party said last night.

DP law and order spokesman Tian van der Merwe said he believed facts about political murders were being covered up to protect political interests.

"At the end of the day, the Harms Commission has been a failure because it has not succeeded in establishing the truth about any substantial portion of unsolved political murders, all of which were of opponents of the Government.

"One would have to be a fool and extremely naive to believe the Government and pro-government forces did not have a very strong hand in this."

He found "astonishing" Presi-

dent de Klerk's statement that no Ministers were responsible for crimes committed by agents of the State and said it was "intolerable" that Defence Minister General Magnus Malan remained at his post.

"If the Harms Commission leads to a few selected members of the CCB being prosecuted and punished, while the responsible Minister gets away with his career intact, then that would be a travesty."

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# Magnus must quit, says ANC

Staff Reporter

The Harms Commission's conclusions that the SA Police ran no hit squads was inexplicable, the ANC said yesterday

"As many of the victims of these secret police units testify, it is clear that such units, such as the Askaris and other specialised counter-insurgency units, continue to operate," the organisation said in response to the announcement of the results of

the Harms Commission, which examined the activities of the Civil Co-operation Bureau

The commission's terms of reference, which excluded from its investigations criminal operations outside South Africa, would erode public confidence in such commissions.

Criminal actions in neighbouring states and other parts of the world should have been examined and were not. These included criminal operations

such as the murders of Joe Gqabi, Ruth First, Dulcie September, and many other abductions, assaults and bombings

The ANC demanded that Minister of Defence General Magnus Malan "be made to account for the activities of his ministry and that he resigns from public office immediately" The organisation also called for the disbanding of all irregular forces of the SA Defence Force and the police



Cover up' accuses the DP's Tlan van der Merwe

# No evidence of police hit squad or that Webster was killed

THE Commission of Inquiry found there was no evidence of a state-sanctioned police hit squad at Viakplaas and that the Civil Co-operation Bureau (CCB) was not responsible for the murder of Wils academic David Webster.

Mr Justice Louis Harms did, however, find that the CCB's actions had "contaminated the whole security arm of the state". Its members' conduct during the commission had not allayed any "not necessarily unfounded" suspicions that they were involved in more violent crimes.

The commission has been unable to achieve one of its main purposes, namely to restore public confidence in a part of the state administration, he concluded.

Yesterday's release of the commission's findings and recommendations was the culmination of more than six months of hearings, investigations and legal deliberations into alleged politically motivated murders and other violent crimes.

Mr Justice Harms, who chaired the commission, recommended that the various attorneys-general give attention to nine cases, eight of which had evidence pointing to CCB participation.

These were the murders of Maimelodi doctor Fabian Ribeiro and his wife Fjorance; the bombing of the Early Learning Centre in Athlone near Cape Town; the plot to kill Weekly Mail journalist Gavin Evans;

conspiracy to murder Cape Town anti-apartheid advocate Dullah Omar; plans to murder Durban attorney Kwenzu Mhahab; the disappearance of CCB member Pieter perjury on the part of CCB member Pieter Botes; and an arson incident in Yeoville.

The only case involving a member of the Viakplaas unit which warranted further attention was the theft of a Hoffman Galeng's motor car near Vryburg by Death Row prisoner and former Viakplaas member Atmond Butaha Nofemela.

Mr Justice Harms said no hit squad had been established at Viakplaas, the base from which the Security Branch's insurgency identification and tracking unit operated. However, Viakplaas members had been guilty of common law offences.

No recommendations concerning the CCB could be made as it was disbanded on July 30 and was the subject of a financial inquiry led by the Auditor-General.

Although the CCB was not linked to Webster's murder, members were responsible for other acts of violence. It was not likely that Webster's murder was an official CCB operation, but it was possible that Ferdie Barnard, a CCB Region 6 member who had been put on ice could have carried out the

Evidence B 1 P 2 14/11/90

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the Transport and General Workers' Union and other trade unions, or violent acts against the SACC and the SA Catholic Bishop's Conference.

The evidence of former Viakplaas commander Dirk Coetzee, Nofemela and Viakplaas member David "Spyker" Tshikalanga was suspect and contradictory.

Nofemela's testimony was seen in the light of his bid to save himself from the gallows, while Tshikalanga, an alcoholic,

joined in the false allegations as he was under Coetzee's influence.

"There is no reason to prefer the evidence given by Coetzee, Nofemela and Tshikalanga (with their shortcomings), above that given by the respective members of the Security Police (with their shortcomings)," Mr Justice Harms said.

This did not mean the trio's evidence was untrue, but that the facts could not be established on the preponderance of possibilities.

KwaZulu, in region would be changed, a search court while the surface a core ideology in/ANC alliance. Alpha Freed remained a c... control... access to sca... Some can and econom... has seen as... "negotiation" ex... areas. The report after research

By Peter Fabricius  
Political Correspondent

Defence Minister Magnus Malan yesterday denied all responsibility for any crimes committed by members of the SA Defence Force's Civil Co-operation Bureau.

Reacting to the report of the Harms Commission into alleged police and military death squads, General Malan said "This is clearly a case of employees or officials who, in the course of their service, committed crimes for which I or anyone else cannot be held responsible."

In a long statement on the Harms Commission report, General Malan said the CCB had been disbanded because of, among other reasons, the "unauthorised activity of five or six people whose alleged actions have been referred to the attorneys-general

### Justifying

"The question immediately arises as to whether I must accept responsibility for the activities of these few people, despite the fact that I had no knowledge of their activities

"The honourable commissioner remarked, correctly, in his report that I am politically responsible for my department, including the CCB

"It is a well-established principle that if a Minister is incapable of explaining and justifying his own acts and decisions, or the acts and decisions of civil servants taken in his name, he must take the consequences.

"A Minister is also politically answerable for every action or omission of his department. The emphasis here must be placed on the Minister's own acts and acts in the name of the Minister or the acts or omission of the department

"Respectfully, as the honour-

able commissioner correctly remarked, it is not exceptional that employees and officials of the State commit crimes during their office without someone being responsible for them

"Consequently this is clearly a case of employees or officials who, in the course of their service, committed crimes for which I or anyone else cannot be held responsible

"In spite of the barrage of criticism to which the SADF and I have been subjected over the past months regarding the alleged activities of a small segment of the CCB, I am satisfied that the SADF, as such, has, with its characteristic self-discipline and responsibility, emerged with honour

"Some accusations, such as the one that General R "Witkop" Badenhorst must have had knowledge of the CCB and of its internal operations during his term of office as Chief of Staff Operations, have been disproved

"The commission also found that in spite of my willingness to give evidence before the commission and, after consultation with the commissioner, no facts emerged which indicated that my evidence would have materially added to its activities.

"Nevertheless the specific period of high tension and the revolutionary and terrorist threat in the middle of the eighties must be kept in mind

"The SADF had to counter it. In addition, the position of those who acted in good faith and under great pressure to counter terrorism must also be kept in mind."

But, the general said, "the past lies behind and it is now time to look ahead. I am not saying that that which was wrong on both sides is now right. But blame about the past serves no purpose

"The SADF is an indispensable national asset with a clear mission and responsibility, namely to see to the territorial integrity of the country and to everyone's security," he said

# Magnus denies responsibility

# Barnard to sue Minister for R400 000 over detention

By Norman Chandler  
Pretoria Bureau

Former Civil Co-operation Bureau operative Ferdi Barnard is planning to sue Minister of Law and Order, the Commissioner of Police, and Brigadier Floris Mostert for R400 000 as a result of his detention this year in terms of Section 29 of the Internal Security Act

The civil action, confirmed in Pretoria today by Mr Barnard's attorneys, is expected to come before the Pretoria Supreme Court early next year

Mr Barnard was detained in connection with the shooting of

activist Dr David Webster in Johannesburg on May 1 1989

Mr Barnard's decision to sue follows remarks made by Mr Justice Louis Harms

The judge said 'police had come under "intense public pressure" to solve the Webster crime So great was the pressure that the police even wrongfully detained all arrested persons Furthermore, the provisions of Section 29 were abused"

"I may just add that there is little doubt in my mind that the detention under Section 29 was without grounds," Mr Justice Harms said



# What a sham!

South 15/11 - 21/11/90

**THE shockingly shallow findings of the Harms Commission into death squads have confirmed people's worst fears about the South African government.**

It was speculated before the appointment of the commission that the activities of death squads and the CCB were such a "can of worms" that even this thick-skinned government was afraid of their exposure.

## Findings

To a large extent, the findings of the honorable judge and his commission was pre-determined.

Its brief restricted the areas of investigation, officers of the South African Defence Force refused to give evidence freely and openly, vital documents disappeared and certain information was submitted, as in the case of the Lubowski matter, to deliberately serve as a smokescreen.

The findings of the commission, with so many questions unanswered, has

serious long term implications for peace and reconciliation in South Africa.

President FW de Klerk and his government has squandered a golden opportunity to cleanse their soul and remove "skeletons from the cupboard" in the vital run-up to full negotiations.

The virtual whitewash of the activities of shadowy groups within the security forces gives credence to an assertion by SA Communist Party general-secretary, Mr Joe Slovo, that a future government would have to look at a Nuremberg-type tribunal to bring to book apartheid's criminals.

If De Klerk is unable or unwilling to put on trial state officials accused of murder and other crimes, then it is up to a future democratic government to do so.

## Assumes

De Klerk mistakenly assumes that the people of South Africa will let "by-gones be by-gones" now that the report has been tabled.

Let him try to explain to the relatives of the dead, the missing and the maimed that they should forget what has happened.

Try explaining to Mrs Nyami Goniwe that she must stop her attempts to discover who was responsible for killing her husband and three other activists in the Eastern Cape in 1985.

## Explain

He must try to explain to Mrs Godolosi in Port Elizabeth that she must stop searching for the truth behind the disappearance of her husband and two other activists.

Or tell Mrs Joyce Mtimkulu that her son Sipiwe's disappearance eight years ago, will remain a mystery for ever.

De Klerk feels that the events investigated by Harms took place in an era of conflict, a time which has passed.

He believes we must take conciliatory steps, saying indemnity will be granted to members of all parties who were involved in the

conflict before October 8.

A lesson De Klerk must learn soon is that reconciliation is the prerogative of the victim and the oppressed.

It is easy to talk about indemnity for people who have already served long sentences, who have already been punished.

Now he wants people who used murder, torture and violence to achieve political ends to be exonerated completely. He wants them to avoid punishment.

## Forgive

De Klerk needs to be told in no uncertain terms that this time he is asking to much. For the relatives of the victims, it will not be so easy to forgive.

The commission's isolation of eight incidents for possible prosecution when dozens of murders remain unsolved, is not going to pacify the calls for justice.

And if he is not going to see that justice is done, someone else will have to do it in a post-apartheid South Africa.

# MURDER INVESTIGATIONS

By MONO BADELA,

and BEVERLEY GARSON

South 15/11 - 21/11/90

**THE findings of the Harms Commission on death squads announced this week were stunning in what they failed to clarify — the unsolved murders of at least 50 anti-apartheid activists.**

Human rights groups and lawyers acting for families of victims this week vowed to "keep open the files" on the murders, the mysterious disappearances of at least seven people and politically-motivated attacks that remained unsolved

Mr Peter Harms, a spokesperson for the Independent Board of Inquiry Into Informal Repression (IBIR), confirmed that evidence submitted to the Harms Commission and other investigations would be followed up and continued

### Ignore

He said the commission "had by no means conclusively dealt with the issue of death squads"

"The board believes that Judge Harms has chosen to ignore aspects of the evidence placed before him that a police squad operated beyond the law and committed a series of brutal and shocking acts

"On the evidence placed before him, his conclusions are not warranted. We believe he has failed in his duty," Harms said.

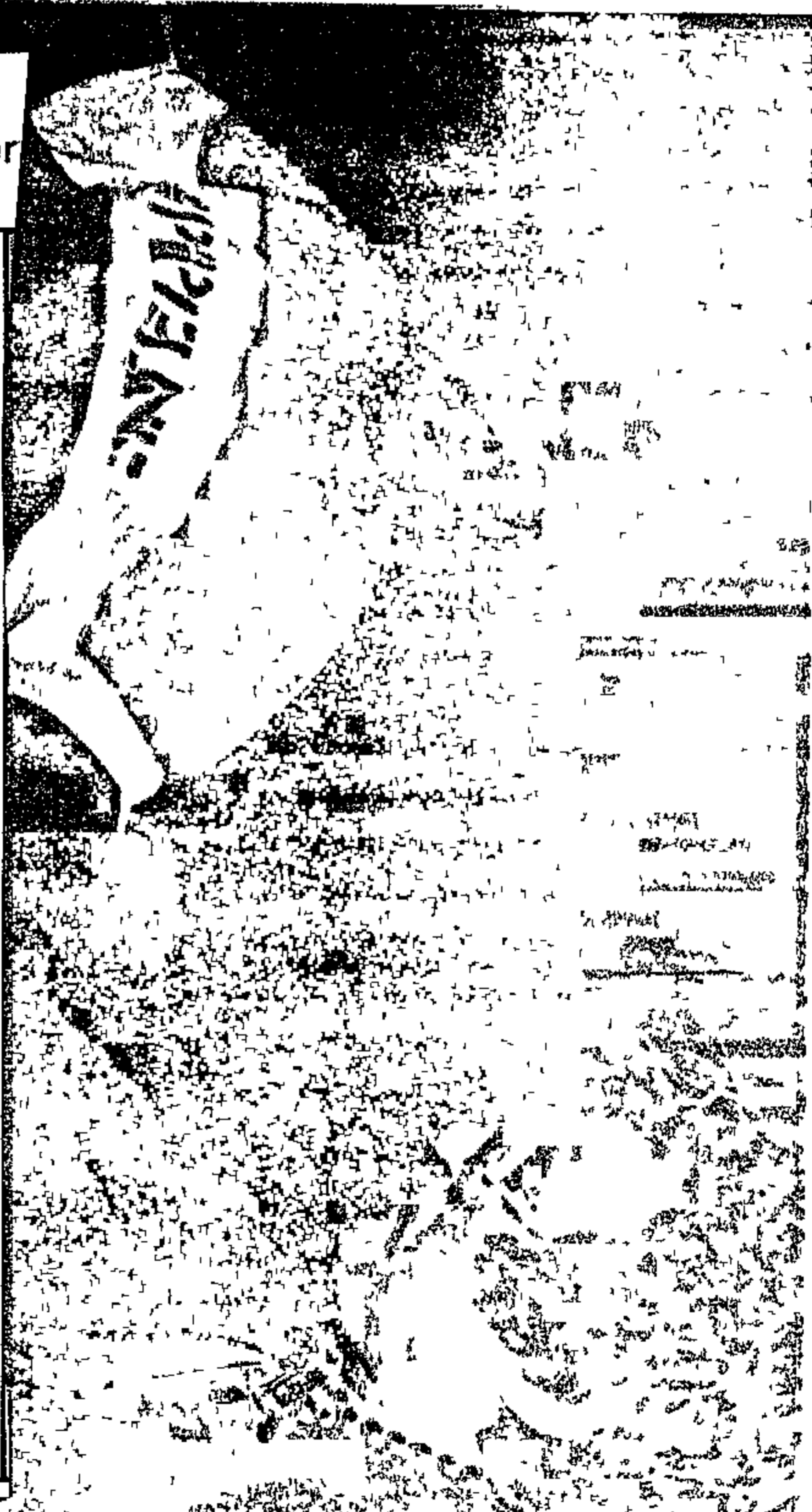
Relatives of victims of death squads reacted bitterly to the findings

### Unable

"The Harms Commission was unable to do it so now I will have to wait for a government which is prepared to expose what the death squads got up to," said Mr Sipho Mtshkulu, whose 21-year-old son, Siphwe vanished mysteriously in the Eastern Cape eight years ago

Siphwe's name cropped up repeatedly during the inquiry as being one of the activists kidnaped by death squads in Port Elizabeth.

TURN TO PAGE TWO



2 SOUTH, November 15 to November

## 50 murders unsolved

FROM PAGE ONE

Mtshkulu said he had hoped the commission would at least divulge the whereabouts of his son

"I haven't given up hope. One day I will find his bones and give him a decent burial," Mtshkulu said.

Mystery still surrounds the death of another Port Elizabeth activist, Sizwe Kondile, who was shot on the South African Swaziland border

His grandmother, Mrs Hilda Kondile, said she was deeply disappointed at the findings

Mrs Nyami Goniwe, widow of Cradock community leader Mathew Goniwe whose badly burnt body was found with those of three other activists in the Eastern Cape in 1986, is also hoping that her husband's killers will be identified.

Mrs Goniwe said "The Harms Commission in no way addressed the deaths and disappearances of Eastern Cape political leaders.

"I am disappointed but after the findings of the McNally report I didn't expect anything more"

Relatives of Port Elizabeth Black Civic Organisation (Pebco) leader Qqwawuli Godolozo, who "vanished" with two others, said they were convinced there were hit squads active in the Eastern Cape

Cape Town ANC executive member, Mr Dullah Omar, who the CCB attempted to poison, said the report was "scandalous and crude"

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# Thatcher asked to help Maharaj

South 15/11 - 21/11/90

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By REHANA ROSSOUW

AN INFLUENTIAL British anti-apartheid organisation has appealed to the British government to intervene with the South African authorities to secure immediate immunity from prosecution for nine ANC members.

The South Africa the Imprisoned Society (Satis) chairperson, Mr Geoffrey Bindman, wrote to British Foreign Office Minister of State, Mr Douglas Hogg, urging him to intervene in getting immunity for ANC national executive committee member, Mr Mac Maharaj.

Maharaj and eight co-accused are on trial in Durban for terrorism after allegedly being involved in the ANC's "Operation Vula".

Bindman's letter urges Hogg to follow up approaches made by the British government about Maharaj's case.

## Studied

British Prime Minister Mrs Margaret Thatcher raised Maharaj's case with State President FW de Klerk when he visited Britain recently.

Bindman, a prominent lawyer who visited South Africa on behalf of the International Commission of Jurists and observed political trials, has studied the charges against the "Operation Vula" accused.

He has also studied the agreements reached between the ANC and the government on issues designed to create a climate for free political activity.

## United Nations

He believes the continuation of this case would go against the agreements and would undermine the peace process.

"The British government has joined the consensus at the United Nations calling for an end to all political trials, the release of political prisoners and the repeal of repressive legislation," Bindman said.

"Given the significance of this case to the peace process now underway in South Africa, we are confident that the British government will do its utmost to ensure that De Klerk grants immunity from prosecution to these accused," Bindman said.



Justice Harms

**Harms  
report:  
the  
shock  
waves**

## Slain lawyer's family to act

*Sowetan 15/11/90*  
THE family of slain Durban attorney Mr Griffiths Mxenge has vowed not to rest until his killers are unmasked even though the Harms Commission found no clear-cut answer into his death

Lawyer for the Mxenge family Mr Bheka Shezi said the family will not rest and were now waiting for the Attorney-General's next move.

"The family is very clear on this, they waited for the commission's report and now they will wait for the AG and if he refuses to prosecute, then they will take legal action," said Shezi. *(252)*

The family has asked for a copy of the commission report to study while planning their next step

"The family is convinced that these policemen were involved in the killing and they want the full facts known," said Shezi.

Mxenge was murdered on November 20 1981

His killing was a mystery until Death Row prisoner and former policeman Almond Butana Nofomela told lawyers the night before he was to hang that he was involved in the murder

# Findings are a frame-up, says lawyer

*Sowetan 15/11/90*

**CIVIL** rights lawyer Mr Dullah Omar says the terms of reference of the Harms Commission, its findings and the Government's response give him the impression "there has been a frame up".

He said the whole situation left him dissatisfied "both as a lawyer and citizen. I do not believe South Africans will accept that this is the last word on the matter".

He said he believed the commission should have been appointed to "rip open" the covert operations in which the Government was involved.

Omar said he had not read the commission's

report and would therefore not comment on the Civil Co-operation Bureau which he said wanted to eliminate him.

He said he would comment "on evidence relating to myself".

ANC member Bongani Jonas had given "devastating" evidence in the Cape Town Supreme Court about the existence of Askaris, Omar said.

"Jonas had given evidence of how senior police officers tried to recruit him. Police officers declined to comment on this in court and his evidence stood unchallenged."

"There is a great deal of evidence that hit squads existed in the police force The Harms

finding on this is totally incomprehensible to me

"I do not believe - and I do not mean any disrespect to the commission - that the Government has caused this matter to be properly investigated," he said.

He said the terms of reference of the commission, which excluded inquiry into external covert operations conducted by South African special forces, was unacceptable

Omar said the findings on slain Swapo executive member Mr Anton Lubowski was "unjust"

"I find it unacceptable that such a finding could be made without proper investigation." - *Sowetan Correspondent*

## A cover-up - Dirk Coetzee

FORMER Captain Dirk Coetzee has lashed out against Mr Justice Harms and has described the report as a cover-up. (252)

Speaking from London on Radio 702, Coetzee, who made the original claims about police hit squads, said: "I didn't expect anything else that I must tell you."

"I could see from the start even in London that Judge Harms was completely not objective. He was against me."

"I could see at that stage he was completely negative. So wehan 15/11/90"

"It is frightening to see the lack of insight of Judge Harms into this whole situation."

Coetzee described the report as a cover-up for the police.

"They (the police) led Judge Harms by the nose." - *Sowetan Correspondent.*

## Inquest into Sebokeng violence begins

THE judicial inquest into the September 4 Sebokeng violence which left 42 dead was opened by Mr Justice Eddie Stafford in the Vereeniging Supreme Court yesterday.

The inquest will investigate the violence which erupted after Inkatha members allegedly attacked Sebokeng hostel dwellers. Later, SADF members allegedly killed at least 11 people after opening fire on a crowd outside the hostel.

Mr Justice Stafford said the inquest would look at who had been responsible for the 42 deaths, and reasons for the violence.

TANIA LEVY

Advocate Anton Ackerman, from the Pretoria Attorney-General's office, will lead evidence and 37 witnesses are expected to be called in addition to various police and army officers.

The SADF and SAP convened their own internal investigations into the incident.

Police dismissed allegations that white men had led a pre-dawn Inkatha attack on the hostel earlier that day.

The inquest resumes today.

# Neethling's evidence on Coetzee's notes 'struck'

8/10am 15/11/90

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~~252~~

SUSAN RUSSELL

EXPERT evidence in which Lt Gen Lothar Neethling had questioned the authenticity of former SAP Capt Dirk Coetzee's notebook could be regarded as struck from the record, the Rand Supreme Court was told yesterday

Neethling is suing Vrye Weekblad for R1m and Weekly Mail for R500 000 after three articles were published in November-December last year containing allegations by Coetzee that while a member of a secret police death squad, Neethling had supplied him with poison to murder people

The newspapers are defending the action on the grounds of truth and public interest

When the trial resumed yesterday afternoon, the

newspapers' council R Levine SC told Mr Justice Kriegler Neethling's counsel had indicated the general's expert evidence on the notebook would not be relied on and could be regarded as struck from the record

On this basis, Levine said, his clients were prepared to proceed with the matter and Neethling's evidence

Earlier, Levine had asked for an adjournment after Neethling gave evidence in which he voiced doubts about the history and authenticity of the notebook

The notebook, which contains Neethling's private telephone number, was submitted as an exhibit on behalf of the newspapers during evidence taken from

Coetzee on commission in London

Levine asked for an adjournment to consult with his clients after submitting that Neethling's lawyers had taken and submitted the notebook for testing without authorisation

The book should have gone directly into the judge's file, he said

The notebook was sealed in a parcel and sent from London to the office of the

registrar of the Supreme Court, from where it should have gone directly to the judge

The unauthorised removal and testing of the book was an abuse of the process of court, Levine argued

When the case resumed after lunch yesterday, Levine told Mr Justice Kriegler that after discussions with Neethling's counsel, it appeared the book had been taken after a misunderstanding.



# Councillors meet defiant town clerk

Star 15/11/90

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By Shirley Woodgate

Two Johannesburg National Party city councillors were locked in talks with town clerk Manie Venter at his Houghton home this morning over his threatened return to work today.

After two hours, it still was not clear if he would defy the management committee and return to work.

Speaking before the meeting with senior councillors Marietta Marx and Koos Roets, he was adamant he would return to work to state his case.

"Not a single member of the management committee has heard my side of the case which I now want to state directly to chairman Ian Davidson," Mr Venter said.

"All I am asking is that the management committee hears me. If the council still feels the same afterwards and follows the correct procedures, then I will submit."

He said he was fit after six weeks' leave.

"I have been branded a hooligan, but I am innocent. I was misled by certain members of staff, but I

worked completely openly. The auditors can check the records."

But Mr Davidson was equally adamant the town clerk would not return. His hardline attitude was based not only on legal advice but with the backing of a substantial number of senior staff, he said.

"We had an agreement in October that he retire from work and take immediate leave and this will be enforced. We are backed by the findings of the Hiemstra Commission and the advice of senior counsel."

(252)

# Angry calls for Magnus to resign

By Peter Fabricius  
Political Correspondent

Defence Minister Magnus Malan yesterday faced strong demands for his head, despite being exonerated by President de Klerk following the findings of the Harms Commission.

Opposition criticism of the Government's reaction to the report and of Mr Justice Harms's "kid gloves" handling of General Malan is expected to flare up strongly at the start of next year's parliamentary session.

Yesterday Conservative Party defence spokesman Koos van der Merwe said he was bitterly dissatisfied that the report had made no finding on whether General Malan was aware of the clandestine activities of the Civil Co-operation Bureau.

"That was the critical issue. We're very surprised General Malan was handled with kid gloves. The mystery surrounding him deepens."

He said the CP found it peculiar and significant that no answer had emerged on whether General Malan knew about the CCB.

"The commission was about the only place where we could have found out what he knew."

Democratic Party leader Dr Zach de Beer said the commission's finding that there was no evidence that General Malan or any of his senior generals knew of the "disgusting activities of the military dirty tricks squad (the CCB) was shocking".

"At the very least it bespeaks monumental incompetence on the part of the Minister, who should certainly resign."

DP defence spokesman Gen-

eral Bob Rogers said the criminal activities of the CCB exposed by the Harms report "were a slur on the good name of the South African Defence Force".

"A feature of the Government's political style has been its refusal to hold a Minister accountable for any transgressions which have occurred in his department.

"In this case it would appear once again that while individuals down the line have been named, no responsibility is apportioned to their superiors at the highest level."

General Rogers said funds from the Special Defence Account which financed special forces operations could be withdrawn only with the Minister's approval.

## Security

"If the Minister was now aware of the scope of CCB operations, it shows a woeful lack of control over activities which could affect the security of the State."

This emphasised the need to form a standing committee of Parliament, similar to the armed services committee in the United States, to scrutinise the policy and review the activities of the SADF.

General Rogers said the responsibilities of the various intelligence agencies in SA should be revised and clearly spelt out to ensure they were strictly controlled and did not overlap.

The ANC demanded that General Malan "be made to account for the activities of his ministry and that he resign from public office immediately" and that all irregular forces of the SADF and the police be disbanded.

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# Venter shelves return to council after talks

By Shirley Woodgate

Johannesburg town clerk Manie Venter decided yesterday, after closed-door discussions with the city's management committee, to scrap immediate plans to return to work

Mr Venter was named by the Hiemstra Commission of Inquiry as one of the major figures in the Johannesburg municipal spying scandal

Management committee chairman Ian Davidson said his committee had met Mr Venter and it had been agreed he would not be coming back

Scotching rumours of a split in the working relationship between the National Party and the Democratic Party in the council, he said the entire management committee was happy with the arrangement

Mr Venter said he

would not return to office "at this stage"

He added that he was totally relaxed about the talks.

It was earlier reported that Mr Venter had written to acting town clerk Graham Collins informing him that he planned to return to office.

Mr Venter had been on sick leave before taking long leave pending retirement after the findings of the Hiemstra Commission were made public.

SA COUNCIL OF WORLD





# PAC founder back to form 'genuine' party

A FOUNDER member of the Pan Africanist Congress, Mr A. B. Ngcobo, has returned to South Africa from exile to try to re-launch the "genuine" PAC.

Ngcobo was elected treasurer general of the PAC at elections held in Johannesburg on April 6 1959. This put him number three in the hierarchy behind Mr Robert Sobukwe and Mr PK Leballo, he said at a Press conference in Durban on Tuesday.

The PAC was banned in April 1960.

Ngcobo said the strain of PAC he represented wanted other persuasions that had emerged in the PAC while it was banned, and which were outside of its philosophies to now dissolve and team up with the founders who still advocated African nationalism, Africanism and pan-Africanism.

Ngcobo was born in Melmoth. He is a gradu-

ate of the University of Natal, Durban, and of London University. In January he visited South Africa on a British passport, and returned to South Africa in September. He has taken leave from his job as an inspector with the Inner London Education Authority to pursue his political work in South Africa.

## Action

"I have come to re-activate the original Sobukwe PAC and to promote the ideology under which it was founded and organised," Ngcobo said.

The original PAC he represented had nothing to do with Mr Benny Alexander's grouping, Ngcobo said, and was not a Marxist-Leninist orientated organisation.

He is not going to the PAC congress in Johannesburg next month. The national executive he represented had been elected by the people of South Africa and was organising its own conference later.

As founders of the movement, his group would go into talks with the Government, because there was a time to talk and a time to fight, and because they believed people should engage in negotiation.

Ngcobo said he had attended an Inkatha peace march and meetings in recent weeks. The PAC's

relationship with Inkatha had always been good, and he hoped it would improve. He has met Inkatha leader Dr Mangosuthu Buthelezi since he has been back.

"African unity is important in itself. It would be a great step towards achieving African unity if the PAC and Inkatha united."

Ngcobo said his grouping had formed branches in Lindaleni, KwaMashu, Umlazi, Ermelo and Witbank. They were trying to trace people who were active in the PAC at the time it was banned and were pushing the philosophies the PAC advocated in 1959.

Ngcobo is not too sure when he and his family will return to South Africa permanently. *Sowetan Correspondent*

## Women's council will seek Bill of Rights

The National Council of Women of South Africa will meet the Minister of Constitutional Development, Dr Gerrit Viljoen, in Pretoria next Tuesday, in response to the invitation by the State President, Mr FW de Klerk, for all interested bodies to take part in the constitutional negotiation process.

NCWSA has welcomed this opportunity and will reiterate its policy based "on the unshakable premises that South Africa is one country and one people, that the new constitution should include a Bill of Rights which must be justiciable, and that all forms of discrimination based on sex, race or creed be abolished".

The delegation will also suggest strategies on how NCWSA, together with other women's organisations, could ensure the full participation of women at all levels of the negotiation process.

In the absence of the national president, Mrs Heather Tracey, the delegation will be led by the immediate past president of NCWSA, Mrs Catherine Schneider. It will include members of the national executive committee and the presidents of the Transvaal branches.



FOCUS ON THE HARMS COMMISSION REPORT

By IVOR POWELL

Mr Justice Louis Harms' figures do not add up

It is not just that in the report which bears his name he finds absolutely that a hit squad did not exist at Vlakplaas, nor that all the key witnesses relating to alleged irregularities in the security police were simply discredited, nor even that, while finding a can of worms in the Civil Co-operation Bureau (CCB) and the South African Defence Force, he failed decisively to open it. It is the numbers themselves

Of a total of 2 851 murders recorded by the police as being allegedly politically motivated and thus theoretically falling within the brief of the commission, Harms has passed on dockets for further investigation and possible prosecution in respect of two

At the opening of the commission's sitting the Ministry of Justice submitted its own, more selective list of 71 unsolved and politically motivated murders. The Independent Board of Inquiry into Informal Repression (IBIR) presented for special consideration a list of 42 murders allegedly perpetrated by agents of the state against opponents of apartheid, as well as details of seven disappearances of persons in suspicious circumstances and information regarding over 200 other instances of state-inspired violence

On these more selective statistics, there is a possibility that further action will be taken by the relevant attorneys general in respect of

- Two murders, those of Mamelodi medical doctor and activist Dr Fabian Ribero and his wife, Florence,
- Conspiracy to murder three anti-apartheid ac-

# The numbers don't add up

*The verdict of legal experts on the report: A job unfinished ...*

**HARMS QUOTE**

The Commission has been unable to achieve one of its main purposes, namely to restore public confidence in a part of the State administration

PAGE 54 of the Harms report

tivists *Weekly Mail* colleague Gavin Evans, Cape lawyer Dullah Omar, and Natal lawyer T Mhlaba, in none of these instances was any serious damage done.

- One bombing, that of the Early Learning Centre in Athlone, again nobody was hurt though substantial damage was caused,
- One motor car theft,
- One arson attack in Yeoville

Added to this list are two other likely charges arising out of involved parties crossing the one-man commission — one of perjury and one of theft of documentation

That is all — except that, in an aside, Harms recommended that security policemen should in future be encouraged to keep diaries in order to maintain a proper record of their whereabouts at

any given time

It is not an impressive tally given the scale of the problem the commission was meant to be addressing, and it is hardly surprising that legal experts claim Harms failed to do his job properly

The accusation becomes especially understandable in view of circumstances surrounding these specific incidents

● Noel Robey, the CCB operative allegedly responsible for the Ribero killings is no longer in the country and is unlikely to ever stand trial, the other two likely accused remain unidentified

● The incidents out of which the conspiracy to murder charges arise were meant and confused in all cases so-called unwitting agents — criminal elements used without their knowledge to pursue the aims of state-connected organisations

FW says Harms exonerates Magnus Malan Quite the contrary, says PHILIP VAN NIEKERK

# No Magnus, you've not been let off free

GENERAL Magnus Malan's ability to politically survive the Harms Commission report is testimony to FW de Klerk's mishandling of the entire death squads issue — and his failure to move government into a new era of public accountability

If South Africa were indeed run on the same democratic standards as, say, Holland or Canada or Britain, Malan would have been fired on Wednesday, if not long before

Justice Louis Harms, for all the other limitations of the report, delivered a scathing denunciation of the Civil Co-operation Bureau, which he said had "arrogated to itself the powers to try, to sentence and to punish people without them knowing of these allegations or having the opportunity to defend themselves"

Harms did not concern himself with the "nature and extent" of Malan's responsibility, nor even with how much the minister knew, leaving these considerations to "parliament" He did point out, however, that the minister of defence "is of course politically responsible for his department, and that includes the CCB"

Malan, of course, claimed that the report cleared him, and blamed the wrongdoings on a few rotten eggs in one unit. De Klerk supported this interpretation. He said that after carefully studying the report, he could find "no reason to condemn the politicians in charge for the way in which they carried out their duties and responsibilities"

However, careful study of the report could not have helped De Klerk because — on the basis of his own brief to the commission — it excluded any examination of how Malan carried out his duties and responsibilities

Furthermore, De Klerk's contention that "the events dealt with in the report took place in an era of serious conflict, now belonging in the past" would only be relevant if he were trying to excuse the CCB's actions.

He is not. He is saying that his minister does not bear responsibility for the behaviour of people in his department whose actions had, in Harms' words, "contaminated the whole security arm of state" He fails to explain why Malan should be relieved of this responsibility

It is clear from De Klerk's reaction that he is eager to put the death squads era behind him and his government but, with his handling of the Harms Commission, he may have done the opposite

A full scale government PR operation was brought into operation. Parliamentary correspondents were briefed by spin doctors 24 hours before the report was released. De Klerk

**HARMS QUOTE**

The Minister of Defence is of course politically responsible for his department, and that includes the CCB

Paragraph B34, page 57

and three cabinet ministers had carefully prepared statements ready to coincide with the reverse of the report.

The result the government effectively managed the news coverage of the report. Instead of emphasising Harms' findings on the CCB, most reports created the impression that the single most important conclusion of the report was that there were no hit squads in the SA Police

De Klerk might have won Wednesday's media battle, but he lost the propaganda war. The almost unanimous sense among the black public was to distrust the findings and to believe that the Harms Commission had been a white-wash

Harms himself put his finger on it. The commission, he said, had been unable to achieve one of its main purposes, "namely to restore public confidence in a part of the state administration"

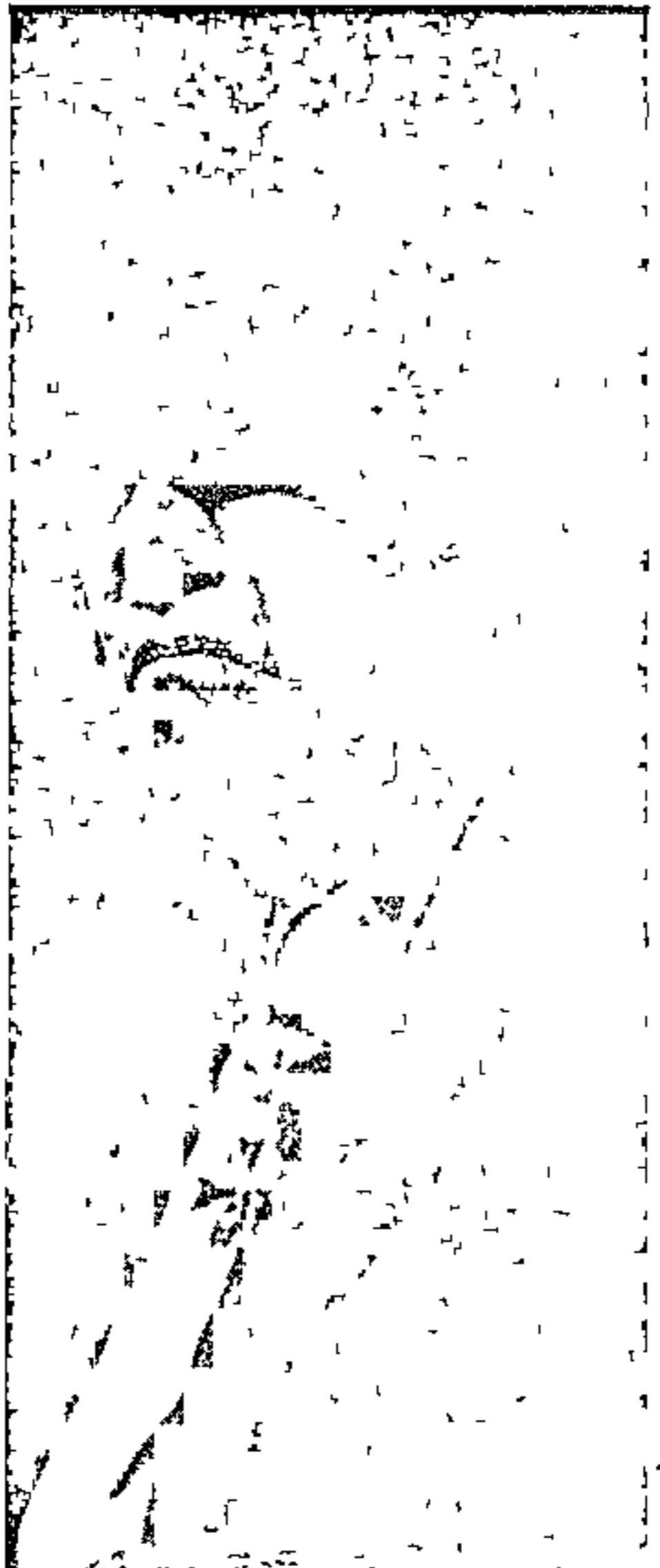
At the end of the day, the most notable aspect of the Harms report was how little new light it shed on the issue that it was supposed to investigate.

Harms was partly hampered by his severely circumscribed brief — which, for instance, excluded death squad activities outside the country — but also by the secretiveness of government officials

Most of the documentary evidence about the CCB was either destroyed or concealed, prompting Harms to observe that "their conduct before and during the commission creates suspicions that they have been involved in more crimes of violence than the evidence shows"

Yet most of the murders of anti-apartheid activists took place before the CCB was set up in 1989. Lurching through the summaries at the back of the report, we learn nothing new about who killed Rick Turner, Mathew Goniwe, and dozens of others, or why the normal process of law has been so unsuccessful in bringing the culprits to justice

Harms remarked that "victims failed to furnish information", almost as if they were to share the blame



Magnus Malan — blamed a few rotten eggs

What the public remembers is that there are corpses. They were living people who were opposed to a government that is still in power, and were mysteriously killed. Until a better explanation is offered, people will continue to believe that they were murdered by their political enemies — the agencies of the South African state, including the SAP

Until we know who killed these people and why, it will be premature for De Klerk to write the past away. As the Dutch Reformed Church realised at the Rustenburg meeting recently, before there can be forgiveness, you have to confess your sins. All we have is a deafening silence

— were the perpetrators of any misdeeds that were actually done

● The car theft case is against former security policeman Butana Almond Nofemela who, apart from having a death sentence hanging over his head, was the man who made the original allegations against the security forces

The case against Harms goes deeper, however. The IBIR has gone so far as to accuse the judge of "choosing to ignore aspects of the evidence that was placed before him of a police squad that operated beyond the law and committed a series of shocking and brutal acts. On the evidence placed before him his conclusions are not warranted"

The IBIR demonstrates its point with reference to an incident in 1981 in which former Security Police captain Dirk Coetzee claimed to have been part of a cross-border raiding party attacking a house in Botswana

Whereas in his report Harms acknowledges a series of contradictions in the relevant evidence and takes the matter no further, the IBIR points to substantial bodies of evidence which could have been invoked by way of clarification

"The above version by (Joseph) Mamasela, Captain Jan Coetzee and Brigadier Schoon (the security policemen involved) was shown to have been false by Botswana border records which reflected that Coetzee and Mamasela had crossed in the same car on November 26 1981, which day co-incidentally happened to be the day that a house in Botswana was attacked and the occupants wounded. A registration check was done on the vehicle which reflected it as being registered to security headquarters in Pretoria"

The board further points out that Harms has failed, on the basis of such evidence, to deal with

- The fact that there was obviously a conspiracy at the highest level in the security police;
- The consequences of a senior police officer perjuring himself in the witness box,
- The fact that the incident is evidence of the operation of a hit squad

However, despite the fact that Harms has failed to act or to recommend decisively in his report, it is not without its sting

While nothing of any consequence has stuck to the security police, the same is not true of the military's special services

Despite recent claims by Defence Minister Magnus Malan that he and his security forces have been officially cleared, on a number of occasions Harms expresses reservations about the supposed ignorance of the SADF's leadership regarding the covert operations of region 6 — the internal division of the CCB — and on the extent to which a cover-up is being effected

In one passage, for example, he questions the lack of official documentation

"For some reason or other (the SADF alleged) there is no documentary evidence that refers to these matters. It is hard to accept that the SADF would have authorised the establishment of an organisation that had a budget which with the passage of time was to amount to R27-million a year without any documentation or written authority"

In another, he says of Malan "The Minister of Defence is, of course politically responsible for his department and that includes the CCB"

However he goes on "The nature and extent of the political responsibility is not a matter that called for the commission's attention"

Speaking about the CCB in general he says "The commission has a serious problem about relying to any significant extent on any of the witnesses that gave evidence on any of the internal projects of the CCB"

He goes on to specify that some witnesses give evidence which was so vague and contradictory as to be useless, while others had private motives and others again appeared to be little more than extortionists

Throughout, Harms refers to the unreliability of the CCB agents as witnesses. On one occasion he draws attention to the organisation's suspect recruitment policies and its employing of convicted criminals, he refers to the frequent refusal of witnesses to answer questions on the grounds that to do so would constitute self-incrimination and argues for the withdrawal of that right in the case of future commissions

More specifically, on a number of occasions Harms expresses the belief that particular agents may well have been responsible for particular atrocities

But throughout he has interpreted his brief strictly if not always in a consistently legalistic way

One lapse occurred in using Free State Attorney General Tim McNally to lead evidence on behalf of the commission — after McNally had earlier submitted his own report, dismissing the

A.T.O.

# The Harms report: A job unfinished

From PAGE 9

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allegations of both Nofemela and Coetzee as fabrications

In a court of law such prejudice as to the conclusion of the commission could be used as grounds for demanding a recusal, or even to invalidate the findings of the court as a whole

Questions have also been raised about the issue of Swapo lawyer Anton Lubowski. Evidence relating to Lubowski's alleged employment as an SADF spy was admitted before the commission although evidence relating to his assassination was not.

On the basis of SADF evidence heard in camera — to the effect that the SADF had paid R100 000 into an account controlled by Lubowski, Harms found that Lubowski had indeed been paid as a military intelligence agent

Rejecting "with dismay and rage" the conclusion reached by Harms, Lubowski's family also questioned the procedures by which it had been reached.

The commission, they noted, had heard the evidence in camera, without allowing the family's lawyers to cross-examine

Many legal authorities consulted said Harms' narrowness of interpretation in a report which does not finally adjudicate but merely recommends further investigation makes something of a nonsense of the purpose of a commission

It has meant the commission has barely scratched the surface, and if it has any relevance at all, it is as a warning to the security forces, not as an investigation of its operations

Certainly it has laid few monsters to rest. None of the parties in the "prosecution" have expressed satisfaction with the findings, and, according to representatives, most — including the IBIIR, Lawyers for Human Rights and Lubowski's family — are planning other strategies to pursue their respective causes

And, as Professor John Dugard of the Centre for Applied Legal Studies at Wits University noted, the failure of the report to deal convincingly with the issues, has merely opened the door to future recriminations, retributions, and possible Nuremburg-style trials under a post-apartheid government.

"They have let an opportunity slip to establish their good faith. Future actions against apartheid criminals are likely to be far harsher," Dugard said

**T**HE Harms and McNally reports —timeously released before and on the second day of the defamation case which began this week in the Rand Supreme Court — supposedly wrap up the police and army death squads saga.

Yet startling evidence of alleged police abductions and murdering of activists continues to be heard in the trial involving General Lothar Neethling vs *Vrye Weekblad* and *The Weekly Mail*. The general is suing the two publications for a combined amount of R1.5-million in his private capacity — but the state is footing the substantial bill for his legal fees.

The case arises from three articles published last year — two in *Vrye Weekblad* and one in *The Weekly Mail*. The articles record the evidence of Captain Dirk Coetzee, who claims he was involved in police death squad activities and that in 1981 Neethling supplied him with poison and "knockout" drops to aid with the abduction and murdering of activists.

Neethling, who is chief deputy commissioner of Scientific Technical Services of the South African Police and heads its forensic laboratories, says the allegations are false and have ruined his reputation.

The two publications maintain it was in the public's interest to expose the allegations.

This week in court the general, clad always in a blue suit, often battled to control his temper under cross-examination. Several security force members dressed in grey suits have attended the trial each day.

Neethling's legal team, which is led by 84-year-old Willie Osbry QC, presented character witnesses vouching for the plaintiff's high moral, intellectual and professional standing both here and abroad.

Dr Daniel Geldenhuys of the Afrikaans Academy of Arts and Science said this week Neethling was one of the most important and honoured members of the Pretoria-based institute. He

# A boere seun fights words of poison

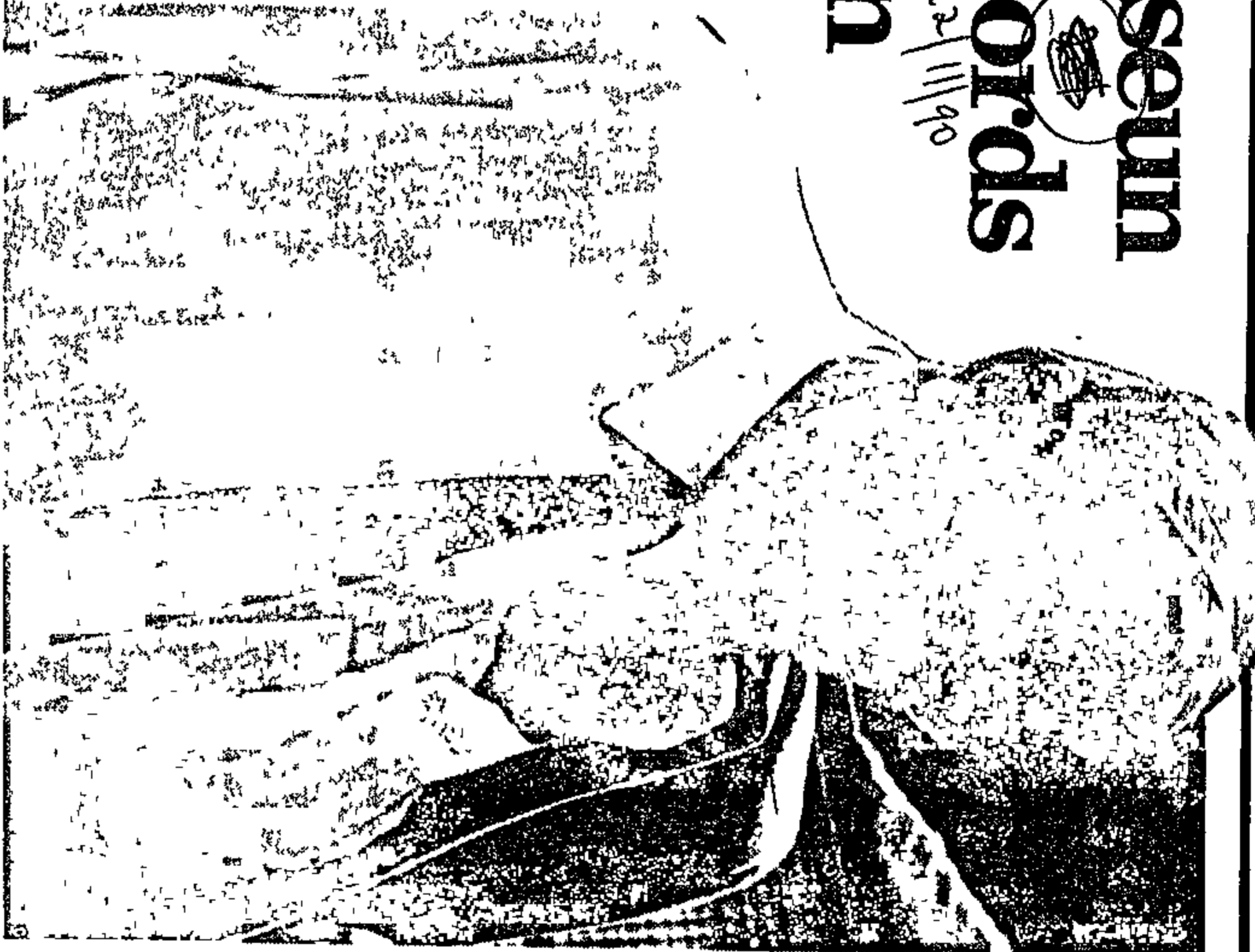
Starting allegations of death squads continue to be heard in the case where General Lothar Neethling is suing two newspapers for R1.5-million. PHILIPPA CARSON reports

Listed various medals and decorations bestowed on the general, including SAP medals for faithful service and the combating of terrorism, and two medals from the Republic of China. The academy, he said was particularly proud to have honoured a "boere seun" like Neethling.

Both Geldenhuys and Dr Mathys Pieterse, director of the Water Research Commission said they were shocked and filled with disbelief after hearing that Neethling had allegedly provided poison and sleeping poisons to Coetzee on several occasions.

Neethling (55) has denied the allegations, which he says have had a devastating effect on his life. "I never thought the written word could have such an influence on the thoughts and state of mind of a person," Neethling said.

Neethling, who has made over 13 000 court appearances to give forensic evidence, said he had not attended hearings of Dirk Coetzee's evidence in London because he feared for his life. Much of the evidence and cross-examination before Justice Johan Kri-



Lothar Neethling... reputation ruined. Picture: KEVIN CARTER

gler has concerned descriptions of Neethling's house and office. Coetzee, who has referred to Neethling as the "poison link" in the death squad killing chain, claims he visited both places in 1981, but Neethling said his descriptions of the premises were riddled with inaccuracies.

Neethling alleges Coetzee has frequently changed his versions and that he is either "short of brainpower" or suffers from hallucinations. Counsel for the two publications, led by Bobby Levin, SC claims Neethling has modified the evidence he first gave

before the Harms Commission earlier this year, to suit the current proceedings. Neethling angrily replied that for the last few months he had slept, drunk and eaten the case. He said Coetzee had obviously been plotting the saga for years. "This has nothing to do with him being a psychiatrist," he said. "I am not a psychiatrist. I cannot classify a man as such."

Coetzee claimed he noticed two Dobermans when he visited Neethling's house with a Koos Vermeulen. Neethling however says he has never owned any Dobermans and at the time of the alleged visit, was in possession of a Rotweiler which has since "passed away". Neethling frequently intimated that a man who does not know the difference between the two types of dogs was easily confused. While Coetzee said the house had wooden floors, Neethling maintains he has had wall-to-wall carpeting since the 1970s. Neethling, always shaking his head with an incredulous chuckle before answering questions about his knowledge of Coetzee, denies ever having met him or speaking to him over the telephone. One exhibit before the court is a police-issued notebook belonging to Coetzee, where Neethling's private work telephone number is recorded. Levin argued that Coetzee must have known Neethling to have his private number which was not included in the official police directory. There was a stir in court when Neethling, prompted by Osbry, began to give expert evidence on the notebook. He said it had been steamed or fogged and for this reason could not be forensically studied. This was followed by an outburst from Levin who said the book, which had arrived from London in a sealed package and been given to the court registrar, had been removed and subjected to tests without the consent or knowledge of his legal team. This constituted an abuse of court procedure, said Levin. After a hasty adjournment and heated argument between the two counsels, the matter was settled when Osbry agreed the "expert" evidence would be struck off the court record and conceded there had been a misunderstanding over whether permission had been given for the removal of the document. The case continues.



## Beware of politics — it could ruin your marriage

BY TSHOKOLO MOLAKENG (252)

TAKING a strong interest in the rapidly shifting political scene could backfire on you from an unexpected direction — it might just ruin your marriage.

While the government has made political expression legal and relatively unfettered, the courts can take unkindly to "obsession" with politics.

So much so that if one spouse has cause to complain that the partner's activities are overboard, divorce proceedings could be instituted. That would amount to the "irretrievable breakdown" of the marriage, constituting grounds for divorce. In terms of the Divorce Act the breakdown can be anything that contributes towards marital incompatibility.

Current unpredictable political changes might mean a "small upsurge" in South African divorce rates. The latest divorce figures, for 1989, stand at more than 24 000.

That excludes breakups in black marriages — Central Statistical Services does not keep tabs on black divorces. "We will contemplate that in the future," a representative said.

Political analysts say the post-February 2 period has increased political fervour. "The apathy has diminished," said a research officer at the Institute of the International Affairs, Anthony van Nieuwkerk.

University of Natal law faculty dean, David McQuoid-Mason, said it was well and good that people affiliated to organisations, but they had to consider their marriage, otherwise "when spouses dedicate themselves beyond the limits to the struggle or the government, they might reach a level where there would be nobody to sustain the families and the marriage might suffer".

A family advocate, Francis Bosman, disagreed. "When a Zulu woman supports Inkatha and the Xhosa husband sides with the African National Congress, there will be conflict that could strain the marriage."

The Pan Africanist Congress criticised the concept of "obsession". Said representative Benny Ntoele: "Who sets the criteria for 'obsession'? It's pure nonsense. Differences in relationships can be ironed out without divorce."

# Govt 'preparing for violation of civil rights'

B10 am 16/11/90

TIM COHEN

THERE were signs that President F W de Klerk and his government were attempting to prepare public opinion for the violation of civil rights, ANC deputy leader Nelson Mandela said last night

Mandela, addressing the Foreign Correspondents' Association in Johannesburg, said it was universally accepted that various means of political expression, including public meetings, rallies and non-violent resistance, were aspects of freedom of speech

While the media's freedom of speech was recognised, the same could not be said of the people's right to assemble, hold

meetings and processions, and stage mass demonstrations

He said a regime accustomed to authoritarian behaviour needed time to grow accustomed to democratic practice.

He said it had been accepted that the interface of extra-parliamentary and parliamentary activities was essential for the unfolding of democratic politics.

Mandela said it would be foolhardy for anyone to align themselves with government's attempts to curtail these rights.

# Shopkeepers attempt to end boycott

KROONSTAD shopkeepers are taking the lead in attempting to resolve a consumer boycott

Residents of Maokeng township started the boycott after the Kroonstad Town Council cut electricity and water supplies.

Maokeng residents have been boycotting service charge payments.

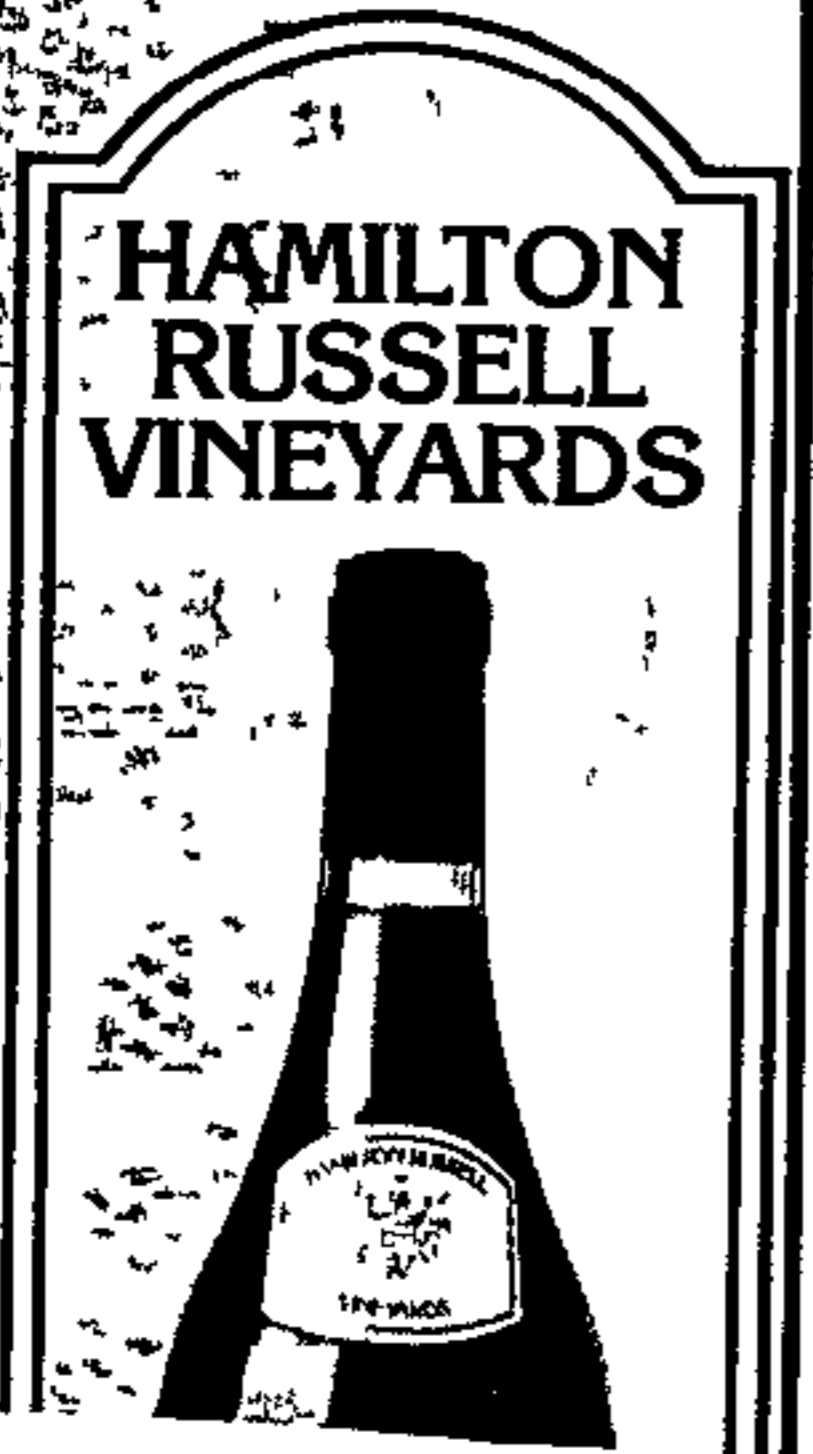
Kroonstad store owner Greg Papapanous said yesterday that the week-and-a-half old boycott had hit shopkeepers hard.

He said 50 traders had signed a petition calling for the dispute to be settled.

Papapanous said he had met the boycott organisers, the Maokeng Democratic Crisis Committee, on Wednesday and they had agreed to try and find ways of ending the boycott.

A meeting between shopkeepers and the Kroonstad Town Council was due to be held last night.

Papapanous said he hoped that progress towards a compromise would be made. — Sapa



## CROOKES BROTHERS LIMITED (CBL)

Co No 02/00290/06  
Directors I F G Gillatt (Chairman) D J Crookes (Managing), P L Campbell  
A C Crookes, D V Crookes, J F C Palmer

### INTERIM REPORT 1990/91

As sugar cane citrus and grain are seasonal crops and dividends from investments are not received at regular intervals the figures shown are half those estimated for the current year and the comparative figures are half the actuals of last year

	APRIL/ SEPT 1990	APRIL/ SEPT 1989	% CHANGE
Turnover	R100s 18 603	R000s 17 553	+ 6
Net operating income before interest (Note 1)	2 607	2 317	+12
Income from investments (Note 2)	920	1 711	-46
Net interest paid	(372)	(97)	

BlDcaj 16/11/90

# Poison claim was 'a plot'

252

SUSAN RUSSELL

DIRK Coetzee's allegations that while a member of a covert police death squad he had obtained poison to murder people from Lt-Gen Lothar Neethling were a plot constructed over the years to make a name for himself, the Rand Supreme Court was told yesterday.

Neethling, a forensics expert, said this in evidence before Mr Justice Kriegler. He was testifying in his R1,5m defamation action against Vrye Weekblad and Weekly Mail.

Neethling is suing Vrye Weekblad for R1m for publishing two articles in November-December last year in which Coetzee claimed that he received poison from the general Weekly Mail is being sued for R500 000 for an article based on similar allegations. Both newspapers are defending the action on the grounds of truth and public benefit.

Under cross-examination by Vrye Weekblad counsel R Levin SC, Neethling said since his discharge from the police force in 1985/86, Coetzee had decided to do something to prove himself.

Coetzee, he said, had wanted to make a

name for himself, write a book or two and had fabricated his story.

By reading the three versions given by Coetzee, two in Mauritius and a third in London, one could see major differences, the general said.

He told the court that for the past year he (Neethling) had been walking, sleeping, eating and dreaming the present case.

## No knowledge

Yesterday Mr Justice Kriegler was informed that Neethling had withdrawn his action against Weekly Mail printers Seculo Printers and that the matter had been settled between them.

Counsel told the court that it had been settled between the two on the basis that the printers had no knowledge of the contents of the Weekly Mail article and had had no intention of causing injury.

The printers withdrew the article and apologised, the court was told. No settlement amount was given.

The judge noted the settlement.

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# No SA laws <sup>252</sup>

## against trade

### in humans

POLICE in kaNgwane face a strange irony. They plan to arrest the two men who turned Jabulile Masuku into a chattel, but have found there are no laws against slavery on South Africa's statute books.

The investigating officers say they will, therefore, have to rely on laws against child molestation to charge the traders.

Slavery existed in the Cape Colony as well as the Boer Republics during the 19th century. The practice was outlawed in the Cape in 1840, leading to the Great Trek, but was never legislated against in the Transvaal and Free State Republics.

At the time of union in 1910, the Cape's anti-slave laws were not converted into national legislation as slavery was deemed to have become obsolete.

But John Dugard, professor of law at Wits University, says there is a range of legal devices that can be used to contain South Africa's budding slave trade.

Laws against kidnapping can be used to prosecute the traders — but Dugard points out that the situation regarding Mozambican refugees is complicated by the fact that they have been captured or recruited in a foreign country.

However, the United Nations has enacted a number of conventions which prohibit slavery and there is a local tradition of common law which makes the practice illegal.

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w/ Mand 16/11 - 22/11/90

# No SA laws against trade in humans

POLICE in kaNgwane face a strange irony. They plan to arrest the two men who turned Jabulile Masuku into a chattel, but have found there are no laws against slavery on South Africa's statute books.

The investigating officers say they will, therefore, have to rely on laws against child molestation to charge the traders.

Slavery existed in the Cape Colony as well as the Boer Republics during the 19th century. The practice was outlawed in the Cape in 1840, leading to the Great Trek, but was never legislated against in the Transvaal and Free State Republics.

At the time of union in 1910, the Cape's anti-slave laws were not converted into national legislation - as slavery was deemed to have become obsolete.

But John Dugard, professor of law at Wits University, says there is a range of legal devices that can be used to contain South Africa's budding slave trade.

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However, the United Nations has enacted a number of conventions which prohibit slavery and there is a local tradition of common law which makes the practice illegal.

Says Dugard: "Under international and common law slavery is unlawful. The most serious charge that can be brought against a slave trader is the denial of personal liberty (without official cause to do this). A statute does not have to exist to prosecute the offenders."

Star

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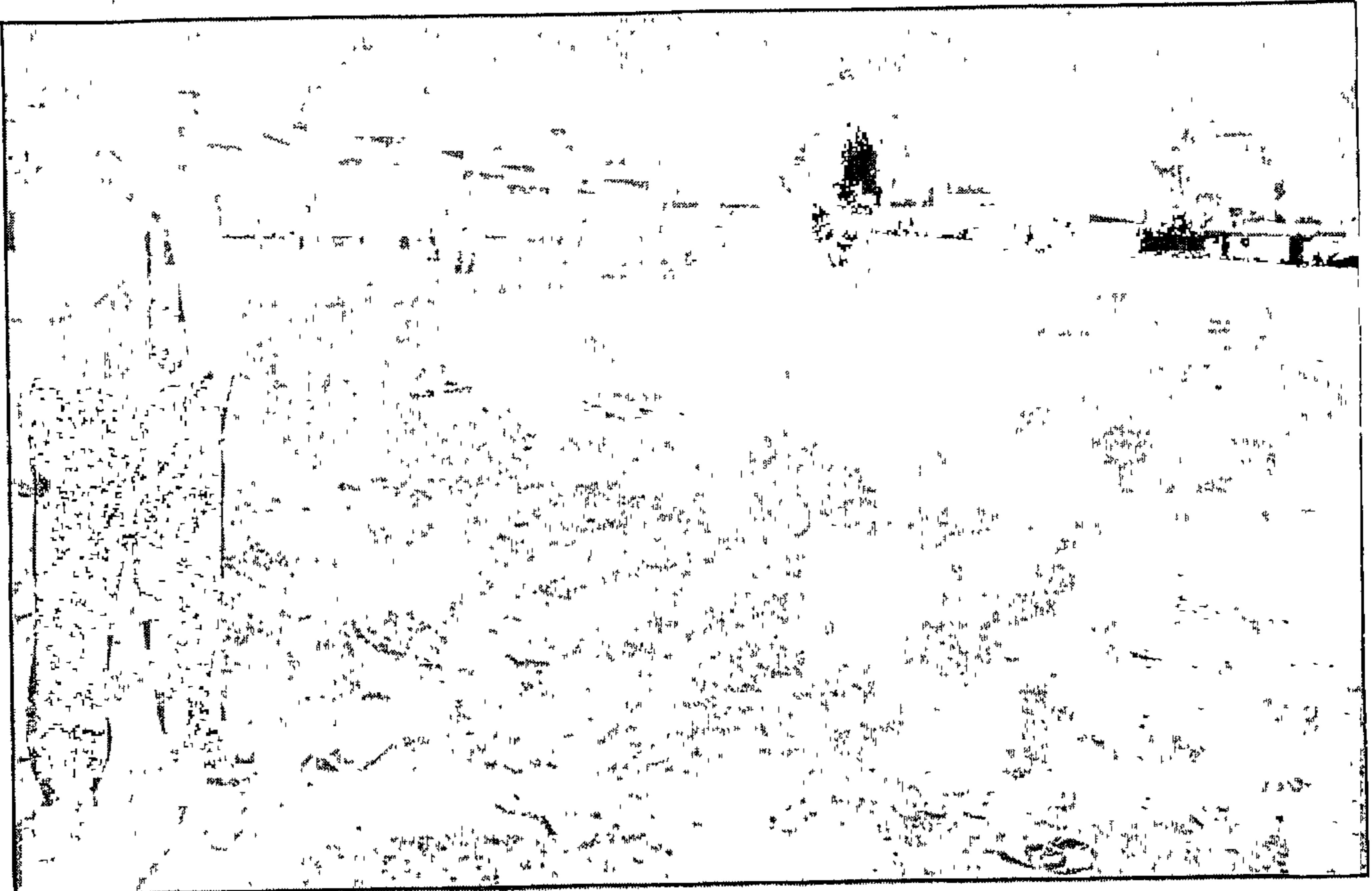
16/11/90

## Financial Mail may appeal

The Financial Mail was yesterday granted leave to appeal to the Appellate Division against a judgment which blocked the magazine from printing an article on a financial institution.

On September 25 Mr Justice M.M. Joffe ruled in favour of Sage Holdings Ltd, who had launched an urgent application against, among others, Financial Mail (Pty) Ltd and Times Media Ltd.

It had been argued that the order which prohibited disclosure of information that was allegedly obtained unlawfully had important consequences for the press.



Scene of the shooting . . . Mr Justice Eddie Stafford, the Inquest chairman, outside the Sebokeng hostel where 42 people died in fighting between rival groups and in subsequent police action. Picture: Alf Kumalo.

## Video of shooting shown to inquest

A video recording showing SADF soldiers shooting into a crowd of people, who apparently wanted to attack Zulu residents of the Sebokeng hostel, was yesterday viewed by a Supreme Court inquest in Vereeniging for 42 people killed in the township early in September.

The video was presented as evidence to the inquest by police cameraman Constable Marius van Huysteen who, while filming the shooting, was heard to say on the recording "The SADF members are starting to act, they are shooting with sharp-point ammunition."

A volley of rapid-fire shooting followed, lasting for about 10 seconds, while the crowd scattered in all directions. Detonation of teargas canisters ac-

companied the shooting.

Several people were left lying in the street, at least two of whom were found to be dead.

Some people in the crowd who were apparently wounded by the volley of shots were helped away from the scene by their comrades. Other wounded people were unable to move.

Immediately before the shooting, Constable van Huysteen, in running commentary of events, said people in the crowd were sitting down in the street while troops advanced in a line.

The incident arose after fighting broke out between two groups — allegedly supporters of Inkatha on the one side and ANC followers on the other — at the hostel in the early hours of September 4

Police arrived at the hostel to find several bodies already lying in the immediate vicinity of the hostel.

The police investigation that followed resulted in the arrest of 137 Inkatha members, including Inkatha Youth Brigade leader Themba Khoza, and the recovery of weapons.

Most of the guns recovered in the operation, including more than one AK-47 rifle, at least one SA-manufactured R-4 rifle, a SAP-issue P38 pistol and .38 pistol, were found in a car apparently associated with Mr Khoza.

The video footage also showed police finding a homemade bomb in the boot of the car while Mr Khoza looked on.

At the police station, several more Inkatha members were found possessing weapons.

Warrant Officer Piet Nienaber also submitted video recordings to the inquest, but his footage did not show the SADF shooting because, he said, his camera battery had run flat.

W/O Nienaber's video depicted police and their vehicles separating the fighting groups.

People on the outside of the hostel could be seen demanding to be let inside, apparently to get at Inkatha members.

The hearing was adjourned early yesterday afternoon to enable inquest chairman Mr Justice Eddie Stafford to inspect the scene of the violence.

The hearing continues today. — Sapa

# 'Lothar's drops'

## Impassioned legal debate over evidence

CATHY STAGG

AN allegation that two men in a restaurant in Swakopmund discussed "Lothar's drops", a substance allegedly specifically developed by the police to use against hostage-takers, was the subject of an impassioned legal debate yesterday.

General Lothar Neethling has launched a R1.5 million civil action against the Vrye Weekblad and the Weekly Mail arising from interviews published in which Captain Dirk Coetzee claimed General Neethling, head of the SAP's forensic division, had supplied him with poison.

The legal argument was over the admissibility of evidence given yesterday by Stephanus van Niekerk Malherbe (25), a trainee manager with Anglo American.

Mr Justice J C Kriegler, who is presiding over the trial in the Rand Supreme Court, will give judgment on the admissibility question at 10 am on Monday.

Yesterday, Mr Malherbe testified that he met Jean Theron at Fagin's Pub in Swakopmund earlier this year. Mr Theron had left the SAP in 1982, but had been with the SAP forensic laboratories, under General (then Colonel) Neethling's command. Because the Vrye Weekblad article was a matter of public interest, Mr Malherbe said, he asked if "Lothar's drops" existed.

He was told they had been specifically developed for situations like the Silverton Bank robbery or the Fox Street siege to knock out people who asked for food or drink while holding hostages.

Mr Malherbe asked if Colonel Neethling would have allowed them to be used for unlawful political means.

### Furthering his career

Mr Theron, who obviously admired and respected his former mentor, Mr Malherbe said, replied that if an occasion arose where Colonel Neethling had to choose between his conscience and furthering the aims of the police, which also meant furthering his career, he would probably choose to further his career.

W Oshry, QC, for General Neethling, submitted that an informant's opinion of what General Neethling might do in a hypothetical situation had no probative value.

R D Levin, SC, for the defendants, said this case pitted the press against the police in a real sense. It was of utmost importance to the parties — but also concerned the role of the police in South African society and the public importance of that was borne out by the fact that the Government had appointed two commissions to investigate it. He said the evidence was too important to be ripped in the bud.

"If it can be established that Coetzee's evidence that there was a band of captains acting on orders to eliminate inconvenient ANC people, is correct — this evidence goes to the root of the case and is inconsistent with anything General Neethling has said so far," Mr Levin submitted.

The court heard that Mr Theron, a Namibian citizen, need not respond to a subpoena from South Africa. When contacted by the defence team, Mr Theron said he had nothing of relevance to say during the trial.

● Under cross examination yesterday General Neethling confirmed that he returned from an overseas trip on October 24 1981. This point, now common cause, arose because Captain Coetzee claimed that he went to General Neethling's home on Sunday October 25. General Neethling agreed he was in Pretoria on that date but denied Captain Coetzee called on him.



### Tears over for Ma Coetzee

"I SWAM in my tears once, but no longer." This was how Maria Coetzee explained her feeling about her son Dirk's present position. Mrs Coetzee, seen leaving the Rand Supreme Court with a Vrye Weekblad journalist, testified during the civil action launched by General Lothar Neethling against two newspapers which published interviews with Captain Dirk Coetzee. Mrs Coetzee testified that when her son took her to town one day, he made a detour to fetch "something" from Gener-

al Neethling at the forensic laboratories. Her elder son, Ben, told her at the start of the trial that her information may be important even though she could not remember the exact date. Mrs Coetzee said during cross-examination she was not surprised Dirk had never said in the press or during his evidence before the Harms Commission that she waited for him in the car, because he knew how much she disliked publicity.

● Photograph: KEN OOSTERBROEK

### 'Practice' k

ROMANTIC novels and other "light" are favourite reading for rightwinger Lottering, who admitted to killing a blood "for practice".

Mr Lottering said this yesterday reading out a 37-page document — reasoning behind his actions.

He and fellow rightwinger F. charged in the Rand Supreme Court of former Sunday Times columnist flat and the murder of taxi driver F. mele. They have pleaded not guilty, tempted intimidation, unlawful and ammunition, malicious damage to robbery with aggravating circumstances from custody.

Mr Lottering, a self-professed fighter, he had never served in the army — three years working in the Post Office.



HARMS COMMISSION

# Webster: the road to nowhere

## No clues, no findings 18 months after killing

THE findings of the anti-apartheid activists are rarely solved. It is revealed that Webster had just completed a report on assassinations and abductions by South Africa's "contras". Law and Order Minister Adriaan Vlok offers a R10 000 reward for information leading to the arrest of the murderers.

● May 3 Police release detailed identikit of three white suspects Colonel Mostert says it is possible that the murder was "not political". An "eyewitness" — unnamed — is said to have supplied the identikit details. Mostert announces that the deputy chief of the CID, Major General Jaap Joubert, is personally supervising the "intense police hunt". The University of the Witwatersrand adds R10 000 to the SAP reward.

● May 5 Lieutenant Eugene Opperman says there has been an "overwhelm" of public requests to do so a week before.

● May 19 Police trace an eyewitness and say they have improved identikits, but will not release them. Barend Strydom claims the Wit Wolwe killed Webster.

● May 27 Colonel Steve van Rooyen says the investigation "is still ongoing".

● June 13 Police question a Potchefstroom University student who had been asking after a friend of Dr Webster's in Kosi Bay. It is a false alarm.

● The SAP says it "prefers not to comment" on the alleged existence of improved identikit Gen-

● February 7 Abraham "Slang" van Zyl is arrested, and police are looking for at least two former members of a secret military squad.

● February 16 General Joubert appeals to Staal Burger to come forward. Burger and Botha later go into hiding. The CCB is exposed.

● February 24 The Star claims to have the names of the five-man team it believes killed Dr Webster. The list is handed to the police. Mostert "notes" the information, and says he suspects the CCB was involved.

● March 25 It is revealed that Johannesburg City Council spies were monitoring Dr Webster six months before his death.

● April 27 Former council employee Hannes Gouws, in London, names the killer as a Paul de Swardt. Mostert says he has no knowledge of the man.

● April 29. It is reported that the hit squad is about to be arrested.

● April 30 "Webster hopes fade", a newspaper reports, and Mostert says there is "little hope" of finding De Swardt.

● May 9 Mostert says he has no facts "which would stand up in court" to link anyone to the murder. It is conceded that the original identikits were wholly unreliable, as the "eyewitness" had not been at the scene.

● May 10: Mostert tells the Harms Commission he is now certain that the CCB was not involved — nor were Burger and Botha.

● May 17 CCB managing director Joe Verster tells Harms it was possible that the CCB was involved without his knowledge.

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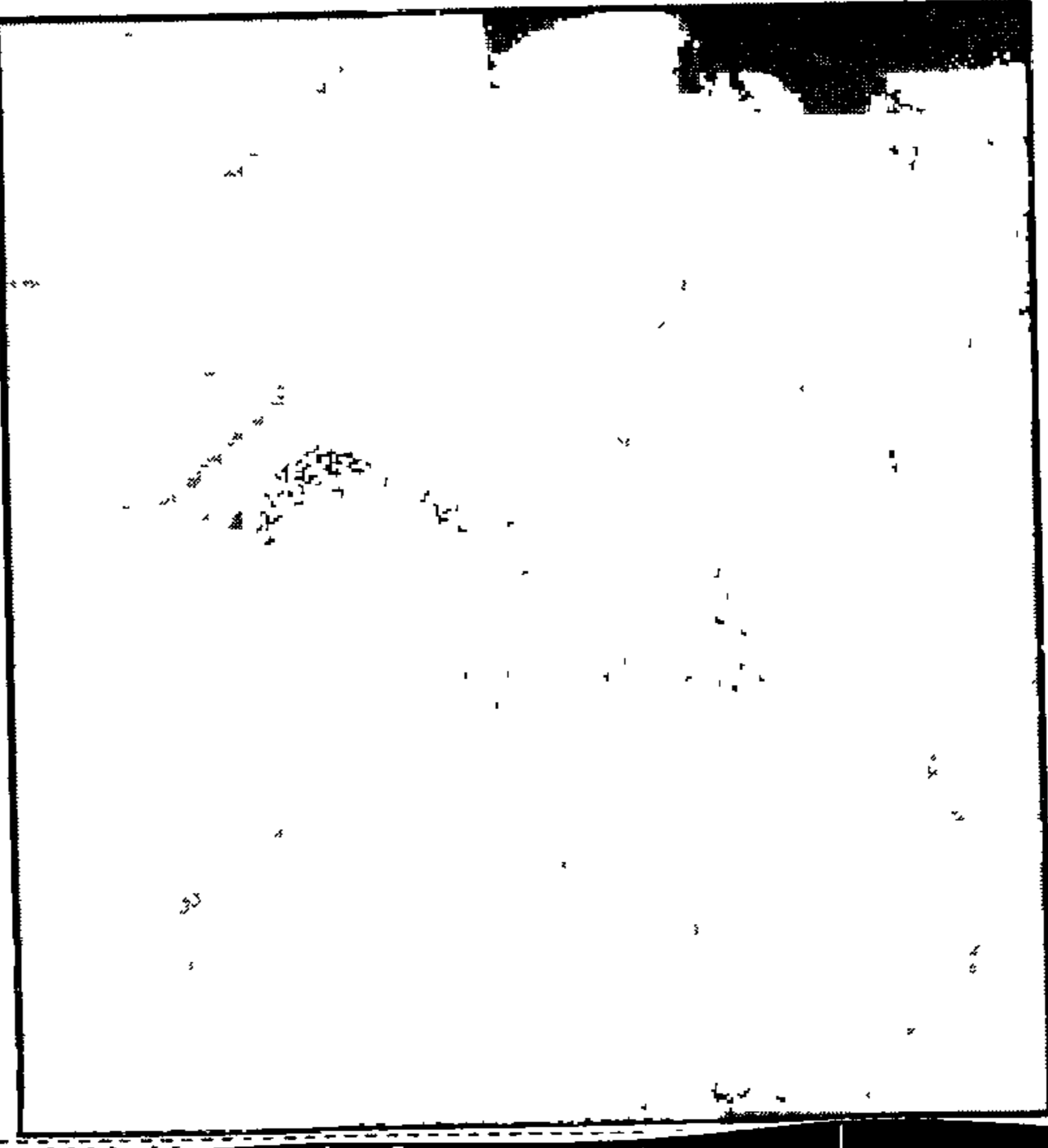
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Prelude to assassination . . . David Webster with girlfriend Maggie Friedman. His close friends put little trust in those assigned to investigate the murder



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on the verge of being solved — but each time hopes have been dashed

### Anguish

Now the Harms findings — that the killing remains a mystery in which the Civil Co-Operation Bureau "might" be implicated — have provided the cruellest blow

The twists and turns of the investigation, and the myriad theories it has spawned, tell of an extraordinary period of South African history, still to be unravelled

Seen together, it is a story of suspense and, overwhelmingly, anguish for those who want Dr Webster's killers brought to justice. These are its peaks and troughs

● May 1 Webster dies of shotgun wounds outside his Troyeville home. A colleague, Audrey Coleman, immediately says it was "definitely a political assassination". Police say they have no witnesses to the shooting, and the registration number of the killers' vehicle is "not yet known"

● May 2 Colonel Floris Mostert, the investigating officer, appeals to witnesses to come forward. Cosatu's Jay Naidoo blames "the death squads of apartheid" for the murder. The Detainees' Parents Support Committee notes that Dr Webster had frequently been in confrontations with the police. The Black Sash's Judith Hawthorne warns that assassinations of

sponse" Mostert says, he cannot reveal the make and colour of the car. Human rights organisations are sceptical about the identikit, asking how such inordinate detail could have been gleaned from a moving car. Dr Max Coleman dismissed the theory that the murder could have been non-political; it was too professional, he says

● May 6 Brigadier Leon Mellet rejects as "pure speculation" the suggestion that a "hit squad" was involved. "We will solve this case," he says. Mostert says breakthroughs have been made and details will be announced soon

### Revenge

● May 7. City Press says it has identified a suspect and given his name to the police

● May 9. Mostert rejects the City Press' lead. No suspects have been positively identified, he says. The press is indulging in "dangerous speculation"

● May 12. Max Coleman says the motive for the murder was probably ideological and revenge-driven. Dr Webster's friends speculate that his confrontations with police at detainees' "tea parties" could have marked him as a target

● May 13. Police refuse to release further information as press reports are "hampering the investigation". He refused to describe the killers' car, despite having pro-

eral Joubert appeals to the public for assistance

### Not trusted

● August 24. The Saturday Star's weekly "Webster Watch" column keeps attention focused on the case. The Webster Trust collects money for an enlarged reward. Joubert says the investigation has reached a "cul de sac", and implies that Dr Webster's colleagues do not trust the investigators. Maggie Friedman, Webster's girlfriend, denies this, and says she is being "kept in the dark"

● September 18. The reward reaches R100 000

● October 25. A possible link is mooted between the murder and Donald Acheson, in prison in Namibia in connection with Anton Lubowski's killing

● November 19. Joubert says there is no positive evidence to link Acheson to the murder

● November 30. After the "hit squad" revelations, police detain a former West Rand Narcotics Bureau detective, Ferdi Barnard, in connection with the Webster case. The first reports of a "special right-wing organisation which planned the assassination of left-wing activists", emerge

● December 1. Hopes are high for a breakthrough, more arrests expected

● December 13. It is spe-

# 'I saw police run their vehicle over the water containers'

**NEW evidence of alleged police action during the Wesselson water switch-off last month has been handed to The Star.**

In affidavits compiled, signed and attested to by five people, it is claimed:

- Police slambokked women carrying water in plastic containers
- Police crushed containers by riding over them with Casspir armoured personnel vehicles.
- Police punctured other containers.
- Police threatened women and children with arrest.
- Police took other people to a police station.
- An Ermelo municipal policeman pointed a firearm at a man doing his washing.
- The Commissioner of the South African Police, General Johan van der Merwe, said in a statement last week "no shred of evidence" existed to support a story published in The Star earlier that police had taken action against Wesselson people who had received permission to obtain water from premises owned by Indians at Cassim Park, near Ermelo.

He has instituted an internal inquiry, under the chairmanship of eastern Transvaal regional commander General "Robbie" Robertson.

Colbert Saunders, a bank employee, says in an affidavit that on October 17, at about noon, he was in Cassim Park carrying two five-litre water containers. He was stopped by two uniformed SAP members driving a yellow Nissan bakkie with a canopy. They accused him of having stolen the water, but he told them that he had been given permission to take it. Mr Saunders said the police then left him and allegedly chased women across the street.

The woman, he said, dropped their containers on the road — "I saw police run their vehicle over the water containers, destroying some. After a few moments they came back for me."

A policeman forcibly removed the containers from him, Mr Saunders alleged. The water was emptied on to the ground and "with an unknown instrument (he) stabbed one of my containers."

He was again asked who had given him permission to get water and he replied that Indians in Cassim Park had done so.

"The policeman told me to go to the township and to pay my water account and rent, and I

told them that I had already paid," Mr Saunders said.

Police then drove to Mr Boer's garage, followed by Mr Saunders on foot. A second bakkie arrived and the occupants ordered Mr Saunders to go back to the township, calling him "an ANC terrorist," he said.

Three days later, Mr Saunders was taken from his workplace and driven to an office in Janoy Building in Ermelo, where there were a number of khaki-clad men. The policemen with whom Mr Saunders had arrived told the men that he was "Colbert."

"The whites, clad in khaki, greeted me with statements like 'Ja, Colbert, is jy terrorist, ANC?' (yes, Colbert, are you a terrorist, ANC?)" Mr Saunders said.

He told the men that all he had earlier told a journalist about the incident was the truth.

He was asked if he could identify policemen allegedly involved in the incident and if he had taken the registration number of the bakkie. Mr Saunders said he could not identify them and had not taken the registration number.

Mr Saunders then made a statement to a Mr van Aard and

Further claims of police harassment of people carrying or using water after the mains supply to Wesselson township, near Ermelo, was cut off last month have been made, reports **NORMAN CHANDLER.**

was driven home in a Hippo armoured vehicle. A slambokked container he had in his possession was taken by the police.

Millicent Ntombizodwa Sibongile Mawana, a nurse, says in her affidavit she and a number of other Wesselson people were carrying water at 9.30 am on October 17 when two Casspirs arrived.

"On the Casspirs were white policemen in their SAP uniforms. The policemen stopped and alighted with slamboks in their hands and started slambokking us. We ran in different directions, leaving our containers on the ground.

"I ran towards a farmhouse where I stopped and looked back. It is then that I saw the policeman driving the Casspirs over our containers, crushing them."

She was advised by the owner of the house — whom she did not identify — to hide at the back of the building.

Mithunzi Shadow Mashinini, an insurance salesman, says in his affidavit that he and his wife, Ndlephi, had been forced to go to a sewerage pump near Klipbou Boues, part of Wesselson, to wash their clothes.

"We started washing our clothes until Wesselson municipal police arrived in a bakkie. One identified himself as Mandla Nkosi, and the others, a man and a woman, are known to me by sight and I can identify them," Mr Mashinini said.

Police carrying firearms arrived and, says Mr Mashinini, "were very much aggressive. They started questioning my wife how she came to do her washing at that place. An argument ensued between Mandla Nkosi and I, and he pointed a firearm at me and threatened to shoot me."

While this was taking place, a white municipal employee arrived on the scene and told the Mashininis they should not do

their washing in the sewerage as it was poisonous — "the appeared sympathetic to our fate."

Mr Mashinini and his wife were ordered to collect their washing and to get into the Ermelo police station, where they remained for about 90 minutes. Mr Mashinini grew tired of waiting and decided to go home "as there was no complaint coming to lay a charge against us."

The couple left their washing at the police station, and despite requests for it to be returned, this has not been done. On October 29, Mr Mashinini lodged a complaint about the disappearance of the family washing.

Sesana Beauty Maphosa, of Wesselson, says in an affidavit that although she and others — including four children — had permission to take water, a policeman kicked at their containers, took out a knife "and slashed the plastic containers."

They were threatened with arrest and police ordered an Indian man identified as "a Mr Josou" to lock his premises to prevent people getting water. Boetie Tilly, a garage owner,

has given two statements to police and one to The Star, saying that he had seen policemen harassing people carrying water after the supply to Wesselson was cut off. He repeated his allegations to Minister of Law and Order Adriaan Vlok during a radio talk show.

Mr Tilly has denied that he had retracted a statement he made to police.

Yesterday he gave The Star an affidavit in which he says police were aggressive to him when he first told his story to them. Mr Tilly had been interviewed earlier by a reporter from The Star.

In his affidavit, he says, "The policeman (who came to his office at 10.30 am on October 19) told me they wanted a statement about what happened on Wednesday (October 17). Indeed, I told them exactly what is contained in this affidavit.

"They took the statement in the manner in which they spoke to me was not polite."

A Major Otto then visited him at 6 pm the same day for another statement, saying the earlior one had not been "up to standard" because it allegedly did not explain the entire incident.

Mr Tilly gave Major Otto an affidavit "exactly the same" as the other he had given.

A second major, from Middelburg, arrived with other police officers at about 3 pm on October 20.

"The major told me that I should give him another statement. I told him I had already made two.

"He told me those two statements were vague and I must give another which he himself would take. I refused. I said that if they insisted on a third, I would first (want to) speak to my lawyer."

Mr Tilly added: "I wish to make it clear that I refused to make a third statement because at that time I was convinced the police were using this method to harass me and at the same time get me to make contradictory statements."

He said the number of policemen that afternoon "made me feel like a criminal and at the same time I panicked. As I thought it could be members of the AWB (Afrikaner Weerstandbeweging) who had made numerous telephonic threats that they were going to kill me for the statement I made in the newspaper." □

## □ HARMS COMMISSION REPORT

# So what was uncovered?

**E**SCHHEL Rhoodie of Info scandal notoriety once said about official commissions of inquiry "What is being investigated is not the truth of the matter, but any person who may dare to publish information which could prove that the government was involved"

For many people this week's finding by the Harms Commission that police hit squads have never existed, confirmed Rhoodie's statement

Lists of the names of hundreds of victims of alleged hit squads were submitted to the commission. It was not the commission's task to investigate all the individual cases, it was rather to find a pattern or patterns that the authorities should investigate

One question was clear, are there people in the government or certain government sections who follow a secret murder policy?

Early in his report Harms complains that his work was politicised and that "parties" tried to score political points. What a strange complaint! After all, political murders are about politics and murder

And the one who proves that a politician or political party or institution is involved in murder, is going to score political points

Just as strange is the commissioner's statement that it was not his assignment to investigate "the security arm of the State and the so-called Civil Co-operation Bureau or the PAC and ANC"

What did he have to investigate? There were serious allegations, with evidence, which implicated both the "security arm" of the State and the ANC in political murders

The public and the State already know a lot about the activities of the

Special Correspondent MARTIN WELZ looks critically at the Harms Commission report which was released this week. Judge Harms found that there were no hit squads in the SAP but he was more critical of the activities of the Civil Co-operation Bureau (CCB) – a secret arm of the SADF. He referred several cases to the Attorney-General but stopped short of blaming Defence Minister Magnus Malan for the activities of the CCB

ANC

But the opposite is true concerning the murder of opponents of the government. Therefore the "security arm of the State" and the CCB – the commission maintains a false distinction between the two – should have been investigated by the commission, in depth and in detail. The commissioner concedes it in a footnote

Under the probably absurd assumption that the State would expose itself to a conviction of murder, there were expectations of judicial independence.

It was hoped that the commission would create greater opportunities for the collection of evidence and how it would be presented.

It did not happen. Harms says he was given private access "to all classified material in possession of the police and the army" but, repeating the pattern of failed police investigations into unsolved murders, key documents had disappeared. There were numerous examples of missing diaries and documents which would show where specific security policemen were at specific times.

Harms says he did not have the power to subpoena witnesses or to question witnesses "unless the evidence was strictly related to the brief of the commission"

He strictly defined his brief not to

include the "security arm" of the government or the CCB. Therefore Defence Minister Magnus Malan, Law and Order Minister Adriaan Vlok and several generals allegedly involved were not asked to testify.

■ Former security policeman Captain Dirk Coetzee, who made serious allegations about police hit squad activities, this week wrote a letter to Harms in response to Harms' statement that Coetzee was a liar with psychopathic tendencies.

"Look, an angel I have never been, but a psychopath! I don't know where and how long and for what you have studied, but I do not believe you are a qualified psychologist able to make such statements"

He asks why the commission did not have him examined psychologically. He was willing to have it done.

He says Harms had been led up the garden path by other security policemen who testified. It was part of a security policeman's job to be a skilled liar

He says he regards Harms as a naive person who could not believe what he heard when he listened to Coetzee's evidence

He assured Harms that he had told the truth "That you will still learn" – *Vrye Weekblad*

# More questions than answers

S Times 18/11/90

AS2

AS2

THE HARMS Commission has asked more questions than answers. That is the verdict of legal experts on the Harms findings which this week appraised the defence force on he knuckles over its "hit squad" activities while exonerating the police.

Pretoria University director of the Centre for Human Rights Johann van der Westhuizen said he report by Mr Justice Louis Harms was "an opportunity lost" to restore the status of South African judges in the eyes of the broad public.

"After more than 70 days of hearings — both inside South Africa and abroad — the public is not much closer to knowing what really happened," he said.

Stellenbosch law professor Joutrens du Plessis said the probe was "an exercise in futility".

"The country now knows nothing more than it knew when the commission was appointed in February," he said.

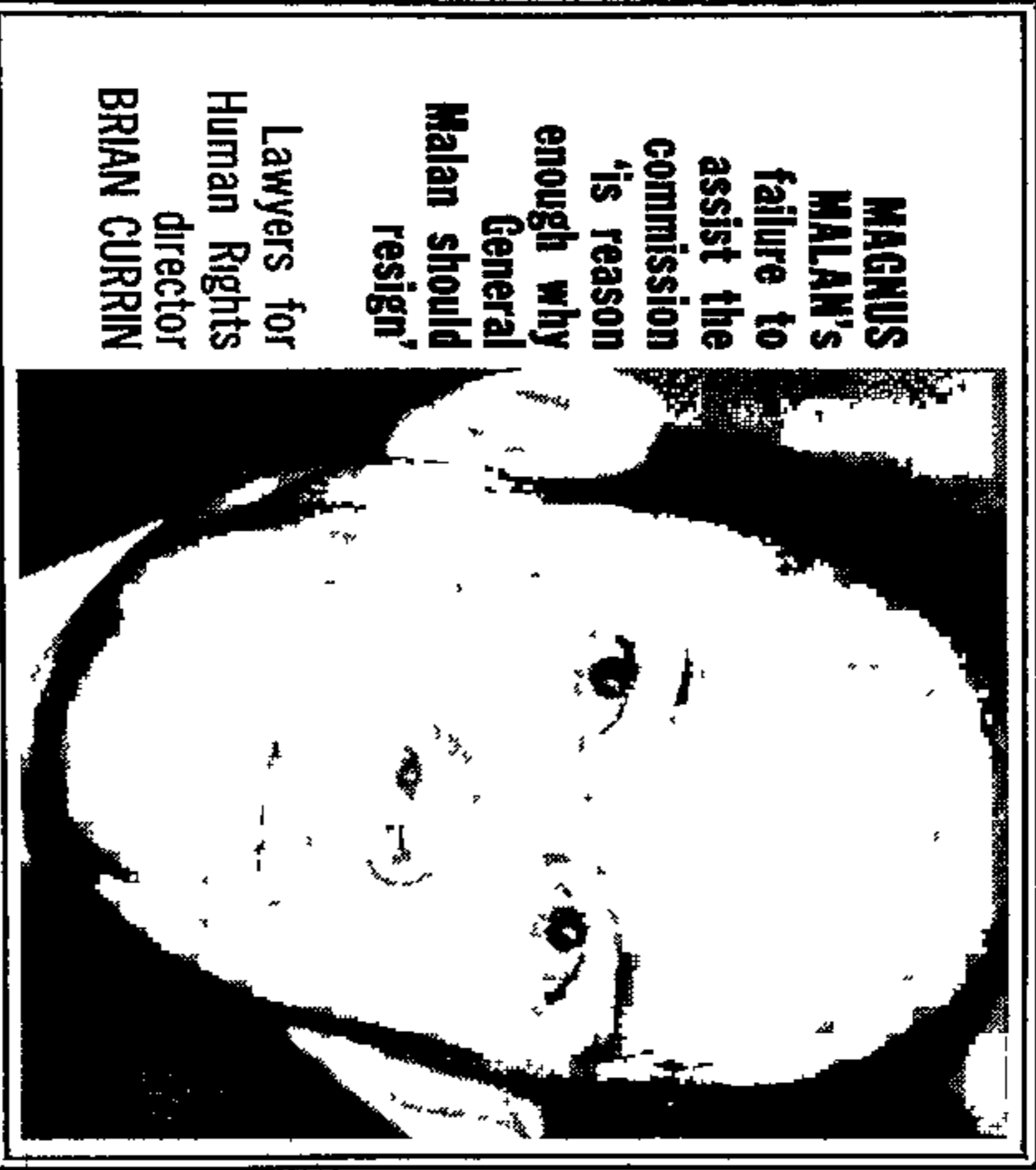
## Failure

Lawyers for Human Rights director Brian Currin called the report "a very disappointing document. We still don't know who was responsible for, or knew about, the it squads".

Criticism of the report centres on three aspects

● The narrow terms of reference of the commission and the very narrow way in which Judge Harms interpreted them,

● Failure to determine political



**MAGNUS MALAN'S failure to assist the commission 'is reason enough why General Malan should resign'**  
Lawyers for Human Rights director BRIAN CURRIN

accountability for the actions of defence force members.

● The blanket absolving of the police from hit squad allegations Judge Harms's chapter on the activities of the SADF's Civilian Co-operation Bureau could easily have been dubbed "The Case of the Lost Documents".

On no fewer than 12 occasions in the report Judge Harms refers to the fact that he did not have access to certain information which would have enabled him to get to the truth. And in a further five instances he refers to the fact that individual members of the CCB who testified before the commission refused to divulge important information.



● There are no documents on the origins of the CCB. "For some reason or other — the SADF alleges — there is no documentary evidence of Colonel Vester, was "so vague or contradictory that at various points it is of no value".

Some witnesses had their own motives while others wanted "to make money out of their evidence or are merely extortionists".

The evidence of Brixton murderer and robbery squad Brigadier Floris Mostert was "extremely suspect".

Yet other witnesses were not called for cross-examination "because this might have had too great an influence on a criminal prosecution".

● In certain cases, such as the

## SPECIAL REPORT by DRIES VAN HEERDEN

ance of these documents "unpardonable".

● CCB managing director Colonel Joe Vester continued exercising authority over the CCB in spite of his suspension by the SADF and "until late in June 1990 controlled or tried to control access to documentation".

● CCB members testified that they had to take action against individuals "in exceptional cases" where the security of the state was in danger. The validity of this excuse could not be tested because the witnesses "refused to give particulars on the grounds that such answers may incriminate them".

## Evidence

● Judge Harms said he had "a serious problem" relying on the witnesses who did give evidence. The evidence of some, such as that of Colonel Vester, was "so vague or contradictory that at various points it is of no value".

Some witnesses had their own motives while others wanted "to make money out of their evidence or are merely extortionists".

The evidence of Brixton murderer and robbery squad Brigadier Floris Mostert was "extremely suspect".

Yet other witnesses were not called for cross-examination "because this might have had too great an influence on a criminal prosecution".

● In certain cases, such as the

attempted murder of a black Durban attorney, the witnesses were so "untrustworthy" that it was "impossible to make any further factual findings".

● The search for documents on the murder of Wits academic David Webster was hampered because the commission "was at first unable to identify the premises of the CCB". When they were eventually located "it appeared that the relevant documentation had either been destroyed or concealed by members of the CCB".

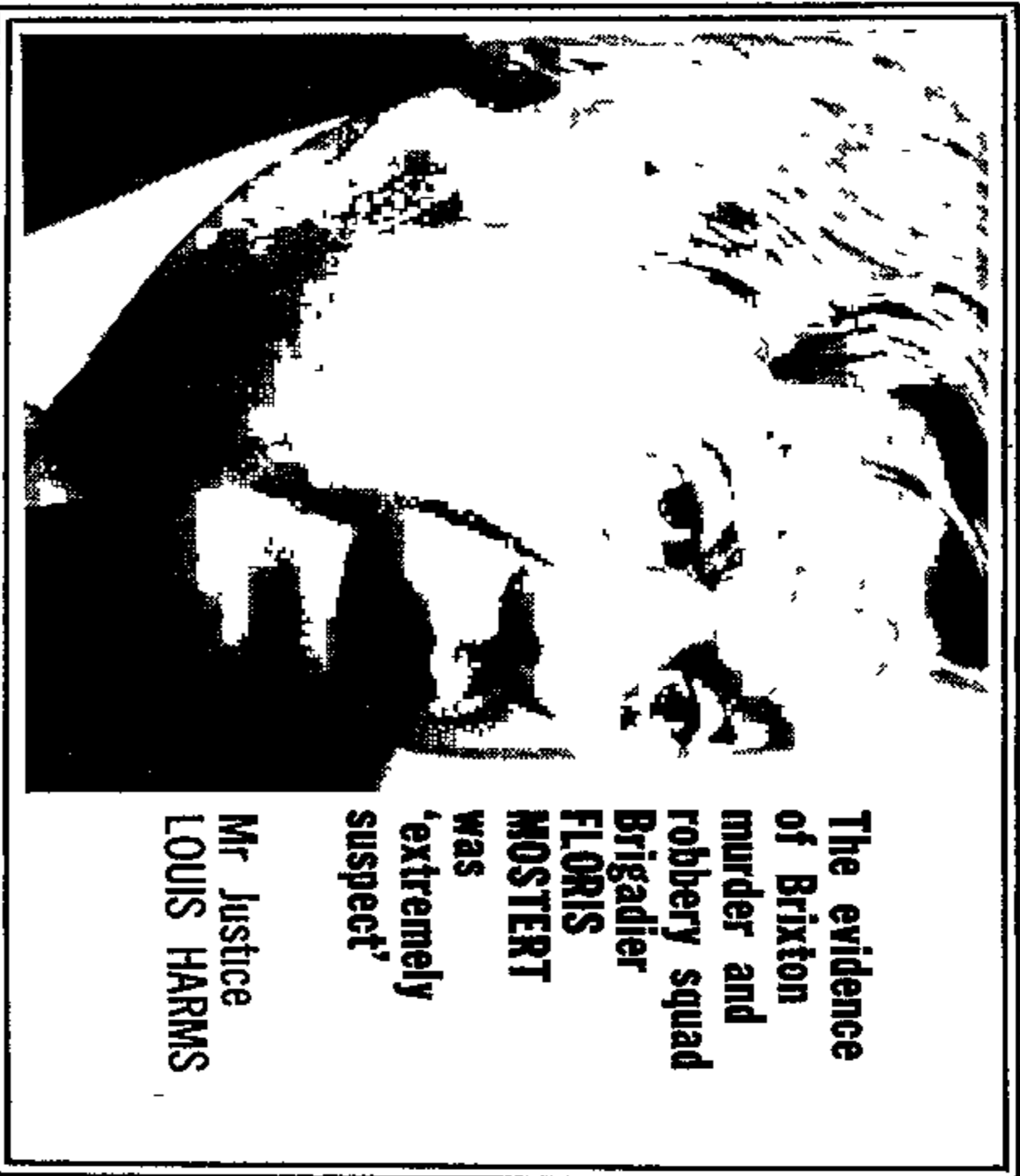
In spite of interventions by President F W de Klerk, Defence Minister Magnus Malan and defence force chief Kat Laeberberg, the "documents were and still are missing".

"Officers of the commission searched various premises and strongrooms in vain. Members of the CCB admit that the documentation is missing but plead ignorance."

The result of this was that Mr Harms was unable to determine exactly who killed Dr Webster. "One cannot be blamed for suspecting the CCB of this murder, particularly since the CCB has done nothing to allay such a suspicion."

## Feverish

"All that the evidence shows is that the CCB might have murdered Dr Webster. There is, however, no



**The evidence of Brixton murder and robbery squad Brigadier FLORIS MOSTERT was 'extremely suspect'**  
Mr Justice LOUIS HARMS

have been involved in more crimes of violence than the evidence shows".

● Dealing with allegations about police hit squads, Judge Harms said the evidence should be seen in the light of the fact that the main events took place in 1981 and that the passage of time might have led to faulty recollections.

There was also "a lack of documentation" which could serve as proof of guilt or innocence. And, in addition, members of the security police were not required to keep diaries.

● A major problem that faced the commission was the fact that so many of the allegations were based on the revelations of former

Defence Minister Magnus Malan

This failure to assist the commission was "reason enough why General Malan should resign", he said.

"He did not know what was happening in his own department and he made little effort to ensure that those serving under him co-operate with the Harms probe."

Professor Van der Westhuizen said the commission "could have done more to find the missing documents" and to get to the bottom of the matter. "In the end, South Africa is left with a very unsatisfactory report that does not answer the questions everybody is asking."

Professor Du Plessis said Judge Harms used "technical legal points" to explain why he did not make a finding on political accountability for hit squad activities.

"The commission started off with extremely narrow terms of reference. And Judge Harms interpreted it even more narrowly by refusing to investigate any allegations that touched on the CCB's external operations," he said.

## Actions

"We are now exactly where we were at the beginning of the probe. We still do not know who gave the orders or knew about the hit squads or which politician should take responsibility for the actions of the men under his command."

However, Mr Currin believed that "something good" might still result from the investigation. "In a sense the whole country has lost its innocence about sin-

5/Times

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this suspicion to nothing more than mere suspicion," Judge Harms concluded

The main evidence pointing to the contrary is that Colonel Verster "feverishly made inquiries" to determine whether any CCB operative was responsible for the murder.

● Referring to the fact that the actions of the CCB had "contaminated the whole security arm of the state", Judge Harms concluded that the conduct of CCB operatives had created "suspicions that they

## CCB secrecy continues

THE SA Defence Force has refused to divulge details about the future of General Eddie Webb, Chappie Maree, Staal Burger and other CCB operatives implicated in alleged crimes by the Harms Commission.

A spokesman also declined to answer any written questions by the Sunday Times relating to the number of CCB front companies still in operation and the number of

operatives still on the payroll.

Said the spokesman: "We have nothing to add to the statement already. The defence force is not prepared to divulge information of this nature."

CID deputy chief General Jaap Joubert declined to comment on the findings of the commission, but confirmed that the police investigation into the assassination of Dr David Webster was continuing.

ter activities" conducted by members of the security forces," he said

"The public still doesn't know exactly what happened, but they have their suspicions and they will be sceptical about any official denials in future

"And both the SADF and the SAP now know that any of their covert activities cannot go undetected for any period of time. It may make them more careful in future and put the politicians responsible for their actions on their toes"

Don't fear  
it is only  
a picnic

IT is now official: the South African police do not have units who murder political opponents of the government, *Vrye Weekblad* said this week.

In a strong criticism of the report by Judge Louis Harms, the weekly asked whether clandestine units who murdered political activists should rather be described as picnickers.

The Harms report was not only a slap in the face of the families of murdered people, the paper said, it was also a setback for our judicial system.

The weekly called for a fight against insensitivity about the lives of citizens.

"Otherwise no one will point a finger if such happenings appear again in a new regime under a new form of government," it cautioned.

□ "ALL people in the country who respect facts and the truth know from general information that exactly the opposite is true. The police do not play on the political playground."

So writes Law and Order Minister Adriaan Vlok in *Vrye Weekblad* in reply to the DP MP for Claremont, Jan van Eck, who wrote last week that "the police are again busy becoming the main players on the political terrain".

■ PROGRESS made since February 2 would be wiped out in a week if every party in South Africa followed the ANC's example in falling back on political battle methods which worked in the past, *Beeld* said this week.

"The NP harnessed *swart gevaar* tactics to great advantage in the past," the paper said, asking whether anyone in his right mind would suggest shouting *swart gevaar* today.

"The ANC's renewed campaign of mass action and public resistance is little different to such a retreat to the hackneyed practices of the old South Africa," it said, calling on the organisation to abandon the "futile effort".

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# Cop shocked at SADF action

By SOPHIE TEMA

A POLICE constable told a Supreme Court inquest he was "shocked" when he realised that sharp-point ammunition was used by the SADF to shoot into a crowd in Sebokeng.

Constable Marius van Huysteen, of the Krugersdorp Criminal Section's video unit, made this revelation at the inquest - held at the Vereeniging Magistrate's Court - into the deaths of 42 people killed in Sebokeng on September 4 this year.

The incident occurred when Inkatha members allegedly clashed with hostel dwellers at Sebokeng hostel.

Police later recovered

an arsenal of weapons and arrested Inkatha Youth Brigade leader Themba Khoza and 137 Inkatha members.

Van Huysteen's video recording, screened in court, showed SADF members shooting into a crowd outside the hostel.

In a running commentary on the video, Van Huysteen could be heard saying in Afrikaans: "The defence force members are beginning to act.

"They are using sharp ammunition."

Asked by the legal representative for 12 families of those killed, advocate Gys Rautenbach, why he raised his voice during his commentary, Van

Huysteen said: "I was shocked and surprised when I realised that sharp-point ammunition was used to shoot into the crowd."

Van Huysteen told the hearing that on the day he had not observed any movements by the crowd that suggested the SADF was to be attacked.

Van Huysteen agreed with inquest chairman Judge Eddie Stafford's observation that apart from a few stones thrown at SADF members, there had not been a general attack on the soldiers.

Stafford said he had also observed from the video that most of the people were shot while run-

ning away.

MaThuto Ntseoana - whose husband Joseph died in the shooting - and her niece MaTukelo, travelled from Likhutloaneng in the Transkei to be present at the hearing, but said they could not follow the proceedings because they could not understand Afrikaans.



# Horror shooting — on video

Sitmas 18/11/90

By BOETI ESHAK

AN INQUEST court was told by a policeman that he was "surprised" when live ammunition was used to disperse a crowd running away from security forces

Constable Marius van Huyssteen was giving evidence in the Supreme Court at Vereeniging, which is probing the deaths of 42 people in Sebokeng on September 4

The inquest is chaired by Mr Justice Eddie Stafford

It is alleged 11 of the dead were shot by South African Defence Force troops called in to assist the police

## Arrest

The incident arose after fighting broke out between two groups — alleged supporters of Inkatha on the one side and ANC followers on the other — at a Sebokeng hostel

When police arrived, they found several bodies lying in the immediate vicinity of the hostel

The police investigation which followed resulted in the arrest of 137 Inkatha members, including Inkatha Youth Brigade leader Themba Khoza, and the recovery of a massive cache of arms

Most of the firearms — including AK-47 rifles, at least one SA-manufactured R4 rifle, a police issue P38 pistol and 38 pistol — were found in a

car to which Mr Khoza has been linked

Police video recordings of the incidents formed the major part of the initial evidence at the inquest hearing

When counsel for the families of the deceased, Gys Rautenbach, asked him why he was excited when the army started firing, Const Van Huyssteen, of the Krugersdorp police video unit, said "I was surprised that live ammunition was used by the SADF"

The policeman said the shooting lasted for 22 seconds "I did not see them throw stones at the SADF"

Earlier, he testified that only a small number of people in the crowd threw stones at a police Casspir. Most were bystanders

On the soundtrack of the video, Const Van Huyssteen is heard to say "The SADF members are starting to act, they are shooting with live (skerppunt) ammunition"

This is followed by a volley of rapid fire and the crowd is seen scattering in all directions. Detonation of tear-gas canisters accompanied the shooting

Some people in the crowd, appar-

ently wounded by the volley of shots, were helped away by their friends. Other wounded people were unable to move

Ripples of horror ran through the public gallery as bloody scenes appeared on two video screens

The scene immediately after the shooting showed a man with a face wound attempting to sit up before slumping to the ground, his left cheek reduced to fleshy tatters

## Bodies (252)

The camera also filmed another man shot in the back of his head. He was lying still and Const Van Huyssteen was heard on the recording saying he was dead

Another policeman, Colonel Frederick van Niekerk, of the Vereeniging police, said in a statement he made shortly after the incident and read to the inquest on Thursday he was convinced the Inkatha followers were responsible for the bodies police found before the SADF shooting

On Thursday afternoon the court inspected the scene of the violence

Three legal teams, representing the deceaseds' families, the SADF and 137 Inkatha members, are attending the inquest

The hearing, which continues tomorrow, is expected to end on December 14

# TvI A-G sets story straight

THE Attorney-General for the Transvaal Provincial Division of the Supreme Court, Mr D B Brunette, SC, said on Saturday he had the greatest respect for the findings of the Goldstone Commission of Inquiry into the Sebokeng shootings on March 26 this year, and stressed that he had never rejected those findings.

Brunette said in a statement several reports regarding possible prosecution following the findings of the Goldstone Commission of Inquiry appeared in the Press during the past two weeks.

"In most of them the position regarding the possibility of prosecutions is reflected in the wrong perspective," Mr Brunette said.

"I refer here particularly to the article: 'Attorney-General on Trial' by Dennis Davis in *Sunday Star* of 11 November, 1990, in which he alleges that I refuse to act

on the commission's report.

"The true fact of the matter, which I have repeatedly stated to the Press, is that I have not yet taken a decision whether to prosecute or not in respect of any of the events covered by the report of the Goldstone Commission."

## Criminal trial

In a criminal trial the prosecution had to prove the facts on which the State's case rested, beyond a reasonable doubt.

"This is not the case in proceedings before a Commission of Inquiry, where there is no prosecution or State case, and where findings are usually made on a preponderance of evidence. The result is that evidence led before a commission has to be carefully re-evaluated before it is decided whether or not it will stand up to the heavy burden of proof in a criminal trial" - Sapa

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## Lawyers reject Harms report, call for international probe

CAPE TOWN — An association of lawyers has called for an international probe into politically motivated crime in South Africa, rejecting the Harms Commission report and alleging a cover-up backed by the Government.

"We believe that the people of South Africa are entitled to know the truth," the National Association of Democratic Lawyers said at the weekend.

"Nadel rejects the whole process as a sham and huge cover-up of SADF and SAP covert activities by the De Klerk Government and the security forces."

In calling for an international commission, Nadel placed blame for the alleged cover-up on President de Klerk. It said the Government's handling of the matter had ensured "that the truth is suppressed."

"We stress that the person primarily responsible for this cover-up is the State President himself, who refused to extend

the commission's terms of reference.

"The State President only conceded to a commission after severe pressure from all quarters. It appears that the delay afforded elements in the SADF and SAP sufficient scope to suppress the truth."

The Harms report, made public last week, found no trace of hit squads in the SAP.

"Nadel is therefore of the view that there has been no adequate and impartial investigation into the existence and the activities of hit squads within the SADF and SAP," the statement said.

It called for the resignation of Law and Order Minister Adriaan Vlok and Defence Minister General Magnus Malan.

"They should be called upon to resign forthwith. We refuse to accept that (the) Ministers should be allowed to escape responsibility," the association said. — Sapa

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# 'Coetzee told me of dirty tricks in '84'

By Cathy Stagg

A journalist, Martin Welz, testified that Dirk Coetzee had told him about a police "dirty tricks department" in 1984 — long before Captain Coetzee became embittered against the police — but he had not given the editor of Rapport the opportunity to print the story.

Mr. Welz gave evidence in the Rand Supreme Court yesterday during the civil trial in which the SAP forensic division's head, General Lothar Neethling, is claiming R1,5 million from Vrye Weekblad and the Weekly Mail.

In published interviews Captain Coetzee claimed General Neethling supplied poison to be used on "inconvenient" ANC members. General Neethling says this has defamed him.

## Hilarity

Mr. Welz said he heard Captain Coetzee's story early in 1984 in a private, social "off-the-record" situation, when Captain Coetzee told him "with some hilarity" how a new-fangled method using poison had not worked to get rid of two men. In the end, the two "recalcitrant informers" had been shot anyway because the old methods were more reliable.

Mr. Welz said Captain Coetzee's bravado came from a belief that the loyalty of his group superseded the law. He seemed proud of what he had done, regarding it as an achievement.

At that stage Mr. Welz, now a freelance journalist, headed an investigation team at Rapport.

He did not tell the editor, Dr. Wimpie de Klerk, about the story because he said Dr. de Klerk, as part of a political structure, might have considered it his duty to tell the police. That would have discharged Dr. de Klerk's onus but would have put Mr. Welz and his informant at risk.

"If you have a dirty tricks de-

partment, which appears to have no holds barred, with access to the highest authority, there must be some approval and protection. Any individual who sticks his neck out is taking his life into his own hands."

"I still believe it was a responsible decision," Mr. Welz said. "The more people you told, the more people were saddled with the risk."

When Vrye Weekblad published the first report in November last year, there was the additional fact of Almond Nofemela's affidavit, given on Death Row, about a police hit squad.

Once the decision was taken to publish, Mr. Welz agreed with the newspaper's decision to print everything at once.

"It was important for the newspaper to tell the story as Coetzee told it," he said.

"The only way to force a public inquiry was making private allegations public," he said.

He disagreed that General Neethling's name should have been kept out of the article. Compared to allegations about bodies of political activists, a failed experiment with some type of poison seemed like a relatively minor aside.

Mr. Welz said the reason he could remember the story Captain Coetzee had told him in 1984, yet was not sure who was present at a lunch a month ago, was that "never in my entire career had I been presented with a story such as Coetzee's."

He said Captain Coetzee's attitude changed towards the end of 1984. He was "enraged" with his colleagues, whom he believed had turned against him.

"Then he wanted to tell everything, he said he was going to 'get' these people."

Asked about the lies Captain Coetzee had told, Mr. Welz said "I don't say he is an attractive character but even liars can be credible sometimes."

Vrye Weekblad journalist Jacques Pouw, who wrote the article on Captain Coetzee, had been Mr. Welz's assistant at Rapport and knew part of the story in 1984, Mr. Welz said.

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# No indemnity for 14 PAC leaders

(252)  
Soweto 20/11/90

By ALI MPHAKI

THE Government has refused to grant indemnity to several Pan African Congress external leaders to attend the organisation's national conference in December.

Lawyers representing the PAC were informed by telefax that requests for temporary immunity for 14 of its external leaders had not been granted. No reasons were given.

The exiled PAC leadership denied indemnity include the

organisation's administrative secretary Mr Joe Mkhwanazi and secretary for foreign affairs Mr Ahmed Gora Ibrahim.

Others are secretary for economic affairs Mr Mfanekhaya Gqobose, repatriation committee chairman and secretary for education Mr Elliot Mfana, secretary for welfare Ms Nomvo Booi, chief representative in Uganda Mr Templeton Ntantala and chief representative in

Australia Mr Neville Legg

The refusal to grant immunity to allow the 14 men and women to attend the PAC congress at Shareworld, near Soweto, from December 7 to 9, was contained in a letter from the Department of Justice dated November 9.

PAC spokesman Mr Benny Alexander said the refusal came after the Minister of Constitutional Affairs had written to the organisation's

## PAC leaders refused entry

From Page 1

president requesting exploratory talks

"The refusal exposes the lie that political organisations are totally unbanned and free to conduct their affairs normally. It also impacts negatively on the sincerity of the regime," Alexander said.

The PAC had also requested that some of its external leaders should attend the funeral of its late president Mr Zeph Mothopeng but were refused permission

The PAC would now have to hold its congress without its 52 representatives around the world

Soweto 20/11/90

## 'Coetzee told his story in 1984'

FORMER police captain Dirk Coetzee told his story of political murder to a senior investigative reporter in 1984 but the political climate at the time prevented its publication, the Rand Supreme Court heard yesterday. (252)

Marin Wetz — a former political correspondent on the Sunday Express and head investigative reporter for Rapport — was testifying in the R1,5m defamation suit brought by SA Police forensics chief Gen Lothar Neethling against the Vrye Weekblad and Weekly Mail for publishing Coetzee's allegation that he had supplied poison for political murders.

Wetz said he met Coetzee in 1984 and was told on an absolutely confidential basis of alleged police operations.

Coetzee had told of obtaining poison from police laboratories, and had named Neethling.

Wetz said he had not kept notes of the discussions, and had met Coetzee privately.

Counsel for Neethling, Willie Oshry QC, asked Wetz in cross-examination whether he would have published the allegations about Neethling.

Wetz said he would not have done so at the time due to the political climate, but if he had written Coetzee's story at all allegations about Neethling would have been included. He believed Coetzee's story, he said. — Sapa.

# Indemnity refused for PAC leaders

Business Day Reporter

GOVERNMENT has refused to grant 14 exiled PAC leaders indemnity to enable them to attend the organisation's national congress next month.

A Justice Department spokesman confirmed this last night, saying the reason was that the leaders refused to "subscribe to the principles of peaceful solutions and developments in SA".

The refusal could significantly affect the PAC's decision at the congress on whether to accept an invitation to take part in constitutional negotiations.

PAC general secretary Benny Alexander said exiled leaders refused indemnity included administrative secretary

Joe Mkhwanazi and foreign affairs secretary Ahmed Gora Ibrahim, Sapa reports.

Alexander said government had told the PAC it had no principled objection to the external leaders attending former PAC leader Zeph Mothopeng's funeral or the conference.

Regulations requiring that people seeking indemnity give an undertaking binding themselves to peaceful solutions were recently gazetted by government.

The PAC has refused to abandon its armed struggle.

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# Degrading conditions 'may have led to crime'

By Musa Mapisa

Two Alexandra men who were found guilty of assault with intent to do grievous bodily harm after lashing a man 200 times in a "people's court" lived in poor conditions which might have increased their potential for violence and aggression.

Albert Tikulili (18) and Absolom Sibisi (18) appeared in the Johannesburg Magistrate's Court for sentencing yesterday.

They were found guilty of lashing Josia Madonsela (37) with a sjambok in April this year.

Arguing in mitigation of sentence yesterday, the defence counsel called a psychologist to give evidence based on interviews he had had with the accused.

The psychologist said Sibisi had lived with his parents, his maternal aunt and her two chil-

dren in a shack measuring about 2 m by 6 m.

"These conditions may well have heightened Sibisi's potential for aggression," he said.

The psychologist also said Sibisi had told him there was a great deal of crime in the squatter camp, where police had been unsuccessful in arresting the culprits.

"This may well have increased Sibisi's potential to participate in informal policing," said the psychologist.

Tikulili, said the psychologist, had an extremely negative view of the police. He saw them as persecuting and unsupportive of the residents of his community and society at large.

At the request of the defence, the court adjourned to inspect the living conditions in the Alexandra squatter camp and the scene where the lashing took place.

The trial continues.



# Government blamed for 'anarchy'

By Cathy Stagg

Two young men appearing in the Rand Supreme Court — accused among other things of murdering a taxi driver and bombing journalist Jani Allan's flat — were the victims of political events, Boerestaat Party leader Robert van Tonder told Mr Justice Irving Steyn yesterday.

Mr van Tonder, who claims to be the spokesman for about three million members of the "Boerevolk", said it was the court's job to tell the Government to stop

causing anarchy.

He was giving evidence at the trial of Fanie Goosen (29) and Cornelius Lottering (24). They have admitted committing the murder and bombing, as well as robbery with aggravating circumstances, unlawful possession of arms and ammunition and escaping from custody, but claim they are not guilty of crimes because what they did were "acts of war".

Mr van Tonder said the state of war had existed for "a couple of years now" As in the

1940s, the older men were the leaders and theorists.

He claimed the Government had created the state of mind which had caused Mr Goosen and Mr Lottering to be in the dock. If they had committed murder and robbery, it was no less than what the ANC had done for 30 to 40 years.

He said the Government did not have a mandate from the people for the changes it was implementing. It had also committed fraud and was dishonest.

The trial continues.

Star 21/11/90 (252)

# Counting the days on Death Row

**T**HE overall feeling is that of frustration because our hopes are continually raised and then dashed. We hoped to go home soon after the Pretoria Minute when ANC-related prisoners were pardoned, but we may still be here for a long time yet.

"In any event, none of us are going to die."

These are the words of Kenneth Kumalo, one of the 14 Upington accused sentenced to death for his part in the mass murder of a policeman in 1985. He has been at Pretoria Maximum Security Prison for 18 months.

Kumalo is one of the 51 prisoners on Death Row for politically motivated crimes. Another 283 facing possible execution are common law prisoners.

The death sentences of 18 prisoners, 15 sentenced for politically related crimes, are under review in the light of Criminal Law Amendment Act promulgated in July, and the Pretoria Minute of August, when the ANC and Government drew up a plan for the release of ANC prisoners and the granting of indemnity.

For all these prisoners, the State President's February 2 speech, when he announced a moratorium on the death sen-

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While the Government and ANC ponder the future of capital punishment, 334 Death Row prisoners wait anxiously. HELEN GRANGE reports on the feelings of two of them.

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tence pending the introduction of new legislation, has come as a great relief.

And although they are not yet certain what the future holds, most are confident that South Africa has seen the hangman for the last time, according to Kumalo.

He tells regular visitors — friends and members of caring organisations — of the anxieties, the tension and the hope among his cellmates facing an unknown future on Death Row.

"Fights erupted after the Government's announcement that ANC-related prisoners would be released. The common law prisoners felt envious about our new status and the fact that we would soon be going home." However, "since the announcement of a moratorium on executions, the atmosphere has been much lighter."

In the booth next to ours, Leonard Sheehama, a Swapo member sentenced to death for murder and sabotage in Walvis Bay, bears testimony to this

Youthful and handsome, he smiles and laughs as he converses with his visitors through the old fashioned cone-shaped talking/listening devices on either side of the glass pane.

"My cellmates here (who include Magoo's Bar bomber Robert McBride and Almond Nofemela, who admitted to the murder of Durban activist Griffiths Mxenge) think Leonard got a really raw deal from the South African Government.

"His political role was no different from South Africa's cross-border activities in other countries. His case is being reviewed and we think he'll be released," says Kumalo.

Kumalo himself is confident of release. He and the other 13 sentenced to death for their part in the controversial Upington "common cause" murder, an act they regarded as political, are appealing against their sentences. They have also applied for pardons in the light of the new developments.

The ugly reality of execution

is still fresh in Kumalo's mind. He remembers clearly the desperation of people who had just arrived on Death Row and the acquaintances he saw leave the prison section, never to return.

"When I first came here, I met a man from Cape Town in the cell opposite mine. He was the first person who spoke to me. After four days, he was taken out of his cell to the pot (a cell in which a prisoner is placed seven days before execution. It is said to be hot, according to Kumalo).

"I never saw him again and it was a shock for me. It took me about a month before I could come to terms with it, although I have never got used to being here," he says.

He also remembers how new prisoners, uninformed about their legal remedies, reacted to being on Death Row.

"Some used to start crying, because they thought they were going to die. Lawyers for Human Rights did a lot to help."

Asked whether ANC prisoners feel a pardon should be granted to mass murderer Barend Strydom, Kumalo replies "The difference with Strydom is that he has said he would repeat what he has done." □

# Inquest told police tried to prevent Sebokeng shooting

POLICE attempted but failed to stop SADF soldiers shooting at a crowd of people outside Sebokeng hostel on September 4, the judicial inquest investigating 42 deaths was told yesterday.

Police colonel Wessel van Niekerk told the inquest in Vereeniging he had been instructed over the radio by his senior officer, Col Piet Fourie, not to shoot at a crowd gathered outside the hostel. The crowd allegedly intended killing a group of more than 100 Inkatha members trapped inside.

Van Niekerk said he had run forward to relay Fourie's order to the soldiers, who had been called to the scene as the police had lost control

But he was too late — a 22-second volley of shots followed, leaving at least one person dead and several wounded.

Van Niekerk said according to a conversation he had overheard between Fourie and the officer in charge of the soldiers, there had been doubt as to who had issued the command to fire. He said Fourie had asked why the soldiers had started shooting, and the army officer had replied that he had ordered the firing of teargas, but not live ammunition.

Earlier evidence by two police video unit members was that people in the crowd closest to the soldiers sat

down in the street, apparently in a show of passive resistance, moments before the shooting started.

Although the only uncontested evidence of provocation has been that two army soldiers were hit by stones, Van Niekerk said he believed the soldiers had shot in self-defence.

Police W/O Anthony Slanger said in a statement read yesterday he had collected 96 spent R-4 automatic rifle shells after the shooting. While preparing to go to Sebokeng early on September 4, he had heard orders over a police radio that Inkatha members seen holding AK-47 rifles at the hostel should be "eliminated".

The hearing continues — Sapa

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Star 21/11/90  
**Nivea wins  
temporary  
interdict**

Star Correspondent

DURBAN — The Pine-town-based manufacturers of the Nivea skin care product range has been granted a temporary interdict in the Supreme Court, Durban, restricting the sale or distribution of a range of similar products that allegedly infringed the Nivea trade mark.

The interdict was brought by Smith & Nephew against M D Frysh International (Pty), a Johannesburg based manufacturer and distributor of cosmetic products, and H Golden and Company (Pty) of Durban, trading as Cheks.

Mr Justice Wilson ordered that the two responding companies show cause on January 23 why they should not be barred from infringing the registered trade marks of the Nivea range by using the mark "Viva", or "Viva" and "Creme" or "Liquid creme" on their products.

21/11/90

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# Treason charge proposition is 'astonishing'

By Cathy Stagg

A man accused of murdering a taxi driver, bombing the flat of former Sunday Times journalist Jani Allan, robbing a bottle store, and other crimes, should have been charged with treason, not common-law crimes, a judge was told yesterday.

The submission was made by Cornelius Lottering's pro deo counsel, R E van de Pol, in the Rand Supreme Court.

Mr Justice Irving Steyn, who is presiding over the trial with two assessors, said it was an "astonishing, amazing proposition" to suggest that because someone was guilty of treason, he was entitled to be acquitted of everything else.

"If we agreed with you, there would be chaos in the streets tomorrow. Everybody would go out and murder, rape or rob and say they were doing it in the name of treason," he said.

Mr Lottering and his co-accused, Fanie Goosen (29), who, according to evidence, support the Boerestaat Party, based their defence on the submission that what they had done amounted to "acts of war".

J J du Toit, who appeared for the State, submitted that Mr Goosen should be convicted of malicious damage to property and attempted intimidation, arising from the incident at Ms Allan's flat on July 14 last year; robbery with aggravating circumstances at a bottle store on August 29, the illegal possession of a 9 mm pistol and ammunition, and escaping from custody.

Regarding Mr Lottering, Mr du Toit submitted he should be acquitted of the unlawful possession of 9 mm ammunition because, although the pistol used in the hold-ups was unlicensed, Mr Lottering did have a licence for another 9 mm firearm. Apart from that, Mr Lottering should be convicted as charged.

The court heard that Mr Lottering had killed taxi driver Potoko Franzar Makgalemele to see whether he was able to kill someone so that he would be prepared when the order came for him to kill a leader.

Mr van de Pol submitted that the court should find that the unlawful killing was preparation for treason.

The judge said he would take some time to formulate his judgment and postponed the trial to tomorrow.

# Libel trial is told of police poison 'drops'

THE police forensics laboratory was for years supplied with plastic bottles by a wholesaler, the Rand Supreme Court heard yesterday in the R1,5 million defamation trial brought by General Lothar Neethling against *Vrye Weekblad* and the *Weekly Mail*.

Former police captain Dirk Coetzee testified in London earlier this year that some of the poison he was allegedly given by Neethling for political murders had been supplied in plastic containers.

Neethling is suing the newspapers for publishing Coetzee's allegations.

Becker Glass group managing director Mr David Soltz told the court his firm had been supplying plastic and glass containers to the police forensics department ever since

he had joined the company in the 1970s.

Mr Justice JC Kriegler on Monday provisionally accepted evidence by Mr Stephan Malherbe.

## Career

Malherbe told the court about a conversation in a Namibian bar with a Mr Jean Theron who had told him the police forensics department had supplied "Lothar's drops" or poisons for police use against hostage-takers.

Theron, who spent part of his national service under Neethling, allegedly said if Neethling had a choice between his conscience and furthering his police career he would have chosen to serve the police.

The case continues - Sapa.

# Vrye Weekblad plans to call mystery witness

*Blom 21/11/90*  
VRYE Weekblad's defence counsel is expected to produce a mystery witness today with new evidence in the R1,5m defamation suit brought against that newspaper and the Weekly Mail by police forensics head Lt-Gen Lothar Neethling

The witness would have his own lawyer and counsel, who were in a neighbouring state gathering evidence yesterday, the court heard

Mr Justice Kriegler yesterday ruled as inadmissible Friday's hearsay evidence by Anglo American trainee manager Stephan Malherbe, who had told of a conversation in a Namibian bar where he had heard al-

leged poison substances — "Lothar's drops" — did exist and might be used for political purposes

Reasons for the ruling would be given at the end of the case

Neethling is suing the Vrye Weekblad and Weekly Mail newspapers for publishing allegations by former police captain Dirk Coetzee that the general had supplied poison for political murders

Malherbe's hearsay evidence was ruled provisionally acceptable on Monday due to the absence of its original source, a Jean Theron who worked in the police forensics laboratory

during his national service between 1979 and 1982

Vrye Weekblad's defence was unwilling to call Theron as a witness yesterday, saying he would have to be declared hostile as he had been recruited by and maintained a relationship with Neethling

Yesterday, the court heard that the police forensics laboratory had been supplied with plastic bottles for years. Last week Neethling had testified his laboratory had never used plastic containers

Earlier this year Coetzee said some of the poison he had allegedly been given by Neethling had been supplied in plastic containers

Becker Glass group MD David Soltz told the court his wholesale firm had been supplying plastic and glass containers to the police forensics department since he had joined the company in the 1970s. But as he was unable to produce company records of the transactions without a long delay, he was excused from giving further evidence — Sapa

Brian Currin examines the impact of Government soul-searching on capital punishment

# Putting a case for clemency

Spd 2/11/90

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**T**HE last execution to take place in South Africa was on November 17 last year — already one year ago

If by the end of this year the allows in Pretoria remain un-

sed, we will have earned ourselves a place at the bottom of the list of hanging nations. A far cry from 1987 when the hangman at Pretoria's maximum security prison was fully employed, and when South Africa maintained a firm position at the top of the list. Sadly, alongside this development, we have witnessed a steady decline in the use of the presidential prerogative of mercy, a prerogative which remains despite oratoriums, Criminal Law Amendment Acts or joint group reports. Since January 1 this year, 12 condemned prisoners have had their sentences commuted by State President, in contrast to 11 in 1987.

On February 2 the President announced a moratorium on all executions, pending the introduction of new legislation. Seemingly, the Government had conducted its own investigation into the laws governing capital punishment and had arrived at certain conclusions.

During the process of this investigation (which had taken place over a period of 18 months, according to the Minister of Justice), over 100 people had been interviewed — people who were unable to take advantage of the soul-searching taking place within the Government.

This method of investigation stands in stark contrast to the process currently under way in Transkei, where every possible opinion is being thoroughly canvassed. Churches, psychologists, human rights organisations, lawyers' organisations, political groupings, individuals, social workers, academics and many others are being consulted by the Transkei Department of Justice in its effort to reach a decision about the future of the death penalty.

We believe its conclusion may be very different from that reached by the SA Government, a conclusion which will promote rather than stifle a respect for life culture.

In South Africa, excluding the homelands, the number of people currently under sentence of death stands at 334. Many of these people have been on Death Row for three to four years, a period filled with uncertainty, horror and waiting. They now face possibly years more of the same, as their cases are put through further reviews, appeals and finally petitions to the President.

Of the 334 prisoners under sentence of death, 51 are there for actions which were politically motivated, and whose cases would appear to fall within the definition of political prisoner as accepted by the ANC/Government joint working group.

That being so, Lawyers for Human Rights finds it extraordinary that these people not only remain on Death Row, but that 15 of them have now been notified that they will have their cases reviewed under the panel established by the Criminal Law Amendment Act.

Such review will involve the services of attorneys and advocates, members of the panel (judges, retired judges and experts appointed by the Department of Justice) and a number of officials employed by the department.

The process is a lengthy and expensive one, which should be avoided through the President's use of clemency — particularly appropriate in these cases, as such prisoners will surely be among those released as part of the agreement reached in the Pretoria Minute.

We believe the President or his Minister of Justice should make a statement of intent as to the fate of these political prisoners. Such a statement should be accompanied by their transfer from Death Row to other prisons, where they could await their release during the next six months.

At this stage their fate is unclear, and we believe such confusion is damaging to the already delicate process of negotiation.

Despite the fact that the fate of all those on Death Row (political or otherwise) remains uncertain, we remain optimistic that we are closer than ever before to our aim of the total abolition of capital punishment in South Africa.

As political leaders on most sides of the political spectrum call for an end to violence, the continued existence of laws allowing for

judicial murder becomes increasingly anomalous. One of the major parties in the forthcoming negotiation process, the African National Congress, has committed itself to the abolition of the death penalty. Thus far, none of the others have followed suit.

However, with the input and participation of human rights organisations in the process of negotiations, we believe the total abolition of the death penalty would be guaranteed in a future South Africa.

We look forward to the day when we can join the growing list of countries which have chosen to abolish this hideous and primitive form of punishment, and cherish the hope that we will reach the "New South Africa" without the slam of the gallows trapdoor ever being heard again.

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



21/11/90 (252)

# Counselling urged for youths who flogged man

Staff Reporter

Education and counselling would be a better cure than jail for two Alexandra teenagers found guilty of flogging a man 200 times, a Johannesburg magistrate was told yesterday.

Albert Tikulih (18) and Absolom Sibisi (18) lashed Josia Madonsela (37) with a sjambok in April.

Evidence in mitigation was given by Alexandra Civic Association executive member Moses Mayekiso and criminologist Wilfried Scharf.

Mr Mayekiso said "people's courts" had started in Alexandra in 1986 after a six-day "war" between the police and youths.

"Police stopped taking crime cases seriously and residents lost faith as a result," Mr Mayekiso said.

Unemployment, overcrowding and bad living conditions had resulted in an increase in crime. The youths had decided to deal with crime themselves.

Mr Mayekiso said the civic association accepted the "people's courts" only if there was mediation and counselling in these structures. Lashing of people was not acceptable to his organisation, though in some cases it helped combat crime.

Youths, such as Tikulih and Sibisi, involved in the lashing of other people needed to be educated and counselled — not destroyed, he said.

This view was also expressed by Mr Scharf who said black youths in South Africa were currently subjected to violence from all sides.

"They had to be freedom fighters, young lions of the struggle, and this has brought peer pressure on them."

Education was an important part in the rehabilitation of the youth of the "lost generation", Mr Scharf said.

The case was postponed to December 7.

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I killed for Military Intelligence - witness

# Court told of TV booby trap, poisoned beer

Star 24/11/90 (13) (13) (252)



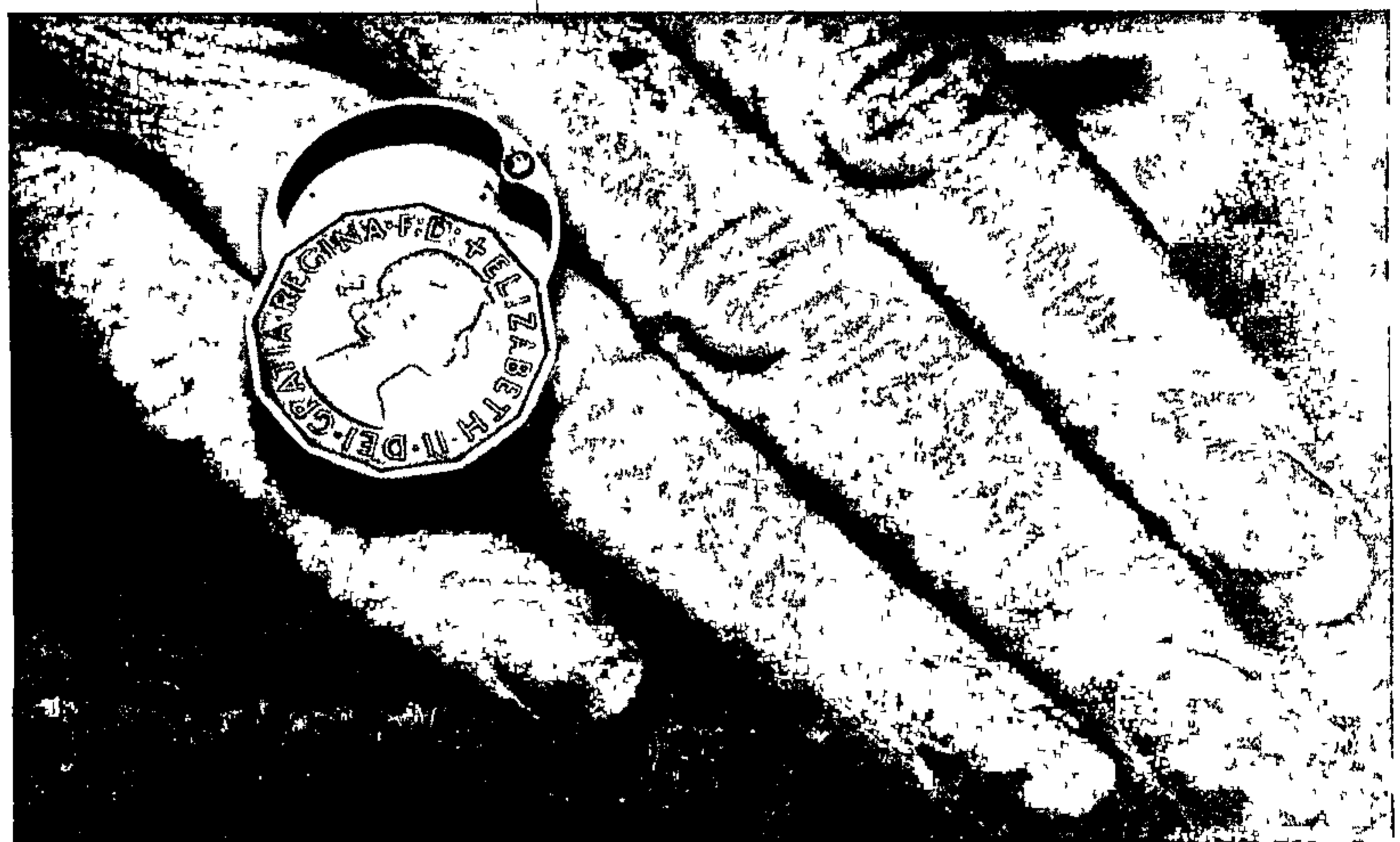
Mystery witness Les Lesia arrives at the Rand Supreme Court with Vrye Weekblad editor Max du Preez

By Joe Openshaw and Cathy Stagg

The public gallery in the Rand Supreme Court was riveted yesterday as a mild-mannered man told of how he had been manipulated by Military Intelligence into spying for South Africa and eliminating ANC officials

Leslie Johannes Lesia (54) from Botshabelo township, Bloemfontein, ran a school of arts, but once under the influence of his handlers, "Bekker" and "Brown", he

- Agreed to penetrate the ANC and report on officials in Mozambique, Zambia and Zimbabwe
- Destroy all "big fish" in the SA Communist Party
- Use any opportunity to slip poison from a ring with a secret compartment into the drinks of victims
- Carried poison, syringes, booby traps designed to fit on to boots and a pistol with a silencer in a secret compartment fitted behind the cubbyhole of his car
- Supplied gifts of poisoned liquor to the Soviet Embassy in Gaborone and ANC officials in Maputo
- Gave a television filled with explosives, linked to a radio-controlled detonator, to an ANC member



Lethal exhibit This brass ring, with a cavity under the medallion, was allegedly given to Military Intelligence agent Leslie Lesia to poison drinks of ANC members, according to evidence in the Rand Supreme Court Picture Karen Fletcher

This evidence was presented during the R1.5 million defamation trial being heard by Mr Justice J.C. Kriegler

General Lothar Neethling, head of the SAP forensic division, launched the claim against Vrye Weekblad and the Weekly Mail after the publication of an article in which former police captain Dirk Coetzee claimed General Neethling had given him poison to use against ANC members

Mr Lesia said he recognised General Neethling, who had been pointed out to him by his handler, Bekker, as "the big boss of the SAP who is helping us with the stuff" Mr Lesia said this was a reference to poison

He also said he had gone with Bekker to the SAP laboratories in Silverton where they had collected a case of beer, a bottle of brandy and a bottle of vodka, all of which were poisoned

Willy Oshry, QC, objected to conversations between Mr Lesia and Bekker on the grounds that they were hearsay evidence

Mr Justice Kriegler said he would hear the uninterrupted story first, then listen to argument later

In April 1986 Mr Lesia wrote to the US consul general asking for a grant for his school He received an encouraging reply from a Bonnie Brown

In August 1986 he learnt that his nephew, an Umkhonto we Sizwe soldier, had died and the ANC could not send the corpse back to South Africa "I thought it would be wise to ask for permission to go to Tanzania"

No objection was made and a temporary travel document was issued

When Mr Lesia returned, via Maputo, he was contacted by Bekker, then posing as a US Embassy official Later, Bekker introduced him to "Mr Brown", whom Mr Lesia assumed was the husband of Bonnie Brown

They questioned him about conditions in Maputo and his family in Tanzania

"This puzzled me because only my lawyer, my family and the security police knew

where I had gone

"Brown then gave me a brief account of my visit to Tanzania and left The next day they returned It was not until Brown said my school would not get the money, that I decided to give them information," he said

"They told me they were from Military Intelligence."

Mr Lesia identified an ANC man, Joseph

When Mr Lesia reported to Bekker and Brown that Joseph was missing, he was told "Our fellows have taken care of him"

"I was frightened and realised they would take action on all the information I gave them," he said

In April 1987, Mr Lesia took poisoned liquor to Maputo and gave it to the top ANC man Later, at a party, he was shocked to see another ANC member, Gibson Ncube, finishing a can of Castle beer

"I can assure you at that time in Maputo you couldn't get that beer But there was nothing I could do to stop it"

He told the court the poi-

son could not be traced Mr Lesia was told Mr Ncube had died a few days later of "some sort of paralysis starting at the feet"

Brown then told him to take a television set to Maputo which would explode

Instead of giving the television to the intended victim, Mr Lesia deactivated it and gave it to another ANC man He lied to Bekker about what he had done

When the set did not explode, Bekker put pressure on him to retrieve it

Eventually Mr Lesia went back to Maputo It was there that four men brandishing guns burst into his hotel room He was taken to Lusaka, then to Harare

There he learnt he faced murder charges because the television had exploded in Harare, killing the wife of an ANC man He denied everything but confessed after being tortured

He spent three years in the Chikurubi maximum security prison and was released in July when Zimbabwe's state of emergency was lifted

**BARBON'S**  
**FRESHEN UP**  
**WHAT A WEEK**  
**POTATO**

# 'Killer ring' exhibit in libel case

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Southern  
22/11/90

A RING with a cavity underneath, allegedly for containing poison, was handed in as an exhibit in the Rand Supreme Court yesterday in the R1,5 million defamation suit brought by police forensics chief General Lothar Neethling against two newspapers.

The defence counsel called Mr Lesley Lesia (54), who said he was an agent for military intelligence

Lesia said he recognised Neethling, saying he had seen him in 1987 at the Jan Smuts Holiday Inn where his (Lesia's) handler - a Mr Becker - had pointed out the general as the man "helping with the stuff".

Asked about the ring and its function, Lesia said that when the opportunity arose, he could spill poison into a drink to kill people. He said he was talking about ANC people

He had been in a Zimbabwe prison from May 1987 until early this year.

Defence counsel Mr Bobby Levine, SC, said the ring had arrived in South Africa on Tuesday night by private plane.

Levine said he had been in possession of poison and "poison liquor" given to him by Becker.

He had at one time collected some of this poison liquor at forensic laboratories in Silverton, which Becker had told him were SAP laboratories.

## Poison

The poison was in little bottles.

Lesia said that on a video he had viewed on Tuesday he had recognised a picture of Neethling, another at Vlakplaas where he had been once with Becker, and a picture of the LT Neethling Building in Silverton.

When he saw that same building in 1987, however, there was no sign outside

The defence yesterday submitted documentary proof of Lesia's travels to Tanzania, Mozambique and Swaziland

Lesia is a former bricklayer and carpenter who also ran an art school in a Bloemfontein township

The case continues - Sapa

# Demo against death squads

22/11-28/11/10  
CAPE Town residents who support the ideal of an accountable government have been invited to a protest march on Saturday to voice their dissatisfaction with the Harms Commission Report.

The march, organised by the Campaign for a Judicial Inquiry into Hit Squads, will leave from the Grand Pa-

rade at 11 am and proceed to St George's Cathedral

The Campaign said at a press conference this week they were "disappointed and dismayed" at the Harms report

"The hit squads have not been uncovered to the bone as the State President promised," said spokesperson Mr Barney Jordaan

"The State President said in his response to the report that we should let bygones be bygones but the principle of accountability which is at stake here is too important to sweep under the carpet"

They said they would do their utmost to prevent a "witch hunt" which was an inevitable backlash from disappointed relatives of victims of the hit squads

HUMAN rights organisations have compiled a list of 42 murders on which the Harms Commission failed to shed light when its controversial findings were made known last week.

In addition, seven anti-apartheid activists have disappeared without trace.

**SOME OF THE UNSOLVED CASES ARE**  
Griffiths Mxenge, Durban civil rights attorney, who was stabbed to death near Durban on November 10, 1981;

Alex Palane of Cosas was beaten to death in April, 1988;

Craddock community leaders Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlawuli were stabbed, shot and burnt to death outside Port Elizabeth on 27 June, 1985;

Russel Mnomezulu, Joseph Mtembu, Sandile Khawula, Chwephehe Mbambo died in an explosion at Lamontville/Chesterville on December 1, 1985

Victoria Mxenge, a Durban civil rights attorney and a member of the UDF, was shot and axed to death near Durban in 1985;

Tato Dweba of the Natal Freedom Committee died near Durban August 25, 1985 after his throat was cut;

Thabo Mokoena of the National Federation of Workers Union and the UDF was killed in September, 1985;

Godfrey Phuso of Jabula High School, Pinville, was shot in mysterious circumstances on September 8, 1985;

Lefu Rasego of Cosas was hacked and burnt to death near Turnahole in December, 1985;

Ian Zamisa of the South African Allied Workers' Union was killed near East

# No light shed on missing activists

London in December, 1985;  
Zalisse Malyhola of Saso was killed in Zwelutsha near King-Williamstown in 1985

Frank Martin died when a petrol bomb was thrown into his home on March 21, 1986

Fabian and Florence Rubiero, both active in civil politics, died after being shot outside their home in Mamelodi on December 1, 1986;

David Mordimoeng, a trade union organiser, was injured when a homemade bomb was thrown into his home at Oukasie, Brits on May 28, 1986. His mother Joyce died in the attack;

Petrus Mhisi of the unemployed Workers Coordinating Committee was stabbed to death near Sebokeng on November 5, 1987;

Amos Tshabalala of the Ntsakane Association and the Ntsakane Parents Crisis Committee was stabbed to death near Ntsakane on November 17, 1987;

Samuel Ndlovu of Sosco died after being shot on September 2, 1987;

Amos Boshomane, a trade unionist, died after being shot near Kallehong on February 25, 1988;

Michael Banda, a Potwa shopsteward died after being shot on July 1, 1988;

Sicelo Dhlomo of the Soweto Students' Congress and the DPSC, died after being shot near Soweto on January 25, 1988;

Sidney Msibi, a former ANC member, was killed at Pinville, Soweto on July 5 1988, Linda Brakvis of the UDF was killed near Heldemoed on January 29, 1988;

Nthuthuseli Paye, a youth leader, was killed near Cape Town in June/July 1989;

Sawutlani Buti, President of the Alexandra Youth Congress, was killed after a petrol bomb attack on his home in February 1989;

David Webster, a lecturer at the University of the Witwatersrand was shot dead outside his home in Johannesburg on May 1, 1989;

**THE FOLLOWING ACTIVISTS ARE MISSING**

Siphiso Mtimnkulu and Topsi Madeka, both of Cosas, disappeared while on their way to Livingstone Hospital in Port Elizabeth in April 1982;

Champion Galela, Siphiso Hashe and Qaqawuli Godolozzi, all of Pebco, disappeared at the HF Verwoerd Airport on May 8, 1985;

Vincent Mahlalela disappeared from the Pietersburg Police Station on December 21, 1986;

Stanza Bopape, of the Mamelodi Civic Association, disappeared on June 12, 1988, shortly after being detained by the South African Police.

**OTHER SUSPECTED POLITICALLY MOTTIVATED DEATHS ARE**

Anton Lubowski, human rights lawyer and prominent member of Swapo, who was shot dead outside his Windhoek home September 12, 1989;

The mutilated body of Themba Myapi, a Witwatersrand Council of Churches field worker, was found in the veld at Phola Park in November, 1989

Aldo Mogano, executive member of the Alexandra Youth Congress, was shot dead by two unknown gunmen outside his home in Alexandra, Johannesburg in April this year;

Japhtha Masemola, executive member of the PAC was killed in a car accident in Johannesburg in April 1990,

Sidwell Nono, 32, a shopsteward of the South African Railways and Harbours Workers Union (sarhuw) was hacked to death in Langa in May this year;

Simon Maswanganye, executive member of the Soweto Civic Association was shot dead in Soweto. Residents allege men in a white minibus without registration plates were responsible.

# Troops given no order to open fire, inquest told

SADF troops apparently opened fire on a crowd outside Sebokeng hostel on September 4 without receiving an order to start shooting, the judicial inquest investigating 42 deaths was told in Vereneging yesterday.

Regional police commissioner Col Piet Fourie said in a statement submitted to the inquest he had issued clear instructions over a police radio that there should be no hitting or shooting during police efforts to move a crowd back, but about one minute later soldiers opened fire with R-4 automatic rifles.

He had asked a Cmdt Clulie, the officer in charge of the soldiers, who had given the order to start shooting. The army officer had replied that he had only ordered the firing of teargas.

Although Clulie claimed one of his troops had accused a man, who was apparently shot dead in the SADF action, of holding a petrol bomb immediately before the incident, Fourie said he had not seen a petrol bomb lying close to the body.

Clulie also claimed later his troops had been shot at and stoned, apparently by people in the crowd.

After the shooting, Fourie counted three bodies and a number of wounded people at the scene. A number of stabbing weapons, petrol bombs and clubs lay in the street where people in the crowd had been standing and sitting.

252 Problem

Previous uncontested evidence before the inquest has been that SADF soldiers fired rapidly for 22 seconds without asking the crowd to disperse. Afterwards police collected 96 spent R-4 cartridges at the scene. Several police witnesses have said people closest to the soldiers sat down in the road immediately before the shooting and that teargas was fired simultaneously with the live ammunition.

Asked by counsel for the families of 12 of the deceased, Gys Rautenbach, about security force procedures in riot situations, Fourie agreed that minimum force should be

applied in stages, starting with a verbal warning to disperse, followed by teargas, followed by rubber bullets and only then, as a final option, should the use of live ammunition be considered. A loud hailer was "essential" in riot situations.

Fourie also admitted that joint police/SADF operations often posed a problem because there were separate command structures. Good communications were therefore vital.

Another police witness at the inquest yesterday, Const Joseph Lethoba, testified he had seen two people shot dead by soldiers.

Describing events surrounding one of the deaths, Lethoba said he had been sitting in a police mortuary van when he saw the shooting start.

Civilian bystanders had wanted to load a man hit by a bullet into a minibus, apparently to transport him to hospital, but the man was already dead, the policeman said.

He told the inquest he had loaded the body into the police vehicle and taken it to the morgue.

The hearing continues — Sapa

Court hears

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# Trials halted

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GRAHAMSTOWN. — Two trials in the Grahamstown Supreme Court have been suspended after the accused applied for political indemnity in accordance with the Pretoria Minute. *Scull 22/11-28/11/90*

Four members of the Queenstown Youth Congress, charged with the necklace murder of a community councillor in January 1986, had their trial postponed after they applied to the State President for indemnity from prosecution.

Meanwhile, the Stutterheim necklace murder trial of Mr Thembelani Mahala and five others was postponed to allow the accused to apply for indemnity.

Five co-accused in the trial were granted bail when the trial was postponed — ANA

Star 22/11/90 252

# No orders to shoot, Sebokeng inquest told

By Thabo Leshilo

SADF members who allegedly unleashed a volley of automatic gunfire at a crowd at the Sebokeng hostel in September apparently did so without an order from their commanding officer, the Sebokeng inquest into the deaths of 42 people heard yesterday.

Colonel Petrus Johannes Fourie, the SAP's district commissioner for Vereeniging, said that immediately after the army had fired, he had asked Commandant Clouhe, the SADF commanding officer, who had ordered the troops to shoot

"Commandant Clouhe told me that he had only ordered teargas to be fired," he said.

The commandant told him that one soldier had said one of the wounded people was holding a petrol bomb.

"I did not see a petrol bomb near the corpse at that stage," Colonel Fourie said.

He said that after the shooting, he had seen three bodies and several injured people on the scene. There were also sharp weapons, petrol bombs, fighting sticks and articles of clothing.

There were, as usual, two different command structures for

the SAP and SADF. Problems arose because of this, Colonel Fourie said.

The shooting had occurred a minute after he had told police not to shoot or hit the people but rather to disperse them gradually.

Asked what he would have done to disperse the mob, he said he would have used teargas and rubber bullets before using live ammunition.

Another witness, Warrant Officer Anthony Slinger, said the army arrived in a convoy at 9:35 am. There was a 10,000-strong aggressive crowd outside the hostel. They threw stones

and petrol bombs at Inkatha members trapped inside.

"I could see the defence force kneel down. Teargas (three canisters) was fired. The defence force immediately started firing R-4 weapons. I heard no order given to shoot."

The crowd started running, W/O Slinger said. He saw 11 wounded people on the ground. He later collected 96 spent R-4 cartridges at the scene.

Constable Joseph Lethoba said he had removed two bodies from the scene at about 10 am, about 15 minutes after the shooting.

The hearing continues.



# Witness told lies to inquest - judge

Sowetan 23/11/90

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A WITNESS in the inquest into the deaths of 42 people at Sebokeng Hostel on September 4 is to face charges of perjury following his testimony yesterday.

Inquest chairman Mr Justice Eddie Stafford said in his view Mr Wilson Tafeni had presented two conflicting versions of his brother Mr David Tafeni's death.

Tafeni had claimed in a statement to the police that armed white men in the company of black men had shot dead his brother at Sebokeng Hostel at 4am on September 4.

However, in his testimony yesterday, he said his brother had been shot dead by South African Defence Force soldiers shortly after 9am.

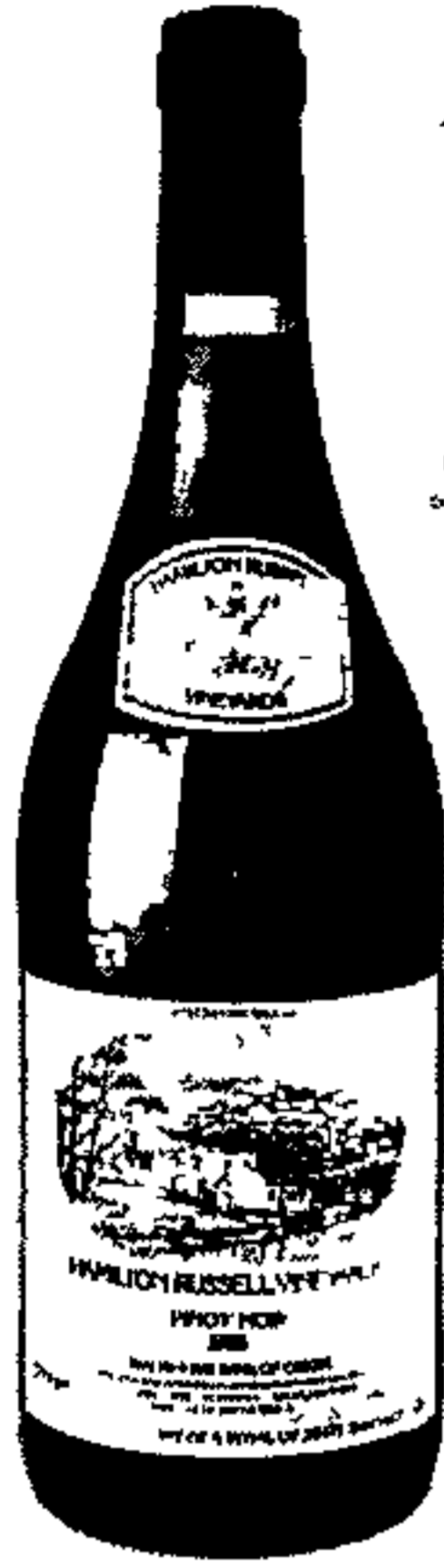
Tafeni's response to the perjury allegation was that his original statement had been incorrectly taken down by the police.

The judge said there might well be a feasible explanation for the conflicting evidence but Tafeni would still have to appear before a magistrate to face charges of perjury.

Tafeni was released on his own recognisances.

Sapa

HAMILTON  
RUSSELL  
VINEYARDS



South Africa's  
Leading  
Pinot Noir

Pinot Noir was the  
category for the 1989

# Lottering found guilty of murder

*B (Daw) 23/11/90*

CORNELIUS Lottering, a member of the right-wing extremist group the Order of Death, was found guilty in the Rand Supreme Court yesterday of murdering a black taxi driver to "test" himself to see if he could commit politically motivated assassinations.

Mr Justice Irving Steyn, sitting with two assessors, found that Lottering, 29, had had the direct intention to kill taxi driver Potoko Makgalemele on August 29 last year.

The judge said he and his assessors unanimously rejected the submission by Lottering and his co-accused Fanie Goosen, 25, that the offences they committed were acts of war committed while SA was in a state of war.

Both men had pleaded not guilty to the charges against them on that basis.

Lottering admitted he had gone to the taxi rank at Johannesburg station to choose a victim to test if he could carry out politically inspired killings without "getting cold feet".

He got the taxi driver to take him to a spot near Gold Reef City where he stabbed Makgalemele and then shot him in the back and head at close range.

Lottering was also found guilty of robbing the taxi driver of his car and setting it alight after the murder.

Goosen was found not guilty of the mur-

SUSAN RUSSELL

der. The only evidence linking him to the murder was a single statement in which he confessed to having been involved. In evidence, Goosen said he had made the statement under pressure.

Both men were found guilty of malicious damage to property and attempted intimidation for planting explosives outside the flat of former Sunday Times journalist Jani Allan.

They told the court in statements and in evidence they had done that to frighten her and to get her to print the truth about AWB leader Eugene Terre'blanche so that he would be forced not to stand in the general election last year.

Mr Justice Steyn accepted that Goosen's statement confessing to the murder had not been the truth. Giving reasons, the judge said these included Goosen's spontaneous admission to committing the other offences, the fact that both accused denied Goosen was involved in the murder, that an eyewitness had only seen Lottering at the scene of the killing, and that when asked by police to point out the spot where the murder occurred, Goosen had cried and not been able to do so because he did not know where it was.

Argument on sentence continues today.

## Inkatha men planned to attack hostel, inquest told

<sup>By Alan 23/11/90</sup>  
INKATHA members planned to attack Sebokeng hostel on September 4, the day 42 people were found dead in and around the single-sex residential complex, the judicial inquest at Vereeniging was told yesterday. (252)

Wilson Tafeni testified he had been told Inkatha members had been overheard planning the attack. (253)

He and his brother David were subsequently part of a neighbourhood "watch", patrolling the complex, when a group of white men with guns and black men with axes attacked. He said he saw people being shot by the whites in the pre-dawn attack and that his brother was killed several hours later, shortly after 9am, when SADF troops opened fire with R-4 automatic rifles on a crowd of Sebokeng residents who allegedly wanted to fight Inkatha members trapped inside a hostel courtyard.

Inquest chairman Mr Justice Eddie Stafford said, however, Tafeni had apparently committed perjury in that he had offered conflicting versions of his brother's death. Tafeni's first account, in a statement to police, was that his brother had been shot by the white men in the pre-dawn attack on the hostel. Mr Justice Stafford ruled that although there might be a feasible explanation, the witness would still have to face statutory perjury charges before a magistrate to clear the matter up.

Tafeni said his original statement had been taken down incorrectly by police colonel Wessel van Niekerk. He insisted he had told Van Niekerk SADF soldiers had shot his brother, not civilian white attackers.

Tafeni also described to the inquest how, between the hours of 4am and 8am, he had moved the bodies of about 15 people allegedly murdered to a central point. — Sapa.

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# Discrepancy seen in 'poison lab' evidence

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SUSAN RUSSELL

A SELF-confessed Military Intelligence (MI) agent, who claims he was taken by his handler to police laboratories in Silverton to fetch poisoned liquor intended for the "elimination" of ANC members, conceded in the Rand Supreme Court yesterday that photos of the premises did not match his description during his evidence.

Lesley Lesia, 54, was the "mystery witness" called by Vrye Weekblad and the Weekly Mail to testify in the R1.5m defamation case brought against them by police forensics expert Lt Gen Lothar Neethling

Neethling is suing the newspapers for publishing allegations he had supplied poison to former police captain Dirk Coetzee to murder victims of a secret police hit squad

Lesia was called to support the newspaper's defence of truth and public benefit.

Under cross-examination by Neethling's counsel W Oshry QC yesterday, Lesia described the entrance hall of the police laboratory at Silverton where he said he had been taken by Bekker to fetch three cases of poisoned beer and one case each of poisoned brandy and vodka.

He said he had been able to see what looked like a laboratory through double doors which led off the entrance hall where they had been given the liquor.

Lesia conceded that photographs of the laboratory, shown him by Oshry, differed from his own description, but reiterated that the entrance hall had looked the way he described it.

On Tuesday, Lesia said he had been recruited by MI during 1986 and had been responsible for taking poisoned liquor and a booby trapped TV set to ANC members in Maputo on orders from his handlers, Bekker and Brown.

He also told the court he had been given four glass bottles of poison, two syringes and a ring with a hollow centre and swivel-top by Bekker to be used to poison ANC members.

Lesia was arrested in Maputo in July 1987 and immediately taken to Lusaka, where he was interrogated.

He told the court he was then driven to Zimbabwe and charged with murder after the television, which had been taken to that country, had exploded and killed a woman who had turned it on.

The murder charge was eventually dropped but he was immediately detained again and only released in July this year.

He told the court he had been debriefed at the military hospital at Voortrekkerhoogte after his release

The trial continues today.

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# Witness tells of plan to poison ANC men

Sowetan 23/11/90  
252

SELF-CONFESSED Military Intelligence agent Mr Leslie Lesia told the Rand Supreme Court yesterday that as far as he knew he was not a member of the Civil Cooperation Bureau.

Lesia is testifying during the R1,5 million defamation case brought by General Lothar Neethling against two newspapers.

The case arises from reports in which former police captain Dirk Coetzee claimed Neethling supplied poison to be used on ANC members.

Lesia testified that he was employed by Military Intelligence and his handler, Ernest Becker, told him that Neethling was the man who had supplied them with poison, which Lesia was instructed to use on ANC members.

## Witness

Mr Willie Oshry, QC, for Neethling, cross-examined Lesia extensively on when he first became involved in this case as a defence witness.

Lesia denied that he was interviewed by *Vrye Weekblad* journalist Jacques Pauw before the publication of an article on August 3 headlined "CCB fighter returns".

"I was in the military hospital in Pretoria then," Lesia said.

"Were you a member of the CCB?" Oshry asked.

"Not that I know of," Lesia answered.

"Was the CCB part of Military Intelligence?" Oshry asked.

"I don't know," Lesia replied.

Mr Justice JC Kriegler said: "A great deal of public money was expended trying to find that out, it is hardly fair to ask the witness."

## Prison

As Oshry read from the *Vrye Weekblad* article, Lesia agreed that he had spent about three years in a Harare prison, had been charged with murder and sabotage and apparently been involved in poisonings.

He said he did not know where Pauw had received that information.

Lesia said he was instructed by Becker and a Mr Brown but he had no idea if he was a "cell two agent" as alleged in the article.

A short, softly-spoken man who wears spectacles, Lesia agreed that his nickname is "Tiger".

The trial continues - *Sowetan Correspondent*

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**T**HE defamation case General Lothar Neethling has brought against *The Weekly Mail* and *Vrye Weekblad* has not only breathed new life into the military hit squad saga, but has brought to light possibly the most damning evidence to date about covert security force operations.

The case took a highly dramatic turn this week when a "mystery" witness, 54-year-old Leslie Lesia, was called by the publications' defence.

Neethling is suing the two newspapers for a combined amount of R1,5-million arising from the publication of three articles late last year — two in *Vrye Weekblad* and one in *The Weekly Mail* — containing allegations that the general supplied poisons for the elimination of activists. The allegations were made by self-confessed police hit squad member and former police captain Dirk Coetzee, whose "confessions" have largely been discredited by the Harms and McNally reports.

Lesia testified this week that he was recruited by South African military intelligence (MI) in October 1986 and provided with poisons and poisoned liquor from the general's laboratory, detonators and explosive television sets to eliminate African National Congress activists in neighbouring states.

ANC member Gibson Ncube died after he allegedly drank a can of Castle lager laced with poison smuggled into Mozambique by Lesia. The wife of an ANC member, one Tsitsi Chiliza, died in Zimbabwe when her booby-trapped television set, allegedly supplied by Lesia, exploded in May 1987.

Lesia, who said as far as he knew he was not employed by the Civil Cooperation Bureau, told how he had on one occasion presented the Russian Embassy in Botswana with a box of poison beers and a "gift" box containing poison. He also said he had visited the SAP forensic laboratories in early 1987 with his "handler" to fetch poison liquor and that he had been told by his handler that South African Police "boss" Neethling helped with the "stuff".

The atmosphere in the packed courtroom bristled with electricity as Lesia related his story. Neethling looked composed throughout, grinning constantly, but taking detailed notes.

Lesia, resident in Bloemfontein, was imprisoned in Zimbabwe from May 1987 until July 25 of this year for the murder of Chiliza. The charges were dropped in October 1988 but he was re-detained until the State of Emergency was lifted in July.

A bottle of poison, two syringes, a poison ring, pistol, silencer and a biscuit tin containing detonators were found in a secret compartment of his car by the Zimbabwean authorities.

Extensive evidence corroborating Lesia's account — including photographs taken by the Zimbabwean authorities of his hidden car compartment and its con-

# 'SA agent gave poisoned beer to the Russians'

A 'mystery' witness told a defamation hearing against two newspapers this week a bizarre tale of how anti-apartheid activists were poisoned in a South African intelligence death web spread across Southern Africa. **PHILIPPA GARSON** reports



Mystery witness ... Leslie Lesia.

Picture. KEVIN CARTER

tents, numerous air tickets, hotel cards, a diary and his passport — was handed in to the court.

During cross-examination, the plaintiff's defence, Willie Oshry QC, revealed that Lesia had been jailed several times for theft and dagga dealing. Lesia said he was recruited a few months after he flew with his sister-in-law to Tanzania for the funeral of his nephew, Tebogo Lesia, an Umkhonto weSizwe soldier in early September 1986. He said he had informed the Bloemfontein security police of the trip and a certain official said he would assist them with the necessary travel documents.

Lesia said on his return, he was tricked into becoming an agent for MI when informed by someone posing as a United States Consulate official that funds would be provided for the art school he had set up in Bloemfontein. Lesia had written to the consulate in April to ask for financial assistance for his ailing "Leslie's Performing Arts and Cultural Institute".

Two representatives from the consulate allegedly came to see him in Bloemfontein and a local lawyer, Brian Cooper, was consulted to handle the financial transactions.

Lesia was flown to Johannesburg on two occasions and his flights were paid

for, he said, by what he thought was the US embassy.

At Jan Smuts Holiday Inn he became acquainted with a dark-haired Mr Ernest Becker (who, according to a former CCB member who spoke to *The Weekly Mail*, is Kobus Potgieter, former member of the special forces) and later a blond Mr Brown, who spoke with an American accent.

On his second visit to Johannesburg, Lesia said he was asked by Brown and Becker how much he knew of the ANC in exile. He said he was reluctant to give information until "Mr Becker sort of threatened me and said if I didn't cooperate they wouldn't let my school have funds". Lesia, who described himself as "confused at the time", said he became suspicious but knew that if he backed out "things would not be easy" for him when he returned home.

From then on he became an agent, supplying his handlers, Bekker and Brown, with information when he checked into either the Milpark or Jan Smuts Holiday Inns. He said he made various trips to Mozambique, via Swaziland, and Botswana to take substances laced with poisons for the elimination of activists and the booby-trapped television set. Evidence of his trips was submitted to the court, but he said some valuable documents — including a diary in which he recorded everything — were destroyed by frightened relatives while he was detained in Zimbabwe.

The soft-spoken Lesia said his handlers paid R1 600 each month into his Barclays Bank Bloemfontein account and gave him R1 500 to R2 000 travel expenses for each trip he made.

He claims that, after repeated contact with the ANC in exile, he was asked by them to help set up a cell in the rural areas.

Lesia said on one of his trips to Johannesburg, where he stayed at Milpark Holiday Inn, he was given four glass bottles of a yellowish poison, two syringes and the poison ring. "Becker instructed me that whenever I got the opportunity — I should concentrate on high-ranking officers in the ANC — I could either use the ring to put poison in and spill it (in their drinks) or, if I had the chance, I could use the syringes to inject them."

He said he saw Neethling after he was given the poison, on one occasion in a coffee bar at the Jan Smuts Holiday Inn. Neethling, who was allegedly seated with two women and a man, was pointed out by Becker.

Lesia earlier identified him in court, saying that when he had seen the general in 1986 he had a moustache and looked younger. "(Becker) said that is the big boss of the police, the man who is helping us with the stuff."

Oshry intimated he may have got the description of Neethling from the "Dispatches" video he saw two days before

(Proceeding)

LAW AND THE COURTS

# New system to represent the underdogs

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23/11/90

29/11/90

**A** NEW legal aid scheme is about to get off the ground which could ensure representation for thousands of undefended accused.

It is a significant step in responding to serious criticism of the established legal order — that a trial cannot be fair if accused persons appear without representation merely because they cannot afford legal help

Key decisions are to be taken by the Legal Aid Board over the next week on exactly when and where the new pilot public defender project announced earlier this month will be introduced

At this stage it appears likely the project will get off the ground mid-year 1991, with enormous implications for the more than 120 000 unrepresented accused sentenced to jail each year.

In the past the Legal Aid Board, which has the task of ensuring defence for those who can't afford it, has "contracted" cases to private legal practitioners and then paid these lawyers for their services

Now there appears to be a groundswell of support for a different system — that of the public defender.

Lawyers' groups have given it their backing while Minister of Justice Kobie Coetsee also appears interested in the idea and has asked for an investigation

Under this scheme lawyers are employed full time specially to do court work, appearing in trials to defend accused who would otherwise not have representation

The Legal Aid Board estimates the average cost of each case handled under the present system of "contracting out" legal work, is R603 Natal University expert on legal representation David McQuoid-Mason reckons the public defender system will be at least a third cheaper Other hidden savings have been pointed out by the national director of the Legal Resources Centres, Arthur Chaskalson, SC

He said if the public defender system were

Over the next week, the Legal Aid Board will take key decisions on where and when the new system designed to help represent people who cannot afford to pay lawyers will be introduced

**By CARMEL RICKARD**

to keep even 10 percent of accused out of jail because they are acquitted or because proper evidence in mitigation is presented, this would mean a saving to the Prisons Department of more than R27-million a year

In addition, if public defenders were to obtain bail for their clients, this would be a further saving to the Prisons Department of R15 a person a day

Until now schemes to improve the availability of legal representation have been dismissed on the grounds there is not enough money But there appears to be an increasing awareness, helped through supreme court decisions, that legal representation is a key element of a fair trial, and that new ways must be found to raise the money

Appeals are being made to the private sector, and the director of the Legal Aid Board, Nic Pretorius, said this week a "fairly large donation" had already been received from an insurance company which would contribute towards financing the pilot public defender project

Legal experts outside the board believe it will be possible to raise the money needed, much of it possibly from overseas sources, but only if donors were satisfied that the funds were being administered independently without government interference

While Pretorius is adamant the board is independent, he admits many members of the public have a different view, and he says serious attempts are being made to improve the board's image

There has been not yet been any official indication of how the board hopes to do this, but one obvious method would be to in-

volve professional legal bodies in some way, giving them the standing to participate in decision making. Such involvement would help assure donors of the board's independence and could lead to an increase in non-governmental funding.

The public defender idea clearly appeals to lawyers, many of whom have felt uneasy about the fairness of trials where an accused is not represented: Pretorius said he had been surprised at the spontaneous response from young attorneys inquiring about employment in the project and from senior members of the profession offering to help in training or some other way.

He said a lot of training would be needed to give public defenders the necessary court room skills. "We want well qualified people," he said. "We do not want to go for the weaker ones, we want the best for this programme." And to help ensure he gets the best he will be offering competitive salaries

The announcement that the board was about to introduce a public defender scheme has been welcomed by McQuoid-Mason.

He said young lawyers would get valuable court experience and should offer themselves for the programme There would also be an increasing role in the project for trained para-legals who would help with referrals, ensuring that everyone knew about the availability of defence

The board's pilot project will probably cost between R1,5 and R2-million, will last for two years and will operate in only one or two centres Chaskalson has estimated that, fully operative, the system would need 2 000 young lawyers countrywide and that it would cost about R40-million a year

He said even if the system did cost a lot of money, "the value of a fair justice system cannot be measured in monetary terms

"It promotes public confidence in the legal system particularly by those who are likely to be most alienated from society's legal institutions, and should not be made the subject of a cost benefit analysis."

# Political fanatic guilty of murdering taximan

Star 23/11/90

By Joe Openshaw

A man described by a Rand Supreme Court judge as being "absolutely crazy" about politics, and who confessed to killing a black taxi driver as practice for the assassination of black leaders, was yesterday found guilty of murder.

Convicting Cornelius Lottering (24) of murder, Mr Justice Irving Steyn said he had murdered Potoko Makgalemele with intent. The motive lay in

political fanaticism

Lottering and his co-accused, Fane Goosen (29), were Order of Death members and right-wing extremists. Lottering said that for them, as "freedom fighters", blacks were the "national enemy".

After Lottering was convicted of murder, his family testified that he had always been a quiet and gentle person who loved reading the Bible.

His elder brother, Pieter Lottering, said he was deeply shocked when he heard his brother's confession to murder. His mother, Katherina, and

his father, Petrus, said the first time they realised their son was involved in something "serious" was when he was arrested.

Goosen was found not guilty of murdering the taxi driver although he claimed to have been with Lottering on August 29 last year. The judge said the only witness saw Lottering only

Both were charged with murder, bombing the flat of journalist Jani Allan, robbery with aggravating circumstances, unlawful possession of arms and ammunition and escaping from custody. They claimed they were not

guilty of crimes because their actions had been "acts of war".

They had bombed Ms Allan's flat because she had influenced Eugene TerreBlanche of the Afrikaner Weerstandsbeweging (AWB) to stand for Parliament.

J J du Toit, for the State, argued that aggravating circumstances, where Lottering was concerned, were that the murder had been carefully planned two days before August 29, with specific places in mind.

He chose an innocent taxi driver out of malice because he was galled at a black man transporting white girls

He got Mr Makgalemele to drive him to Gold Reef City and then stabbed him in the back, put him in the boot and drove him to De Deur.

"There, while Mr Makgalemele was kneeling before him, he tried again with the knife and stabbed the taximan

"When this failed and the taxi driver got up and ran, he shot him in the back

"Lottering then held the taximan's head still and shot him in the head to finish him off," Mr du Toit said.

Erik van de Pol, for Lottering, argued that Lottering had

murdered for political reasons, and not out of cruelty and insensitivity.

Both men were found guilty of malicious damage to property and intimidation when bombing Ms Allan's flat, robbery with aggravation for stealing R2 800 from a Vereeniging bottle store, illegal possession of a firearm, and escaping from custody.

Lottering was found guilty of robbing Mr Makgalemele of his taxi, but not guilty of possessing illegal ammunition.

Goosen was found guilty of having illegal ammunition. The trial continues.



Sto- 24/11/90

# Ex-major denies Coetzee story

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A RETIRED police major, who was yachting just south of the Mozambican border, was located and brought to Johannesburg this week to testify during the R1,5 million defamation trial launched by SAP forensic division chief, General Lophar Neethling.

The claim arose from the publication of interviews with former police captain, Dirk Coetzee, who claimed General Neethling supplied poison to be used on ANC members.

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Yesterday, Archibald Michael Flemmington was called to the witness box. He has a tanned face and greying, short hair.

He told Justice J C Kriegler, who is presiding over the civil trial in the Rand Supreme Court, that he resigned from the police in 1983 because he believed he could better himself financially in the

252

CATHY STAGG

private sector.

He sold a hotel and as a result of a restraint of trade agreement, which expires in April next year, is not working at present.

Mr Flemmington denied Mr Coetzee's allegations, in which Mr Flemmington was claimed to have been present when two men were shot in the back of the head with a Makarov pistol, their bodies burnt and thrown into the Komati River.

He first met Mr Coetzee, Mr Flemmington said, when Mr Coetzee was branch commander of the Oshoek border post, in the uniform branch, and he (Mr Flemmington) was a branch commander of the security police at Komatipoort. They met at a branch commanders' conference

in Middelberg. Later Mr Coetzee was transferred to the security police, based first at Middelberg then in Pretoria.

"He visited me at Komatipoort. It was after I became a major so it must have been after March 1, 1981," Mr Flemmington said.

"He arrived with a European member of his staff and said they had two Askaris with them who were going to work the area to find ANC terrorists.

"He asked me to give them accommodation I agreed to do this.

"My men told me they saw the Askaris at the bus ranks for about three weeks or so, then they left. I never saw Dirk Coetzee again," he said.

He said he knew the area described by Mr Coetzee well, it was 100 metres from the national highway, just south of the

bridge, near a hotel and some farm houses. It was "wide open, not secluded at all", he said.

If tyres had been used to burn the body, as suggested by Mr Coetzee, he would have expected farmers who were concerned about protecting their crops to have investigated the thick black smoke.

He said there was "no truth whatsoever" in Mr Coetzee's allegations.

He met General Neethling for the first time this week, he said.

Counsel for Vrye Weekblad and the Weekly Mail will cross-examine Mr Flemmington on Monday.

The judge told Mr Flemmington it was unfortunate that his evidence could not be completed before the weekend but suggested he might go yachting "on the dam."

SIGN 24/11/90

# Judge orders witness detained for perjury

By Thabo Leshilo

A witness in the Sebokeng inquest, being heard by the Supreme Court was detained briefly for committing perjury yesterday after allegedly giving evidence which conflicted with a statement he had made to police about his cousin's death.

Mr Justice Stafford ordered that Wilson Tafeni be detained for perjury while the court adjourned for tea.

The perjury stemmed from a statement made by Mr Tafeni in which he claimed to have

personally seen his cousin being shot by a white man at 4 am on September 4.

Mr Tafeni denied having said so to the court.

He said that his cousin had been killed when the SADF shot at people outside the hostel after 9 am.

Mr Justice Stafford told Mr Tafeni he had "committed perjury of the first degree".

In the statement, Mr Tafeni said he and his cousin were patrolling the hostel after rumours that Inkatha would attack the residents.

The statement said that David, his cousin, was shot by a white man — whom he described as being of medium build — at the hostel at 4 am.

Before dying, David had told Mr Tafeni that the killer was a Mr Ferreira or Mr Pelela, his manager at a Vereeniging firm.

Mr Tafeni denied having said so in his statement. He said his brother had been shot by a member of the SADF. Mr Tafeni said David was part of a large crowd sitting in front of soldiers, about seven paces in front of him.

He said he had ordered the people to sit down to avoid anybody throwing stones at the troops and he denied they had intended to block the soldiers.

The people had been armed with spears and axes, he with a spear.

The group had started running after soldiers fired tear-gas. Troops also fired live ammunition while the people ran away to escape the gas. His cousin was shot and fell.

"Only the soldiers fired at the people. No one else fired shots at the time," said Mr Tafeni.

## WEBSTER WATCH

# And killers still mock justice

sta 24/11/90  
52

IT has been 572 days since university lecturer and human rights activist Dr David Webster was assassinated.

Mr Justice Louis Harms, who headed the Harms Commission into political killings, concluded there was no evidence that the Civil Co-operation Bureau (CCB) murdered Dr Webster on May 1, 1989.

Mr Justice Harms, whose 201-page report was recently released, could not reach a decision on who killed Dr Webster. Police CID chief General Jaap Joubert this week gave the assurance that investigations have "never stopped".

"A murder docket is never closed," he said. "We are still determined to solve this crime and will continue to investigate. Unfortunately we have no leads."

General Joubert would not comment on Mr Justice Harms's report or findings. Police have reportedly said they will investigate allegations that Johannesburg City Council officials compiled a detailed Webster dossier during their surveillance activities.

No one has been arrested in connection with Dr Webster's death.

A reward of R20 000 still stands for information leading to the conviction of the killers.

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# ORDER OF DEATH KILLER SHOWS NO

# REMORSE

By MARTIN NTSOELNGOE

WHEN self-styled member of the "Order of Death", Cornelius Lottering, said he had killed a black taxi driver because he hated blacks and that they were the descendents of Satan, he was applauded by his family and friends.

But when he was found guilty this week, for the protracted brutal murder of taxi-driver Potoko Franzen Makhalemele without extenuating circumstances, they sat grim-faced in the public gallery at the Rand Supreme Court.

Sobbing softly in the witness box, his mother Stoffelina Johanna Lottering, broke down and cried when she was asked questions about his behaviour.

Erik van de Pol, defence counsel for Lottering, experienced difficulty in getting answers from Lottering's mother.

She was later taken out of the court into the passage by a woman court orderly to recover.

Pieter Christiaan Lottering, a former member of the now defunct Ossewabrandwag in his youth, said he would stand by his son.

Both said politics and religion had not played an overly important role in their house. They were also not aware of their son's political activities.

Lottering's brother, Pieter Christiaan Lottering jnr, said he had been "very shocked" when he listened to his brother's evidence of how he had killed a taxi driver.

Lottering, 25, of Sandton, and co-accused Fanie Goosen, 30, of Vereeniging, had initially pleaded not guilty to nine counts, including murder, on the grounds the acts were committed while the country was in a "state of war".

Their pleas were made before Judge Irving Steyn and two assessors.

Lottering was found guilty on one count of murder, two of robbery with aggravating circumstances, two counts of malicious damage to property, attempted intimidation, illegal possession of a firearm and escaping from custody.

Goosen was found guilty of malicious damage to property, attempted intimidation, robbery with aggravating circumstances, illegal possession of a firearm and escaping from custody.

In summing up before passing judgment, Steyn recounted the chilling evidence presented to the court by Lottering - much of it read by his counsel, because of the pronounced stutter of the accused.

Lottering had said he decided to murder Makhalemele because he wanted to see if he was able to kill when the time to do so came.

Lottering said he was offended by blacks who drove white taxis, especially the sight of "kaffirs" driving white girls.

He said he had asked Makhalemele to take him to Gold Reef City, pulled a gun on the driver and forced him to get into the boot of the car.

As Makhalemele was getting in, Lottering stabbed him on the back. He said he was aiming for the kidneys, but "did not succeed".

Later, Lottering said, he stabbed Makhalemele through the throat.

He shot Makhalemele twice, once in the head. He said he felt no remorse because blacks were his "natural enemy" and the Bible made it clear he should eliminate them.

# Pay up, judge tells min Vlok

C/ren 25/11/90 252  
THE shooting by a police constable of a youth from Thembeni township near Edendale in Natal last year was "not warranted" and the youth's subsequent detention was "wrongful", a Supreme Court judge has ruled.

Judge Broome ruled in Maritzburg this week that Law and Order Minister Adriaan Vlok was liable for damages resulting from the shooting and detention of Stanley Mlaba, 19, although an exact amount for damages was not determined.

The Mlaba family is claiming R63 000 for, among others, medical expenses and loss of the full use of Mlaba's right leg as a result of the shooting.

The judge said constable C Thompson was not justified in discharging his shotgun to "injure or kill".

Although Thompson had said he fired because he had been shot at, he had acted "negligently" because it was dark and there were people and kraals in the vicinity.

There was also "some doubt" whether Thompson had really been fired at because the homemade pistol which police allegedly found near the wounded Mlaba after he took refuge in a nearby kraal had not been in working order at the time.

Another "unsatisfactory" feature of Thompson's testimony was that charges against Stanley had been dropped without "satisfactory" reasons.

There was "no serious attempt" to prosecute Mlaba. — Sapa

# Sebokeng Xhosas 'wanted revenge'

By BOETI ESHAK

3 Times 25 11 90

A SENIOR police officer told the Sebokeng inquest this week he had called in the riot unit after an ANC official told him "the Xhosas" were emotional and could not be controlled.

Captain Johannes van der Westhuizen, commander of the Lekoa municipal police, was testifying before Mr Justice Eddie Stafford at an inquest in Vereeniging into 42 deaths at hostels in Sebokeng on September 4.

"Although I tried to pacify the Xhosas, I was not successful and I requested assistance from the riot unit," said Captain Van der Westhuizen.

"I could also not persuade a Mr Vilakazi, who said he was a representative of the ANC and the Xhosas, to pacify his group. He told me they were very emotional and would not listen to him."

He said he had been contacted at his Vanderbijlpark home at 4am on September 4 by the town

clerk of Lekoa (an acronym for black townships in the area), who said there were "problems" at the Sebokeng hostels.

"At the hostels we found that vehicles were overturned and several cars were burning. We also saw the bodies of black men. We noticed between 100 and 200 men in the inner courtyard.

## Darkness

"All of them had red headbands on and were armed with sticks, pangas, spears and shields. This group was peaceful about 150 armed men at the entrance."

Captain Van der Westhuizen said that before he could speak to this group, Themba Khoza, Inkatha's representative in the Transvaal, approached him. Mr Khoza told him the men

had returned to the hostels to collect their possessions and it was only safe to do so under cover of darkness.

The police officer then managed to get three delegates from each group together, who agreed that violence was not the solution. The Xhosa leaders, however, could not convince their supporters.

"This group was very aggressive and made it clear that the police should move out so they could take revenge on the Zulus for their friends' deaths."

"This group grew bigger and the three entrances to the hostel were virtually sealed. The Zulus and my personnel were trapped in the courtyard."

In another development this week, a witness, Wilson Tafeni, is to face perjury charges following his testimony on Thursday. Mr Justice Stafford said Mr Tafeni had presented conflicting versions of his brother David

Tafeni's death. In a statement to police, Mr Tafeni had claimed armed white men in the company of black men had shot his brother dead at a Sebokeng hostel at 4am on September 4.

However, in his testimony on Thursday, Mr Tafeni said his brother had been shot dead by SA Defence Force soldiers shortly after 9am.

## Alleged

● On Monday Mr Justice Stafford ordered the Sunday Times to apologise for a report published last week.

The Sunday Times had said "It is alleged that 11 of the dead were shot by South African Defence Force troops called to assist the police."

Mr Justice Stafford said the report pre-empted the court's finding. The Sunday Times apologises for its error.

# Judge considers Lottering's motive

RIGHT-wing extremist Cornelius Lottering's motive for murdering a black taxi driver was his warped interpretation of the Bible and fanatical political beliefs, a Rand Supreme Court judge found on Friday. **12/11/90**

Mr Justice Steyn made this finding in weighing up the mitigating and aggravating factors which would have a bearing on whether the court imposed the death sentence on Lottering. Last Thursday the 29-year-old member of the right-wing extremist group the Order of Death was found guilty of murdering taxi driver Potoko Makgalemele on August 29 last year.

He and Fanie Goosen, 25, were convicted of attempted intimidation and malicious damage to property for planting explosives near the flat of former Sunday Times journalist Jani Allan. **(252)** They were also found guilty of robbery and escaping from custody. Lottering was convicted of robbing Makgalemele of his taxi and setting it alight after murdering him. Lottering and Goosen have no previous convictions. The judge said sentence would be passed tomorrow.



# SA crisis of human rights

**SOUTH Africa faces a crisis of human rights despite positive developments in the country since February this year, said the presiding bishop of the Methodist Church of Southern Africa, Rev Dr Stanley Mogoba.**

A statement issued by the Church in Johannesburg said Mogoba had accepted an award by the Foundation for Freedom and Human Rights in Bern, Switzerland yesterday.

Speaking at the function, Mogoba warned that failure to entrench human rights in a new constitution with the courts as final arbiter, would delay peace, freedom and stability.

"Indeed, such failure could result in further bloodshed, and no one in his or her right mind desires that We need human rights in South Africa that would have an impact on every aspect of our lives ranging from the corporate and social worlds to our ecological

environment.

South Africa would have to thrash out additional rights, if only for a transitional period, in order to set at rest the minds of those who were fearful of the future, he added.

The Church, said Mogoba, had been "sorely tested" in its advocacy of an integrated society and could not boast of always having adequately defended human rights. *Sapa*

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# 30 ANC exiles granted immunity

Sowetan 22/11/90

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STATE President FW de Klerk yesterday granted another 30 people immunity in terms of the Indemnity Act of 1990 on the eve of what is believed to be a important meeting between him and ANC deputy president, Mr Nelson Mandela.

Included in the list were the names of two ANC dissidents who last week arrived in the country with valid passports and "no knowledge of an indemnity or immunity"

BY ISMAIL LAGARDIEN

deals that Government had offered exiles.

Mr Luvo Stanley Mbengo and Mr Ronnie Masango arrived on November 13, held a press conference at the Carlton Hotel, and declared themselves broke.

The rest of the list is made up of ANC persons only. Twenty-eight persons have been granted unconditional immunity under the Indemnity Act of 1990 from November 19 1990 to and including January 31 1991.

Two others, Mr Er-

rington Mhleli Mpondwana and Mr Mlungisi Douglas Suntele have been granted unconditional indemnity from December 5 up to and including January 31 1991.

Those who will enjoy immunity until January 31 1991 are Mzwandile Bopeka Jeffrey Chauke, Bandile Ketelo, James Kekana Leoko, Mighty David Lephoto, Mosoeu, Magalefa, Stoffel Malan, Ronnie Buyaphi Masango

John Seate Maseko Bruce Masiko Vincent Matlau Amos Vabantu Maxongo, Themba George Mazibuko Luvo Stanley Mbengo, Fikile Benson Mdleleni Selinah Mlangeni Isaac Mpho Mogosi Kensan Mawila Mokatsang

John Mokone Victoria Tsepiso Motauma, Mandla Bernard Ncala, Peter Ncamu Siphon Ngobho Rocky Bafana Nhlapho, Victor Nkhi Tom Rasta, Nxolo Tshono Rev Joseph Vilakazi Errington Mhleli Mpondwana and Mlungisi Douglas Suntele.

Stw 27/11/90

# Advancing soldiers 'looked menacing'

By Thabo Leshilo

The inquest into the death of 42 people at the Sebokeng Hostel on September 24 was told by a clergyman yesterday that after soldiers had arrived and formed up on the scene, "it looked as if something terrible was going to happen"

Lord Eldorado Righteousness McCamel, of the McCamel Paradise Church of God, said he had not seen the crowd gathered outside the Sebokeng hostel do anything that could have caused the soldiers to open fire.

Mr McCamel told the inquest, which is being held in Vereeniging, that before the army arrived at the hostel, where a number of people had allegedly been killed by suspected Inkatha members earlier, people gathered there had thought that police wanted to re-

move the Inkatha members trapped inside the hostel without taking action against them

He had seen military vehicles arrive on the scene at about 9 am. Soldiers got off the vehicles and formed lines

"When the soldiers arrived I was relieved because there is a general feeling that soldiers are calm and only act on instruction," Mr McCamel told Mr Justice E Stafford

"After forming lines, the soldiers started moving forward. The way they were moving forward looked menacing. It looked as if something terrible was going to happen. It was frightening and seemed as if the soldiers were going to shoot."

Mr McCamel then asked a Major Steyn of the Security Police to do something so that the soldiers would not shoot

However, he immediately heard shots being fired into the crowd by

soldiers while the people nearest to the troops gave the peace sign and waved their arms

"I saw some people falling during the firing. At the same time, I saw some teargas billowing from canisters which were fired into the crowd."

He later saw nine bodies on the ground after the bodies were collected

Freelance press photographer Petrus Mabuye said he saw some soldiers wave at the people and others laughing after the shooting

Mr Mabuye handed to the court 90 pictures of events at the hostel as exhibits. Among the pictures was one of a corpse whose head had been crushed by a police Casspir which had reversed on to it. The incident had angered the crowd, which had hurled stones and petrol bombs at the Casspir.

The hearing continues

# Venter 'unfit', say doctors

By Louise Burgers  
Municipal Reporter

Johannesburg's controversial town clerk Manie Venter officially retired on Monday afternoon after a team of doctors declared him "medically unfit" for office

It was announced at the monthly Johannesburg City Council meeting yesterday that for health reasons Mr Venter, on long leave pending retirement in September next year, had been boarded by the Johannesburg Municipal Pension Fund.

He will now have to vacate the exclusive R1 million town clerk's residence in Houghton with a 24-hour security guard, full-time gardening service and air-conditioned garage entertainment area.

He will be paid out for the year's leave owing to him and will receive full pension fund benefits due to a member who has been boarded

The Hiemstra Commission report named Mr Venter as a major player in the municipal spy network

Two weeks ago Mr Venter informed the management committee he was not satisfied with his initial terms of retirement and intended to return to office. After discussions, a statement said the matter had been resolved

Management committee chairman Ian Davidson said that in the past week Mr Venter had made several more demands regarding his retirement benefits

Mr Venter admitted he would have been able to negotiate a better retirement package had he not sought medical advice

By being forced to retire for medical reasons, Mr Venter receives a lump sum of nearly R700 000 plus a monthly payout of about R13 500 a month

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## One shot sparked deadly barrage, inquest is told

3 (200) 28/11/90  
A SINGLE shot fired at a man who allegedly threw a petrol bomb at SADF soldiers at Sebokeng hostel on September 4 apparently sparked off a barrage of R4 automatic rifle fire into a crowd

This was said yesterday by SADF Cmdt Stefanus Lombard during the Vereeniging Supreme Court inquest investigating the massacre of 42 people at the hostel on that day

(252)  
Lombard said the man with the petrol bomb was not among the dead when the 22-second-long fusillade ended.

He was unable to say whether any of the people killed in the SADF shooting had threatened to throw petrol bombs or whether any of the people responsible for throwing "at least two or three stones" had been among the wounded

Like previous police witnesses, he also testified he did not hear the officer in charge of the SADF troops, Cmdt Alf Cluie, give any order to start shooting

He said in a statement submitted to the inquest he had accompanied the 62 troops called to the scene by the police as an observer, and he had not been among the front line of 46 soldiers who shot into the crowd

He said on arrival the SADF was asked by police Col Wessels van Niekerk to rescue police members apparently trapped with more than 100 Inkatha members inside a hostel courtyard by a crowd of about 4 000 armed Sebokeng residents outside the complex

He had interpreted the move to sit down by people in the crowd closest to the advancing soldiers as a threat to the troops and one "to prevent us from getting to the SAP" Previous witnesses have agreed the action was one of passive resistance

Lombard testified that the soldiers were issued with live ammunition and teargas grenades No rubber bullets were issued — Sapa

# 'Warped, fanatical' killer jailed for 24 years

CORNELIUS Lottering, who murdered a black taxi driver to see if he could commit politically motivated assassinations without "getting cold feet", was sentenced to an effective 24 years' imprisonment by the Rand Supreme Court yesterday.

Lottering, 30, a member of the right-wing Order of Death, was sentenced to 20 years in jail for the murder of Pooko Makgamele on August 29 last year.

He had hired the taxi driver at Johannesburg station to take him to Gold Reef City. A little later he stabbed Makgamele twice before shooting him, once in the back

SUSAN RUSSELL

and once in the head

Lottering was also sentenced to nine years' imprisonment for robbing the taxi driver of his car and burning it. He and co-accused Fanie Goosen, 25, also an Order of Death member, had pleaded not guilty to the charges against them on the grounds that they had committed acts of war.

Mr Justice Irving Steyn, sitting with two assessors, found that the murder was motivated by Lottering's warped, fanatical political and religious beliefs.

The judge found that Lottering's beliefs, warped as they were, constituted a mitigating factor in deciding whether or not to impose the death sentence.

He quoted from a recent Appellate Division judgment, in which it was found that political considerations could constitute mitigating factors, and which set aside the death penalty imposed on three ANC guerrillas who had committed a series of politically motivated murders, imposing instead 25-year jail sentences on each.

Goosen and Lottering were sentenced to

To Page 2

## Killer jailed

an effective 13 years' imprisonment for attempted intimidation, malicious damage to property, robbery, and escape from custody. The judge ordered that a number of these sentences and those for the robbery and burning of Makgamele's vehicle should run concurrently with the sentence imposed for murder, making Lottering's

sentence an effective 24 years

Goosen was acquitted on the three charges relating to Makgamele's murder.

Both men were convicted of attempted intimidation and malicious damage to property for planting explosives near former Sunday Times journalist Jani Allan's flat.

From Page 1

# 'Very decent' killer seeks suspended jail

11/6/89  
28/11/89  
RSZ

By JOHN VILJOEN  
Supreme Court Reporter

COUNSEL for Duncan Kensley, convicted of murder, attempted murder and culpable homicide, has asked the Supreme Court to impose a suspended sentence and order him to perform community service.

Kensley, 28, of Retreat, flew into a murderous rage after discovering two "girls" he had petted and kissed were men.

He was convicted on Monday of murdering Mr. Shaun van der Westhuizen by shooting him in the head at point-blank range in Mitchell's Plain on May 20, 1989.

Kensley was found to have negligently caused the death of Miss Yolanda Jallahrs and convicted of culpable homicide.

## Alcohol

He was convicted of attempted murder for shooting Mr. Deon Brown, alias Brooke Shields, in the stomach and for wounding Mr. Randall Adams in the back as he fled over a wall.

Kensley was found guilty of handling a firearm while under the influence of alcohol or a narcotic drug.

Yesterday a psychiatrist, Dr. A. Teggin, said Kensley required psychotherapy and anti-depressant medication.

Mr. A.C. Webster, for Kensley, said the court was not dealing with a hardened criminal type or a thug but "a very decent, non-violent, law-abiding citizen".

## Service

A wholly suspended jail term with community service as one of the conditions would be an appropriate sentence.

Mrs. P. Atkinson, for the State, said Kensley had "wiped out" innocent victims, "young people in their prime" who had posed no threat to him.

She asked that Kensley be sentenced to a jail term, a large portion of which should be suspended.

Kensley will be sentenced today.

# 4-year sentence for Kensley in kiss 'n kill case

By JOHN VILJOEN Supreme Court Reporter

TRANSVESTITE trial accused Duncan Kensley was sentenced today to an effective four years' jail after being convicted of murder, attempted murder and culpable homicide

Kensley, 28, of Retreat, flew into a murderous rage after discovering two 'girls' he had petted and kissed were men

Mr Justice M.R. de Kock said Kensley had committed the crime without premeditation while under the influence of liquor and in state of considerable emotional upheaval

Mr Justice De Kock said Kensley obviously had found it a repulsive and degrading experience. He said Kensley was not normally given to violence and until then had been a peace-loving, law-abiding person

Kensley had shown remorse. Factors in aggravation for the sentence were that Kensley had murdered and attempted to murder innocent people who had done him no harm. His victims were helpless and did not pose any threat of injury to him.

His 'immoderate' reaction was unnecessary and out of all proportion to the situation. Kensley's persistence in seeking out his victims and especially the way he shot Mr Van der Westhuizen, who was kneeling in front of him, was an aggravating factor.

Mr Justice De Kock said the sentence must act as a reminder to deter Kensley from committing a similar offence and as a deterrent to others

The sentencing also included six months for handling a firearm while under the influence of alcohol or a narcotic drug.

Mr A.C. Webster, for Kensley, indicated that he would make an application for leave to appeal against the sentence.

● Earlier evidence, page 5.

# Weekblad case facts 'unique'

By Cathy Stagg

Instead of apologising after their first article, Vrye Weekblad editor Max du Preez and reporter Jacques Pauw had continued a "war" against General Lothar Neethling, the general's counsel, Willy Oshry, QC, submitted in the Rand Supreme Court yesterday.

Mr Oshry said Mr Pauw and Mr du Preez were the "wielders of the poison pens and we submit that that is the only poison in the case".

General Neethling instituted a R1 million claim against Vrye Weekblad arising from the publication of two reports in which former police captain Dirk Coetzee claimed that General Neethling, head of the SAP forensic division, had supplied poison to the Security Police to use on ANC members.

General Neethling also claimed R500 000 from the Weekly Mail arising from a similar article.

Mr Oshry said Vrye Weekblad had been sarcastic at General Neethling's expense, referring to him as "Sun City Lothar" and "Doepa" Neethling, and asking "if this was any way to make your first million".

## Unique

Mr Justice J C Kriegler, who is presiding over the civil trial, said he had not heard of a more important case than the one he had to rule on, because "the facts are unique".

During a debate on whether or not Vrye Weekblad could have checked the facts on poison dosages, the judge said there were far more serious points to consider such as "murders allegedly carried out with the approval of the highest policemen in the land".

Mr Oshry described Mr Coetzee, General Neethling and Leslie Lesia as the three main protagonists and said the judge would have to decide on a balance of probabilities who was telling the truth.

Mr Coetzee gave evidence in London and a transcript has been placed before the judge.

Mr Oshry said the judge had not had the advantage of seeing Mr Coetzee in the witness box.

Mr Lesia was the "mystery witness" produced by the defendants' legal team.

He testified about cross-border sorties carried out on the instructions of his handlers, allegedly from Military Intelligence, which involved giving poisoned liquor and a booby-trapped TV to ANC officials in Maputo.

Mr Oshry said evidence had been placed before the court to show Mr Lesia was lying.

The hearing continues.



# Shooting followed bomb'

By Montshiwa Moroke

Soldiers were not supposed to open fire except when given orders to do so or when their lives were threatened, a commandant in the SADF told the Sebokeng inquest in Vereeniging yesterday.

Commandant Stephanus Johannes Lombard was the first witness from the SADF to give evidence on the fatal shooting of 42 people at the Sebokeng hostel on September 4.

He said that at about 9 am that day he had heard that police were experiencing problems at the Sebokeng hostels and that Commandant Alf Clulie was to go and assist. Later he and another officer joined the commandant's convoy as observers.

As they crossed the bridge near the Sebokeng hostel they saw SAP vehicles opposite the hostel and further on a crowd of about 4 000 blacks.

The convoy stopped on the pavement and my impression was that the crowd wanted to scatter, but immediately they began to scream.

Colonel Clulie and I went to Colonel van Niekerk who told us the situation appeared to be very bad and that we should immediately go and get the SAP out of the area. He suggested we should move in between the crowd to free the SAP.

## Aggressive

Lieutenant Jacobs, who was next to me, showed me people armed with assegais. The group of about 20 had moved away from the crowd. As the formation moved forward, I was of the opinion that the crowd wanted to scatter," Commandant Lombard said.

Police were about 10 m from the crowd when he saw they were carrying spears, sticks, axes, pangas and stones. The crowd looked aggressive and he had not heard the word "peace".

He heard Colonel Clulie shout "Teargas". Gas was fired but it was ineffective because of the wind. The crowd threw stones.

"A black man who was wearing light-coloured clothes hurled a petrol bomb at us. One of the soldiers shot him and he fell on his stomach with blood coming from his head."

"Immediately, troops fired at the prominent members of the crowd. The crowd fled and I saw two bodies lying in the road in front of us. I saw Colonel Clulie removing a petrol bomb next to the bodies. He picked up three more petrol bombs which were handed over to the SAP."

"We then drove into the hostel where we loaded members of Inkatha and took them to the Sebokeng hospital."

# Judge rules out evidence

252  
Sowetan  
29/11/90

A SUBMISSION that former police captain Dirk Coetzee was found to be a psychopath by the Harms Commission was ruled inadmissible in the Rand Supreme Court yesterday.

Mr Willy Oshry, QC, arguing for General Lothar Neethling, the SAP forensic division chief who is suing two

newspapers - *Vrye Weekblad* and the *Weekly Mail* - for R1,5 million for defamation arising out of published interviews with Coetzee, mentioned the Harms Commission finding.

Mr Justice Johan Kriegler, who is presiding over the civil case, said he did not want to be influenced by evidence which he had not heard

He had deliberately not read any of the Harms

Commission evidence, read newspaper reports on it, listened to radio reports or watched TV broadcasts dealing with it.

Oshry handed in a warrant for Coetzee's arrest, issued on January 4 this year.

He submitted Coetzee was not a man who could be believed and referred to the evidence given during this trial by journalist Martin Welz, who said Coetzee had a sense of bravado and spoke about committing crimes as if he was proud of himself.

The judge remarked that the Attorney-General of Natal must have believed at least some of the story if a warrant was issued.

Oshry said the real problem was knowing when Coetzee was telling the truth and when he was not.

The hearing continues.  
- Sowetan Correspondent.

# Sebokeng: judge orders perjury probe

By Montshiwa Moroke  
and Sapa

An SADF officer's evidence should be sent to the Attorney-General for scrutiny, the chairman in the judicial inquest into the killing of 42 people at the Sebokeng hostel near Vereeniging on September 4 ruled yesterday

Mr Justice Eddie Stafford said there was prima facie evidence that Commandant Stephanus Lombard had committed perjury and ordered that the evidence be studied by the Attorney-General so that he could be charged if necessary

This followed Commandant Lombard's confirmation that he had made a false statement to the police regarding a petrol bomb allegedly found near the body of a man who had been shot dead by SADF members

Commandant Lombard was the first of two senior SADF officers who gave evidence in court which contradicted parts of their original statements

He was also one of four SADF officers who have confirmed there had been no orders to start shooting live ammunition at the crowd that day

In the statement, Commandant Lombard claimed to have seen fellow officer Commandant Alf Clulie pick up a petrol bomb from the ground where the body was lying, but, cross-examined by Mr Justice Stafford, he admitted not even seeing the petrol bomb in question

Sergeant-Major Marthinus le Roux also admitted having

made a false statement to the police concerning the petrol bomb in question

He said the troops were justified in firing for 22 seconds as they had not heard anyone ordering them to stop shooting because of the helmets they were wearing

Mr Justice Stafford remarked that it did not make a difference because no orders had been given in the first place ordering them to start shooting.

Another SADF member, Corporal David Patrick Eiman, said he had seen a man throwing a stone at Rifleman John Booysen, while he held a stick in the other hand

Corporal Eiman said that when the man aimed to throw a petrol bomb, Rifleman Booysen had shot him in the head. He said the petrol bomb had fallen a few paces away from where the man's body lay.

He had not seen any other petrol bombs being thrown at the troops. The troops had fired live ammunition at the crowd because they thought their lives were in danger

Corporal Eiman said the shooting continued because his colleagues thought their lives were still in danger although the crowd was running away

Anton Ackerman, for the State, put it to Corporal Eiman that none of the petrol bombs which had been collected at the scene afterwards showed signs of having been ignited

Commandant Clulie, who was in charge of the SADF troops that day, is expected to testify today

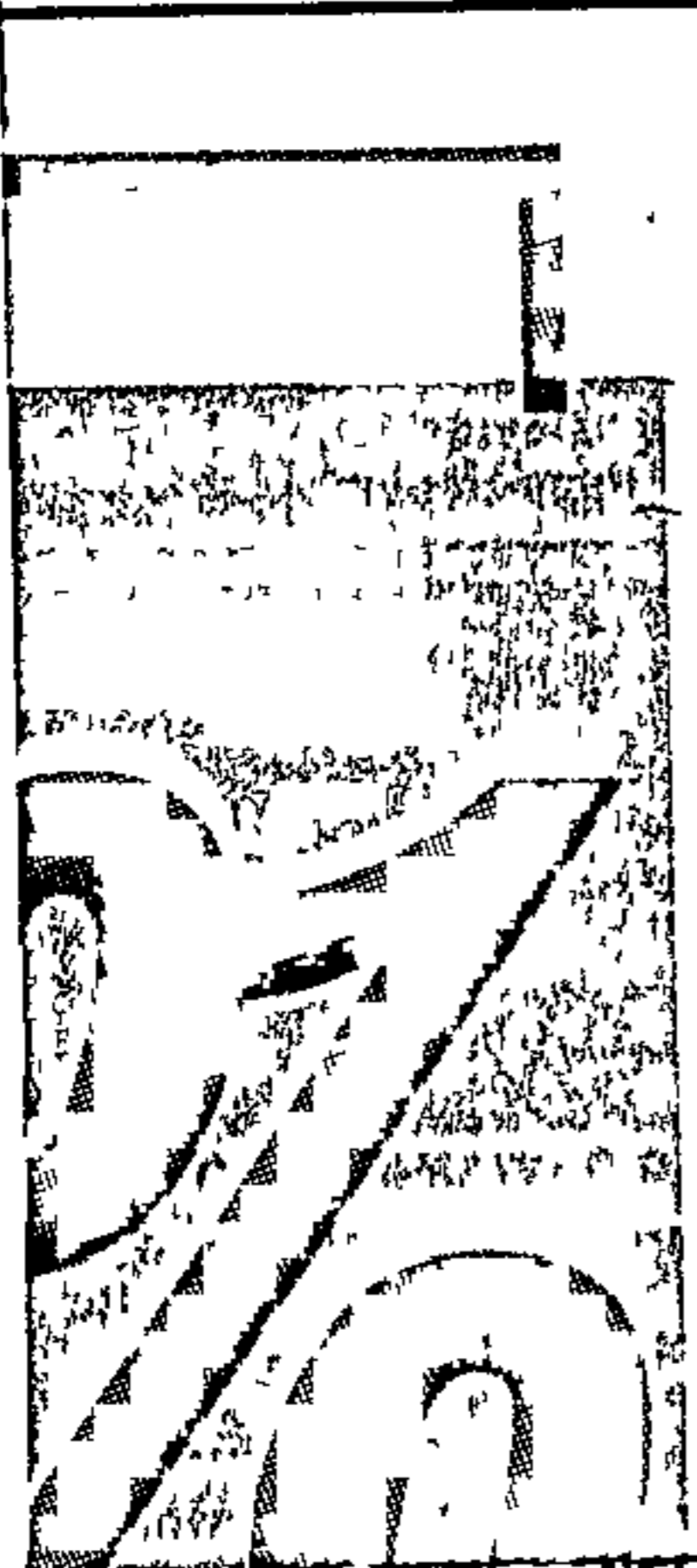
# Two SADF men gave false evidence to inquest

B/D am 29/11/90

252

**VEREENIGING** — Two senior SADF members gave false evidence to the Vereeniging judicial inquest into the deaths of 42 people in the massacre at Sebokeng hostel on September 4 this year.

Inquest chairman Mr Justice Stafford said there



was prima facie evidence that Cmdt Stefanus Lombard had committed perjury

He ordered that the officer's evidence be studied by the Attorney-General so that charges could be formulated if necessary.

This followed Lombard's confirmation that he submitted false evidence to the police about a petrol bomb allegedly found near the body of a man shot dead by SADF troops

In the statement Lombard said he saw fellow officer Cmdt Alf Clulee pick up a petrol bomb from the ground near where the body was lying

But, cross-examined by Mr Justice Stafford, he admitted he had not seen the petrol bomb in question

Another SADF member, Sgt-Maj Marthinus le Roux, also admitted making a false statement to the police about the same petrol bomb

Le Roux's statement said he had seen the petrol bomb lying close to the body

But he told the inquest he had only presumed that was where it had come from after seeing it in

Cmdt Clulee's hand

However, another SADF witness, Cpl David Eiman, insisted he had seen a man in the crowd attempt to throw the bomb at Rfn John Booyesen, who reacted immediately by shooting the man in the head

Eiman said the petrol bomb fell two paces in front of the man's body

Mr Justice Stafford told Eiman this evidence contradicted earlier testimony by several policemen, including that of district commissioner Col Piet Fourie

## No order

Fourie had said he walked to the body immediately after the shooting, but had not seen any petrol bomb

State prosecutor Anton Ackermann put it to Eiman he had testified that the petrol bomb had been burning

But none of the fuses on petrol bombs collected at the scene afterwards, he said, showed any sign of having been lit

Four SADF members who testified yesterday

said there had been no order to start shooting

Both Le Roux and Eiman suggested that many of the shots fired in the 22-second fusillade, which followed Booyesen's first and fatal shot, were fired into the air

Lombard, in his testimony, agreed it had not been necessary to shoot for 22 seconds in view of the fact that the crowd had turned to run the moment the first shot was fired

Le Roux, after admitting to not seeing any petrol bombs before the SADF opened fire, was asked by Mr Justice Stafford why the troops opened fire in the first place

He replied that the troops had been threatened by an aggressive crowd who threw stones at them

Mr Justice Stafford: Were your lives in danger?

Le Roux: Stones can seriously hurt.

Lt Gavin Agulhas, who was in charge of a platoon of soldiers involved in the incident, said he was surprised when the shooting started. He agreed the use of live ammunition had not been necessary — Sapa

# ANC UNVEILS DRAFT BILL OF RIGHTS

THE ANC has unveiled its draft Bill of Rights for consideration by its members. The document, drafted by the ANC's Constitutional Committee, has been circulated to the movement's regions for comment before it will be discussed at the December consultative conference.

The draft Bill of Rights provides for the establishment of a Constitutional court, a Human Rights Commission and the office of an Ombudsman to enforce these rights.

In the introductory note the committee said it opted "firmly and unequivocally" for the fundamental rights and freedoms associated with a democratic society.

"In the first place, in keeping with the approach of most contemporary human rights documents, we do not feel

that it is necessary to make a constitutional choice between having freedom of having bread or not having bread, nor do we want bread without freedom. We want freedom and we want bread," the committee said.

Other rights included in the draft Bill of Rights are:

- \* Social, economic and educational rights
- \* "Our approach has been to identify certain needs as being so basic as to constitute the foundation of human rights claims, namely the rights to nutrition, education, health, shelter, employment and minimum income," the committee said.
- \* Language, cultural and religious rights
- \* Political rights
- \* Workers' rights
- \* The rights of disabled persons and the rights of children
- \* Economic rights.

"The document attempts to give an equitable framework for dealing with the emotive question of property rights. Since a Bill of Rights is a document for all South Africans, and not a manifesto or programme of the ANC alone, the issue has to be looked at from all points of view, but without sacrificing the just

claims of the people," the committee said.

\* The protection of the environment

\* A constitutional framework for affirmative action to overcome race and gender discrimination, and for positive action to overcome patterns of apartheid

According to the introductory note, the committee's aim was to write the document in open and accessible language.

"In South African conditions, a Bill of Rights becomes the fundamental anti-apartheid document. It guarantees equal rights for all citizens, and defends each and every one of us against the kinds of tyranny and abuse which have flowed daily from the apartheid state," the committee said.

In preparing the draft text, the Constitutional Committee relied on the Universal Declaration of Human Rights, the International Covenants of Civil and Political Rights and on Economic, Social and Cultural Rights, the European Convention of Human Rights, the African Charter of Human and People's Rights and provisions dealing with protection of human rights in other constitutions, ranging from those of India, West Germany, the US to Namibia.

The committee further relied on the Freedom Charter and the ANC's Constitutional Guidelines and proposals were also received from a wide range of UDF-affiliates.

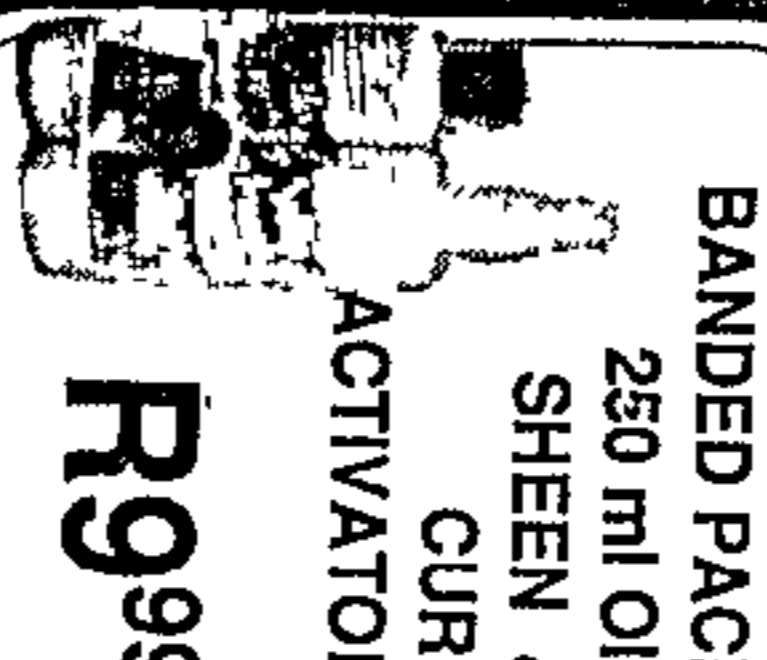
"There is accordingly nothing essentially new and nothing secret in the document," the committee said.

Sowetan Correspondent

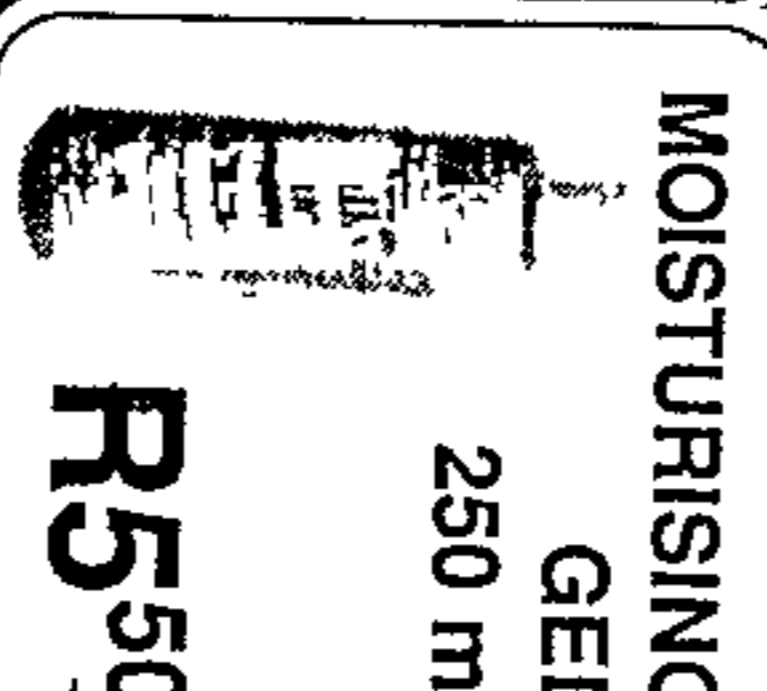
## SILKY TOUCH

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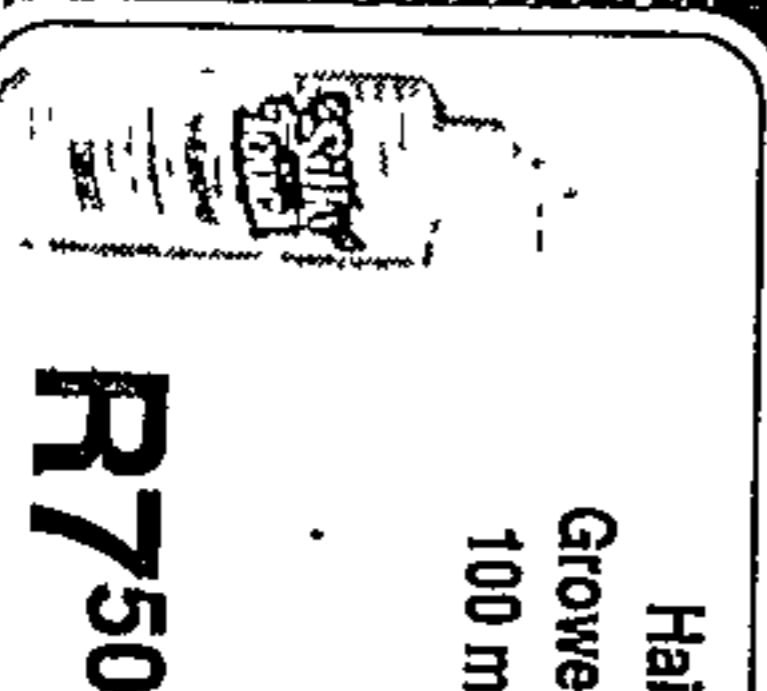
**MOISTURISING GEL**  
250 ml  
**R550**



**Curl & Wave Cream**  
250 ml  
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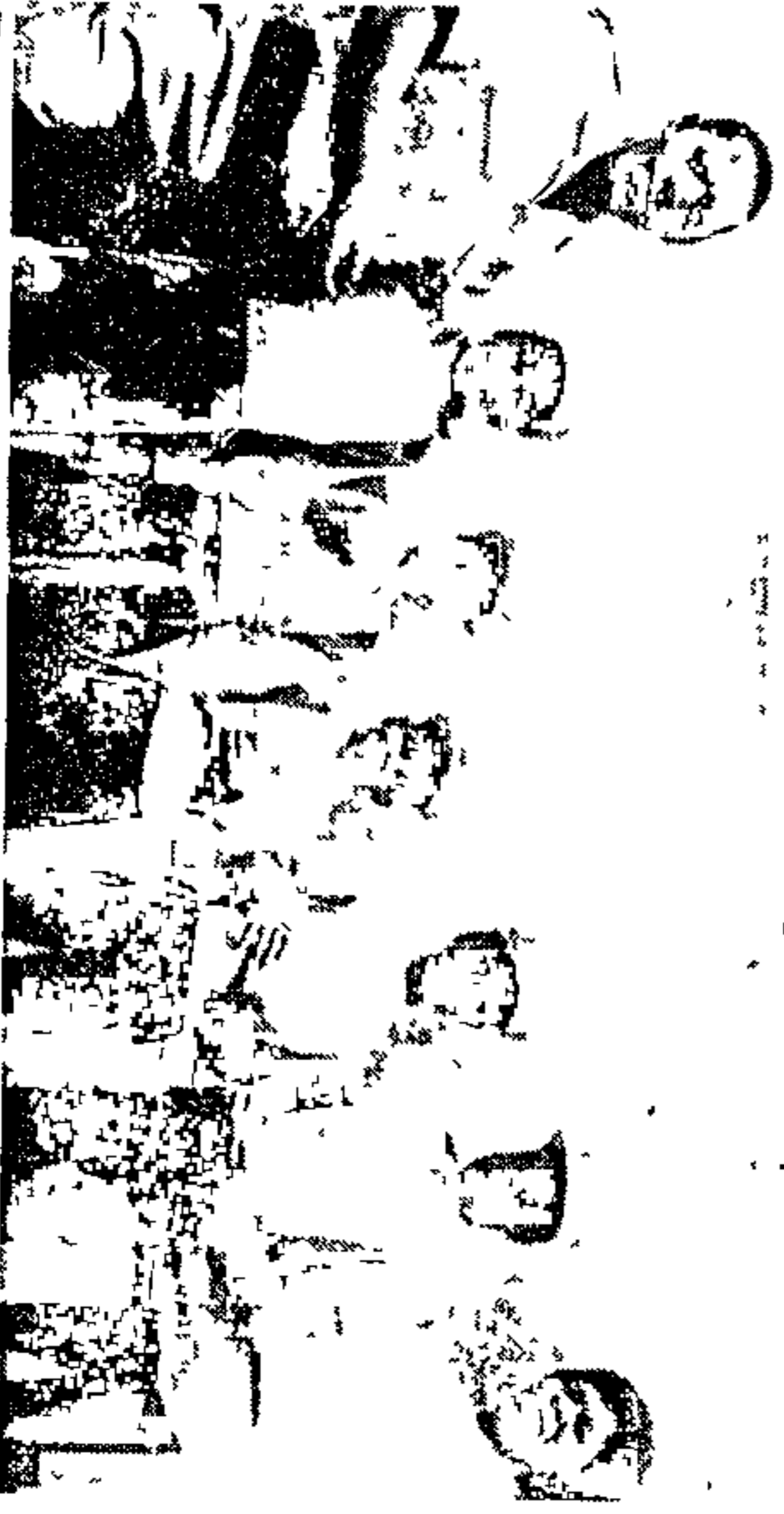


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RANDFONTEIN TEL: 692-3966



Traffic officer Mr T S Mhaka congratulates members of the W K Maponyane Primary school patrol Joseph Ramusi, Innocent Moche, Marvelous Kholoane, Meshack Mantu, Lebogang Khunou and their teacher Mrs Dorah Motlamme after they had won the Soweto (Western Zone) finals.

# Lawyers call for release of colleague

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29/11/90

THE Pretoria branch of the National Democratic Lawyers yesterday called for the release of KwaNdebele attorney Mr Jonas Sibanyoni, who has been in detention since June under the Internal Security Act.

Sibanyoni, of Ekangala, was detained on June 28

Two applications filed in the Pretoria Supreme Court in July and November for his release were dismissed by Mr Justice Joffe and Mr Justice Harms respectively.

His counsel also failed on November 8 to obtain an interdict prohibiting the Security Police from assaulting him

In a statement released yesterday Nadel called on the police authorities to either immediately charge or release Sibanyoni.

"We also reiterate our concern about the detention without trial laws which we believe should be repealed. We are also concerned that the courts of law are not doing much to protect detainees held under Section 29 of the internal Security Act," the statement said.

An urgent application

By MONK NKOMO

which sought an order declaring Sibanyoni's continued detention unlawful and interdicting Captain Charles Zeelie of John Vorster Square and other policemen from assaulting him and using abusive language was dismissed by Mr Justice Harms on November 8

Dismissal of an application brought by Miss Almah Klaas, Sibanyoni's common-law wife, in July, Justice Joffe ruled that his arrest was based on reports made to the police that the lawyer was allegedly involved in the attack on a councillor's house at Ekangala on June 27.

The incident allegedly led to the arrest of a trained guerilla who had infiltrated South Africa

According to the police, Sibanyoni was arrested following questioning by the Security Police, which led to the alleged uncovering of the Nchabeleng Unit, suspected of operating in the Far Northern Transvaal with the aim of overthrowing the Government should negotiations between the Government and the African National Congress fail.

SP

ADP

1990

# Death Row — judge overruled

CAE Tm's  
29/11/90

252

By GYNNIS UNDERHILL

A MAN who was on death row for more than a year after being convicted of murder by controversial Cape Town Supreme Court judge Mr Justice Braam Lategan has been set free by the Appeal Court in Bloemfontein.

Mr James Jochems of Hanover Park spent 14 months on Death Row. Yesterday he was found not guilty of murder by the Appeal Court.

The court's clearing of the Americans' gang member is the seventh murder conviction and death sentence handed down by Mr Justice Lategan to have been set aside.

It is also the second time in three months that a death sentence imposed by the judge has been set aside.

In September Mr Easter Ndwanama of Beaufort West who sat on Death Row for a year walked away a free man after he was cleared of murder.

In both cases Mr Justice Lategan refused leave to appeal and the Chief Justice was petitioned for leave to appeal.

Mr Justice Lategan said yesterday he had "no comment" on the findings.

UCT Professor Denis Davis who strongly opposes the death penalty, yesterday repeated his call for the Judge President to consider re-allocating Judge Lategan to civil trials.

## Crucial issue

"I am distressed by the fact that this has happened again. I don't think it does much good for the image of the judiciary," he said.

Professor Davis said Mr Jochems would have no recourse to claim damages for spending more than a year on death row.

The Appeal Court set aside the convictions and sentences imposed on Mr Jochems for murder and attempted murder at Hanover Park on October 8, 1987.

Mr Jochems was sentenced to death on September 12, 1989, for the murder of Mr Denzel Ronald Abraham and imprisoned for three years for the attempted murder of Mr Cey Lewis.

Yesterday, Mr Justice Underhill the crucial issue



Mr Justice Braam Lategan

## Capab's subsidy cut by R2m

By FONA CHISHOLM

CAPAB's subsidy for next year has been cut by more than R2 million — and staff may have to be retrenched.

The reduction — from R21m for 1990 to R18.9m for the next financial year — represents a drop of more than 10%.

Yesterday Mr George Loopuyt, Capab's general director, said the reduction has "serious consequences for Capab".

"Cutting productions severely is not a solution as funding through the subsidy formula depends on attendance," he said.

Capab's executive committee met yesterday to discuss the implications of the news.

Meanwhile the Co-ordinating

## R300 000 for illegal catch in SA

Cour Reporter

A JAPANESE fisherman was yesterday fined R300 000 in the Cape Town Regional Court for illegal catches in South African waters.

Mitsuo Ebisuda, 46, of the 51-metre Tei Maru 8, was further ordered to forfeit the ship's 100-km long-line — used to catch the fish — and to forfeit the 32-ton catch of tuna to the state.

Regional magistrate Mr J P Vermaak also imposed a two-year prison sentence on Ebisuda, which was suspended for five years.

The catch was valued at R126 461 and the net at R105 455.

Mr Norio Tsutsui, 46, captain of the vessel which was caught 110km from the Orange River mouth, pleaded not guilty and was acquitted. He paid Ebisuda's fine in full half-an-hour after sentence was passed.

Mr Henk de Lange, a contraventions officer with the Sea Fisheries Department, said yesterday it was the first conviction under newly amended fishing laws and the first time a Japanese vessel had ever been caught contravening regulations.

Passing sentence, Mr Vermaak said he had taken into account the interests of society and the gravity of the offence committed as well as the fact that Ebisuda had shown remorse in pleading guilty.

Mr Van Riee of the Dolphin Return and Protec

FINED R300 000 Mitsuo Ebisuda



# Row — verruled

CASE TRIPS  
29/11/90

252

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Mr Jochems was sentenced to death on September 12, 1989, for the murder of Mr Denzel Ronald Abrahams and imprisoned for three years for the attempted murder of Mr Gert Lewis.

Yesterday Mr Justice Milne said the crucial issue at the trial was whether it had been proved that it was Mr Jochems who had fired the shots.

Mr Jochems had denied that he was, at any relevant time, present at the scene where the shooting took place.

In a 45-minute judgment, Judge Milne found that in all the circumstances, it was apparent that the evidence of witnesses Mr Denis September and Mr Fernel Rustin, which identified Mr Jochems and his co-accused as the pursuers, was unreliable and it might well have been "deliberately dishonest".

The co-accused, Mr Mark Abrahams, was acquitted by the trial court.

Mr Justice Milne said that with the evidence of Mr Gregory Prinsloo and Mr Gert Lewis having been rejected by the trial court, there was no other evidence which implicated Mr Jochems.

It followed that he should have been acquitted on both counts, he said.

Advocate Mr John Saner and attorney Mr William Booth, the defence counsel for Mr Jochems, said yesterday they were "absolutely delighted" with the decision.

"I always believed he wasn't guilty," said Mr Saner.



volleyball team mem-  
ber find time between  
part of leap and smash  
official national beach  
urban, Plettenberg Bay  
onal and social team  
honey Picture OBED ZILWA



Mr Justice Braam Lategan

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Meanwhile the SA Co-ordinating Performing Arts Council has said emergency measures will have to be employed if South African performing arts councils are to survive the next financial year.

The national appropriation for the four councils has been cut by 6,75%.

## Crack of dawn





# Gays applaud human rights clause

GAY rights activists have responded enthusiastically to the inclusion of a clause preventing discrimination on the grounds of sexual preference in a draft bill of rights presently being circulated for comment within the ANC and the mass democratic movement.

Dr Ivan Toms, a spokesperson for the Organisation of Lesbian and Gay Activists (Olga), said Olga, together with 11 other gay rights organisations, had submitted recommendations on constitutional rights for lesbians and gay men to the ANC constitutional committee earlier this year.

In a clause dealing with gender rights, the draft bill says that discrimination on the grounds of sexual orientation will be unlawful.

Toms said if the final bill of rights includes such legal protection, it would make the South African constitution one of the most progressive in the world.

Toms said Olga would also lobby other political organisations for support.

He said that while the recommendations concentrated on legal aspects, Olga and other gay organisations acknowledged people's attitudes would have to change and felt a public education campaign to

combat homophobia was necessary.

"Even gay activists in political organisations are afraid to come out of the closet for fear of the reaction," Toms said.

The draft bill of rights, which is currently a working document, includes a range of rights including civil, political, legal, social, economic and educational rights.

The bill guarantees language, cultural and religious freedom and deals at some length with the issue of sexual equality.

Other areas covered include the rights of children and the disabled, and the protection of the environment.

## Vrye Weekblad editor loses appeal

Sta. 29/11/90  
The editor of Vrye Weekblad, Max du Preez, lost his appeal against a conviction and six-month suspended jail sentence yesterday

On November 11 last year the newspaper ran a report by Mark Swilling on a conference attended by Joe Slovo. At that stage, Mr Slovo was a listed person who could not be quoted.

It was argued that to "reproduce" the views of a banned person did not include giving an

analytical summary by a third person

Mr Justice W J Hartzenberg, with Mr Justice E L Goldstein concurring, found that the word "reproduce" in the Internal Security Act did not only mean a duplication of a banned person's speech — it also included reproducing it in a different style.

Leave to appeal against the judgment handed down in the Rand Supreme Court yesterday was refused.

# SADF fired 166 rounds, court told

By Montshiwa Moroke

A total of 166 rounds of live ammunition was fired by members of the SADF at Sebokeng on September 4, the judicial inquest into the shootings, in which 42 people were killed, heard yesterday.

This was disclosed by counsel for the SADF, Jansen van Vuuren, in Vereeniging.

He handed the court a list of names of SADF members in Sebokeng that day and the number of live rounds and tear gas canisters used

## Picked up

According to the list, 34 of the 70 members from Headquarters Group had fired R-4 rifles. Three fired nine live rounds each. Twelve gas canisters were fired by seven men.

Previous evidence led was that 96 spent cartridges had been picked up after the shooting.

Earlier, Mr van Vuuren asked that further evidence from his clients be postponed to Monday so that a senior counsel could lead the present team.

One of those expected to testify was Commandant Alf Clulie, commanding officer of the troops that day.

The chairman, Mr Justice Eddie Stafford,

granted the request.

The single witness yesterday was Stanford Ngubelanga of Sebokeng hostel, who corroborated his statement to the police. He said he had woken up at about 4 am on the day in question and had heard shots.

He saw through the window a large number of men with battle axes and iron bars, hitting at cars and windows.

Most were wearing dark overcoats and had white cloth tied round their heads.

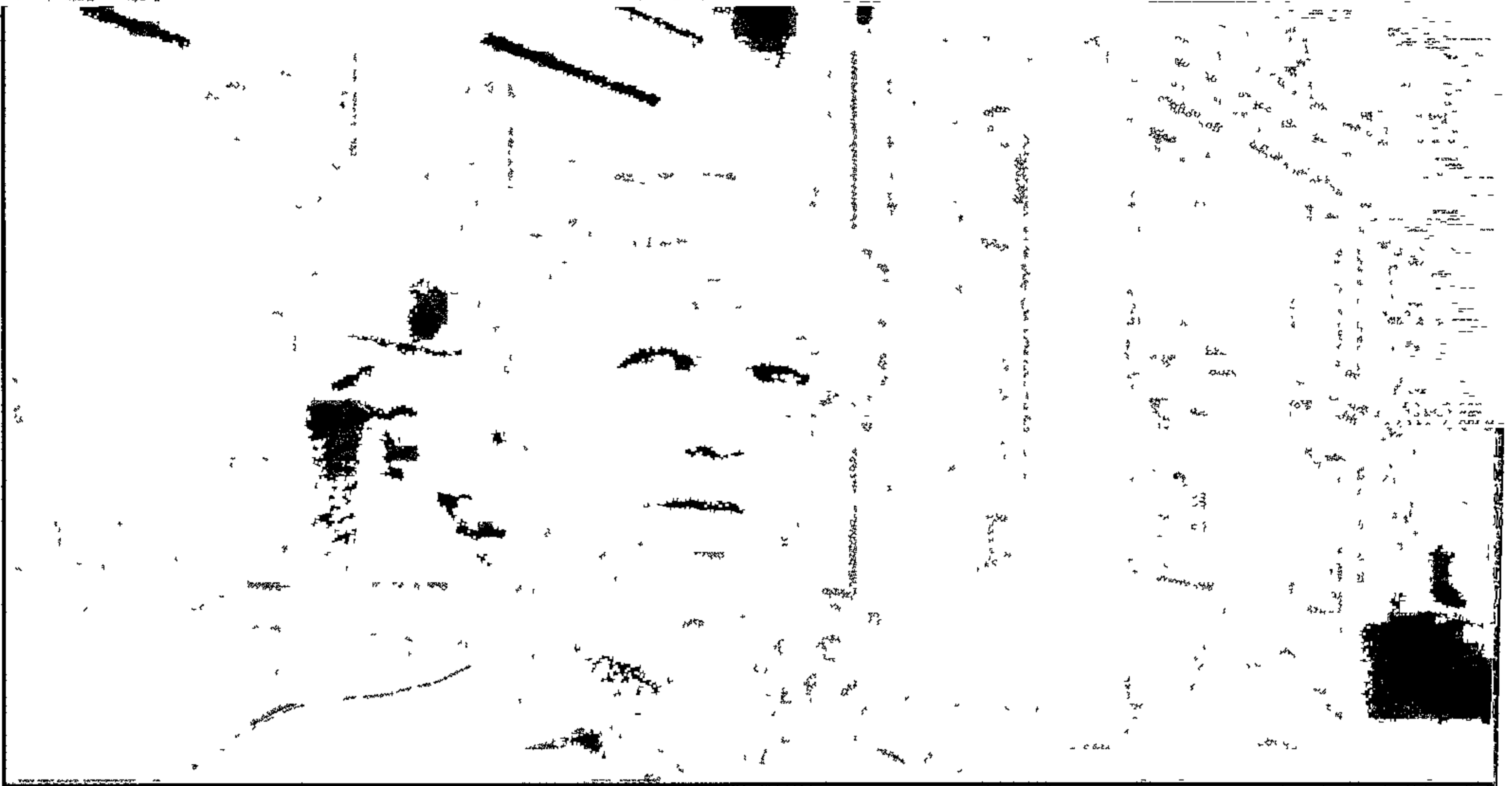
"Among this group of men I also noticed a white man. He was wearing an overcoat and he had a balaclava over his head, but I could see the white around his eyes. I could also see his white hands," he said.

He hid under the bed in fear. At about 6 am he went to Zone 14 where he felt safe.

"Somewhere around 9 am and 10 am I returned to the hostel area with a large group of people. We heard that the attackers of the previous night had been cornered in the hostel," Mr Ngubelanga said.

In a section of the hostel he had seen some of the men he had seen earlier, but now wearing red headbands. Police had prevented residents going into that block.

The hearing continues.



Posing for the press . . . Section 29 detainee Piet "Skiet" Rudolph after appearing in the Johannesburg Magistrate's Court.

# 'Piet Skiet' and No 2 to stand trial next year

By Guy Jepson and Cathy Stagg

Piet "Skiet" Rudolph and his chief organiser, Henk Bredenhann, made a surprise appearance in the Johannesburg Magistrate's Court yesterday. They will stand trial in the Rand Supreme Court next year.

Petrus Johannes Rudolph (53), the former deputy leader of the Boerestaart Party, and Orde Boerevolk organiser Hendrik Cornelius Bredenhann (28) appeared before Mr D J la Grange at a hearing to set a bail application date.

The men have been held under section 29 of the Inter-

nal Security Act.

Mr Rudolph was apprehended by police in Pretoria on September 17 after seven months on the run. A cache of weapons was allegedly found in his vehicle.

The men are expected to appear in the Johannesburg Regional Court again next Wednesday for a bail application. They will remain in custody.

Their attorney, Mr Jack Nel, read a statement on behalf of Mr Rudolph, denying media reports which alleged that he would be taken to Newcastle "to be murdered" and affirming that Mr Rudolph had been treated well in custody.

The man allegedly responsible for an arms raid on SA Air

Force headquarters over the Easter weekend and for several bomb blasts, including one at Melrose House, Pretoria, was in good spirits.

## Others charged

Asked where he had been held, he said "I can't tell you that, but I can say that I will be going to heaven."

The leader of the Boerestaart Party, Robert van Tonder, and his son, Thomas, attended the hearing.

At a press conference yesterday, Attorney-General of the Witwatersrand Mr Klaus von Lieres und Wilkau, SC, said a number of other men had already been charged in Pretoria.

Mr Rudolph and Mr Bredenhann

hann faced six charges, some of which related to the Johannesburg area.

The charges are:

- April 13 Incited Gene Taylor, Francois van Rensburg, Christoffel Liebenberg and Adriaan Vogel to break into SAAF Headquarters, Pretoria, and steal 22 12-bore shotguns, 16 R-5 automatic machineguns and attachments, 30 9 mm semi-automatic pistols, one 7,62 mm automatic machinegun, two pairs of night sight glasses and more than 5 000 rounds of ammunition.

- May 23 Incited Arthur Gunderian, Jan Meyer, Jan de Bruyn and Flip Geldenhuys to obtain explosives and cause an explosion at Melrose House, Pretoria.

Year

- May 26 Incited Adriaan van Tonder, Anton van der Linde, Christo de Beer and Andre de Beer to cause an explosion at the Food and Allied Workers' Union offices in Rustenburg.
- June 22 Incited Leon Pretorius and Andre Bredenhann to cause an explosion at the National Party offices in Auckland Park, Johannesburg.
- June 22 Incited people unknown to the State to cause an explosion at the National Party offices in Rodepoort.
- September 2 Incited Andre Bredenhann, Henry Gibbs and Coenraad Vermaak to cause an explosion at the newspaper Beeld, which caused extensive damage to two vehicles and the Beeld building.

IN a startling about-turn a judge has for the first time indicated that ex-police captain Dirk Coetzee's allegations are credible, thus breathing new life into the hit-squad saga.

While the Harms Commission discredited the evidence of the police captain-turned-African National Congress member, there has been another dramatic twist in the defamation case brought by forensic laboratory head General Lothar Neethling against the *Vrye Weekblad* and *The Weekly Mail*. The general is suing the two publications for a combined amount of R1,5-million for publishing Coetzee's allegations that he supplied poisons to drug and murder activists.

Justice J Kriegler this week not only ruled that the findings of the Harms Commission were in this case madmissible, but frequently intimated that aspects of Coetzee's account of brutal murders of activists by security force members were in fact plausible.

The judge said he had refrained from reading reports of the findings of the Harms Commission (which found

with mail 30/11/90 - 6/12/90  
**Judge finds hit-squad allegations credible**

Coetzee to have a fertile imagination and possess psychopathic tendencies) and implied that they were not relevant here.

The court heard lengthy exchanges between the judge and the 84-year-old counsel for the general, Willie Oshry QC, who at one point said "In the end it depends on who you believe — Coetzee or General Neethling."

"I don't regard my job as that simple," replied Kriegler. He said that on the face of it Coetzee's bizarre tale of brutal police murders was in Oshry's favour, until one looked more closely at his evidence.

Oshry argued earlier that the only poison in the case was that written by the "poison pen" of the *Vrye Weekblad* staff. "It is a sensation-seeking newspaper which commits character assassinations at will," Oshry said, adding that while the "sin of *The Weekly Mail*" was not as great as that of *Vrye Weekblad*, the former publi-

New life was breathed into the hit squad saga this week when a judge indicated that ex-police captain Dirk Coetzee's allegations were credible

**PHILIPPA GARSON** reports

cation associated itself with the latter Coetzee, repeated Oshry, was in his submission a psychopath. Coetzee had on several occasions made false affidavits, committed perjury and was, according to his own evidence, a thief, murderer and liar, said Oshry. Kriegler often reprimanded Oshry for using Coetzee's own testimony (from interviews and court hearings) as partial truths to draw conclusions from, while at the same time refuting this testimony as fabrication.

"Why would this man tell a tissue of lies (about men with whom) he had no axe to grind?" asked Kriegler.

"That is the nature of the beast. He is

a psychopath, not a normal person," replied Oshry.

The Natal attorney general must have partly believed Coetzee, commented Justice Kriegler, or he wouldn't have issued a warrant of arrest in January this year for the murder of human rights lawyer Griffiths Mxenge (whose death in November 1981 Coetzee claimed he orchestrated).

Oshry argued that Coetzee introduced poison into his story because it would make the book he was planning to write more interesting. Oshry said it was simply unbelievable that Brigadier Schoon would telephone a person such as Neethling requesting poison from him.

He argued that Coetzee's descriptions of Neethling's house and office which he allegedly visited to fetch "knock out drops" were riddled with inaccuracies.

Kriegler pointed out that aspects of Coetzee's account of the general's of-

fice were correct which possibly discounted the inaccuracies. The judge also implied that the appearance of Coetzee's telephone book on the scene 10 years later containing the telephone number of the plaintiff, added weight to Coetzee's story.

The fact that Coetzee knew of the release of a certain Vusi from Brits police station (who was later allegedly abducted by Coetzee), "worries me", said Justice Kriegler, adding that Coetzee had spoken of this (in his first account to *Vrye Weekblad* journalist Jacques Pouw) before it was disclosed at the Harms Commission.

Neethling earlier this week testified that the evidence of ex-South African agent Leslie Lesia, who claimed he was supplied with poison by his handlers, was a blatant fabrication.

Counsel for the publications' defence began their argument yesterday. The defendants have two options. If they are unable to prove the truth of their allegations they can argue the right to publish the allegations on ground of public interest. The case continues.

# KwaZulu disarms the law and the violence goes on

252

w/Man 30/11 - 6/12/90

**P**ARADES featuring large groups of men armed with an array of fearsome weapons have caused alarm from Durban to Johannesburg.

Last month shoppers fled in terror from a crowd of armed men marching through the streets of Johannesburg, and there have been calls for marchers to be disarmed before they take to the streets.

But this week, three key provisions which could have been used to stop the carrying of dangerous weapons at least in Natal/kwaZulu, have been scrapped by the kwaZulu government, prompting lawyers to question the commitment of Ulundi to bringing peace to the region.

A statement from the kwaZulu government noted the repeal in their entirety of sections 115 (1) (d) and 117 (3) (a) and (b) of the kwaZulu Code of Zulu Law as well as Government Notice 8 of 1978 made in terms of the Dangerous Weapons Act.

The first prohibited the carrying of any dangerous weapons to any gathering; the second barred the carrying of particular weapons with a few stringent exceptions and the third, the government notice, prohibited the carrying of any weapon in 11 listed kwaZulu townships. In all three cases a few exceptions were allowed.

Explaining why these provisions were being scrapped, Ulundi said the decision was taken because they were "archaic, impractical and redundant. In practice, the courts have tended to prosecute in terms of the Dangerous Weapons Act No 71 of 1968, which will continue to apply in both Natal and kwaZulu.

"In the circumstances, other legislation pertaining to the carrying of dangerous weapons is redundant and not applied.

"The existence of extra legislation tends to create confusion and, in view of the fact that the carrying of dangerous weapons is fully covered by the Dangerous Weapons Act, the aforementioned legislation has

The repeal of three sections of kwaZulu legislation relating to the ban on weapons has prompted lawyers to question the commitment of Ulundi to bringing peace to the region.

**By CARMEL RICKARD**

been repealed."

The now repealed legislation has been at the heart of repeated discussions between Durban's Legal Resources Centre and officials this year. The discussions followed a number of incidents of violence after rallies and marches at which people carried a frightening collection of weapons.

The LRC argued they were "dangerous weapons" as defined — sharpened assegais, sticks with glass shards fastened on the end and clubs studded with nails.

Ulundi officials said they were "traditional weapons" and that it was not appropriate or necessary for police to remove them as they were part of Zulu culture.

The LRC has persisted with their claims that the police should act in terms of the kwaZulu Code of Zulu law: particularly those sections which outlaw the carrying of dangerous weapons to any gathering or in public.

Commenting on the decision to scrap the very sections which LRC had urged Ulundi should implement, LRC lawyer Howard Varney said from the date of the promulgated legislation — 1985 — it was clearly not "archaic".

"The conditions which existed in past years which prompted the law makers to make such laws still exist today. In fact today the use and proliferation of dangerous weapons has become much more commonplace. The need for such laws is more urgent than ever before.

"It is true these provisions have not been applied in the recent past. The question which needs to be asked is why these pro-

visions have not been enforced. It is the law enforcers who choose whether or not to enforce particular provisions."

Varney also says that it is not true to argue that the repealed legislation is not needed because the Dangerous Weapons Act covers the issue.

While the sections of the kwaZulu Code and government notice now scrapped made it an offence simply to be in possession of dangerous weapons in public, the Dangerous Weapons Act requires an element of intent — it is an offence only if the bearers have the intention of using their weapons to commit an offence.

"Not surprisingly few are arrested in terms of the Act. The laws which have been repealed provided teeth to the Dangerous Weapons Act by outlining the circumstances in which the mere possession of weapons was an offence."

Varney said Natal was in the grip of unprecedented levels of violence and he questioned the commitment of the kwaZulu government to the maintenance of law and order.

"The Dangerous Weapons Act must now be strictly enforced — the police must act against people carrying such weapons at meetings and rallies, particularly when they are chanting militant slogans.

"Unless the Dangerous Weapons Act is now strictly enforced in this way the kwaZulu government must accept responsibility for raising the potential for violence in the region."

Ten days before the repeal of this legislation two serious incidents in Durban illustrated the situation Varney is complaining about. In one, an ANC official, Sigudubu Chiya, was attacked by armed men during an Inkatha rally at Wema Hostel. The other attack followed the same rally — Mthokozisi Zulu was attacked by armed men at a railway station on their way back from the rally. He later died in hospital from gashes that hacked open his abdomen.

# Right on! Everybody loves the ANC's Bill

WJ Mac 30/11 - 6 12/90

The ANC has issued a draft Bill of Rights which will be discussed by members throughout the country before the national consultative conference in mid-December. **CARMEL RICKARD** examines the content of the draft Bill and legal comment on the document



The African National Congress' draft Bill of Rights has been welcomed by a wide range of legal experts. Even Mr Justice P Olivier, of the South African Law Commission, has given high praise to the drafters of the document and has predicted a "remarkable correspondence" between the commission's final draft Bill of Rights, due to be presented to the state president early next year, and that prepared by the ANC. In their introductory note, the drafters of the ANC document say that under present South African conditions, a Bill of Rights becomes the fundamental anti-apartheid document.

"It guarantees equal rights for all citizens and defends each and every one of us against the kind of tyranny and abuse which has flowed daily from the apartheid state."

The drafters explain that there is a long background to the Bill, including the Freedom Charter and the 1985 National Executive Committee constitutional guidelines and seminars.

Participants at some of these seminars insisted that the issue of women's rights be treated more extensively and that "vigorous proposals" of social and economic rights should be spelled out.

One of the debates about a Bill of Rights has been whether to include social, economic and educational "rights", as these are not easily enforceable by the courts. The ANC drafters have clearly decided these should be included as they have been in other contemporary human rights documents.

"Our approach has been to identify certain needs as being so basic as to constitute the foundation of human rights claims, namely the rights to nutrition, education, health, shelter, employment and a minimum income."

In South Africa it is not just a question of dealing with poverty such as you might find in any country, but with responding to the social indignities and inequalities created as a direct result of state policies under apartheid.

The strategy proposed for achieving the realisation of these rights is to seek knowledge them as basic human rights and require the state to devote maximum available resources to their progressive realisation.

The 14-page document contains 16 main articles, with many sub-clauses. It reads: "All South Africans are born free and equal in dignity and rights."

"No individual or group shall receive privileges or be subjected to discrimination, domination or abuse on the grounds of race, colour, language, gender, creed, political or other opinion, birth or other status."

"All men and women shall have equal protection under the law."

The language of this first article is

typical of the rest of the Bill — it is written in an accessible style and at every point inclusive language is used.

Commenting on Article Two, Brian Curran of Lawyers for Human Rights said he was "absolutely delighted" to see that the ANC was proposing the abolition of capital punishment — one of the clauses under The Right to Life.

"In this the ANC draft Bill is light years ahead of the Law Commission's most recently published document."

Legal experts also welcomed the clear statement under the Right to a Fair Trial that "there shall be no detention without trial", and Curran again said this went further than the Law Commission draft which was "not nearly so unequivocal".

Sixteen clauses deal with ensuring fair trials, one of which states that if an accused is unable to pay for legal representation, and if the interests of justice require it, "the state shall provide for a competent defence".

Under the Right to Judicial Review, the Bill states that anyone adversely affected by an administrative act may go to court to challenge this action on the grounds of "abuse of authority, going beyond the powers granted by law, bad faith or such gross unreasonableness in relation to the procedure or

the decision as to amount to manifest injustice".

Curran said this was a significant move which went beyond the grounds on which administrative decisions could be challenged under present law.

All the legal experts who commented on the Bill noted the Right to Privacy, which bars "interference with private communications, spying on persons, and the compilation and keeping of secret files about them without their consent".

This would only be allowed "as authorised by law in circumstances that would be acceptable in an open and democratic society".

The Bill commits society to a multiparty democracy, a move particularly praised by former kwazulu cabinet minister Oscar Dhlomo, who is setting up an institute to promote the concept of a multiparty democracy.

As with several similar clauses however, he said the "next hurdle" was to begin the process of educating people on the ground "as the success of this clause depends solely on inculcating these values in people, especially the young ones, who will be our future voters."

Freedom of worship and tolerance of all religions is enshrined but there is to

be "no state or official religion".

Of particular interest is the question of language rights.

The Bill lists all the major languages of the country and says the state should further the development of all these languages.

It appears deliberately vague on the question of an official language, saying "When it is reasonable to do so, one or more of these languages may be designated as the language to be used for defined purposes at the national level or in any region or area where it is widely used."

Johann van der Westhuizen, director of the Centre for Human Rights Studies at the University of Pretoria, said this appeared to be an attempt to avoid designating an official language, as this ran the risk of reducing the value of other languages. However, he believed this was not really practical and that at some stage, despite the "idealistic" wording of the Bill, a "hard political decision would have to be taken".

There is a lengthy section on workers' rights, five clauses on "gender rights" which outlaw discrimination on the grounds of gender, single parenthood, legitimacy of birth or sexual orientation. It also puts a responsibility on the media, advertising and other

social institutions "to discourage sexual and other types of stereotyping".

The rights of disabled people are dealt with, as are those of children.

On the difficult questions of social, educational, economic and welfare rights, Curran believes the drafters have been clever by not establishing clear individual rights, but rather outlining affirmative action which the state must take to provide, for example, equal opportunities.

Care is given to environmental issues in clauses which Van der Westhuizen described as "far more sophisticated than in the Namibian model".

"Positive action" is provided for, including the outlawing of "hate propaganda" — although several experts suggested this could lead to censorship.

There is also concern about ensuring that the rights can be enforced. The courts are to guarantee them while a specially created constitutional court will be created. However, in addition to the courts, the Bill provides for the setting up of a Human Rights Commission, which will have special responsibility for ensuring that basic social, educational, economic and welfare rights are respected.

Finally, the Bill provides for the creation of the office of an ombudsman, who would investigate complaints about abuse of power by any government official.

University of Cape Town professor of Public Law Hugh Corder described the Bill as an "extraordinary document in a positive sense."

"It has achieved a level of detail and has anticipated in a really sophisticated way all kinds of demands and needs of the majority of the country in the future. In its attempt to be comprehensive it is remarkably successful!"

In his comment, Olivier said he was "thrilled" by the document and its publication.

He said his law commission had also been working on a draft Bill and that the more who participated in fostering concern for human rights, the better. He described the ANC document as "excellently drafted".

"There is a remarkable correspondence (between the two Bills) and I would not be surprised from what I know to see even greater correspondence. There may be areas of differences where we cannot agree but I certainly think the general philosophy of what a Bill is and what we are aiming at is much the same."

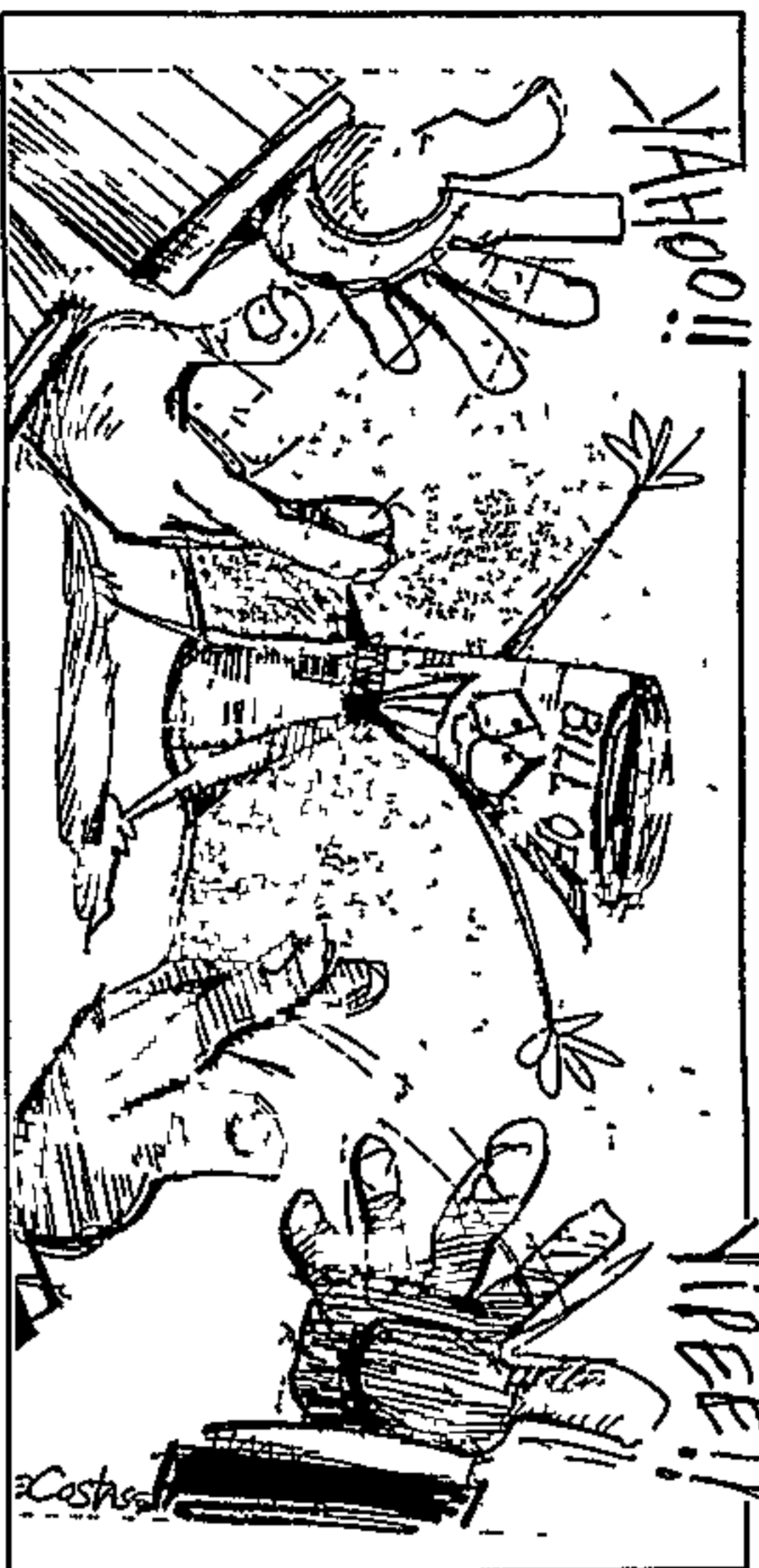
"I would not expect too many areas of disagreement in the end."

Several of the lawyers asked to comment are preparing their own detailed response of comment, criticism and suggestions to send to the ANC, but they were all agreed that this was a document which made a significant contribution to the debate on a Bill of Rights.

# Right on! Everybody loves the ANC's Bill

W/Mod 30/11 - 6/12/90

The ANC has issued a draft Bill of Rights which will be discussed by members throughout the country before the national consultative conference in mid-December. **CARMEL RICKARD** examines the content of the draft Bill and legal comment on the document



THE African National Congress' draft Bill of Rights has been welcomed by a wide range of legal experts. Even Mr Justice P Olivier, of the South African Law Commission, has given high praise to the drafters of the document and has predicted a "remarkable correspondence" between the commission's final draft Bill of Rights, due to be presented to the state president early next year, and that prepared by the ANC.

In their introductory note, the drafters of the ANC document say that under present South African conditions, a Bill of Rights becomes the fundamental anti-apartheid document.

"It guarantees equal rights for all citizens and defends each and every one of us against the kind of tyranny and abuse which has flowed daily from the apartheid state."

The drafters explain that there is a long background to the Bill, including the Freedom Charter and the 1988 National Executive Committee constitutional guidelines and seminars.

Participants at some of these seminars that the issue of women's rights be treated more extensively and that "vigorous proposals" of social and economic rights should be spelled out.

One of the debates about a Bill of Rights has been whether to include social, economic and educational "rights", as these are not easily enforceable by the courts. The ANC drafters have clearly decided these should be included as they have been in other contemporary human rights documents.

"Our approach has been to identify certain needs as being so basic as to constitute the foundation of human rights claims, namely the rights to nutrition, education, health, shelter, employment and a minimum income.

"In South Africa it is not just a question of dealing with poverty such as you might find in any country, but with responding to the social indignities and inequalities created as a direct result of state policies under apartheid."

The strategy proposed for achieving the realisation of these rights is to seek knowledge them as basic human rights and require the state to devote maximum available resources to their progressive materialisation.

The 14-page document contains 16 main articles, with many sub-clauses. It reads: "All South Africans are born free and equal in dignity and rights.

"No individual or group shall receive privileges or be subjected to discrimination, domination or abuse on the grounds of race, colour, language, gender, creed, political or other opinion, birth or other status.

"All men and women shall have equal protection under the law."

The language of this first article is

typical of the rest of the Bill — it is written in an accessible style and at every point inclusive language is used.

Commenting on Article Two, Brian Curran of Lawyers for Human Rights said he was "absolutely delighted" to see that the ANC was proposing the abolition of capital punishment — one of the clauses under 'The Right to Life.

"In this the ANC draft Bill is light years ahead of the Law Commission's most recently published document."

Legal experts also welcomed the clear statement under the Right to a Fair Trial that "there shall be no detention without trial", and Curran again said this went further than the Law Commission draft which was "not nearly so unequivocal".

Sixteen clauses deal with ensuring fair trials, one of which states that if an accused is unable to pay for legal representation, and if the interests of justice require it, "the state shall provide or pay for a competent defence."

Under the Right to Judicial Review, the Bill states that anyone adversely affected by an administrative act may go to court to challenge this action on the grounds of "abuse of authority, going beyond the powers granted by law, bad faith or such gross unreasonableness in relation to the procedure or

the decision as to amount to manifest injustice."

Curran said this was a significant move which went beyond the grounds on which administrative decisions could be challenged under present law.

All the legal experts who commented on the Bill noted the Right to Privacy, which bars "interference with private communications, spying on persons, and the compilation and keeping of secret files about them without their consent."

This would only be allowed "as authorised by law in circumstances that would be acceptable in an open and democratic society."

The Bill commits society to a multiparty democracy, a move particularly praised by former kwazulu cabinet minister Oscar Dhlomo, who is setting up an institute to promote the concept of a multiparty democracy.

As with several similar clauses however, he said the "next hurdle" was to begin the process of educating people on the ground "as the success of this clause depends solely on inculcating these values in people, especially the young ones, who will be our future voters."

Freedom of worship and tolerance of all religions is enshrined but there is to

al and other types of stereotyping." The rights of disabled people are dealt with, as are those of children.

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# Judge finds hit-squad allegations credible

IN a startling about-turn a judge has for the first time indicated that ex-police captain Dirk Coetzee's allegations are credible, thus breathing new life into the hit-squad saga.

While the Harms Commission discredited the evidence of the police captain-turned-African National Congress member, there has been another dramatic twist in the defamation case brought by forensic laboratory head General Lothar Neethling against the *Vrye Weekblad* and *The Weekly Mail*.

The general is suing the two publications for a combined amount of R1,5-million for publishing Coetzee's allegations that he supplied poisons to drug and murder activists.

Justice J Krieger this week not only ruled that the findings of the Harms Commission were in this case inadmissible, but frequently intimated that aspects of Coetzee's account of brutal murders of activists by security force members were in fact plausible.

The judge said he had refrained from reading reports of the findings of the Harms Commission (which found

Coetzee to have a fertile imagination and possess psychopathic tendencies) and implied that they were not relevant here.

The court heard lengthy exchanges between the judge and the 84-year-old counsel for the general, Willie Oshry QC, who at one point said: "In the end it depends on who you believe — Coetzee or General Neethling."

"I don't regard my job as that simple," replied Krieger. He said that on the face of it Coetzee's bizarre tale of brutal police murders was in Oshry's favour, until one looked more closely at his evidence.

Oshry argued earlier that the only poison in the case was that written by the "poison pen" of the *Vrye Weekblad* staff. "It is a sensation-seeking newspaper which commits character assassinations at will," Oshry said, adding that while the "sin of *The Weekly Mail*" was not as great as that of *Vrye Weekblad*, the former publi-

New life was breathed into the hit-squad saga this week when a judge indicated that ex-police captain Dirk Coetzee's allegations were credible.

## PHILIPPA GARSON reports

Coetzee, repeated Oshry, was in his submission a psychopath. Coetzee had on several occasions made false affidavits, committed perjury and was, according to his own evidence, a thief, murderer and liar, said Oshry.

Krieger often reprimanded Oshry for using Coetzee's own testimony (from interviews and court hearings) as partial truths to draw conclusions from, while at the same time refuting this testimony as fabrication.

"Why would this man tell a tissue of lies (about men with whom) he had no axe to grind?" asked Krieger.

"That is the nature of the beast. He is

a psychopath, not a normal person," replied Oshry.

The Natal attorney general must have partly believed Coetzee, commented Justice Krieger, or he wouldn't have issued a warrant of arrest in January this year for the murder of human rights lawyer Griffiths Mxenge (whose death in November 1981 Coetzee claimed he orchestrated).

Oshry argued that Coetzee introduced poison into his story because it would make the book he was planning to write more interesting. Oshry said it was simply unbelievable that Brigadier Schoon would telephone a person such as Neethling requesting poison from him.

He argued that Coetzee's descriptions of Neethling's house and office which he allegedly visited to fetch "knock out drops" were riddled with inaccuracies.

Krieger pointed out that aspects of Coetzee's account of the general's of-

file were correct which possibly discredited the inaccuracies. The judge also implied that the appearance of Coetzee's telephone book on the scene 10 years later containing the telephone number of the plaintiff, added weight to Coetzee's story.

The fact that Coetzee knew of the release of a certain Vusi from Brits police station (who was later allegedly abducted by Coetzee), "worries me", said Justice Krieger, adding that Coetzee had spoken of this (in his first account to *Vrye Weekblad* journalist Jacques Pouw) before it was disclosed at the Harms Commission.

Neethling earlier this week testified that the evidence of ex-South African agent Leslie Lesia, who claimed he was supplied with poison by his handlers, was a blatant fabrication.

Counsel for the publications' defence began their argument yesterday. The defendants have two options. If they are unable to prove the truth of their allegations they can argue the right to publish the allegations on ground of public interest. The case continues.

# New scheme of legal aid for the poor

The Legal Aid Board is to launch a pilot programme aimed at ensuring that people who cannot afford to have lawyers are represented when on trial.

The programme, which will be known as the Public Defender System, will come into effect next year.

A spokesman of the

**By IKE MOTSAPI.**

board in Pretoria said a number of public defenders who will be drawn from various lawyers throughout the country will be appointed for a period of two years at centres

In a statement to the Sowetan the board announced that it was investigating the feasibility

of a public defender system for the entire country.

It said "As part of our investigations we will launch a pilot project and appoint a number of public defenders for a period of two years to defend poor accused who cannot afford to pay for lawyers

"This follows our investigations which have shown that about 80 per cent of all accused appearing in lower courts are not represented.

## Prison

"We have also found out that more than 100 000 of the people who appeared in courts last year were committed to prison without having been properly assisted by lawyers.

It said the reason for the shortage of representation in magistrates courts was due to lack of money and shortage of lawyers

The board said they envisaged no problems

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# Slander case monster jibe

Sowetan 30/11/90

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GENERAL Lothar Neethling, head of the SAP forensic division who is suing two newspapers for defamation, would have been a monster had he given Captain Dirk Coetzee poison drops to experiment with on humans, the Rand Supreme Court was told yesterday.

Arguing before Mr Justice JC Kriegler, Mr Willy Oshry, QC, for Neethling, referred to a headline in *Vrye Weekblad* which read, "Nazi Germany is here".

### Poison

The judge said he did not follow the analogy because Coetzee's evidence was that poison had been given to sheep, which caused them to have heart

attacks - but that "knock out drops" were given to humans

Justice Kriegler asked what was monstrous about giving drops to enemies of the State in a war situation to render them more amenable to control

"Of course in a war anything goes," Oshry said, mentioning poison gas, flame throwers and atom bombs

### Security

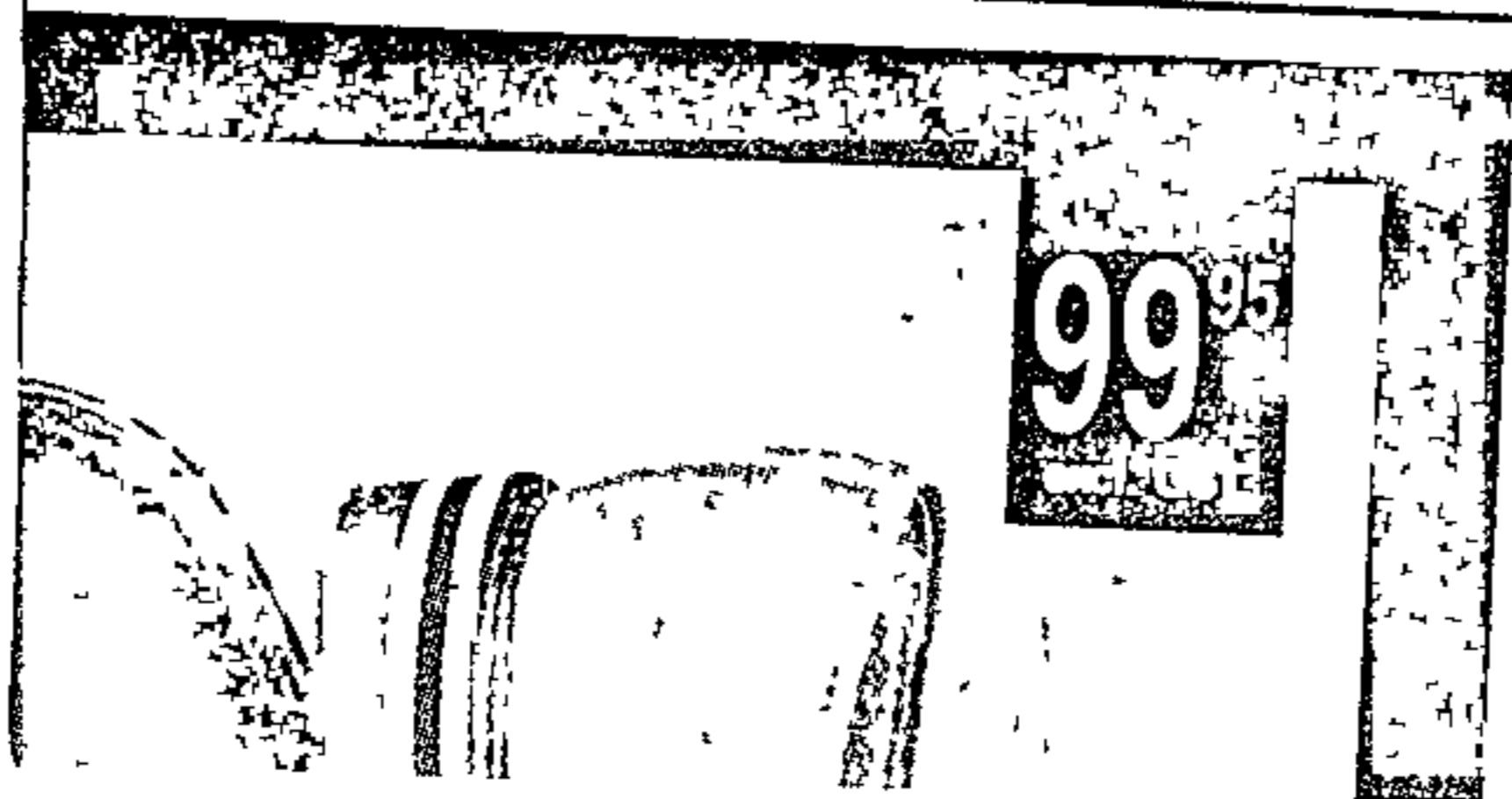
He added that not every person in the security forces was "a Coetzee".

"There are people like Coetzee in every branch of life but you can't brand the whole security force," Oshry said.

The judge said this was irrelevant as it was not the whole security forces who were involved in this case and Oshry did not appear on their behalf

Oshry referred to newspaper cuttings handed in as evidence and asked if the other side could say what they liked but he could not

The case continues -  
*Sowetan Correspondent*



SUSAN RUSSELL

# Poison 'not a stealthy killer'

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POLICE forensics expert Lt-Gen Lothar Neethling told the Rand Supreme Court yesterday that he knew of no poison that killed a victim 10 to 15 days after a lethal dose without prior symptoms

Neethling said the administration of a lethal dose would cause severe symptoms almost immediately

The general was called to the witness stand again yesterday in the R1,5m defamation claim he has brought against the Vrye Weekblad and Weekly Mail newspapers

The two newspapers are being sued by Neethling for publishing allegations that he had supplied poison to

former police captain Dirk Coetzee to murder ANC members

Coetzee has claimed that while he was a member of a secret police death squad he received poison from Neethling for this purpose

The general denies he ever gave poison to Coetzee. He has also told the court that he does not know Coetzee.

Neethling yesterday gave evidence in rebuttal of testimony made by a self-confessed former Military Intelligence agent Lesley Lesia

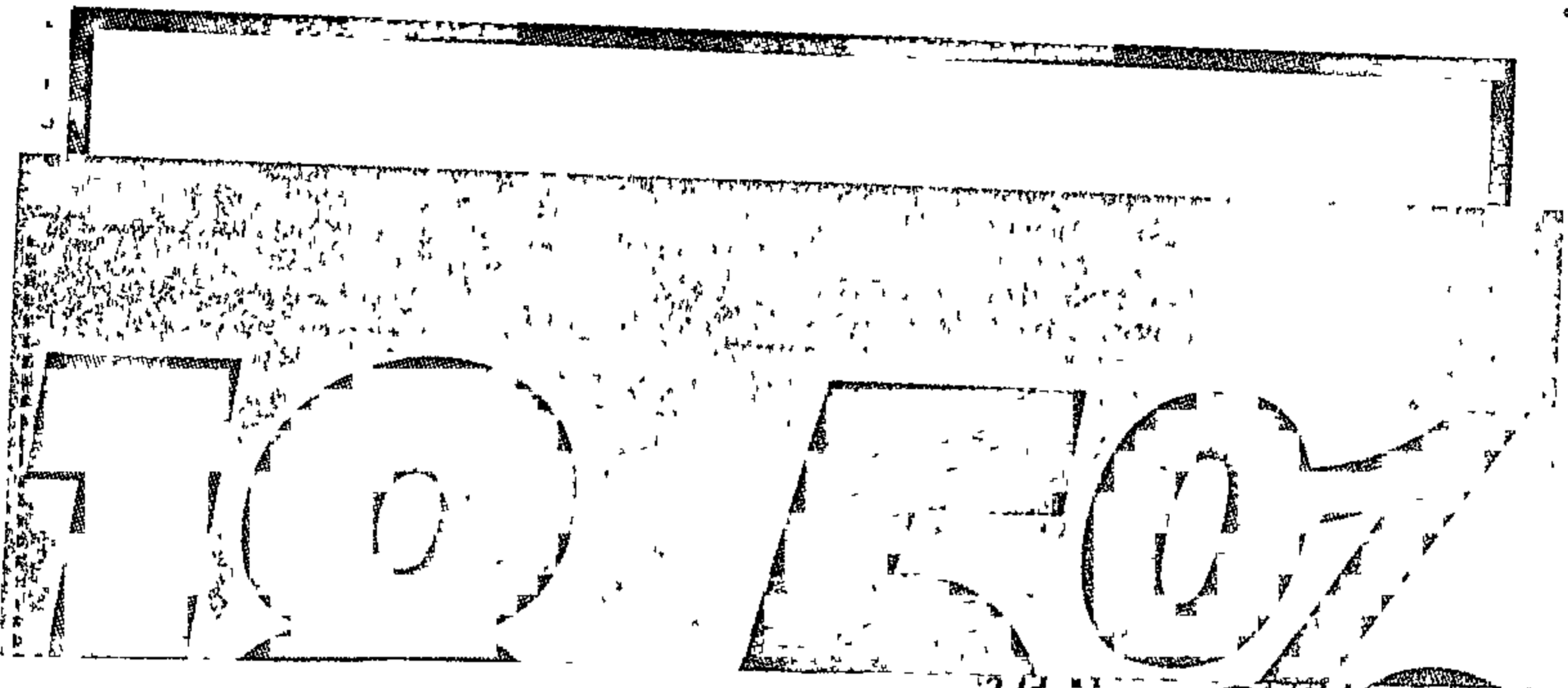
Lesia, who was called to testify on behalf of the two newspapers, told the

court last week that he had worked under the direction of two handlers during 1986 and 1987 until his arrest in Maputo. He had been given poison and poisoned alcohol to eliminate ANC members

Lesia told the court that he had taken liquor to Maputo laced with a poison that killed 10 to 15 days after it was taken without prior symptoms

Neethling said an acute dose could manifest symptoms such as lameness and hair loss after a number of days

Neethling's cross-examination continues today



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# SADF requests delay in inquest testimony

B1 Day 30/11/90 (252)

VEREENIGING — The SADF yesterday requested that the testimony of members still to appear before the Vereeniging Supreme Court inquest into the deaths of 42 people in Sebokeng on September 4 be held over until next week

Attorney Koos van Vuuren told inquest chairman Mr Justice Eddie Stafford a senior counsel was being brought in to bolster the SADF's legal team, and required time to familiarise himself with the case

Yesterday morning's scheduled witness was Cmdt Alf Clulee, the commanding officer of SADF soldiers who shot at Sebokeng residents on September 4

His fellow officer, Cmdt Stefanus Lombard, was accused by Mr Justice Stafford on Wednesday of committing perjury

Lombard admitted fabricating crucial evidence in a statement to police. He originally said he had seen Clulee pick up a petrol bomb from the ground where a man shot dead by the SADF had been lying

In cross-examination, the officer told

the court he had not seen the alleged petrol bomb

At least one man died and a number of others were wounded when the troops allegedly shot without orders.

In earlier evidence, it was said SADF soldiers were called out because police had lost control of an explosive situation in which a Sebokeng crowd had trapped 137 armed Inkatha members in a hostel courtyard

The soldiers fired a 22-second fusillade of R4 automatic rifle fire into the crowd in order to free the Inkatha people, who were later arrested

Many, including Inkatha Youth Brigade leader Themba Khoza, were charged with illegal possession of firearms

An arsenal of weapons was found in Khoza's car at the scene

In papers submitted to the court yesterday the SADF said 166 R4 rounds were fired in the fusillade, intended to disperse the crowd — Sapa

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# 'Sensation-seeking' newspaper should bear cost — counsel

VRYE Weekblad was a sensation-seeking newspaper which committed character assassination at will, Willy Oshry QC submitted in closing argument yesterday in the R1,5m defamation action brought against the newspapers by Lt-Gen Lothar Neethling.

Asking the judge to grant Neethling a "substantial award for damages", Oshry said no newspaper should have behaved in the way Vrye Weekblad had in this case.

## Grounds

Neethling has sued Vrye Weekblad and the Weekly Mail for a total of R1,5m after the two newspapers published articles in November-December last year in which former police captain Dirk Coetzee claimed that while a member of a secret police hit squad he had been supplied with poison by Neethling to murder people.

Both newspapers are de-

## SUSAN RUSSELL

fending the action on the grounds of truth and public benefit.

Oshry said the general had not only been defamed in the articles in question, but Vrye Weekblad had repeated the libel throughout the year.

The repetitions throughout the year had sometimes been contained in sarcastic and insulting references and had had a serious effect on Neethling's health, Oshry said.

He submitted that although the Weekly Mail had libelled Neethling in its article, it, at least, had had the good sense not to aggravate the situation by repeating it.

Unfortunately, he added, it had associated itself with the defence of truth raised in court and in that sense aggravated the damages claimed.

Argument by Vrye Weekblad counsel R Levin SC continues today.

# Lategan: Cape Bar Council silent

By GLYNNIS UNDERHILL

THE Cape Bar Council has declined to comment on the Appeal Court overturning the seventh death sentence handed down by Cape Town Supreme Court judge Mr Justice Braam Lategan.

After a meeting last night, the council president, advocate Mr Peter Hodes, said the decisions "proved the appeal system works". The council did not comment on the performance of individual judges, he said.

Mr James Jochems, 23, of Hanover Park, was set free this week by the Appeal Court

in Bloemfontein after 14 months on Death Row. Yesterday his mother, Mrs Veronica Jochems, 43, said her son would arrive home today with his girlfriend.

Mr Jochems was sentenced to death in September last year for the murder of Mr Denzel Abrahams and imprisoned for three years for the attempted murder of Mr Gert Lewis in a gang shooting.

In setting aside sentence, the Appeal Court found that evidence identifying Mr Jochems and his co-accused was unreliable. This is the second time in three months

that a death sentence imposed by the judge has been set aside.

The General Council of the Bar of South Africa opposed the appointment of Mr Lategan, the former Attorney-General of the Cape, as a judge of the Cape Division of the Supreme Court, in 1979.

It said a person who throughout his career had approached matters from the state's point of view was unlikely to acquire the necessary degree of independence and would inevitably be suspected not to be impartial.



FREE MAN ... After 14 months on Death Row, Mr James Jochems (left) has been freed. Here he is with a friend

# Army officer is charged for changing mind

W/Word 30/11 - 6/12/90

The inquest into the shooting of 42 people at the Sebokeng Hostel in September is hearing conflicting evidence about the incident, reports **CHARLES LEONARD** and Sapa

**O**n Tuesday September 4 South African Defence Force Commandant Stephanus Lombard was in Sebokeng as an observer with an SADF unit and witnessed how several people were killed in the aftermath of an alleged pre-dawn raid by Inkatha members on hostel dwellers, and how the unit killed at least one resident. On Thursday September 20 he made a sworn statement to the police on what he had seen that day. On November 25 Lombard watched a police video of the massacre which left 42 dead at the Sebokeng Hostel. During evidence this Tuesday Lombard changed his statement under cross examination at the inquest into the killings held under the chairmanship of Judge Eddie Stafford in Vereeniging. On Wednesday the judge ruled that Lombard be investigated for perjury following his conflicting evidence. Lombard said in his sworn statement that he saw a SADF officer pick up a petrol bomb lying in front of a man who had been killed by the SADF.

During cross examination by Stafford he admitted that he did not have the "victim clue" where the petrol bomb was found and whether Commandant Alf Clulke had picked it up. Lombard admitted he "wanted the bomb to be next to the victim", because it would be proof of the "danger" in which the soldiers found themselves. At 3am on September 4 a mob wearing red headbands allegedly attacked

the hostel with pangas, spears and guns and left several people dead. Police have testified that they arrived at the scene to find several dead bodies lying in the street outside the hostel and that there had been two large groups of people intent on fighting each other. A Vaal Civic Association executive member told the inquest in his view the police had been partial to Inkatha. Ernest Soisu said that during negotia-

tions with Colonel Piet Fourie he had demanded Inkatha members be disarmed, so residents could believe police were "not saving Inkatha but arresting them". He said Fourie had, however, declined on the grounds that the police were outnumbered.

In the meantime a group of soldiers had arrived from Group 17 in Vereeniging, and fired for about 22 seconds into the crowd outside the hostel.

Several witnesses agreed that there was not enough provocation to justify the soldiers' opening.

Constable Mannus van Huyssteen, who submitted a video of the incident, was asked by state prosecutor Anton Ackerman whether he had questioned the justification for the shooting, particularly in view of the fact that neither petrol bombs nor stones were thrown. Van Huyssteen said he had

He agreed with Gys Rautenbach, legal representative for the families of 12 of the deceased, that the shooting continued even after the crowd had started to run away.



# Appeal Court frees Death Row convict

CAPE TOWN — A man who has been on Death Row for more than a year after being convicted by Cape Town Supreme Court judge Mr. Bram Lategan has been set free by the Appeal Court in Bloemfontein.

James Jochems, of Haover Park, had spent 14 months on Death Row and was on Wednesday found not guilty of murder by the Appeal Court.

The court's clearing of the Americans Gang member is the seventh murder conviction and death sentence handed down by Mr Justice Lategan to be set aside in

the past two years.

It is also the second time in three months that a death sentence imposed by the judge has been so set aside.

In September, Easter Ndwanyana, of Beaufort West, who sat on Death Row for a year, walked away a free man after he was cleared of murder.

In both cases Mr Justice Lategan refused leave to appeal on conviction and the Chief Justice was petitioned for leave to appeal.

Mr Justice Lategan said he had no comment on the findings. — Sapa.

80-30/11/90 (252)

# Judge orders Springs to reopen swimming pools

By Helen Grange

The Conservative Party-controlled Springs Town Council was yesterday ordered to reopen two public swimming pools which it had closed

Mr Justice H Daniels also ordered in the Rand Supreme Court that the council continue to maintain the Selection Park and Casseldale swimming pools — and pay the costs of a court

application brought by an inconvenienced Springs resident, Michael Hart

The judge found that despite the council's argument that the pools had been permanently closed for economic reasons, conservative political motivations had played a part in the decision

"The inference is that the council exercised its discretion to close the facilities for ulterior motives, and did not act in

the bona fide manner," he said

The council had acted with "indecent haste" after the scrapping of the Separate Amenities Act, without having properly investigated ways to address financial problems

Instead, the council had closed the pools, charged fees at other under-utilised facilities that were previously free of charge, and planned an entertainment complex at the Olympia Park swimming pool, which was in a state of disrepair

# Counsel calls Weekblad sensation-seeking paper

By Cathy Stagg

Vrye Weekblad was a sensation-seeking newspaper which should be told it could not publish character assassinations at will, counsel for General Lothar Neethling submitted in the Rand Supreme Court yesterday.

Counsel for the newspaper urged the judge to accept a defence which, if accepted, would be a precedent.

Mr Justice J C Kriegler, who is presiding over the civil hearing, said the alternative defence which had been raised was interesting in theory and could constitute an advance in the law of defamation.

The legal battle being waged on behalf of the general, who is head of the SAP's forensic division, and two newspapers was set

down for 10 court days and is nearing the end of its third week in court. It is likely to continue next week.

It arose from the publication of two articles in Vrye Weekblad and one in the Weekly Mail last year.

General Neethling claimed R500 000 for each report, in which former police captain Dirk Coetzee alleged General Neethling had supplied the security police with poison to use on ANC members.

## Stigma

Yesterday, Willy Oshry, QC, said General Neethling had a local and international reputation as a forensic expert. The stigma of the allegations made against him had severely affected his health and way of life, Mr Oshry said.

General Neethling had not at-

tended local or overseas meetings because he could not look his colleagues in the face until his name had been cleared. This was one of the reasons the hearing had been given a preferential date, he said.

Bobby Levin, SC, who appears for the newspapers, said the main defence was truth and public benefit, otherwise known as a plea of justification. The alternative defence was that in the circumstances, the newspaper had a duty to publish and the readers had a right to receive the information.

The judge said the particular circumstances had not been spelt out.

Mr Levin said he would amend the pleadings. The judge said Mr Levin could prepare a draft and he would hear argument on the admissibility of the draft later.

The hearing continues.

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# Watershed ruling - organisations

By Esmaré  
van der Merwe  
Political Reporter

Political and community organisations have hailed the court ruling on the re-opening of CP-controlled Springs municipal swimming pools as a watershed decision which will contribute to building a new South Africa.

In the first case dealing with amenities after the scrapping of the Reservation of Separate Amenities Act, the Rand Supreme Court ruled yesterday that the Springs council had closed down two swimming pools with ulterior motives based on political motivations.

## Exposed

National Party MP for Springs and the party's Transvaal information officer Piet Coetzer said he was "thrilled" and grateful that the CP-dominated council had been exposed.

"I hope that people in other towns where the CP is trying to circumvent the law will study this finding with a view to challenging CP councils."

But the vice-chairman of the CP's Transvaal municipal committee, Paul Fouche, described the judgment as "sad", adding that the Springs council would have to decide whether to appeal against the ruling.

UDF publicity secretary Titus Mofolo welcomed the ruling as a sign that the judiciary was starting to play a

positive role in the transformation of society.

Spokesman for the Civic Associations of Southern Transvaal, Cas Coovadia also commended the judiciary for having taken this step.

"This should be a signal to the CP and other believers in racist ideologies that the move towards a non-racial South Africa is inexorable."

ANC spokesman Gill Marcus expressed the hope that the ruling would be followed by the spirit to make the legal finding a reality.

"I hope people will make the overtures to make other people feel welcomed and not intimidated," she said.

Ms Marcus said the ruling had created a precedent and should automatically be extended to other councils still trying to apply the scrapped Act.

## Significant

The Legal Resources Centre (LRC), which assisted Springs resident Michael Hart in taking the matter to court, said the judgment was of major significance.

LRC Johannesburg director Mohammed Navsa said "This judgment contains a clear signal that our courts will not tolerate any abuse of power."

DP Southern Transvaal chairman Peter Soal said "Rightwingers should know that the law and the courts are against them."

"They should stop trying to circumvent the law."

# NAUGHTY TO DOOM OF INNOCENT SHATTERED

By FRANS ESTERHUYSE  
Weekend Argus Reporter

MR. JAMES JOCHEMS, set free by the Appeal Court this week after more than a year on Death Row, returned to Cape Town this weekend to a life shattered by his wrongful conviction and death sentence.

While awaiting his fate on Death Row, his wife had a miscarriage and lost their baby, their marriage fell apart, he suffered untold mental agony, but he still persisted with a seemingly impossible struggle to prove his innocence. The Appeal Court found him not guilty of murder. His earlier conviction and death sentence by Mr. Justice Braam Lategan, of the Cape Town Supreme Court, was set aside. It was the seventh murder conviction

and death sentence handed down by Mr. Justice Lategan to have been set aside on appeal and the second in the last three months.

In spite of the shattering effect of the incorrect conviction and death sentence on Mr. Jochems's personal life and the needless agony he suffered on Death Row, it has been confirmed by legal experts that he will have no recourse to claim damages.

### Virtually unknown

There is apparently no provision in South African law for a claim for damages in this kind of situation, namely, an incorrect judicial decision, in general terms. This is also the position in most developed Western legal systems, except in extreme cases.

Lawyers say claims against judicial officers for incorrect decisions are virtually unknown.

Advocate Mr. John Saner, who defended Mr. Jochems in court and argued the case on appeal, said that he had always believed Mr. Jochems was not guilty.

His reasons for believing this were based on two main factors: that Mr. Jochems had stuck throughout the case to his original story, and had refused to give evidence in extenuation after his conviction for murder, even when it was virtually certain he would get the death sentence if he did not give evidence.

Mr. Jochems's defence in court was based on an alibi — that he was at home with his family, watching television throughout the evening at the time when the murder was alleged to have taken place in Hanover Park on October 8, 1987.

Mr. Jochems was sentenced to death on September 12, 1989, for the murder of Mr. Denzel Ronald Abrahams and imprisoned for three years for the attempted murder of Mr. Gert Lewis.

The alleged crimes were linked with gang warfare involving the Americans gang of which Jochems was a member.

In the Appeal Court this week Mr. Justice Milne found that in all the circumstances it was apparent the evidence of witnesses Mr. Denis September and Mr. Fernal Rustin, which identified Mr. Jochems and his co-accused as pursuers, was unreliable and might well have been "deliberately dishonest".

### Six months pregnant

At the time of the murder he was accused of, Mr. Jochems was 18 years old and newly married. His wife, who was the same age, was six months pregnant when he was sentenced to death. Afterwards she lost the baby and their marriage broke up while Mr. Jochems was on Death Row.

In a letter from Death Row to his legal advisers, Mr. Jochems wrote: "On the day

I received that ghastly sentence my wife became very sick. And then we lost our child. It would have been my first child.

"I had great plans for our baby... it was my great longing to have my own child."

In one of his last letters from Death Row written before the Appeal Court hearing, Mr. Jochems told of his plans if the appeal succeeded.

He wrote that he had decided to work among gangs with the aim of getting gangsters to change their ways and to reform their lifestyles.

"I have become stronger in mind, character and personality... I have learnt the true values of life... I believe God will lead and protect me," he wrote.

Mr. Saner corresponded regularly with Mr. Jochems to let him know of developments and progress in the case. Mr. Jochems was also visited almost

daily on Death Row by members of Lawyers for Human Rights, of which Mr. Saner is also a member.

The other recent case of a Death Row prisoner set free by the Appeal Court is that of Mr. Easter Ndwayana of Beaufort West, who was cleared of murder after spending a year on Death Row.

### Not at the scene

His trial was held a week after that of Mr. Jochems in the Circuit Court at Beaufort West, also before Mr. Justice Lategan. Mr. Saner also defended Mr. Ndwayana and also argued his case on appeal. Here, too, the defence case was based on an alibi that the accused was not at the scene at the time of the alleged murder.

Mr. Ndwayana's appeal was heard in Bloemfontein two months ago, when his conviction and sentence were set aside.

See Page 15.

# BY DEATH ROW



Freed from Death Row, Mr James Jochems is greeted by family and friends on his arrival at Cape Town station.

# Silent homecoming for a man who stared at death

W/E ARGUS 1/12/90

By GRAHAM LIZAMORE  
Weekend Argus Reporter  
FORMER Death Row prisoner Mr James Jochems of Hanover Park — sentenced to die for a murder the Appeal Court ruled he did not commit — stepped off the Trans-Karoo express at Cape Town station to pick up the pieces of his life

His dark, shocked eyes flicked to faces in the huddle of family and friends who were there yesterday to welcome him

## Few smiles

His mother squeezed out of the group and hugged him. A friend's baby was put in his arms — a poignant reminder of the loss of his unborn child and the wife who had left him when she gave up hope that he would leave Death Row alive.

Now people crowded around him, touching, hugging. But there were few smiles, no laughter

Everyone was silent, in awe of the man who had left Cape Town under a death sentence, but came back — almost miraculously, it seemed — because the Appeal Court this week overturned his conviction for murder.

## Help gangsters

At the time of the murder he was accused of, he was 18 years old and newly married. His wife, who was the same age, was six months pregnant. Afterwards she lost the baby. Their marriage broke up while Mr Jochems was waiting to die

Life-long family friend Mr Cecil Bester said he had always known "Jupie" would not hang

"He was a good boy. He never drank or smoked and always respected elderly people. How can someone like that be guilty of murder?"

As one of six children who helped his family eke out an existence as hawkers, Mr Jochems, now 21, starts life anew — and with a new vision

In a letter written from Death Row he promised that if his appeal succeeded he would work to help gangsters change their lifestyles

"I have become stronger in mind, character and personality. I have learnt the true value of life," he wrote.

As Mr Justice Braam Lategan, the man who sentenced him to death, said, "To err is human"

But the horror of being sentenced to death for murder and attempted murder, in spite of his pleas of innocence, will probably haunt James Jochems for the rest of his days.

■ Naught to comfort innocent freed from Death Row  
— Page 3.

# SADF calls in a top legal man for Sebokeng inquest

By STEPHANIE HULL

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MEMBERS of the SADF will resume their testimony tomorrow at the Vereeniging Supreme Court judicial inquest into the deaths of 42 people at Sebokeng on September 4.

On Thursday, the attorney for the SADF, Koos van Vuuren, said a senior advocate was being brought in to bolster the SADF's legal team and that the new man required time to familiarise himself with the case.

The day before, Commandant Stephanus Lombard was accused by Mr Justice Eddie Stafford of committing statutory perjury.

He is the second witness in the inquest to face accusations of perjury.

The first was Wilson Tafeni who told the inquest last week that his brother had been shot by the SADF and not by a white

man as he had said in his sworn statement made shortly after the September 4 hostel violence.

On Friday the court was adjourned for the weekend after SAP Major Joseph du Pont gave evidence on an identity parade which was held on September 13 and a photo parade held on September 20.

He told the inquest that 137 Inkatha members accused of attacking a Sebokeng hostel before dawn on September 4 had refused to co-operate in the identification parade.

Only three witnesses were able to pick out Inkatha members who were allegedly part of the group which attacked the hostel.

"Thereafter the parade was stopped because the suspects became uncontrollable, changed their positions and did not react when their names were called out," Maj du Pont said.

# Deadline looms in newspaper case

S (Times 2/12/90

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By MARION DUNCAN

JUDGMENT is expected next week in the R1,5-million damages suit by Lieutenant-General Lothar Neethling against the Vrye Weekblad and Weekly Mail newspapers

The trial — described by Mr Justice Johan Kriegler as the most important case he has ever tried — has so far taken up two weeks in the Rand supreme court

Final argument by Advocate Bobby Levine for the newspapers will only finish tomorrow or Tuesday. This week's highlights included.

● An outburst by General Neethling against the evidence of self-confessed military agent Leshe Lesia;

● A ruling by Mr Justice Kriegler that the Harms report on the findings of the commission of inquiry into police death squads was not admissible as evidence,

● An attempt by the general's advocate, Wilhe Oshry, to discredit the evidence by former police cap-

tain Dirk Coetzee on the grounds that he was a self-confessed liar, burglar, car thief and murderer,

● A bid by the newspapers to amend their pleas by claiming that publication of the articles about General Neethling supplying poison drops to hit squad operators was "in the public interest" to ensure a wide public debate and a full and proper public investigation of the allegations".

Mr Justice Kriegler will rule on the issue tomorrow



# Judge 'no' to race

CP Correspondent *CP Press* 2/12/90

ANOTHER small step on the road to a non-racial society has been taken with the decision of an Eastern Cape Supreme Court judge that references to race in charge sheets are inappropriate.

The decision will be binding on all criminal courts in the Eastern Cape and will probably affect all legal papers dealt with by the courts.

The decision is a victory for those wishing to move the Department of Justice in a non-racial direction, though if it had been handed down 20 years ago, it might have gone further to negate accusations that justice was administered in racial terms.

Grahamstown Supreme Court judge J Erasmus ordered that references to race in a charge sheet in a case he is currently hearing were "unnecessary, redundant and inappropriate".

Erasmus said a large portion of the population did not take pleasure in the country's racial code and regarded unnecessary references to race as offensive.

"The Republic of South Africa is surely the only country in the world where the prosecution cites race in a charge and even alleges it in a charge.

"There are indications however, that our society's preoccupation with race is declining, as is reflected in the systematic removal of references thereto in legislation."

At the start of proceedings against three Uitenhage youths facing murder and related

## A small step towards colour

### blind society *JS2*

*CP Press* 2/12/90

charges, J Bezuidenhout for the State indicated that staff in the office of the Attorney General for the Eastern Cape, Dr Jan d'Oliveira SC, were of the opinion that racial references were necessary.

He said this was particularly necessary for accused in the light of the provisions of section 144 (2) of the Criminal Procedure Act.

This section states that a description of the accused in respect of sex, race, nationality and age, where applicable and known, could be included in the charge sheet.

Erasmus said that sex would be necessary information in charges of rape and certain assault cases, while age was necessary in determining appropriate sentences.

He said race was relevant for charges under the Group Areas Act and possibly in relation to sentence in assaults involving people of different races.

"In my opinion, mention of race in a charge sheet is inappropriate unless it is peremptory or necessary."

"My one assessor, an ex-magistrate, reminded me that in judgments the race of the accused and witnesses is normally mentioned in the lower courts - apparently in accordance with (Justice) department guidelines."

"All these unnecessary references which daily deface charge sheets and judgments in our courts can create the impression that race plays an important role in our administration of justice."

# Draft Bill of Rights

Sunday Times Reporter

THE SA Law Commission meets next week to approve a draft Bill of Rights for South Africa.

The commission will also consider the ANC's proposed Bill of Rights, released this week.

Mr Justice Pierre Olivier, chairman of the commission's working group on human and group rights, said the commission's new draft was a substantial advance on the one presented in March 1989.

More than 400 submissions had been considered, he said.

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● See Page 23

THE ANC'S draft Bill of Rights published this week promises every South African the right to work. *S/Times 2/12/90*

It does not say who will provide the job or pay for it.

Neither does it explain who will guarantee the other rights the document demands, such as health, minimum wages, nutrition and education.

The real problem with the document — although it does contain many good principles — is that it tries to write into a Bill of Rights what should really be the policy of the government of the day.

The document proposes a series of clauses which entail not merely the right to be protected from government action but the right to demand something of government.

The ANC, in line with many contemporary human rights charters, argues for what it calls a "minimum floor" of such rights.

Here the ANC's document draws heavily, and not unnaturally, from the Freedom Charter, the guiding document of resistance groups since the 50s.

This is where the real debate lies.

## Impulses

Mr Justice Didcott of the Natal Bench once warned that a Bill of Rights that zealously protected private property and thus entrenched privilege would never gain legitimacy. It must remain "neutral", he said, leaving it to political process to choose the economic policy.

Many recent draft bills of rights may be considered "neutral". The KwaZulu/Natal Indaba Bill of 1986, the Business Charter of 1987 and the seminal report of a working group of the SA Law Commission in 1989 do not go much beyond proposing the basic right of opportunity to work, conduct business, hold property, make profits and join trade unions.

But for the ANC such "neutrality" amounts to an entrenchment of existing inequalities. Any political organisation which has a largely impoverished constituency, such as the ANC, cannot but genuflect to the impulses of its supporters.

Yet how does one enforce these rights? Who does one sue if one is without a job or a house or is hungry? How does the state give relief if it has no money?

The mere meeting of its obligations in terms of the Bill of Rights in one area (such as education) may mean the state is unable to meet obligations in another (housing, for example). Is it in the public interest to have

# A right to work, but who pays the wages?

**BRIAN POTTINGER** discusses the weak spots in the ANC's draft Bill of Rights

government funding policies dictated by law?

The ANC does not say. In its preface to the draft Bill of Rights it merely observes "Exactly how the economy is to be organised and how revenue is to be raised is a matter for the parties to argue about and for the electorate to decide upon".

That is not the only area of likely dispute.

Article 17 of the SA Law Commission's first proposed Bill of Rights, now being substantially reworked, refers to "the right of every person or group to disassociate himself or itself from other individuals or groups".

This section drew the most opprobrium, with the Law Commission being seen by many critics as the back-door to a form of neo-apartheid.

## Courts

The ANC document, conversely, places emphasis on breaking down groups. All organs of government are committed to dismantling structures and practices which "compulsorily divide the population on grounds of race, colour, language or creed".

An interesting side-bar to this, however, is that within the resistance groups themselves there is some confusion on the exact role of groups.

Cosatu's recent draft Workers' Charter appeals for the recognition of collective rights in the constitution otherwise "it may well result in constitutionally protected individual rights being used by the courts to strike down collective interests".

The issue of political group rights as opposed to merely cultural, religious or linguistic rights is thus still very much alive.

# Killer boss beat sick man with axe handle

S/Times  
2/12/90  
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**WHEN terminally ill farm labourer Johannes Beukes returned from his cancer treatment at hospital he went straight to bed.**

By WOR CREWS

Son, 36 Mr Thompson died in the Tygerberg hospital two weeks after lapsing into a coma

Hours later the 78-year-old man was beaten awake by an enraged Rudolph Rix, his boss, who then set about bludgeoning him with a pickaxe handle for not being at work

## Knife

Clad in hospital pyjamas and a nightcap, the frail old man told the Stellenbosch magistrate's court "I woke up when I was hit Mr Rix asked me why I was not working Then, without waiting for a reply, he hit me across the arm, the chest and stomach"

He was also fined R250 (or six months' imprisonment) for assaulting Mr Beukes But he was freed on R500 bail pending the outcome of an appeal

Prior to the unprovoked assault on Mr Beukes in May last year, the farm worker, who suffers from stomach cancer and TB,

had sent several messages to Rix informing him of his illness

Under cross-examination by Francis Murray, counsel for Rix, it was put to Mr Beukes that his common-law wife Dinah Fredericks, 64, had been "interfering" with Rix at the time of the attack by stabbing at him with a small pocket knife

## Shotgun

Mr Beukes said Mr Murray, had been hit across the arm "by accident" while trying to fend off his "cheeky" wife.

Mrs Fredericks told the court that, after beating Mr Beukes, Rix had pulled a blooded pickaxe handle from his overalls and claimed he had already killed eight people with it

Rix pleaded not guilty to the charges, claiming he had hit the workers with a "light stick" after going to their homes "to make enquiries"

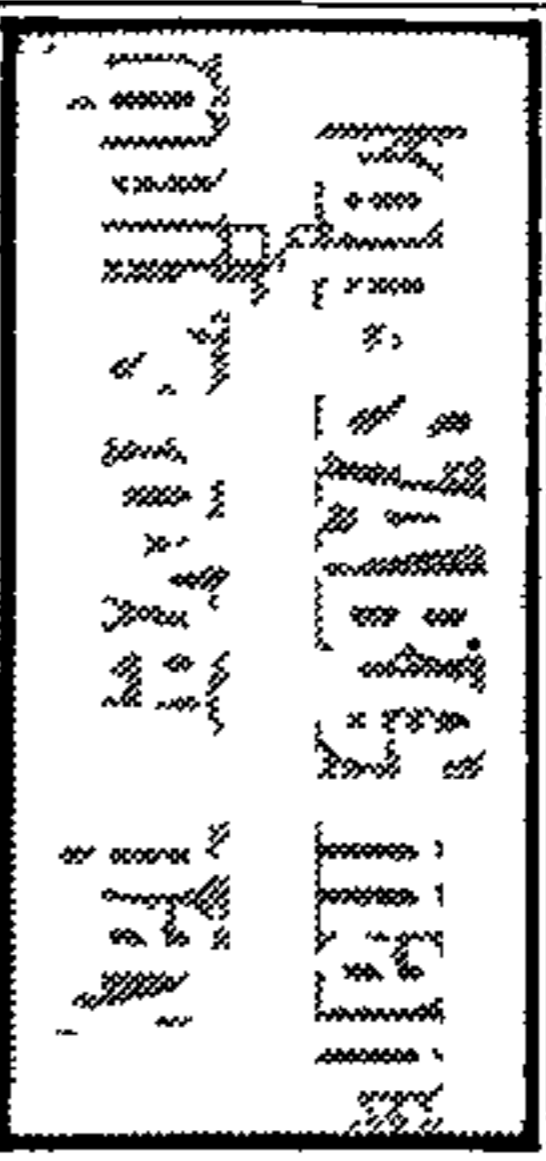
He claimed he had acted in self-defence

But the magistrate found Rix had wanted to "scare and threaten" the workers, who had been absent from work for several days, and launched the assault for "no reason"

When approached for comment on his father's farm this week, Rix said "I have nothing to say. It won't make any difference now"

However, his father, Donald Rix, defended him "If Rudolph had been black he would have got off," he said, protesting his son's innocence

But he admitted his son had taken a pickaxe handle with him for "protection" "It's just as well he did not take a shotgun instead or a lot more people could have been killed after he was attacked by the labourers and forced to defend himself"



By RYAN CRESSWELL

**BROADCASTER** Peter Broomfield severed his strong ties with Radio Port Natal because of poor freelance fees and friction with staff members. Broomfield presented the popular Anything Goes with Peter B on Radio Port Natal for several months. He started broadcasting one night a week but ended up working six. Mr Broomfield said: "It was my decision to leave because the conditions were unfavourable for me to continue working there." He was now busy working as a regular contributor to Audiomix and Radio Today. After Mr Broomfield left Radio Port Natal the head of SABC's English and Afrikaans Radio Group in Natal, Bill Sharp, said the group was sorry to lose the services of such a fine broadcaster.

# PAC indemnity given

*SI Times 2/12/90*  
TEMPORARY indemnity has been granted by President F W. de Klerk to 18 members of the PAC, including 14 externally-based leaders whose indemnity applications were rejected last month.

The group applied for indemnity so they could attend the PAC's national congress and the funeral of PAC president Zephania Mothopeng. (44) (252)

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# NO INDEMNITY FOR PAC EXILES

THE PAC is to protest at the United Nation's General Assembly against the South African Government's refusal to grant its exiled leaders indemnity from prosecution to allow them to attend a national conference inside the country in December.

Senior PAC official Ahmed Gora Ebrahim said from New York that he would raise the issue at the UN soon.

He said that in terms of the Harare Declaration and a UN General Assembly consensus resolution "it is the responsibility of the regime to create and ensure the climate for free political activity in the country".

It was untrue, he said, that the government had granted indemnity to two senior leaders of the PAC (as reported last week). It had in fact refused the applications for indemnity by six exiled PAC leaders, including his own.

"Their refusal to allow us to attend the funeral of PAC president Zeph Mothopeng will be taken up at the UN," said Ebrahim.

He confirmed the ANC and PAC had agreed to a meeting, but the meeting and its venue was complicated by the government's refusal to grant exiled

PAC leaders indemnity.

"I would say it is very important we have agreed to meet whatever the outcome. Let us form a united front and leave our differences."

Reports that Inkatha president Chief Mangosuthu Buthelezi was considering an alliance with the PAC were sniffed at by Ebrahim who said the PAC was seeking "principled alliances not opportunistic ones".

"Our formula is that we will work with all political organisations who support the position of a freely-elected constituent assembly on the basis of one person one vote."

Ebrahim said the PAC would cooperate with Inkatha "if they support this position".

Asked if the PAC still saw "armed struggle" as the principal form of struggle, Ebrahim said liberation movements had not been called on to unilaterally abandon the armed struggle.

Only when the government had met the preconditions of the Harare Declaration and there was a "conducive political climate" could there be "an agreed mutual cessation of hostilities". - ANO

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# 'Hanging judge' in new row

S Times 2/11/90

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The judge said Professor Davis appeared not to know that a court trying someone accused of a capital crime consisted of three members: a judge and two assessors, each having an equal vote in deciding the facts.

A SUPREME court judge came under fire again this week when — for the seventh time — a death sentence he had imposed was set aside and a Pretoria Death Row prisoner set free.

But the judge — embroiled in a war of words with a law academic campaigning for the abolition of the death sentence — will not be moved from his post.

Reacting to criticism of "hanging judge" Mr Justice A J Lathegan, and to repeated calls that he be transferred to a post where he can try only civil cases, the judge President of the Cape, Mr Justice George Munnik, said it was "imprudent" for anyone to tell him how to use a judge in his department.

Earlier he said he "refused" to enter a public debate about Judge Lathegan and was not interested in outside advice on how to run his department.

But after the latest appeal court acquitted, University of

Cape Town professor Dennis Davis, head of the Society for the Abolition of the Death Sentence, repeated his call for the judge President to consider restricting Judge Lathegan to civil trials.

"I am distressed by the fact that this has happened again," said the professor. "I don't think it does much good for the image of the judiciary."

The appeal court in Bloemfontein this week freed Cape Amniet-cans gang member James Jochems, of Hanover Park, who had been sentenced to death by Judge Lathegan in the Cape

supreme court. Mr Jochems had spent 14 months on Death Row.

It's the second time in three months that a death sentence imposed by the judge has been set aside.

In September, Easter Ndwan-yana, of Beaufort West, who sat on Death Row for a year, was set free after Judge Lathegan had sentenced him to death.

In both cases Judge Lathegan refused leave to appeal and the Chief Justice was petitioned. Five other death sentences imposed by him in the past 10 years have been set aside on appeal.

Judge Lathegan told reporters this week he had "no comment" on the appeal court finding.

According to Professor Davis, public disquiet about the imposition of the death sentence has been fuelled by this week's case.

He said reliable research had shown that prisoners placed on Death Row often suffered irreversible trauma.

"It is a profoundly disturbing experience which can result in permanent psychological damage," he said.

"Supporters of the present judicial system might find the work done by the Appellate Division and say that this case highlights its role, but nothing can annul the

trauma caused to those who are sentenced to death then set free. "I believe this kind of thing causes public disquiet which must be addressed."

"I am even more convinced that it's time that Judge Lathegan be moved to a less controversial post."

Democratic Party spokesman on justice Dave Dalling said he was one of the few MPs who had criticised the appointment of Judge Lathegan.

"It seems I was right," he said, "but, be that as it may, in terms of recent amendments to the law the power of life and death, previous-

ly held by individual judges, has been taken over by the appeal court.

"In the future, injustice imposed by individuals will not stand the test."

In setting aside the convictions and sentences imposed on Mr Jochems for murder and attempted murder at Hanover Park on October 8 1987, Mr Justice Milne of the Appellate Division said the crucial issue at the trial was whether it had been proved Mr Jochems fired the fatal shots.

In a 45-minute judgment, Judge Milne found the evidence of witnesses Dennis September and Fernel Rustin had been unreliable and might well have been "glib-

erately dishonest". Mr Jochems was sentenced to death on September 12 1989 for the murder in Cape Town of Daniel Ronald Abrahams and attempted murder of Gert Lewis.

This week's row comes hard on the heels of a recent "war of words" between Judge Lathegan and Professor Davis.

Earlier this year the judge obtained rare permission from the judge president to "go public" and defend, in a self-penned Cape newspaper article, what he perceived to be an attack by Professor Davis on his "ability"

to "appoint assessors".

But a judge appoints assessors, he continued. "It is he who has the sole responsibility for passing sentence and questions of law, as well as whether a point is one of law or fact, are decided by the judge alone."

Given these wide powers, it is not surprising that assessors rarely differ from a presiding judge.

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**Shaun Mellors, 25.**  
**Did his 2 years in the army.**  
**Studied to become a teacher.**



**Assessors for  
magistrates**

CAE 11.13.3/12/90

Political Staff

MAGISTRATES are to be granted the power to appoint assessors to promote greater community involvement in the administration of justice

The Minister of Justice, Mr Kobie Coetsee, said in a statement that this was in accordance with the government's policy of involving the community, as reflected in the establishment of small claims courts

Mr Coetsee also welcomed the Legal Aid Board decision to promote a public defender system



# 12 to appear over attack on children

Twelve whites are to appear in the Pietersburg Regional Court today in connection with last weekend's assault on Sunday school children in Louis Trichardt.

Police say the 12 were arrested in a co-ordinated raid on Thursday night. It lasted until dawn on Friday.

Sjamboks, motor car

fan belts and other weapons were also confiscated.

The police expect to make more arrests soon.

The arrests are a sequel to the attack on the black children by about 40 whites at a park in the Northern Transvaal town.

## Relaxing

The children from the Nzhelele Valley circuit of the Apostolic Faith Mission were relaxing in a park when they were attacked. Some of them were admitted to hospital.

The attack has plunged the town into a financial crisis with black consumers refusing to buy from its shops since Wednesday.

On Friday there were no black customers in all the major chain stores. Many people were congregated near banks but even those walking around did not have shopping parcels.

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# Indemnity for PAC 14 welcomed

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**MBABANE - The PAC has welcomed the granting of temporary indemnity by the Government to 18 exiled members of the organisation.**

The Department of Justice announced at the weekend that temporary indemnity from prosecution had been granted to 18 PAC members, including 14 who had earlier been refused immunity

An announcement on the indemnity will be made in the Government Gazette today

PAC secretary for ad-

ministration Mr Joe Mkhwanazi yesterday said the decision was the result of the PAC's determined struggle against discrimination.

He was interviewed in Manzini, Swaziland, where a delegation has been waiting for permission to enter South Africa to attend the PAC conference in Johannesburg this coming weekend

## Correct

Mkhwanazi however said State President FW de Klerk's decision was correct if the Government was genuine in its call to

all parties to enter peaceful negotiations aimed at establishing a new peaceful democratic South Africa.

Mkhwanazi said the decision would enable leading exiled members of the PAC to take part in the conference

Among other matters, the conference on December 7, 8 and 9 will decide the PAC's response to De Klerk's invitation last month to participate in negotiations - Sapa

# Argument in Neethling <sup>(252)</sup> action today

By Cathy Stagg <sup>Star</sup> 3/12/90

Mr Justice J C Kriegler will hear argument today on whether or not the two newspapers being sued by General Lothar Neethling should be allowed to amend their plea.

Vrye Weekblad and the Weekly Mail are defending a defamation action by General Neethling in the Rand Supreme Court. Both newspapers published reports in which former police captain Dirk Coetzee claimed General Neethling, head of the SAP forensic division, gave the Security Police poison to use on ANC members.

Vrye Weekblad is being sued for R1 million and the Weekly Mail for R500 000.

Their main defence is a plea of justification that the allegations were true and that publication was to the public benefit. As an alternative, they want to argue that in the circumstances they had a duty to publish and readers had a right to receive the information.

Details submitted to court of the facts and circumstances leading to publication include.

● On October 19 last year, Almond Nofomela, due to be executed the next day, made an affidavit in support of a stay of execution. He alleged he was part of the Security Branch's hit squad, had served under Captain Dirk Coetzee, and had taken part in assassinations and kidnappings.

Security Branch officers had promised that if he kept quiet about the hit squad, he would be released. He was betrayed by the officers and decided to reveal his activities.

● The execution was stayed and the revelations widely publicised.

# Brief indemnity for PAC officials

PETER DELMAR

GOVERNMENT has backed down on its demand that 18 exiled PAC leaders commit themselves in writing to peaceful political solutions before receiving indemnity which will allow them to attend the organization's national conference this week.

Temporary indemnity for the 18 — until December 14 — was gazetted yesterday.

Government's apparent about-face is understood to be the result of intensive negotiation. *Bl Day 4/12/90*

A brief Justice Department statement said the PAC leaders had satisfied government that granting temporary immunity "would be conducive to the promotion of peaceful constitutional solutions".

The PAC disclosed last month that government had refused indemnity for 14 top members because they had refused to "subscribe to the principles of peaceful solutions and developments in SA".

Unlike the ANC, the PAC has refused to

suspend its armed struggle. A formal decision on whether to accept government's invitation to constitutional negotiations will be taken at this week's conference.

Government's earlier refusal to grant indemnity was seen by many people as making it almost impossible for the conference to approve negotiations.

Those named in yesterday's Government Gazette include foreign affairs secretary Gora Ebrahim, administrative secretary Joe Mkwana, economic secretary Mlanasekhaya Gqobose and welfare secretary Agatha Boo.

Sapa reports the PAC's chief UN representative Count Pietersen will return to SA after addressing the General Assembly's annual debate on apartheid. However, his name was not among those gazetted yesterday.

# Judgment reserved in defamation case

Blom 4/12/90

SUSAN RUSSELL

NOBODY could reasonably have been expected to entrust the police with investigating the disclosures made about the existence of a secret police hit squad, counsel for Vrye Weekblad Bobby Levin SC argued in the Rand Supreme Court yesterday.

He made this submission before Mr Justice J Kriegler during the closing stages of the R1,5m defamation action brought against the newspaper by police forensics expert Lt-Gen Lothar Neethling.

Judgment has been reserved.

Neethling is suing Vrye Weekblad for R1m and the Weekly Mail for a further R500 000 for publishing allegations by former security policeman Dirk Coetzee that Neethling supplied poisons to murder people. Neethling has denied he had supplied poisons to anyone or that he had known Coetzee.

In his closing argument Levin said it also could not be reasonably expected of any newspaper or individual to adequately investigate the disclosures made by Coetzee and another former security policeman Almond Butana Nofemela.

"The police, by the very nature of the allegations, were deeply involved in the activities alleged at a very high level," Levin submitted.

"The only way to ensure public debate and an investigation was a one-time, immediate publication of the allegations on a non-selective basis to bring about a situation where the public would demand, and

government would be obliged to ensure, a public investigation.

"A more important allegation relating to the very fabric of South African society can hardly be imagined," said Levin.

Earlier he argued that although it had not been proved that Neethling knew as a fact who the intended victims were, it was a reasonable inference from the facts that he had believed these were people who the security branch regarded as enemies of and a danger to the state.

Neethling, he said, might well have seen it as part of his duty to supply those substances at that time.

## Factory

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Counsel for Neethling, Willie Oshry QC, submitted that Neethling was not a member of the security forces and had no control over them. Neethling was a forensic scientist and the function of the forensic laboratory was to analyse items and matters, not to produce poisons.

"It was not a factory to make poisons in liquid or in any other form," Oshry said.

He also submitted that despite what Levin had said in argument — that Neethling had lied during cross-examination that he did not know Coetzee but had said before the Harms Commission that he did — Neethling had been an honest and credible witness.

## Army warning

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# New hope for Khayelitsha peace

CAPE TOWN — Representatives of the Cape Provincial Administration, the ANC and the Lingeletu West Council hope to achieve a breakthrough later this week in negotiations to resolve the crisis in Khayelitsha

After two meetings yesterday, all parties expressed the hope they would reach acceptable compromises in a further meeting tomorrow

The issues under negotiation are the strike by employees of the Lingeletu West Council, which serves

**LESLEY LAMBERT**

Khayelitsha, and the violence between supporters of the council and the Western Cape Civic Association

Underlying these two are demands by the ANC and the civic association for the dissolution of the council which, they say, is an unrepresentative, illegitimate, apartheid structure

A councillor and two council employees have been casualties so far in a spate of attacks since the outbreak of faction fighting earlier this year. The council

has faced numerous allegations by residents of abuse of power and intimidation, and seven councillors have appeared in court in connection with the deaths of residents

The strike by council workers began two weeks ago after nine clerical workers were injured by a petrol bomb thrown into the van taking them home. Worker's demands to the council for protection developed into demands for the resignation of the council. This, they argued, was the only way their safety would be secured.

Lingeletu West town clerk Graham Lawrence, who has had two death threats from people claiming to support the civic association, said yesterday the strike had led to a complete breakdown of services in the township

## AWB attends court hearing

PIETERSBURG — Nine men appeared in the Pietersburg Regional Court yesterday in connection with the assault on a group of black children in Louis Trichardt on November 24.

AWB leader Eugene Terre'Blanche and a group of AWB members in khaki uniforms attended the hearing. They applauded as the accused entered the court and sang a hymn at the end of the proceedings.

CP MPs Tom Langley of Soutpansberg and Willie Snyman of Pietersburg were also in the court.

The men, all residents of Louis Trichardt, were not asked to plead and were released on bail of R1 000 each. The case was postponed to January 18.

Charges against three other suspects were withdrawn — Sapa.

**AND NOW,  
A LITTLE ADDITION  
TO THE ULTIMATE  
PORTABLE CAR PHONE:**

**Judgment**



# Police chief lied, lawyer tells court

POLICE forensic chief General Lothar Neethling had been exposed as an untruthful witness on the vital question of his knowledge of former captain Dirk Coetzee and Brigadier Willem Schoon, the Rand Supreme Court heard yesterday.

Neethling had given false evidence under oath on two occasions, Mr Bobby Levine, SC, said during argument for the defence in the R1,5 million defamation case brought by Neethling against two newspapers for publishing allegations

by Coetzee that he was supplied poison for political murders by Neethling. Levine said Neethling had, in his evidence in chief and under cross-examination, been evasive and non-responsive to questions.

His evidence was untruthful in material respects. He had told the Harms Commission he had encountered Coetzee at the forensic laboratory in connection with Coetzee's SA Narcotics Bureau activities

Coetzee, in his London evidence had denied this, saying such a visit to the laboratory would show in either the lab's or Sanab's records. Levine said Neethling knew there was no record of such a visit.

We submit General Neethling then realised his statement regarding Sanab was not supported by fact, abandoned it and over-compensated and ended up saying he did not remember Mr Coetzee.

"The blunt answer to all this is the plaintiff is

lyng," Levine said.

He said Neethling's evidence of not knowing Schoon was inconsistent with Schoon's evidence to the Harms Commission of having met Neethling in 1973.

"What he tries to do is bludgeon his way past the problem. His evidence is pure bluster, verbose, non-specific and evasive. We say this is the dishonest evidence of a highly intelligent man," Levine told the court.

The case continues - Sapa.

*Sanab 4/12/90*

*252*

# Nine in court over assault on children

Sowetan  
4/12/90  
(252)

**NINE** men appeared in the Pietersburg Regional Court yesterday in connection with the assault on black Sunday school children in Louis Trichardt more than a week ago.

Mr Lucas Beyers (31), Mr Bernard Jordaan (24), Mr Jeffrey Scullard (38), Mr William Schaap (31), Mr Christoffel Wolvaard (45), Mr Gerhardus van der Linde (25), Mr Bernard Terblanche (48), Mr Stephanus Jacobs (40) and Mr Jan Beyers (no age given), all of Louis Trichardt, were not asked to plead.

They were released on R1 000 bail each and the case was postponed to January 18 next year.

They appeared before Mr WJ Fourie in a packed court whose spectators included Conservative Party

By **MATHATHA  
TSEDU**

MPs Dr W "ie Snyman and Mr Tom Langley.

Also in the gallery was AWB leader Mr Eugene Terre'blanche, dressed in khaki uniform, members of his body guard, Aquilla, and other members spotting the organisation's insignia.

## Salute

When the nine walked into court white spectators, except journalists, stood to salute them. A hymn was sung as the men filed out of court after the brief appearance.

A strong police presence was evident, with many uniformed policemen inside the court and camouflaged and plainclothes police outside.

The accused were later

whisked away from court through a side entrance to evade the television and Press journalists waiting outside.

The Rev GM Muhali, who was in charge of the outing when the children were attacked, arrived late from Venda.

Police disclosed yesterday that three other men arrested with the nine had been released. Their names were not made available.







Right stuff . . . AWB leader Eugene TerreBlanche consults supporters before yesterday's court appearance by nine Louis Trichardt men Picture Dirk Nel

## Attack on blacks: AWB support

By Dirk Nel  
Northern Transvaal  
Bureau

Star 4/12/90

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PIETERSBURG — Afrikaner Weerstandsbeweging members flexed their political muscles at the Pietersburg Regional Court yesterday with an emotional show of strength at the appearance of nine men in connection with the recent assault on black Sunday school children in Louis Trichardt.

Leader Eugene TerreBlanche and a group of his bodyguards were joined by other members.

When the nine men entered the court they

were given a standing ovation and Mr TerreBlanche shook hands with each one.

At the end of the short court session, the AWB members sang a hymn.

When newsmen approached the AWB leader outside the courtroom for photographs, he agreed readily, saying "Carry on Shoot, this is war."

Press and security police photographers taking pictures of the crowd found themselves being photographed by an AWB member.

Conservative Party MPs Tom Langley (Soutpansberg) and Willie Snyman (Pietersburg), were also in the public

gallery and were seen later with Pietersburg town councillor Koos Kemp at the counter where bail for the nine men was being paid.

Mr Kemp said it had been given from all parts of the northern Transvaal.

Lukas Beyers (31), Barend Jordaan (24), Jeffry Scullaird (38), Willie Schaap (31), Christoffel Wolvaardt (45), Gerthardus van der Linde (25), Barend Terblanche (48), Stefanus Jacobs (40) and Jan Beyers were not asked to plead.

The hearing was postponed to January 18.

A police spokesman said more more arrests were likely soon.

# General, Coetzee 'lied under oath'

Star 4/12/90

SEARCHED INDEXED SERIALIZED FILED

By Cathy Stagg

Judgment has been reserved in the R1,5 million defamation claim brought by SAP forensic division head General Lothar Neethling against two Johannesburg newspapers

In the Rand Supreme Court yesterday Mr Justice J C Kriegler said he would take "some time" before handing down judgment

The defamation claim arose from reports published in the Vrye Weekblad and Weekly Mail, in which former police captain Dirk Coetzee claimed General Neethling supplied the security police with poison

During final arguments in court yesterday, General Neethling and Mr Coetzee were accused of having lied under oath

Bobby Levin, SC, appearing for the newspapers, said General Neethling's evidence in this trial had differed from what he had told Mr Justice Harms during the judicial commission of inquiry into the alleged exist-

tence of police hit squads

On the two crucial points of how well he knew Captain Coetzee and Brigadier Willem Schoon, Captain Coetzee's superior officer, General Neethling had changed his evidence, Mr Levin said. When challenged, he had tried to "bludgeon his way past problems"

## Inventive

Mr Levin described the general's evidence as "pure bluster" and "verbose", and said it was not the unsatisfactory evidence of an unintelligent man but the dishonest evidence of a highly intelligent one

Willy Oshry, QC, submitted that Mr Coetzee had repeatedly demonstrated his inventiveness. It was important to remember that Mr Coetzee intended to write a novel, based on fiction as well as farce, he said.

The value of evidence given by Leshe Lesia — the surprise witness produced by the defence — was also debated

Mr Levin described Mr Lesia as a "totally independent witness who had nothing to do with

the events of 1981 except that he said poisoned liquor came from the forensic laboratories"

He said there was no question that Mr Lesia was a Military Intelligence agent who had been ensnared as he had testified. The question was whether he was being truthful about one of his handlers pointing General Neethling out to him at a hotel as the man who had supplied poison

The judge asked about the likelihood of someone "blabbing" like that. Mr Levin said that while it was certainly careless, it was consistent with the sort of carelessness of taking Mr Lesia to Vlakplaas, a security police installation

Mr Oshry submitted that Mr Lesia was a "double agent" and an ANC sympathiser

"I suggest he was primed, I am not suggesting by whom, but he was not as clever or astute as Coetzee and it was not as difficult to show that his evidence was untrue," Mr Oshry said.

The judge did not give any indication of when judgment will be handed down

with a host of young able ideas and performing - He will be in South Africa

# Probe told of petrol bombing

A PETROL bomb made from a bottle of vodka was thrown at SADF member, a Rifleman Booyesen, before he shot at the man, an inquest into the killing of 42 people in Sebokeng on September 4, heard yesterday

This was the evidence of Citizen Force member Rifleman JP Pelfer, who said the wick of the petrol bomb had been blown out by the wind after it had been thrown by a man. The missile hit Booyesen on the chest.

Pelfer was one of four SADF witnesses called yesterday to give evidence on their involvement in the massacre

None of the other three had seen petrol bombs been thrown, but all told Mr Justice Eddie Stafford that the mob from which they had gone to rescue police was heavily armed with spears, pangas, knobkerries and

Soweto 5/12/90  
stones.

(252)

The witnesses all said that after the event it was only Booyesen who had admitted firing live rounds and to shooting the man who had thrown the petrol bomb.

Rifleman Kelvin Marthinus told the inquest he had been guarding the military vehicles that had brought the SADF contingent to Sebokeng Hostel.

After the shooting and after the mob had dispersed, Inkatha members wearing red headbands were transported in these vehicles to Sebokeng Police Station.

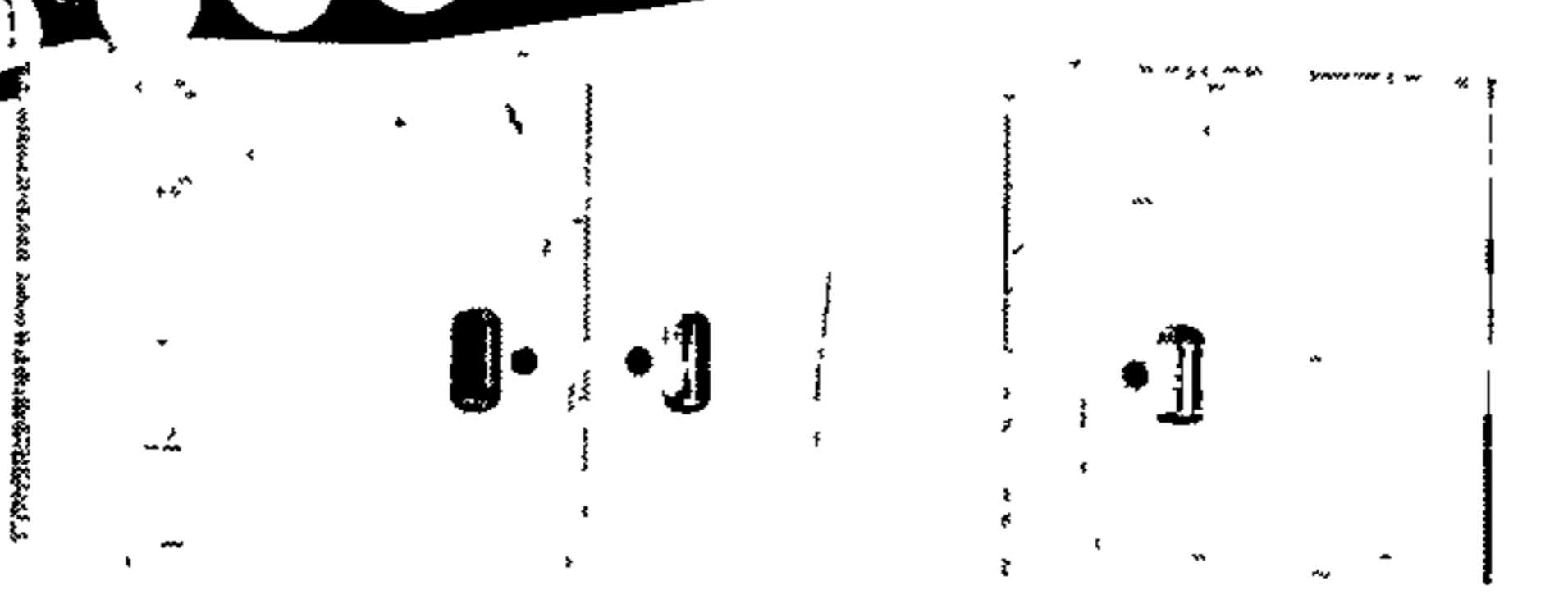
When the group of about 30 Inkatha members left the vehicles, Marthinus found two handgrenades and two 9mm magazines in it

The handgrenades were those of the SADF  
The inquest continues - Sapa

IN THIS AD TO QUALIFY  
THESE FANTASTIC PRICES

# E FOR MONEY

## DEALS!



# Action needed on women's rights

South  
6/12-12/12/90  
252

SOUTH Africa has a long way to go to meet the expectations of women and ensure their participation at all levels of power.

This was illustrated clearly last weekend at a workshop organised by the ANC's constitutional committee to discuss the issue of gender in a post-apartheid South Africa.

Women from all over South Africa gathered to discuss the draft Bill of Rights issued by the ANC earlier that week.

What became clear from the start was that this was an attempt to involve women in discussion on the Bill *after* it had been drafted without their participation.

The ANC's constitutional committee consists of 19 men and one woman — an unequal situation which exists on most of the organisation's structures.

Although most political parties in South Africa pay lip service to women's equality, most have a dismal track rec-

ord.

Every political movement in the country is male-dominated except for women's groups which defend their right to exist by declaring their need to create their own political space.

South Africa's demographics are damning: women make up 52 percent of the population, yet do not enjoy the same measure of representation.

It has already become patently obvious that while some sectors of society may be prepared to accept a black government, they would rather not be ruled by women.

While the ANC is the first political movement to seriously address the gender issue in a coherent and systematic way, it has yet to implement its lofty ideals.

There has been progress in the ANC's shift towards non-sexism in the past few years.

Its proposed "Constitutional Guidelines for a Democratic South Africa" had only a single

clause in it relating specifically to women.

The Bill of Rights goes a lot further — besides a five-paragraph article on gender rights, nonsexism is stressed throughout the document, except for a few omissions.

The Bill fails in some respects to give equal treatment to racism and sexism.

Its article on "positive action" calls on the state to observe the principles of nonracialism and nonsexism.

Yet, a few paragraphs lower there are calls for nonracial organs of state, a nonracial public service and a nonracial judiciary. The words "non-sexist" disappeared.

But there is a growing realisation that rooting out sexism in South Africa is as imperative as rooting out racism.

This is stressed by the ANC's draft bill, which examines mechanisms of enforcing its principles, protecting women (and other sectors of society) from discrimination.

The message to the ANC is that it is not enough to assert on paper that the organisation is nonsexist; action is needed.

The emancipation of women should involve the entire community.

Women's struggles should not be seen as a by-product of the liberation struggle; it is a struggle in itself.

Patterns of discrimination and inequality will not go away without affirmative action. This does not simply mean guaranteeing a certain percentage of female leadership.

Such a quota system ultimately undermines the principle that women must be judged on their own merits and abilities and the best person — man or woman — should be elected to the job.

Instead, affirmative action should concentrate on removing the obstacles — practical and perceptual — which prevent more women from taking their rightful place in our society.

# 'Women must have say in constitution'

A NEW constitution for South African women would never adequately represent their interests unless women were involved in constitution-making from the outset.

This was the message at a national workshop at the University of the Western Cape (UWC) last week titled "Gender Today and Tomorrow" organised by the constitutional committee of the ANC, UWC's Community Law Centre and the Centre for Development Studies.

Delegates at the workshop repeatedly called on the ANC to increase the number

of women on the constitutional committee, which consists of 19 men and one woman.

Keynote speaker Mr Kader Asmal of the constitutional committee said the removal of discrimination based on race and sex was part of the "historic task" of the struggle against apartheid.

"There can be no postponement of this task," Asmal said.

"As long as our sisters — constituting over half the population of our country — suffer disabilities and discrimination, none of us will really be free."

Participants at the workshop endorsed

the demand that the principle of non-sexism run through the entire constitution of South Africa.

Women's rights had to be spelled out in the Bill of Rights and a women's charter had to be accorded legal status, with proper mechanisms instituted to enforce non-discrimination.

Unpaid labour done by women should be recognised in the constitution and be included in determining the gross national product (GNP), participants resolved.

Training should begin immediately to create a pool of women who could meet

the demand for job parity in the civil and public services.

Mechanisms should be created to enable women to continue playing a prominent role in the evolution of law in a post-apartheid South Africa, the judiciary should be restructured to be "truly gender-representative", the participants decided.

The issue of Aids received special attention at the workshop and the concern of the ANC on the spread of the disease was highlighted.

The workshop called for a national Aids campaign to be implemented.

# Indemnity forms for PAC cadres

MEMBERS of the Pan-Africanist Congress on Robben Island have received indemnity forms, the movement announced this week.

Two leading PAC central

committee members, Mr Enoch Zulu and Mr Achmat Cassiem, are being held on the Island

"The prisoners asked the government to deal with them through their head office in Johannesburg —

<sup>South 6/121 - 12/12/90</sup>  
which was refused," said PAC secretary for Foreign Affairs, Ms Patricia de Lille.

"An application by the PAC leadership to visit them on the Island to discuss this matter and consult with them on matters surrounding our

conference, has been refused. (252)

"We find it very strange that the PAC has been refused permission to visit Robben Island while members of the external mission are being indemnified. This is a case of opening one door

and closing the other."

De Lille, general secretary Mr Benny Alexander, legal secretary Mr P Dhlamini and Western Cape convenor, Mr Barney Desai, were refused permission to visit the Island.

# I've given up violence, Rudolph tells court

Dec 6/12/90  
Staff Reporters and Sapa

Orde Boerevolk leader Piet "Skiet" Rudolph (53) had renounced violence and wanted to negotiate with the Government, the Johannesburg Magistrate's Court heard yesterday.

Mr Rudolph and his co-accused, Hendrik Cornelius Bredenhann (28) were applying for bail. They face six charges of terrorism.

The two, clad in khaki clothes, said they believed there was a good chance they would be given amnesty and that there were mitigating circumstances should they be sentenced.

They intended pleading guilty although Mr Bredenhann would plead not guilty on one charge.

Mr Bredenhann said he had a chronic back condition which had left him bedridden and in need of medical attention.

A packed public and press gallery heard Mr Rudolph admit that his organisation was responsible for the attack on the British Embassy in Pretoria in January.

## Negotiations

Mr Rudolph said he had renounced his campaign of violence and was in the process of applying to the Government for indemnity.

At the time Mr Rudolph committed the alleged acts of terrorism, he believed that further negotiations with the Government to discuss the independence of the "Boerevolk" would have been futile.

He said the violent acts had been committed carefully to ensure that no injuries or deaths occurred. The targets selected had all been political. These included Melrose House, the Beeld newspaper and a trade union office at Rustenburg.

Mr Rudolph said he now knew that the Boer freedom struggle would be a hopeless cause unless they could negotiate with the government of the day — or manage to overthrow it.

Mr Rudolph also wrote to Ministers Stoffel van der Merwe and Roelf Meyer in connection with bomb blasts at their offices and said these had been bombed as they were negotiating with the ANC. He told them to tread lightly because, if they continued, their lives would be on the line.

Later he wrote to them to ask their forgiveness.

In his evidence, Mr Bredenhann said he was an organiser for the Orde Boerevolk and was in charge of operations.

The bail application hearing continues today.

# International Human Rights Day

## Monday, 10 December



On 10th December 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights

### UNIVERSAL DECLARATION OF HUMAN RIGHTS

#### Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law

Whereas it is essential to promote the development of friendly relations between nations

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore

THE GENERAL ASSEMBLY  
proclaims this

#### UNIVERSAL DECLARATION OF HUMAN RIGHTS

as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

#### Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

#### Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or interna-

national status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty

#### Article 3

Everyone has the right to life, liberty and the security of person

#### Article 4

No one shall be held in slavery or servitude, slavery and the slave trade shall be prohibited in all their forms

#### Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### Article 6

Everyone has the right to recognition everywhere as a person before the law

#### Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination

#### Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law

#### Article 9

No one shall be subjected to arbitrary arrest, detention or exile

#### Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him

#### Article 11

1 Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence

2 No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed

#### Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

#### Article 13

1 Everyone has the right to freedom of movement and residence within the borders of each State.

2 Everyone has the right to leave any country, including his own, and to return to his country

#### Article 14

1 Everyone has the right to seek and to enjoy in other countries asylum from persecution

2 This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations

#### Article 15

1 Everyone has the right to a nationality

2 No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality

#### Article 16

1 Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution

2 Marriage shall be entered into only with the free and full consent of the intending spouses

3 The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

#### Article 17

1 Everyone has the right to own property alone as well as in association with others

2 No one shall be arbitrarily deprived of his property

#### Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance

#### Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers

#### Article 20

1 Everyone has the right to freedom of peaceful assembly and association

2 No one may be compelled to belong to an association

#### Article 21

1 Everyone has the right to take part in the government of his country, directly or through freely chosen representatives

2 Everyone has the right of equal access to public service in his country

3 The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures

#### Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality

#### Article 23

1 Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2 Everyone, without any discrimination, has the right to equal pay for equal work

3 Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary by other means of social protection

4 Everyone has the right to form and to join trade unions for the protection of his interests

#### Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay

#### Article 25

1 Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control

2 Motherhood and childhood are entitled to special care and assistance. All children whether born in or out of wedlock, shall enjoy the same social protection

#### Article 26

1 Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit

2 Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups and shall further the activities of the United Nations for the maintenance of peace

3 Parents have a prior right to choose the kind of education that shall be given to their children

#### Article 27

1 Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits

2 Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author

#### Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

#### Article 29

1 Everyone has duties to the community in which alone the free and full development of his personality is possible

2 In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society

3 These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations

#### Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein

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7/12/13/12/90



FOCUS: THE OTHER HARMIS COMMISSION

# How to get away with the perfect rip-off

WMA 11/21-13/12/90

Readers of the much-delayed Harms report into cross-border irregularities will discover the secrets of how to fiddle taxes, fake invoices, bribe officials ... and get away with it  
**By LOUISE FLANAGAN**

**H**OW can an ordinary company make massive profits? Just find a few convenient businessmen with glibbie officials, create a confusing net of subsidiaries that move vast amounts of money around, and link into Military Intelligence for good measure.

That's roughly the picture of the Jalc group of companies that emerged from the Harms Commission report into Cross-Border Irregularities which was released this week. And while the report concluded that "many possible crimes have been identified", South Africa is not going to prosecute anyone.

The report makes good reading, revealing fascinating details of how to avoid paying tax such as writing off "bad debts" and making "loans" to subsidiaries, apparent backhanders to officials and fake invoices. It detailed how the SADF's Brigadier Marthinus Deyzel helped Jalc negotiate contracts under the guise of patriotism, while getting a free beach house and a trip to Mauritius on the side.

However, it still leaves more questions than answers: how was Jalc able to operate in this way in at least six different territories for so long? Why did South African Military Intelligence (MI) get involved in such sordid deals? What is the Department of Foreign Affairs' role in it all? Why did South Africa sit on the finished report for so long? But most of all, why isn't anyone going to be prosecuted?

This week the Ministry of Justice announced that no charges were being brought against anyone as a result of the report, but added that "charges in other divisions relating to certain other findings and recommendations of the commission can however not be excluded".

The attorney-general of the Eastern Cape, Dr J d'Olivera, had originally planned to charge Deyzel and Jalc director Chris van Rensburg with bribery. However, in September D'Olivera announced that as a result of representations from unnamed people and unspecified "justifiable compassionate grounds", he was dropping the charges.

Justice Harms himself concluded in the report that "many possible crimes have been identified". He said that on the face of it, the Jalc directors appeared to have been involved in numerous possibly criminal financial transactions and that these should be investigated further. Harms recommended that the minister of justice appoint an inspector to carry out such further investigations.

Observers have speculated that high-level South African officials have put pressure on the attorney-general not to prosecute. Both D'Olivera's office and the Ministry of Justice strongly denied this. "No, of course not," said Major Elsa Jones for Minister of Justice Kobie Coetzee. "Transkei Attorney-General Chris Nel said he had asked for a copy of the evidence before the commission and that he was very interested in it. It's not clear how much use this will be to him though, as most of the main figures are no longer in Transkei."

Just why the report took so long to come out has not been explained. The initial excuse was that the Eastern Cape attorney-general intended to prosecute and had asked for the report not to be made public in the interim. This has since then been the official explanation for the delay. However, D'Olivera decided not to prosecute in September. The report only came out this week, two months later.

Ministry of Justice spokesman Jones and Nic Grobler were both unable to explain the delay. It seems that South Africa hoped the report would quietly sink without trace, until Transkei's Major-General Bantu Holomisa made such a noise about it after the recent abortive coup attempt against him.

In the light of all this it seems that Jalc's strategy, whatever one thinks of it, certainly worked. The commission



Baruti Holomisa — his complaints finally caused the report to be released

report lists fascinating details of some of the "more glaring" irregularities it found. They include fictitious entries and invoices for "loans", "consulting fees" and "bad debts" worth up to R230 000 a time, details of gifts and donations worth thousands, mention of travel expenses, payments for non-existent work, and cheques issued to non-existent people. Harms himself admits to having a little trouble trying to sort through the confusion.

The report includes a diagram of 13 companies and subsidiaries in the Jalc group, but Harms said this changed all the time. While there seems to be a lot of evidence of bribery, it's difficult to pin this down either. "The witnesses were not prepared to bare either their finances or their souls before the commission."

Essentially, the picture that emerges is one of a company that saw the benefits and several neighbouring territories as a ready source of easy money. The Jalc group — the name derives from the first letter of the four directors' first names — was developed into a changing web of subsidiaries with often interchangeable directors. The group was able to land massive contracts, with time and cost estimations that occasionally more than doubled. The companies were able to move massive amounts of money between them, from one territory to another, in an apparent attempt to avoid paying tax.

Jalc's method included making links with senior government officials, partly to help them land contracts. Adding to all the confusion were the often outrageous directives which such officials made. "It is therefore not surprising that the Jalc partners had, in certain circles, a reputation of being less than honest businessmen," said Harms at one point in the report.

And then there were the links with the military. This initially came to light a few months ago when one of the Jalc partners apparently told the press these links were under investigation. "According to these reports there were close ties between Jalc and National Intelligence and also the Department of Foreign Affairs (DFA). That Jalc had nothing to do with National Intelligence is certain. The informant was thinking of Military Intelligence," said Harms.

The DFA's role is simply dismissed. "The involvement with the Department of Foreign Affairs was also exaggerated to such an extent that a further discussion of this aspect is not necessary." The DFA's role, if any, is not mentioned again. There seems to have been some connection with Jalc, one of Holomisa's quarrels with Minister of Foreign Affairs Pk Botha centred around allegations that Botha had tried to intervene on Jalc's behalf to get Transkei to pay the group an outstanding R11-million.

The relationship with MI involved the placement of Deyzel in Jalc, which would then help gather information in the homelands and countries where it was operating. "According to Mr Van Rensburg, the motives for the plan were exclusively patriotic. I do not believe him," said Harms. Instead, Harms believed that the relationship was aimed at making more money for Jalc. "Since these projects were in countries which were politically not necessarily stable, it was necessary for Jalc and Botha to have the necessary intelligence information to evaluate the viability and continued existence of their projects," said Harms. "Also they needed somebody with a close connection to the South African government to assist the projects here. "Only somebody with an intimate knowledge of the projects would be able to support them, and the idea was that if Military Intelligence was able to recommend the projects other government departments would, through political considerations, see the project as in the interests of the country."

"The basic idea was presented to the secretary of the State Security Council in a 'sugared form'."

While Harms was clearly disgusted with the operations and behaviour of Jalc and its directors, the commission was not able to draw specific conclusions except to recommend further investigations. At the moment, it seems unlikely that those investigations are going to happen. — *clnews*

# 'Abuse of power'

ARGUS  
7/12/90

252  
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## Sharp attack on Hendrickse over teachers

By VIVIEN HORNER and HENRI du PLESSIS  
Staff Reporters

LEADING Cape educationist Mr Franklin Sonn has launched a stinging attack on the Labour Party leader, the Rev Allan Hendrickse, accusing him of nepotism and abuse of power

He said also that if necessary, and if all other avenues were exhausted, it was "permissible and even desirable" for teachers to engage in organised action in defence of their profession's integrity

Mr Hendrickse, who is also Minister of Education and Culture in the House of Representatives, rejected Mr Sonn's allegations, saying he had never been able to substantiate similar ones in the past

Mr Sonn, rector of the Peninsula Technikon, was guest speaker at the diploma ceremony of the Cape Town College of Education in Mowbray

Addressing 61 newly qualified teachers on the subject of integrity and professionalism, Mr Sonn referred to "a very ignominious battle" taking place between the Union of Teachers' Associations of South Africa, the Cape Teachers' Professional Association and the education department in the House of Representatives on one hand and the Labour Party on the other

"The minister in charge of own affairs education in the House of Representatives uses his position as minister to advance the cause of the political party he represents

"He does this by means of a nepotism in the appointment of teachers to promotion posts. Besides introducing the most blatant form of party politics into education, it is demeaning to the profession insofar as party political affiliation has become more important than merit

"Under such circumstances a teacher of dubious repute can now advance himself through other means than performance and merit

"This represents a direct assault on the integrity of the profession. It is accordingly the duty of any professional organisation to take issue with such a minister, to accuse him of abuse of power, for undermining the professional status of the teaching corps in his effort to buy patronage for a political party"

A teacher was never a civil servant. The teacher's duty was to serve the child and not the State, as was the case with a civil servant

Mr Hendrickse said today it was not the first time Mr Sonn had been so "verbose" with unsupported statements with regard to himself and his department

"I have in the past challenged Mr Sonn and the organisations which he previously represented to bring evidence with regard to political appointments. On not a single occasion, have any such accusations been substantiated

"It is extremely easy and obviously morally wrong to make accusations which are not supported. In my time as Minister of Education I have made more than 6 000 appointments in promotion posts and many of these teachers were members of his organisations. There was a time when I even consulted Mr Sonn personally about appointments

"The educational interests of scholars have always been my prime object and never have I appointed a teacher just because he was a member of the Labour Party. I reject the accusations with the contempt they deserve," Mr Hendrickse said

### JELLYBEAN JOURNAL

#### First bumper 12-page annual

THE Jellybean Journal, the popular children's newspaper in the Weekend Argus magazine section, is a 12-page annual this week

The first bumper Jellybean Journal Annual is filled with Christmas stories, contributions by Jellybean readers, competitions with exciting prizes and information about Christmas entertainment and activities

Don't miss the Jellybean Journal Annual in Weekend Argus tomorrow

### PROPERTY

TOMORROW's Weekend Argus contains a bumper property section with a record 152 pages of property advertising containing thousands of houses and flats. The publication is 20 pages bigger than the previous record

## Autopilot crisis for John Martin

By DON HOLLIDAY  
Staff Reporter

JOHN MARTIN is pushing Allied Bank to the limit and has surged a further 76 miles ahead of his nearest rival in the BOC Challenge but his incredible pace is taking its toll on the yacht's electronic equipment

Seven of his eight autopilot systems have blown. If the last one goes he will be forced to steer by hand for the remaining 3 154 miles to Sydney



Mr Sonn



Mr Hendrickse

# Don't grant Rudolph bail, major tells court

By Paula Fray *stw 7/12/90*

Orde Boerevolk (OB) leader Piet "Skiet" Rudolph should not be given bail, according to the investigating officer on his case.

Major Johannes Pretorius of the Johannesburg Security Branch was testifying during a bail application for Mr Rudolph and his co-accused, Hendrik Cornelius Bredenhann, in the Johannesburg Magistrate's Court yesterday.

Major Pretorius said police had searched for Mr Rudolph for five months using helicopters and Dakotas. Thousands of rands had been spent during the search, which extended from Johannesburg to the Kalahari, Pietersburg and Natal.

He believed Mr Rudolph should not be given bail because he had evaded the police, had wide support from rightwingers, had the ability to disguise himself, and some of the stolen weapons had not been returned.

Major Pretorius said Mr Rudolph's group was totally unknown to the police and that policemen working on cases dealing with the far Right had received death threats.

Early in October Mr Rudolph wrote to him and the Minister of Law and Order to say he had called off his armed struggle.

Major Pretorius said he believed that to a certain degree Mr Rudolph was honourable in his call for the return of weapons, but it was also his opinion that the OB leader had done this in order to be able to give up his hunger strike.

Defence lawyer Jack Nel put it to the major that giving up the hunger strike was a precondition to his call for the weapons to be returned.

Earlier, Mr Bredenhann testified that he did not know who the other members of the group were.

He said he had taken measures to ensure no one was hurt when they planted explosives at the offices of the Beeld newspaper earlier this year.

Mr Bredenhann said he had organised production and distribution of a video sent to the press with a message from Mr Rudolph.

He had also assisted Mr Rudolph with accommodation and transport.

The hearing continues

# SOLDIER'S RIFLE TO BE TESTED BY EXPERTS

THE firearm of a driver in the SADF unit sent to rescue police and Inkatha members trapped at the Sebokeng hostel on September 4 was on Friday ordered to be sent for ballistics tests.

The R4 service rifle of Lance-Corporal Goodman Mooi was ordered by inquest chairman Judge Eddie Stafford to be taken for tests by police experts while he was giving evidence in the inquest into the massacre of 42 people in Sebokeng. (252)

Mooi was said to have fired nine rounds during the incident and was told by Stafford he need not answer any questions which might incriminate him and lead to criminal proceedings against him.

He is alleged to have signed a document requesting the replacement of nine R4 rounds after the incident, but has denied having signed any documents that day. *Apr 2/12/90*

Stafford said he would give a ruling on questions to Mooi regarding this document at a later stage.

The judge said he expected a progress report on the ballistics tests by the end of the week.

Mooi told the inquest he was driving an SADF Samel troop carrier behind a formation of about 75 members of his unit at the hostel on the morning of September 4, and noticed a man holding a petrol bomb.

Another man from the mob, which was estimated to be about 5000-strong, lit the petrol bomb and as the man tried to throw it he was shot. "Before he could throw, it was all over," he said.

Although many shots were fired, only one person admitted shooting someone when asked about the incident when the unit went back to base.

Mooi said Rifleman Henry Booysen told the commanding officer, Commandant Alf Clulee, he had shot someone but did not say whether he had wounded or killed the person.

Mooi said he would have had a clear shot at the man who was about to throw the petrol bomb although he was behind other troops and in a vehicle.

He had heard no order to fire either teargas or live rounds, although many shots were fired. He heard a command to cease fire.

Mooi said before the shooting started he heard Clulee giving an order to disperse in English and Afrikaans over the noise of the mob.

Another driver, Rifleman Eric Nico Naude, said about 30 members of his unit had fired shots, but he did not know if they were fired into the air or at the mob.

He, too, said he had heard no command to fire. The inquest continues tomorrow. — Sapa

## Azapo 'won't seek indemnity'

The Azanian People's Organisation (Azapo) yesterday claimed its insurgents had been in and out of South Africa on numerous occasions, "in pursuit of their revolutionary mission" *SAW 10/12/90*

It added that it would not approach Pretoria to seek indemnity for exiled members wanting to attend its 10th annual congress from December 21 in Cape Town.

In a statement on Saturday, Azapo said that, apart from not recognising President de Klerk's authority to grant indemnity, it found it odd that "comrades engaged in the just war of liberation should require indemnification, whereas white agents of the

wicked war of oppression and genocide against our people should roam occupied Azania with impunity"

The statement, which was signed by Transvaal vice president Dr Golemolemo Mokae, said exiles disallowed from entering the country would "find ways and means" of attending the congress without asking for indemnity

Notice was also given that Azapo would "reshuffle" its leadership as part of the tradition of collective leadership *(252)*

Azapo said it had invited one "high profiled socialist comrade from without Azania" to deliver a keynote address — Sapa

# SA human rights have 'deteriorated'

Star 10/12/90. (252)

By Shehnaaz Bulbulia

The human rights situation in South Africa had deteriorated to unprecedented levels, Lawyers for Human Rights (LHR) spokesman Selwe Peter Motlhe said yesterday. He was speaking on the eve of international Human Rights Day.

While the international community celebrates the 40th anniversary of the adoption of the Universal Declaration of Human Rights today, South Africa had as yet not ratified the document, he said.

LHR and other human rights organisations welcomed President de Klerk's February 2 speech, but said that, except for the unbanning of political organisations, the release of some political prisoners and preliminary talks with political leaders, the change to date "has simply been on paper".

Among the positive measures taken, there had been changes in the Separate Amenities laws, lifting of the state of emergency and the Government's intention to tackle the Group Areas Act. Temporary immunity had also been granted to leaders of the unbanned organisation to facili-

tate negotiation, Mr Motlhe said.

The human rights situation had, however, deteriorated to its worst state ever, he said. On the ground, South Africa had witnessed the worst violence ever.

Carnage initially confined to Natal had spread.

Detentions continued and political prisoners had not yet been released, exiles had not yet returned to join the process of participating in the negotiations for a future political dispensation, Mr Motlhe added.

According to the Human Rights Commission (HRC), since President de Klerk's speech up to October, 229 people had died and 2 679 people had been injured in cases of police action in situations of political "unrest".

## Banned

Ninety-two people were still being held under section 29 of the Internal Security Act (ISA).

The total number of prisoners on death row stood at 326.

While no organisations were banned, the National Union of South African Students and the UDF were still "affected organisations" and could not receive any foreign funding.

Greg Nott, spokesman for the National Association of Democratic Lawyers, Johannesburg branch, said that since President de Klerk's speech the perception of governments internationally was that human rights work had slowed down.

This, he said, was a totally erroneous perception.

Mr Nott believed that factions within the Government supported and exploited the differences between the ANC and Inkatha supporters.

High profile political trials might be something of the past, but repression in the form of detentions and assaults by police continued, Mr Nott said.

Detainees Aid Centre spokesman Audrey Coleman echoed similar sentiments. She said repression had escalated since February 2.

The violence which had claimed many lives was an organised, systematic destabilisation of the townships with a "third force" linked to the security system, Mrs Coleman said.

South Africa, she said, had a long way to go. Detentions without trial, security legislation and racist laws such as the Group Areas Act and Population Registration Act had to be scrapped as a start in the process towards democracy.

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Human rights lawyer Azar Cachalia and former DP MP Helen Suzman were speakers at yesterday's meeting in Johannesburg to commemorate International Human Rights Day. Picture ROBERT BOTHA

# could rather

GERALD REILLY

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k to dirt road status

## 'Liberators' urged to observe democracy

WILSON ZWANE (252) (25)

A BILL of rights in a new SA would be meaningless unless all the liberation movements, including the ANC, built a culture of democracy within themselves, human rights lawyer Azar Cachalia said yesterday.

Cachalia was addressing a meeting in Johannesburg called to commemorate International Human Rights Day 6/10/90 11/12/90

"The national liberation movement (the ANC, PAC, Azapo and others) needs to take concrete steps to rebuild a democratic culture within itself

"The leaders are accountable to their organisations and should be recalled if they do not behave in an accountable way," he said.

He added that punitive action should also be taken against members who breached their organisations' expressed democratic principles

### Concrete steps

"We simply cannot accept political differences to be solved by violence or coercion," he said.

Cachalia also urged government to play its part in the creation of democratic culture by scrapping remaining "pieces of apartheid legislation" and by taking concrete steps to end the culture of violence which "apartheid has bred"

Former PFP and DP MP Helen Suzman suggested to the meeting that public servants be retrained to overcome past bias against blacks

"It is also absolutely vital for the human rights organisations not to take part in party politics. They should stand between politicians and people," Suzman said.

The meeting was organised by the Black Lawyers Association (BLA), Human Rights Commission (HRC), Lawyers for Human Rights (LHR) and the National Association of Democratic Lawyers (Nadel)

# Govt must take steps against death squads - Cachalia

By Karen Stander

252

DA

Rights on December 10, 1948

If the Government failed to put an end to death squads, the family and friends of victims would demand "appropriate action" of a future government, UDF national treasurer Azhar Cachalia warned yesterday

It was the Government's responsibility to take concrete steps to end the culture of violence which apartheid bred, he told a meeting to commemorate the signing of the International Declaration on Human

"We still want to know who killed David Webster and at least 48 other activists since Rick Turner. It is the Government's responsibility alone to put an end to death squads. If it fails, the family and friends of these people will demand of any new government that appropriate steps are taken in this regard"

Mr Cachalia said "rough forms of justice", even necklacing, had been meted out in the past

This culture was a consequence of the apartheid regime dictating the forms in which the struggle could take place, but the liberation movements needed to acknowledge this effect

University students had refused to allow "Government collaborators" to speak on campus when many of their leaders were silenced

"The danger is that gradually the line between a Government collaborator and your political opponent falls away"

Former opposition politician

Helen Suzman said it was foolish to assume that the removal of discriminatory legislation would lead to egalitarianism

The greatest danger to freedom was apathy, and human rights organisations, without links to any political party, would always be needed to be vigilant against abuses of human rights

The meeting was organised by Lawyers for Human Rights, the Black Lawyers Association and the National Association of Democratic Lawyers

stan 11/12/90



## Applications for indemnity pour in

MIKE ROBERTSON 2512

THE Justice Department says it has received "considerably more than a thousand" applications from ANC members for indemnity from prosecution

It declined to specify how many applications had been granted as they were treated as confidential.

However, "all applications are being processed as speedily as possible". A considerable number of applications related to more than one offence.

The department said a list of names of people who had left SA without a passport or crossed at unrecognised border points and who had been granted unconditional indemnity would be published in the Government Gazette soon

In terms of the Pretoria Minute the process of granting indemnity to these two categories of exiles is to be completed by the end of this year. 12/12/90

The department was unable to say how many charges against people being tried for political offences had been dropped

It said, however, that "It can be stated that the Attorneys-General have since February 2 either withdrawn or dropped a considerable number of charges against a number of accused"

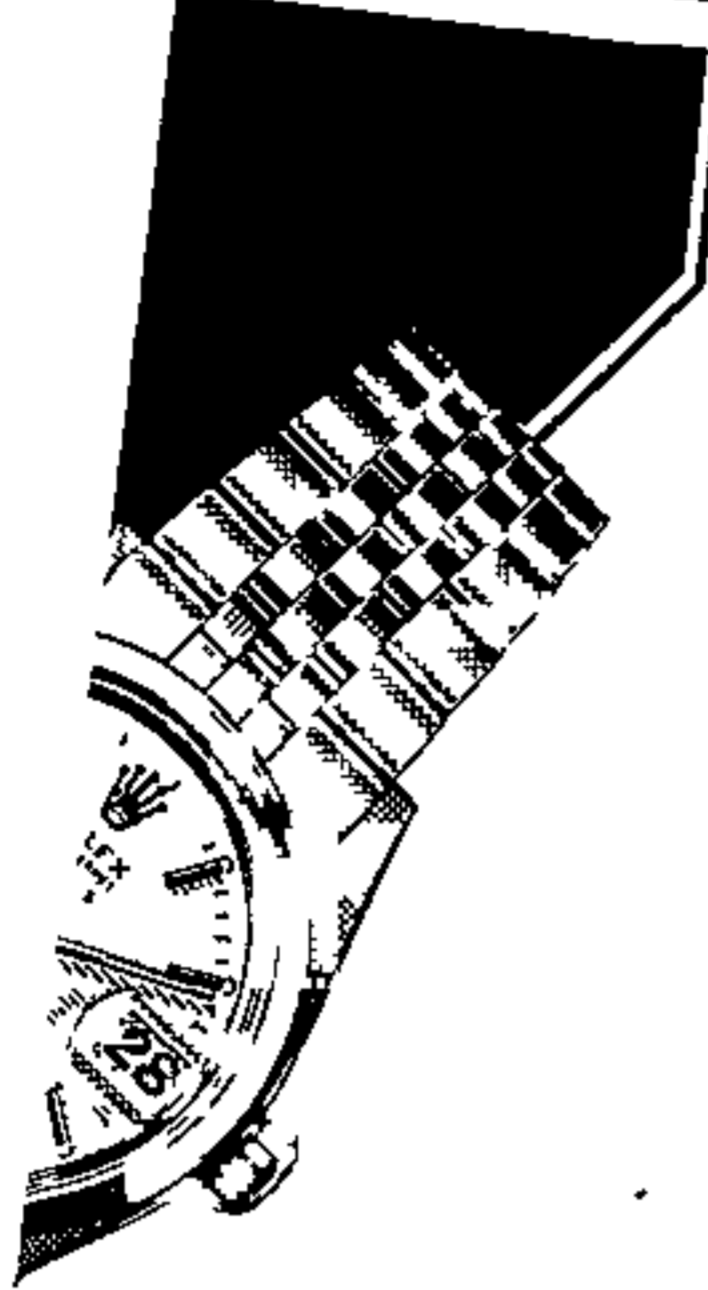
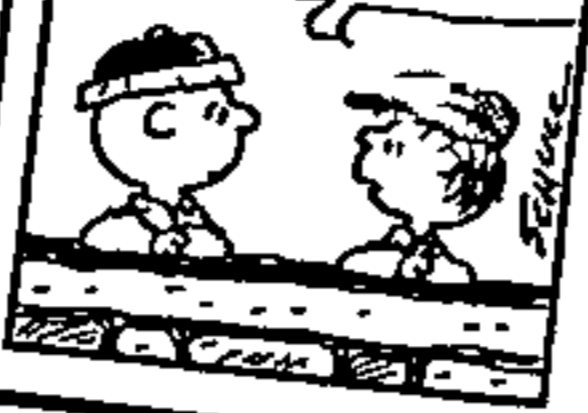
The consulting body which is to advise on further categories of exiles or prisoners who might qualify for indemnity or release had not been appointed yet. However, an announcement would be made soon.


By Charles Schulz

BUT I DON'T HAVE  
TWENTY-FIVE  
DOLLARS TO BUY  
THE GLOVES



SEND HER A NICE  
CARD, AND TELL HER  
TO KEEP HER HANDS  
IN HER POCKETS!



  
**ROLEX**  
the Rolex Collection at  
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Commission  
investigating  
constitutions

TIM COHEN

THE constitutions of African countries and the ANC's draft bill of rights were being studied by the SA Law Commission, deputy-chairman Mr Justice P J Olivier said yesterday

He would be visiting Mozambique soon to study that country's constitutional developments, he said

The commission had also discussed constitutional issues with professors from other African countries, including Nigeria

African constitutional experts were very interested in Law Commission projects, he said.

Experts from African countries, many of which were undergoing their own constitutional development, apparently felt that they might be able to learn some useful mechanisms from the commission's work, Olivier said.

Commission members have already undertaken an extensive trip overseas, which included visits to Lisbon, Berne, Zurich, Helsinki, New York, Frankfurt and Paris

The commission is finalising its proposals on group and human rights which will be handed to government early next year

# Injured inquest witness 'lucky to be alive'

By Thabo Leshilo

A man who was injured when SADF troops shot at a crowd outside Sebokeng Hostel was described yesterday as "lucky to be alive" by Judge Eddie Stafford, chairman of the inquest into the death of 42 people at the hostel.

Sipho Mtshali (24) suffered what the judge described as an "ugly wound" on his head and was unconscious in hospital for a month.

Mr Mtshali told the court he was on his way to the Vaal Technical College in Sebokeng on September 4 when he saw a large crowd outside the hostel. He had also seen a group of policemen on the scene.

He said he saw SADF vehicles approaching on the road. He began crossing the road, after which he could not remember what happened.

Mr Mtshali said that he had regained consciousness a month later in Baragwanath Hospital. "I also found out that I had a gunshot wound in the head. I could not remember what had happened to me and how I got the wound," said Mr Mtshali.

In court yesterday his head was bandaged, his face badly swollen and his left eye kept watering. He has become deaf in the left ear. Mr Mtshali told the court he still suffered severe pain from the wound.

Another witness, Petrus Mokwena (20), said that he had

just returned from college when he was shot. He was at the back of the crowd which had gathered outside the hostel when he saw SADF vehicles arrive. The troops got out of the vehicles and formed a line. Two tear gas canisters were fired and the mob started running. Mr Mokwena said that he had also started running.

"While I was running I looked back and saw the army shooting at a group of people. The next thing I felt a pain in my leg. I then fell down. I tried to crawl."

Mr Mokwena's leg was subsequently amputated below the knee.

The mystery surrounding the disappearance of a petrol bomb which the SADF said had led

the troops to fire a barrage of R-4 gunfire at the crowd, deepened yesterday.

Sergeant Barend Kramer, a detective in the SAP, told the inquest he had recorded only eight petrol bombs removed from the scene in the Sebokeng

Sergeant Kramer's evidence sharply contrasted with that given by Commandant Alf Clulee, the commanding officer of the SADF unit at the hostel, that there were nine petrol bombs.

The ninth petrol bomb, Commandant Clulee had said, was found with its wick smouldering near the body of a man after the soldiers had shot at the crowd.

SAW 12/12/90

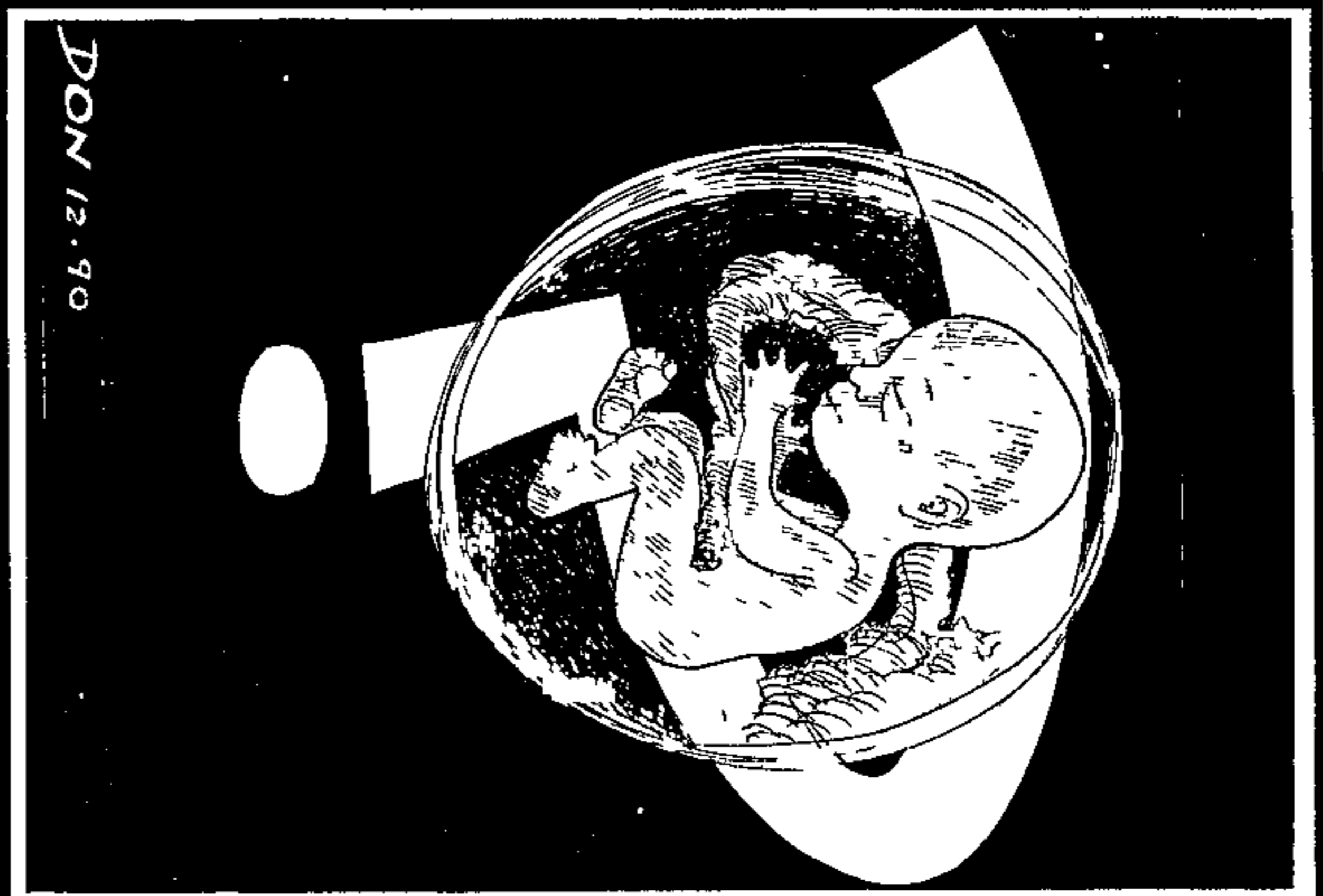
252

# Abortion a 'hot potato' in new SA?

252 / 20

South 13/12 - 17/12/90

**The debate on legalised abortion — a potentially controversial issue in a new South Africa — has started. Firing the first salvo, ANC constitutional expert Kader Asmal told a conference on women in Cape Town recently that a woman had a right "to determine her fertility; whether or not she should have a child". But family planners are saying abortion must not be seen another form of contraception, writes REHANA ROSSOUW.**



ABORTION will be legalised in a new South Africa if women are involved in constitution-making and believe they have the right to abortions, according to a top African National Congress legal department spokesperson

At a recent conference titled "Gender and the Constitution" Mr Kader Asmal said women had the right to determine their political, economic and health rights for a new South Africa.

"Around the question of health, women have the right to abortion," Asmal said

"I believe firmly in a woman's right to determine her fertility, whether or not she should have a child"

**Outlaw**  
Asmal said not all women's rights could be reflected in a constitution, a Charter of Women's Rights which would encompass the basic rights of women would have to be drawn up

Once a new government was in session, equality legislation would have to be passed and new legislation would be guided by the Women's Charter

Legislation outlawing abortion in South Africa except under extreme cases could be legalised by the new parliament.

ANC Women's League spokesperson Ms Lindwe Phillips said the organisation had begun the process of drawing up the Charter at a national consultative meeting in Johannesburg last weekend.

"We have decided to consult all women's organisations in the country about the Charter as we want all the women to be involved," Phillips said  
She said the Women's

League would not find Asmal's suggestion "outrageous" as they had already had debate in commissions and workshops on the question of women's fertility  
Several women felt they had the right to determine their fertility and should have the freedom to abort if the child was conceived under trying circumstances  
"Women must reserve the right to decide whether to abort," Phillips said  
"It is they who are faced with the responsibility of

raising a child they do not want.  
"Some women feel that the issue of abortion is linked to child abuse and rape.  
"But this needs far more debate and we will consult as many women as possible on the issue."  
However, organisations involved in family planning warned that abortion should not be regarded as an alternative form of contraception  
There are no accurate statistics on illegal or "back street" abortions in South Africa.  
However, the Groote Schuur Hospital admits 20 women a day and even more are treated daily at the Bargewannah Hospital.  
"We estimate that between 250 000 and 500 000 women have abortions every year in South Africa," said Ms Erica Greathead of the Planned Parenthood Association of South Africa  
Greathead said her organ

isation believed abortion should not be used as a form of contraception as women faced health risks after the procedure  
Women risked death, infertility and emotional problems after undergoing abortions  
"We often find that after the event, up to four or five years later, women manifest these problems," Greathead said  
"Rural women particularly, who have no access to health care, risk death or infertility when they have abortions  
"Even for healthy women, abortion has a physical or mental effect."  
At the same time, an important statistic to keep in mind is that South Africa has among the highest teenage pregnancy rates in the world. One in five South African teenagers fall pregnant every year  
"In urban areas, teenagers have access to health care and are able to obtain legal abortions on the grounds of the psychological effects of the pregnancies," Greathead said  
"They have knowledge and access, unlike their rural counterparts."  
Greathead said her organisation was often contacted by parents wanting to know where they could go for illegal abortions  
People did not know they were eligible for legal abortions  
"But abortion on demand achieves nothing. It must not be seen as an alternative form of contraception," Greathead said  
Teenagers  
We believe that only under certain circumstances must abortion be made legal — failed contraception or sterilisation for instance.  
"We need to extend the present law not legislate for the legalisation of abortion  
"The age of the person eligible for a legal abortion can be extended to encompass teenagers and women over 35, the social circumstances of the person can be taken into account or failed contraception can be used as a criteria."  
There is also debate whether abortion is an issue affecting only women  
In other countries, court cases brought by men in an attempt to stop a woman aborting his child have not been successful  
"While it is understood that the conception of a child directly affects women it has not been disproved that men are as equally committed," said a male activist who has ex-

perienced three women abort his child without consulting him  
"So far, only women's sentiments have been addressed when the legality of abortion is discussed. This attitude tends to leave out the other party, thus opinions on abortion are not fully representative."  
Greathead agrees fertility is a joint issue, considering the fact that it takes two to make a baby  
"But at the same time men should realise that they must not make babies if they can't be fathers," she said.  
"For some men, making a woman pregnant is their way of proving their manhood. Men must also take responsibility for not making babies."  
Greathead said South African women and men were ignorant about their body and its functions. Many did not know how contraception worked and myths about contraception had to be dispelled  
"Political parties would serve their members better if they educated them about the benefits of family planning and thus prevented more abortions."  
"Political parties in South Africa seldom address the quality of life of the population," Greathead said

# The good, bad and ugly in Africa

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South 13/12 - 17/12/90

AFRICA experienced International Human Rights Day on Monday with reason to hope that the human rights of its people will be respected by its governments.

Most Organisation of African Unity (OAU) countries have rati-

**The 42nd anniversary of the signing of the Universal Declaration of Human Rights was observed last Monday. NOEL BRUYNS reports on human rights in Africa:**

fied the African Charter of Human and People's Rights.

Mr Richard Carver, research director of Africa Watch, a recently-formed non-

governmental human rights monitoring organisation, believes the human rights situation in Africa remains bad, although there are some welcome improvements in the past decade

His views are expressed in the latest issue of the US journal, "Topic"

"In Uganda, after the period of the Amin regime and appalling massacres and torture by the Obote government, the coming to power of the Museveni government was a welcome development," says Carver

"In Togo, a national commission on human rights has been set up in response to international criticism, particularly from Amnesty International, on the state of human rights in Togo"

Carver also mentions South Africa, saying "the phase that we're in now is a positive one, after the extremely bad period of widespread emergency detentions". Prominent prisoners had been released and death squads exposed.

## Vigorous

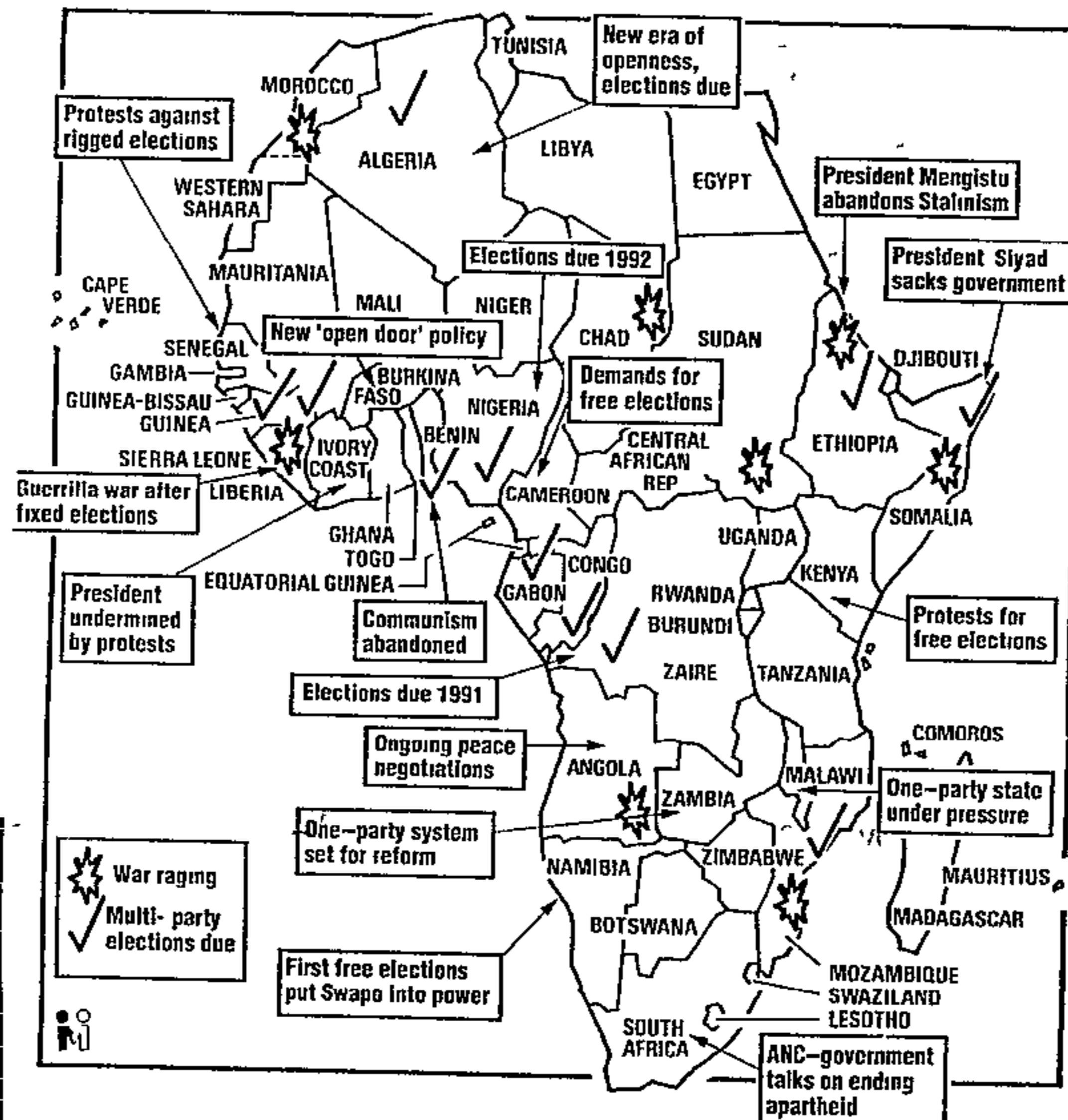
"What has remained underreported are abuses of human rights in the homelands and in the rural areas," he says

An ad hoc committee on human rights was formed in Ghana. Nigeria also has a vigorous civil liberties organisation

Some situations remained bad, especially in the Horn of Africa

The Somali government had essentially declared war on its own people, with widespread massacres and bombings of the civilian population

"The Ethiopian regime looks increasingly unsteady, but maintains the style of extreme repression as it has throughout the decade," says Carver



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# Legal 'short cut' to solving disputes

13/12/90

SUSAN RUSSELL

A LEADING firm of Johannesburg attorneys is to open an alternative dispute resolution (ADR) centre in February to resolve legal disputes faster and at less cost than taking matters to court.

A growing number of legal disputes are not reaching the courts because of high costs and the often long delays in obtaining judgments.

At the ADR centre, litigants will be able to resolve legal disputes through mediation, conciliation and arbitration.

The centre could be used to resolve a wide range of cases such as breach of contract, defamation, copyright, trademark, and labour disputes.

The services could be useful in opposed divorce and custody matters.

In the case of mediation and conciliation, a trained third party acts as a go-between, assisting the parties to agree on resolving the issue between them. The third party is not a judge and does not make an award, although he will suggest how their dispute may be solved. Nor are his views binding on the parties.

In the case of arbitration, the parties choose an impartial third person to preside over the matter and agree in advance to be bound by his award. He hears both sides of the dispute and makes an award which is binding.

The law firm setting up Johannesburg's

ADR centre will give clients access to skilled arbitrators, conciliators and mediators, all with wide experience in a variety of legal disciplines.

An attorney involved in the centre, Sarah Gon, said three primary features made the concept attractive to clients. It was time-effective; it was inexpensive in that while clients would still pay full legal fees, less time would be spent resolving the dispute; and it offered the confidentiality the open court could not.

In addition, parties could choose who would hear the dispute.

Gon pointed out that if the parties agreed that the decision of the arbitrator was binding, it could not be appealed against in court. A decision might be reviewed by a court, but only if the mediator or arbitrator's conduct was questionable or he had exceeded his mandate.

Attorney Tim Trollip, head of the ADR centre and a senior partner in the law firm, said there was a need in SA to get away from the traditional perception that legal disputes had to go through conventional court litigation.

"By making use of processes such as mediation, arbitration and conciliation, parties are offered methods of solving disputes that can be less formal, less time-consuming and less costly," said Trollip.

# Troops praised for 'good job', inquest is told

Star 13/12/90  
By Thabo Leshilo

SADF members who shot at a crowd outside Sebokeng Hostel were praised by their commander for having done a good job, the inquest into the deaths of 42 people on September 4 heard yesterday.

During cross-examination by Gys Rautenbach, counsel for the victims, Lance-Corporal Bernard Krediet said Commandant Alf Clulee had told the troops he was proud of them and had congratulated them at a parade.

## 'Unnecessary'

He said the soldiers had later signed a form in which they indicated how much ammunition they had used.

Lance-Corporal Krediet said he had not thought it necessary to fire teargas in spite of an order by Commandant Clulee.

"It was not necessary for me to fire teargas because other people (soldiers) near me also had teargas."

Before the troops unleashed a volley of R-4 gunfire at the mob, a petrol bomb had been hurled at the soldiers, he said. The petrol bomb went over his head and had landed behind him. It broke but did not explode. A soldier was also hit with a stone in the back.

The corporal did not point out the petrol bomb to police when they removed weapons, including petrol bombs, later found at the scene.

Mr Justice Stafford, who is presiding at the inquest in Vereeniging, ordered that the weapons belonging to the troops who fired shots on that day be sent for ballistic tests to ascertain who had fired.

A victim of the shooting, Mohlopheki Magazura (42), said he could not understand why the soldiers had shot at the crowd because they had not hurled any stones at the soldiers.

He said the crowd sat down when the army arrived to "show respect to the army so that they could free the murderers (Inkatha members trapped at the hostel after allegedly killing people earlier)".

Mr Magazura denied that the crowd sat down to block the soldiers way.

He said the soldiers had simply walked up to the crowd, fired a teargas canister and immediately started firing shots. He was shot in the leg and another bullet entered his chest from the back.

Another victim, Walter Makupo, told the court he was shot while near the body of his brother, a Lesotho migrant who lived at the hostel.

(Proceeding)

# Plan to save the accused from the trap of legalities

**A** MAJOR new step in securing a fair trial for all accused begins next year when the first public defender pilot project gets off the ground in Johannesburg

Announcing the start of the project this week, the director of the Legal Aid Board, Nic Pretorius, said enough funds had been obtained to start a "fairly large project" in Johannesburg and it was hoped that if money could be obtained a similar pilot project would be started in Durban

The pilot project will focus on the lower courts but Pretorius said there was no reason why it could not be extended to the supreme court or even replace the *pro deo* system if the authorities should decide to do so.

Although it will not at this stage operate in the supreme court, the public defender system could have a profound influence on one aspect of trials in this forum — the vexed question of appearances under section 119 of the Criminal Procedure Act

Accused generally appear in the lower courts under this section for a preliminary examination which is intended to streamline proceedings in the supreme court. But in many cases the system has become "a fatal trap for the unrepresented accused".

Appearing in the lower courts under section 119, accused are asked to plead and to outline the basis of the defence they will advance when the trial starts in the supreme court

However, many accused are at this stage still unrepresented, their *pro deo* counsel only becoming involved once the supreme court trial date has been set.

Acting without qualified legal advice they often make statements and concessions during the section 119 proceedings which are later used against them in the supreme court trial; sometimes they are the only direct evidence linking the accused to the crime

The director of the School of Law at Natal University, Pietermaritzburg, Michael Lupton, has summarised the situation which often arises: "The result of the sec-

W/M 14/12-19/12/90  
LAW AND  
THE COURTS  
Carmel Rickard

tion 119 proceedings is thus that an accused can be found guilty of murder and sentenced to death on the basis of the evidence given at a pre-trial hearing at which he was unrepresented

"By the time the *pro deo* advocate arrives on the scene the accused has often already convicted him or herself and all the *pro deo* achieves is to lend respectability to the inevitable march to the gallows"

Lupton has urged that the state should ensure an accused has legal representation as soon as possible after arrest as well as during the section 115 appearance.

A recent dissenting judgment by two Appeal Court judges, Mr Justice Milne and Mr Justice Smalberger, is important in highlighting the problems of an accused in such a trial.

The AD was considering the case (*S v Mabaso*) of two men whose section 119 statements were crucial to their conviction. During the trial it emerged that the magistrate hearing the section 119 proceedings only informed the accused of their right to legal representation after they had already made what turned out to be damning admissions. Their appeal was based on the magistrate's failure to tell them of their right to representation.

According to Lupton, the majority decision, by Appeal Court Judges Hoexter, Eksteen and Nicholas, broke no new ground

Writing in the latest Pietermaritzburg bulletin of Lawyers for Human Rights, Lupton said, "They merely rehashed all the tired old arguments to the effect that the irregularities complained of did not result in a failure of justice"

The two judges in their minority opinion however gave a "perceptive and lucid exposition of the real issue at stake which is

due process".

Mr Justice Milne said he would have found the trial irregular and granted the appeal saying, "In my judgment, public policy requires that before a man condemns himself out of his own mouth in preliminary court proceedings he should be fully advised of his right to remain silent and as to whether it is in his interests to do so. The proper person to advise him of this is a legal adviser and public policy requires that he should be advised of his rights in this regard as well"

Commenting on the minority judgment Lupton said it had the vision "to see past the technicalities and to identify the real issues facing an unsophisticated layman who is appearing undefended and who is subjected to cross-examination by a trained lawyer. It is at best an unfair contest and the consequences in terms of the operation of section 119 are deadly for the hapless victim

"Our system of criminal justice will never be able to look the world in the eye and proclaim that we adhere to due process and Western standards of criminal justice as long as section 119 is applied in its present form

"(Mr Justice) Milne has finally revealed this iniquitous procedure for what it is — a fatal trap for the unrepresented accused and a blot on our system of criminal justice which must be removed"

Meanwhile back at the Legal Aid Board this week it seemed the sentiments expressed in the minority judgments were shared by Pretorius. He said he was aware of the problem surrounding section 119 proceedings and saw no reason why staff working for the public defender system could not be involved in representing accused during preliminary examinations.

He said the section 119 proceedings took place in the lower courts where the public defenders would be operating. "We will give attention to this. We can be of great assistance to accused. My attitude is let's help them. This is a very important stage in the whole process and people should be represented then"



# Inquest told of identity parade pics

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14/12/90  
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**A WITNESS** in the inquest into the September 4 massacre at Sebokeng Hostel said yesterday he had only been shown pictures in which six people appeared at an identification parade after the event.

Mr Zamile Ludidi, in a statement made on September 19, indicated he had identified 12 people but this was contradicted by his evidence in court in Vereeniging yesterday.

Ludidi told Mr Lionel Lapidos, who appeared for Inkatha, that he had only been shown five photographs at the identification parade and was

told to return to the police station.

When he returned to Sebokeng Police Station the next day he was shown no other photograph and heard that people were paraded in front of "a glass", but he did not take part in this exercise.

Lapidos also submitted that Ludidi left Sebokeng Hostel after 4.30am on September 4 after hearing gunshots. He could not have had a good look at the men in the group, who had attacked the hostel and fired shots.

In a statement on September 11, Ludidi said he had seen two of the attackers fire shots at a per-

son and then run away.

Ludidi fled and returned to Sebokeng at about 7.30am when he saw a group wearing red headbands.

"They took clothes from a dry cleaner, took meat and cold drinks and bananas and ate them," he said.

He also said he had seen a "white man" in the group who instructed the men to sit down.

Under cross-examination by Mr Anton Ackerman, who is leading evidence for the Attorney-General, Ludidi said it was not a European but "a black and white man".

The inquest continues today. - Sapa

# Let justice be seen to be done

OUR judicial system suffers from three fundamental ailments eroded jurisdiction, exploded objectivity and subverted legitimacy.

The first condition has been caused by the undue curtailment of the authority of the courts. Compulsory minimum sentences and draconian forms of detention without trial are two of its symptoms.

It can only be cured by aligning the rules of the political game to "civilised standards" and restoring the courts to their rightful position as prime custodians of liberty.

## Anathema

A justiciable Bill of Rights, called into existence under conditions conducive to its legitimacy, will have to embody such rules.

The second ailment, exploded objectivity, has been caused by the courts' attempts to portray an image of virgin objectivity — of neither advancing the injustices of apartheid nor opposing it by "political" means.

A politicised judiciary is regarded as an anathema in a "civilised" society.

The judiciary therefore tends to cultivate a sense of dignified detachment, priding itself on successful abstention from the hustle and bustle of "dirty politics".

This flattering image of judicial objectivity is to a large extent self-imposed, and is not shared by the majority of South Africans. All judges, and the vast majority of magistrates, belong to a privileged minority of the population.

South Africa's  
judicial system is  
in urgent need of  
overhaul, argues  
LOURENS  
DU PLESSIS

have vested interests in the status quo and are seen (and often experienced) as representing the oppressor.

When called upon to interpret and apply unjust laws, they display a suspicious-looking allegiance to the will of the legislature.

This attitude has served to conceal many judges' prejudice in favour of a lopsided system of privilege, while putting the blame for it on a more overtly "political" legislature.

The panacea to the objectivity ailment is not the depoliticisation of the judiciary but its reorientation: its political reorientation coupled with a reevaluation of judicial objectivity.

The courts should not become subservient to new or alternative powers-that-be. They must, however, realise that they have the political duty to keep the legislature and executive to agreed (and accepted) rules.

It is not for a court of law to sit in judgment on the practical feasibility of state policy. It is, however, its responsibility to help keep such policy within the confines of legality.

The third ailment of the judi-

ciary, subverted legitimacy, is an inevitable complication of the first two. The majority of South Africans neither trust nor expect much from the legal system.

This distrust has been exacerbated by the government's negative reaction to the occasional judicial opposition to apartheid, simply brushing it aside with a legislative strong arm and putting more and more knuckle into an increasingly uncontrolled executive fist.

More black and female faces are needed on our benches — and in the Supreme Court where at present there is only one woman and no blacks at all. It is no longer an excuse to say "we simply do not have suitable people".

## Prejudice

If this is supposed to mean that there are not enough people representative of the diversity in our population who can become judges in the "traditional way", then the prejudiced view that ex-advocates are the most suitable judges will have to be reassessed — especially since the division between the bar and the side bar has at any rate also become a bone of contention.

A magistracy, detached from the civil service but attached to the higher levels of the judiciary, can provide vocational prospects for those who opt for a purely judicial career.

An immediate beginning can be made by involving lawyers from as many as possible undervalued and neglected groups in society (such as blacks and/or

women) as assessors in criminal as well as civil trials at all levels.

It is fundamentally wrong to assume that judicial reform will have to take place only (or mainly) at supreme court level. Most people's perceptions of the legal system are shaped by what they experience in magistrates' courts. Transformation is most needed at this level, and it will have to begin with the detachment of magistrates from control by the executive.

The judiciary will have to become a self-reliant branch of government, and procedures for the appointment of judicial officers will have to reflect this. Judges are presently appointed by the State President on the advice of the Minister of Justice and Magistrates by the Minister only.

Alternative modes of conflict resolution, such as arbitration or mediation, can be relied on to a much greater extent than at present. Has the time not come for the Department of Justice to follow the American example and provide alternative dispute settling agencies.

Regular court procedures are, due to their individualistic inclination, at any rate inefficient in handling so-called class actions or disputes.

Some of the above proposals are rather idealistic. However, as a yardstick for shaping an alternative socio-political order, idealism is far more constructive and creative than cynicism.

● Professor Lourens M du Plessis is head of the Department of Public Law at the University of Stellenbosch.

# Repression Dossier

## Jackboot reform

South 18/12/90 - 17/1/91  
**JOHANNESBURG** — Despite the South African government's declaration of reform, human rights lawyers were as busy as ever this year due to an increase in detention without trial and court proceedings against activists

Bail conditions, too, seem now to be stricter than they have ever been

At times they have effectively banned activists from engaging in political activity

The increase in repression has come at a time when foreign organisations which supported legal action in the past are cutting back their financial aid

These conditions are particularly prevalent in outlying towns where white conservatism holds sway

### Detained

In the past, anti-apartheid activists were simply detained under the state of emergency regulations that had been maintained by the government since 1986. There were no investigations or charges against them

But since the emergency regulations were lifted in most of the country in June, says lawyer Ms Jube Mohamed, the police have taken to arresting people on a variety of charges

This has been most pronounced in black township communities supporting rent and consumer boycotts as well as public protests and sit-ins

Attorney Richard Spoor identified three broad categories of offences

- Those against the police, such as obstructing police and attacking police stations and vehicles,

- Those against the state, such as attending illegal gatherings,

- Those against unpopular township figures and property, resulting in hundreds being charged with intimidation, public violence, malicious damage to property, murder and attempted murder

By October, 2 500 people were involved in almost 400

By **JENNY CARGILL**

trials, according to the Human Rights Commission (HRC) 252

Most of those in court have been local township activists, rather than well-known or national political figures.

Spoor believes that the high trial figures are in part due to poor quality police work and an "overwillingness of the police to prosecute people without thorough investigation"

But a more compelling reason, he argues, is "the general animosity and hostility of the police to any kind of resistance to the status quo"

"I have a feeling that in the immediate post-February period (when the ANC and other organisations were unbanned), the police were far more accommodating and less confrontational," Spoor said

### Attitude

"But there has been a shift in their attitude with the police now being a lot more aggressive than before."

The removal of opportunities to hold people without trial under the state of emergency has been followed by a sharp increase in the number of detainees held in terms of Section 29 of the Internal Security Act

When the emergency regulations were lifted in June, there were only 45 Section 29 detainees. In the following two months the figure broke the 100 mark

There are also at least 15 members of the ANC's military wing, Umkhonto weSizwe, on trial

Bail conditions have been particularly harsh in some courts

In a conservative town in the Eastern Transvaal, 19 youths charged with arson and intimidation were granted bail on condition



**HOLD ON:** Despite the government's declaration of reform, repression has increased during 1990 particularly against activists demonstrating against the state

they attended school, did not attend political meetings and did not advertise political organisations by wearing badges or T-shirts

They, like most of their schoolmates, did not attend classes on the last two days of the term

As a result they were arrested for breaking their bail conditions

In the Orange Free State, the ANC's convener in

Luckhoff was also restricted from attending political meetings as part of his bail conditions. He successfully challenged them

The Luckhoff police also made an unsuccessful bid to disregard the winds of change by arresting and charging four activists for selling ANC T-shirts at a time when the ANC was already unbanned

When lawyers pointed this

out, the youths were then charged for selling goods without a licence

They were eventually acquitted

Lawyers report an extremely high acquittal rate. For both Mohamed and Spoor's legal firms, it is around 90 percent

Countrywide this year, the HRC statistics show that only 13 percent of accused were convicted

Almost 70 percent had their charges withdrawn, with the remainder being acquitted or discharged

As Spoor puts it "The political changes at present, in so far as they affect the lives of people on the ground, are cosmetic."

"Repression is still firmly in place"

Yet international funding agencies, acting on the understanding that there has

been a marked drop in the repression barometer, have cut funding for litigation

Trade unions and major anti-apartheid organisations are looking at filling the gap

But, points out Spoor, the political and civic organisations operating outside the metropolitan centres will have difficulty doing so — and currently it is their supporters who are the primary targets of repression

## Xmas in jail after bail denied

A 17-YEAR-OLD youth and three Carnarvon men will spend Christmas in jail this year because a local magistrate refused to grant them bail after they were arrested and charged with intimidation

Their case is similar to that of others in small rural towns where offenders have been

granted harsh bail conditions or no bail at all after being arrested.

The charges arise from an incident on November 2 when a carnival was held at a school in nearby Van Wyksvlei. 252

The youth, Mr Graham Jansen, Mr Harry Phillips and Mr Hermanus Malgas approached young children and

explained to them why they should not be wearing stickers handed out by the SADF saying "Make a soldier your friend".

They were arrested five days later and charged with intimidation

Last week a magistrate refused to grant them bail after hearing evidence from the arresting offi-

cer that they had a propensity to commit the offence while out on bail. Their lawyer intends bringing a Supreme Court application to challenge ruling

The Carnarvon and Van Wyksvlei Community Organisation (Carawyn) also intends launching a petition calling for the bail restriction to be lifted

# Govt opens the door to most exiles

252

TIM COHEN

GOVERNMENT yesterday gazetted legislation which will allow most of the estimated 40 000 exiles to return to SA.

In notices published in yesterday's government gazette, President F W de Klerk granted unconditional indemnity to all people who illegally left the country before October 8 this year.

A separate notice unconditionally indemnifies people who were members of an unlawful organisation or who assisted an unlawful organisation materially.

The notices come just days after a resolution at the ANC's consultative conference which threatened to consider suspending the negotiation process if all obstacles — including the unconditional return of exiles — were not completed by the end of April.

It is believed that most exiles are only guilty of the offences covered by yesterday's government notice. Most estimates put the number of exiles at between 40 000 and 60 000. *12/19/11/2/90*

Although many exiles are now automatically indemnified, they still have to furnish the information required in the application form which appeared in a Government Gazette published last month.

This would include details such as applicants' identity numbers, whether they left without valid travel documents and whether they left at a place other than a legal port of exit.

It also asks, if the applicant is not a member of an organisation that has committed itself to peaceful solutions and development, whether the applicant subscribes to these principles.

Lawyers for Human Rights national director Brian Curran welcomed the legislation last night, but he said it would help the repatriation process if more categories of indemnity were identified.

Meanwhile, the South African Council of Churches yesterday announced that temporary indemnity had been granted to a group of 28 South Africans currently living in Kenya.

# Heartsore exiles to miss festivities

By MOJALEFA MOSEKI

SCORES of heartbroken exiles in Britain who had planned to spend their first festive season in South Africa after many years this week said they had given up after some had their indemnity applications rejected.

They said some exiles whose applications had been rejected were not given reasons. When they queried this, they were asked to write letters to the Ministry of Justice.

Although they belonged to different political organisations they had submitted their applications directly to the embassy hoping that they would receive a faster response.

"All of us are heartbroken after getting the bad news. Some of us have made alternative plans to meet our parents and relatives in neighbouring countries.

"But we had planned as early as July to be home for the festive season," said one of the exiles who asked not to be named for fear of victimisation.

The group said most of those who had their plans of visiting South Africa dashed were exiles who had ap-

● To Page 2

# Exiles heartbroken

● From Page 1

plied through political organisations because most of them had not received responses from the Government on their indemnity.

Foreign Affairs officials yesterday referred enquiries to the Home Affairs Department. Efforts to contact home affairs officials proved fruitless.

ANC media liaison officer Miss Gill Marcus said the organisation was not aware of any applications submitted directly to the Pretoria officials by members.

She said the organisation had submitted indemnity applications three to four months ago. She was aware of delays in processing the applications.

The delay in granting indemnity has also been raised by the National Co-ordinating Committee for the Repatriation of South African Exiles, led by its president Bishop K Mgojo.

The NCCR appealed to the Government to cut the red-tape and simplify the process so as to allow more people to return home.

# More in line for State indemnity

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*Gowetan 19/12/90*  
THE categories of people who will be granted unconditional indemnity under the Indemnity Act of 1990 have been extended in terms of a notice in the Govern-

ment Gazette published yesterday.

President FW de Klerk has granted unconditional indemnity from prosecution under Section 13 of the Internal Security Act to people who were

office-bearers in illegal organisations before noon on October 8 this year, or who gave or solicited contributions to such organisations before that time.

The indemnity already applies to people who left South Africa before the time mentioned without a valid travel document or at an illegal transit point.

*Sapa*

# Unconditional indemnity given to exiles linked to minor crimes

star 19/12/90

~~252~~ 252

Pretoria Correspondent

President de Klerk has granted unconditional indemnity to exiles who have committed minor crimes in terms of South African legislation, provided they supply details of the crimes

This was announced in a notice published yesterday in a Government Gazette.

A Department of Justice spokesman said it was expected that many people would benefit from the indemnity. The offer appears to clear the way for the return of most political exiles, estimated at roughly

20 000

However, activists who were involved in crimes such as violence will have their cases judged individually, according to the spokesman

The unconditional return of all exiles is one of the ANC's preconditions for full-scale negotiations

## Passport

Mr de Klerk unconditionally granted indemnity to any person who — before noon on October 8:

● Had left the country without a passport and who had not left

at border posts

● Became or continued to be a member of an unlawful organisation

● Carried, displayed or were in possession of anything which indicated that he was a member of an unlawful organisation

● Contributed or solicited anything as a subscription for the benefit of an unlawful organisation.

Five Transvaal activists, released from Robben Island on Saturday, arrived in Johannesburg yesterday to a warm welcome by a group of ANC supporters.

W/maill 20/12/90-10/1/91.

# Top lawyer's death: Inquiry into 'foul play'

By GAVIN EVANS

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HUMAN rights lawyers are investigating whether foul play was involved in the car crash which killed death row prisoners' champion Shucks Sefanyetso on Sunday.

Sefanyetso (38) worked tirelessly over the past two years to stay the executions of scores of prisoners, played a key role in gathering evidence on "death squads" for the Harms Commission of Inquiry and is widely credited as being a key man in winning the moratorium on hangings which was announced on February 2. He took evidence from death row prisoner and former policeman Almond Nofomela

"We are still investigating what happened and have not ruled out foul play," said Lawyers for Human Rights director Peter Mothle.

"Our information is that a vehicle ploughed into the car Shucks was in as they were reversing into a tar road. It hit the passenger seat side where Shucks was sitting, killing him and slightly injuring the three others.

"There is some confusion what happened after that, and whether the other car has been located."

After working in industry and then completing a B Juris degree at the University of the North, Sefanyetso began his legal articles at a Pretoria law firm before helping to co-ordinate the abolitionist team of the Lawyers for Human Rights in Pretoria in September 1988.



## Challenge for lawyers

SUSAN RUSSELL

THE growing and increasingly sophisticated SA population is creating a need for legal services which the profession in the country is not able to meet, says Association of Law Societies president-elect Ed Southey.

In an interview in the December issue of the association's journal, De Rebus, Southey said making the courts and the judicial system more accessible to the public was the greatest challenge facing SA's legal profession. *B/Dam 20/12/90*

"Looked at purely from the point of view of the size of our population and the stage of its economic development, there should be about one-and-a-half times as many practising attorneys in SA as there are now if we are to have any pretensions of remaining on the fringe of the First World" *20/12/90*

Southey said he believed it was almost inevitable that there would be some change in the existing formal division between advocates and attorneys.

At present only advocates have the right to appear in the Supreme Court.

"If economics do not force a change, then politics will" *(252)*

He added that he did not foresee the Bar disappearing altogether, and it was not in the interests of justice that it should *(252)*

# Holomisa informs SA of coup details

*B/Dam 20/12/90* *(2)*

TIM COHEN

ALL information on the recent Transkei coup attempt, including the names of senior SA security police officials whom rebel leader Col Craig Duli phoned during the action, had been passed on to SA's government, Gen Bantu Holomisa said yesterday.

At an end-of-year function in Umtata, the Transkei military leader said the information included the name of the owner of the farm used as an assembly point and training camp in Queenstown.

Holomisa appealed to SA's government to hand over two businessmen, Vulindlela Mbotoli and Mazizi Ntisana, as well as the territory's former ambassador to Austria, Amos Somdaka.

The fates of 18 people arrested after the failed insurrection "depended largely" on the handing over of the three men, whom he said were implicated in the coup attempt.

### Thanked

Transkei's government endorsed the call made by political organisations for the institution of a judicial commission of inquiry into the circumstances surrounding the use of SA's soil as a "springboard" for aggressive acts against Transkei's government, Holomisa said.

He thanked the people of Transkei for the information they had supplied. He said it had led to the arrest of people from western Tembuland who were in possession of weapons immediately after the abortive coup.

It was the duty of Transkei residents to ward off attempts by "selfish individuals with nefarious programmes" who were intent on destabilising the region economic-

ally, he said.

"It is regrettable that a picture of instability in the Transkei has been painted in the recent past due to public statements made by highly placed individuals in the SA government. . ."

He said these statements were intended to distort the real situation in the territory, and were intended to woo would-be investors away from Transkei.

The continuous portrayal of instability was an outcome of strenuous efforts to bring Transkei to its knees, making the territory more vulnerable to destabilisation and manipulation.

He predicted that next year would pose serious challenges to individuals who depicted Transkei as unsafe.

He urged those committed to real change to use Transkei as a model, saying those in the SA government who were opposed to the proliferation of liberties in Transkei should question whether they were really committed to fundamental change in SA.

Guests at the event included ANC deputy president Nelson Mandela, his wife Winnie, Transkei President Tutor Ndamase, ANC national executive committee member Alfred Nzo, Military Council and Council of Ministers members and PAC officials.

Sapa reports that Foreign Affairs deputy director Rusty Evans confirmed that government had been approached in connection with the foiled coup attempt in which Duli was killed.

"Gen Holomisa submitted certain information relating to the coup attempt, and the SA government has made an undertaking to investigate the matter," Evans said

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# Hope for 250 exiles

Soweto 21/12/90

By MOJALEFA  
MOSEKI

THE African National Congress said yesterday it expected 250 exiles to be granted indemnity "very soon", and was waiting for the Government to indemnify more than 2 000 applications submitted on behalf of its members.

ANC spokeswoman Miss Gill Marcus said yesterday the organisation expected the Government to publish the names of 250 exiles who had been granted unconditional indemnity.

She said the names of more than 2 000 ANC members seeking indemnity had been submitted to the Government and the organisation expected a response soon.

New hope of more exiles being granted indemnity was raised by the Government's extension of the Indemnity Act to include people who had committed minor crimes.

A spokesman for the Department of Justice said there were no names prepared for immediate indemnification but added that the extension would make it possible for many exiles to return.

# Indemnity: uncertainty over number involved

Political Reporter

Neither the ANC nor the Government could tell yesterday how many of the estimated 22 000 ANC exiles would benefit from the indemnification for minor offenders which was announced in a Government Gazette this week

The ANC welcomed the unconditional indemnification granted to people who had committed minor crimes, such as leaving the country without a passport, but again called on the Government to cut the red tape which had considerably slowed down the process of the return of exiles

ANC spokesman Gill Marcus said almost 2 500 application forms for indemnity had been submitted to the Government. The ANC expected the names of 250 people, whose applications had been approved, to be announced in a Government Gazette soon

She said the process would have to be accelerated if it were to be completed by April 30, the deadline set in the Pretoria Minute for the completion of the task.

An ANC national executive committee source said about 6 000 exiles should return by the year-end, but Pretoria was "making things impossible".

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25/12/90

A working paper which contains the Commission's tentative proposals and may serve as background information may be obtained free of charge from the Commission on request

The Commission's offices are on the Eighth Floor, Nederduits Gereformeerde Kerk Sinodale Sentrum, 228 Visagie Street, Pretoria Correspondence should be addressed to:

The Secretary  
South African Law Commission  
Private Bag X668  
PRETORIA  
0001

Telephone: (012) 322-6440.

(21 December 1990)

'n Werkstuk wat die Kommissie se tentatiewe voorstelle bevat en wat as agtergrondinligting kan dien, is op aanvraag gratis by die Kommissie verkrygbaar

Die Kommissie se kantore is op die Agtste Verdieping, Nederduits Gereformeerde Kerk Sinodale Sentrum, Visagiestraat 228, Pretoria Korrespondensie moet asseblief gerig word aan:

Die Sekretans  
Suid-Afrikaanse Regskommissie  
Privaatsak X668  
PRETORIA  
0001.

Telefoon: (012) 322-6440.

(21 Desember 1990)

## Save a drop — and save a million

Water conservation is very important to the community and industry to ensure their survival. So save water!



## Spaar 'n druppel — en vul die dam

Indien almal van ons besparingsbewus optree, besnoei ons nie slegs uitgawes nie maar wen ook ten opsigte van ons kosbare water- en elektrisiteitsvoorraad

excluded (either wholly or partly), and should provision be made for enterprises to apply for exemption on reasonable grounds? Please substantiate your views fully.

Choose one:

Agree completely .....	<input type="checkbox"/>
Agree .....	<input type="checkbox"/>
Uncertain .....	<input type="checkbox"/>
Disagree .....	<input type="checkbox"/>
Disagree completely .....	<input type="checkbox"/>

9.6 If your answer to question 9.2 was in the affirmative, please provide full details

9.7 If your answer to question 9.3 was in the affirmative, please provide full details.

9.8 The Wage Act makes provision for representative groups of employers and/or employees to submit proposals to the Minister of Manpower regarding wages and other conditions of employment, to which the Minister may give legal effect by promulgation in the Gazette. If the Wage Act is not made applicable, should provision be made for a similar procedure?

9.9 Any further relevant comments with regard to the Wage Act are also awaited.

10. Interested persons and organisations that wish to submit representations on this matter to the NMC should do so not later than **Friday, 15 February 1991**. All points of view should be fully substantiated and should, if possible, be supported by practical examples. Submissions should be sent to:

The Secretary  
(For attention Ms F. A. Kroukamp/Dr C. J. van Aardt)  
National Manpower Commission  
Private Bag X316  
Pretoria  
0001.

Telephone number. (012) 310-6171 310-6185.  
Telefax number. (012) 320-2059.

(21 December 1990)

252 NOTICE 1082 OF 1990  
SOUTH AFRICAN LAW COMMISSION

The South African Law Commission is conducting an investigation into **Bail Reform in South Africa** and would like to receive, before 31 March 1991, reasoned suggestions in writing for the development, improvement, modernisation or reform of this facet of the law.

wels outomaties geheel en al of gedeeltelik vrygestel word, en moet voorsiening gemaak word vir ondernemings om op goeie gronde aansoek om vrystelling te doen? U standpunt moet gemotiveer word:

Kies een:

Stem beslis saam.....	<input type="checkbox"/>
Stem saam.....	<input type="checkbox"/>
Onseker .....	<input type="checkbox"/>
Stem nie saam nie .....	<input type="checkbox"/>
Stem beslis nie saam nie .....	<input type="checkbox"/>

9.6 Indien u positief geantwoord het t.o.v. vraag 9.2, voorsien asb. volledige besonderhede hieroor.

9.7 Indien u positief geantwoord het t.o.v. vraag 9.3, voorsien asb. volledige besonderhede hieroor.

9.8 Die Loonwet maak daarvoor voorsiening dat verteenwoordigende groepe werkgewers en/of werknemers voorstelle aan die Minister van Mannekrag kan voorlê t.o.v lone en ander diensvoorwaardes, waaraan die Minister by wyse van promulgasie in die Staatskoerant regsrag kan gee. Indien die Loonwet nie van toepassing gemaak word nie, behoort daar voorsiening vir 'n soortgelyke prosedure gemaak te word?

9.9 Kommentaar oor enige ander aspekte wat u t.o.v. die Loonwet wil opper, word ook afgewag.

10. Belanghebbende persone en instansies wat graag vertoe oor die aangeleentheid wil rig, moet dit nie later nie as **Vrydag, 15 Februarie 1991** aan die NMC voorlê. Volledige motivering moet vir alle standpunte verstrek word en waar moontlik moet dit gerugsteun word deur voorbeelde uit die praktyk. Die vertoe moet geng word aan:

Die Sekretaris  
(Vir aandag mej F. A. Kroukamp/dr. C. J. van Aardt)  
Nasionale Mannekragkommissie  
Privaatsak X316  
Pretoria  
0001.

Telefoon: (012) 310-6171 310-6185.  
Telefaks: (012) 320-2059.

(21 Desember 1990)

KENNISGEWING 1082 VAN 1990  
SUID-AFRIKAANSE REGSKOMMISSIE

Die Suid-Afrikaanse Regskommissie stel ondersoek in na die **Hervorming van die Suid-Afrikaanse Borgtogreg** en ontvang graag voor 31 Maart 1991 gemotiveerde skriftelike voorstelle vir die ontwikkeling, verbetering, modernisering of hervorming van dié faset van die reg.

## Inquest <sup>252</sup> postponed

<sup>some fan 2111290</sup>  
THE judicial inquest into the death of Krugersdorp security guard Mr Japie Maponya has been postponed indefinitely after the South African Police and the State Prosecutor moved that the inquest be closed.

Pretoria District Court Magistrate Mr Karel Kruger yesterday postponed the inquest to give convicted murderer and self-confessed former police "hit squad" member Butana Almond Nofemela time to appoint a legal representative.

Nofemela, who was a major witness during the proceedings of the Harms Commission of Inquiry into Political Murders, alleged that Mr Maponya had been abducted and murdered by policemen based at Vlakplaas near Pretoria. *Own correspondent*

NOT DM

# Indemnity extended

## for Tambo

Star 22/12/90  
THE State President, Mr F.W. de Klerk, has extended the period of immunity from prosecution granted to 72 people under the Indemnity Act, including several ANC leaders.

In terms of a notice published in the Government Gazette yesterday, their temporary unconditional immunity has been extended from December 31 until February 15 next year.

Among those affected are African National Congress president Mr Oliver Tambo, the commander of the organisation's military wing Umkhonto we Sizwe, Mr Joe Modise, his chief of staff Mr Chris Han, the ANC's secretary general Mr Alfred Nzo, its head of international affairs Mr Thabo Mbeki and the leader of the South African Communist Party, Mr Joe Slovo. — Sapa

# Govt grants permanent indemnity to 787 political exiles

GOVERNMENT has processed the first batch of what are believed to be thousands of applications by political exiles for indemnity.

Friday's Government Gazette contained a list of 787 people who have been indemnified from prosecution for leaving or entering SA without valid travel documents and/or at non-official border crossings.

A government statement said these people had complied with requirements for indemnity for two categories of offences.

The two categories were:

- Persons who, before 12pm on October 8 1990, left the country without a passport or

## LINDEN BIRNS

permit as described in terms of the Department from the Union Regulation Act of 1955; and

- Persons who, before 12pm on October 8 1990, left the country without authority at a place other than a recognised port as referred to in the same statute.

Other offences and events were not covered by this particular indemnity.

"It must be emphasised that applications for indemnity for any other offences or events by certain of the persons whose

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names have been published, are still being considered."

The statement said any exiles wishing to return to SA in terms of this particular indemnity had to ensure that they did not also require indemnity for other offences.

Included on the list are: Unkhonto we Sizwe (MK) chief of staff Chris Ham, who already has temporary indemnity.

Also listed are Rivonia trialist Harold Wolpe, who escaped after being charged, retired NEC member and Operation Vula trialist Mac Maharaj, ANC religious affairs head Ruth Mompati, and SA Communist Party secretary-general Joe Slovo.

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A name on the list is J Mkwanezi, who is thought to be PAC administrative secretary Joe Mkwanezi. Mkwanezi returned to SA on December 6 with temporary indemnity.

ANC spokesman Gill Marcus said she knew of the PAC's Joe Mkwanezi, but could not say whether or not there was a J Mkwanezi within ANC ranks.

"It's a common enough name," she said.

An informed source said that certain PAC members had negotiated with government for indemnity, despite that organisation's non-negotiation stance on re-

□ **To Page 2**

## Indemnity 81004 24/12/90

lations with government.

Justice Department spokesman Piet du Randt said yesterday he could not divulge details of the listed persons, but said they were from across the entire political spectrum and not necessarily just ANC members.

No spokesman for the PAC could be reached for comment yesterday.

Earlier this month a Justice Department spokesman said that more than 1 000 ANC members had applied for indemnity from prosecution for various statutory offences.

Meanwhile, an ANC spokesman said yesterday that last week's late night talks be-

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## From Page 1

tween President F W de Klerk and ANC deputy president Nelson Mandela were part of a "regular" series of the working group on armed action. The spokesman said the working group was still on track.

However, informed political sources said the presence of De Klerk and Mandela, who are not members of the regular group, was thought necessary to get the group "up and running again" after its work was suspended after its November 22 meeting.

Last week's meeting, which was also attended by Han, took place at the President's office in the Union Buildings on Monday.



# 18 exiles come back home to SA from Kenya today

*Sowetan 24/12/90*  
EIGHTEEN exiles from Kenya are expected to return to South Africa today after the South African Council of Churches finalised the deal for the return of 34.

The repatriation was made possible when a notice of unconditional temporary immunity under the Indemnity Act gazetted in the Government Gazette on November 26

The group of 34 has been split into two, with 18 exiles, who will be travelling on their own, returning today and a further group of 16 with dependents expected on Sunday.

"The granting of temporary indemnity to the group was initiated by general secretary of the SACC the Rev Frank Chikane," a statement said. -  
*Sowetan Correspondent.*



# Indemnity limited to illegal exit and not other offences

(252)

THE Department of Justice stressed at the weekend that 787 people granted indemnity by the Government on Thursday had not received general indemnity, but had only obtained indemnity for leaving the country without legal documents or authority before October 8, 1990.

These specific categories for indemnity are:

\* People who left the country for another country without valid documents before 12 00pm on October 1990.

\* People who left the country without authority "at a place other than a port".

*So what? 24/12/90*

Any other offences or events are not covered by this particular indemnity, the statement said.