Public Sector - Govt. - Justice

1996

The commission has also helped us continue our progress and we will continue to work with them to ensure we learn from our mistakes.

"The commission's role is to facilitate the process of identifying and prioritizing areas for improvement. This is a crucial step in our ongoing effort to improve the functioning of our organization."

"In our current report, we have outlined a number of recommendations that we believe will help us achieve our goals. We hope that the commission will work with us to implement these recommendations in a timely manner.

"The commission has played a vital role in our efforts to improve the functioning of our organization. We thank them for their continued support and cooperation."
Four years on, Bisho massacre comes under TRC spotlight

Pik Botha, Ronnie Kasrils and Oupa Gqozo among those to testify from Monday

By DAISY JONES

Tomorrow is the fourth anniversary of the Bisho massacre, which claimed the lives of 29 people and wounded almost 200.

The Truth and Reconciliation Commission will hear testimony related to the incident on Monday, Tuesday and Wednesday.

Among the witnesses to be called are former foreign affairs minister Pik Botha, ANC secretary-general Cyril Ramaphosa, Deputy Minister of Defence Ronnie Kasrils and former Ciskei ruler, Brigadier Joshua “Oupa” Gqozo.

According to newspaper reports, Kasrils, Ramaphosa, Chris Hanu (then SAPC general secretary), Steve Tshwete (now Minister of Sport and Recreation), Gertrude Shope (current ANC MP) and about five other ANC-SACP-Cosatu alliance leaders led a group of about 80,000 marchers from King William’s Town to Bisho at lunchtime on September 7 1992.

29 of the marchers were killed and almost 200 wounded

When the marchers reached the SA-Ciskei border, which was heavily guarded by armed Ciskei Defence Force (CDF) troops, they were ushered by their leaders through a gap in the razor wire fencing which had been pulled across the road as the march approached the border.

In terms of a ruling made by Ciskei magistrate D B Eda the previous week, marchers were prohibited from venturing further into Ciskei than the Independence

Signed treaty. Pik Botha

Stadium, just on the other side of the wire

Marchers entered the stadium

A car carrying ANC officials also entered, and left through a concrete exit tunnel facing Bisho.

A group of breakaway demonstrators followed the car, with Kasrils in the lead. About 30m beyond the mouth of the tunnel, as Kasrils and his men, who were later described as “handpicked”, dashed out of the stadium to make their apparently planned rush on Bisho, CDF soldiers opened fire.

Many people lost their lives near the tunnel. Others were killed 300m away, at the break in the fence that was the front marchers’ initial entry point to Bisho.

The Goldstone Commission, which was appointed to investigate the incident, found that Ciskei’s security forces had fired no warning shots above the marchers’ heads, nor had they attempted to disperse the crowd with teargas followed by rubber bullets. And there had been no reason to justify almost two full minutes of rifle fire.

Mr Justice R J Goldstone said the shooting by the CDF was morally and legally indefensible.

Their conduct was “so disproportionate and deliberate that any mitigating factors there may have been are completely over

‘Handpicked’. Ronnie Kasrils

whelmed by the disregard for human life shown by the soldiers,” he said.

But Kasrils and other alliance leaders were “responsible for the decision to lead demonstrators out of Bisho Stadium” did not escape Goldstone’s attention.

He said the ANC alliance should “publicly censure” the group who had led the crowd, and thereby knowingly or negligently exposed them to the danger of death and injury.

The massacre was clouded with controversy.

Eight of the 10 alliance leaders whose names were printed on a pamphlet publicising the march were known SACP members.

Critics of communism at the time accused the SACP of controlling the ANC alliance, and deliberately sacrificing lives in order to conceal the peace process.

Their aim had been to overthrow Gqozo and heighten tensions between the ANC and NP, it was claimed.

The NP in turn was accused of propping up the unpopular African Democratic Movement government of Gqozo.

They said the troops’ formation at the border had been practised beforehand, and according to an international publication which monitored military intelligence work, the SADF department had sent a memo from Pretoria, which ordered the killings.

The SADF vehemently denied prior knowledge of the CDF’s intention to fire without warning.

Judge found shooting morally and legally indefensible

helicopters and only returned to the scene after the shooting.

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Strike action hits KwaNatal courts

By CHRIS HLONGWA

THE KNIVES are out for the head of the former KwaZulu justice department, with magistrates, prosecutors and other employees going on strike tomorrow to demand that his head must roll.

The call for the firing of justice ministry regional representative Yusuf Nthangase is coupled with another "non-negotiable" demand - that justice employees who were dismissed or forced to resign by the former homeland administration be re-instated.

The protest action by an estimated 5,000 employees could see about 30 magistrate's courts throughout KwaZulu-Natal coming to a standstill, Themba Masunga, a prosecutor and secretary of the Ex-KwaZulu Justice Department, told City Press.

If a strongly worded fax to Minister Dullah Omar, the employees demand that Nthangase "be removed forthwith."

Among charges levelled against the senior official, are:

- The victimisation of staff, arbitrary transfers and the failure to assess employee due for promotion.
- The employment of unqualified people who are on friendly terms with senior officials.
- That recommendations by a justice committee set up to attend to grievances have been overruled or ignored.

It has also been reliably learnt that over 100 people who it is said should have been promoted over the years only got the nod in the last two weeks after employees wrote a strongly-worded letter on August 13 to the justice department in Pretoria.

And the payment of backpay - estimated in millions of rands in total and going back as far as four years ago - has been authorised since that date.

A meeting between Omar's adviser and employees will be held in Umlazi on Tuesday.

At the time of going to press Nthangase had yet to respond to faxed questions.
ANC leaders want rethink on hanging

CAPE TOWN — ANC national and provincial leaders yesterday recommended that the party review its policy on the death penalty as a possible way of addressing increasing crime and lawlessness.

Sapa reports that the call for an urgent review was made at a two-day party summit on peace, stability and security in Cape Town.

It was attended by cabinet ministers, national and provincial members.

Justice Minister Dullah Omar said it was the view of the summit that the ANC, as a leading democratic force representing the will of the people, should not be afraid to reassess its position on the death penalty.

Delegates would recommend to the ANC's national working committee that the death penalty issue and the ANC's position should be reviewed as a matter of urgency. This was greeted by loud applause from the delegates.

The ANC is currently opposed to the death penalty as an appropriate sentence for serious crimes.

Speaking after his closing address, Omar said delegates were not saying they were in favour of the death penalty, but that the NEC should "revisit" the matter. They must either restate ANC policy and explain why, or change its policy.

However, ANC MP Carl Niehaus stressed that the ANC was not saying that it would support the death penalty, but that delegates present had "evidently" restated the intense debate in their constituencies about the matter.

"There is obviously a lot of discussion about it in our community and we in the ANC must be open to discuss it," he said.

Should the national working committee believe a review was necessary, this would have to be discussed by the party's policy forums.

NEC member and presidential aide Joel Netshitenzhe warned that in the final analysis the Constitutional Court has interpreted that the death penalty is unconstitutional based on the interim constitution's Bill of Rights.

He conceded, however, that the constitution could be amended should the ANC's opposition parties like the NP, Freedom Front and IFP in calls to reinstate the death penalty.

David Greybe reports that Netshitenzhe was at pains to play down any speculation that the ANC was about to reverse its position on the death penalty.

"The ANC has not called for a review," he said. "Only the delegates at an ANC conference had.

The ANC had a duty to take into account 'these calls from the rest of society' for the return of the death penalty to help deal with crime and lawlessness, and to consider whether it was necessary to reconsider policy.

Netshitenzhe said he did not think the ANC would change its policy on the death penalty. "That is my own sense of the matter."

He said reasons why the death penalty might not be brought back to help combat crime were that there was not a "certain" it acted as a deterrent, that the high level of crime in the country would result in "many, many executions", and SA's huge black/white wealth divide meant that most of those who would be executed would be black.

Asked what President Nelson Mandela's position was on the matter, Netshitenzhe said Mandela "concurred" with the ruling of the Constitutional Court against the death penalty.

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Death penalty

Continued from Page 1

Ingrid Salgado reports that the NF welcomed the ANC's summit's view and Omar's statement and called on Mandela to take the other step in amending the constitution to allow for the death penalty.

NF media director Patrick McKenzie said the death penalty was not only deterrent to crime but the majority of people were calling for its reinstatement.

The IFP also welcomed Omar's words but said it could comment fully only once the ANC made public its final position on the matter.

Gauteng provincial MP Musa Myeni said the reality of the high crime rate was "finally sinking in" within ANC circles.
ANC to review death penalty

Support for ANC review of death penalty

Other parties say ANC now accepts crime is out of control and urge Mandela to take steps to amend constitution

By JUSTICE BALALAA and SAPP

The decision by the ANC to reconsider its policy against the death sentence has been welcomed by other parties in Parliament.

Their support will be necessary for the constitution to be modified to reintroduce the death penalty.

The Freedom Front says the recommendation by the ANC's top safety and security leaders indicates that the ANC accepts that the Government is losing the battle against crime.

Bennostra de Ville said yesterday that the FF's position was that the death penalty was justifiable in some instances and it would support the ANC if it decided to reintroduce the death penalty.

And the National Party has urged President Nelson Mandela to take the first step in amending the constitution to allow for capital punishment as a deterrent, its spokesman Ian Bosman said yesterday.

The recommendation announced yesterday is the ruling party's most radical yet in the fight against crime, following the Constitutional Court ruling that the death penalty was unconstitutional.

The ANC leaders who held a security summit in Cape Town over the weekend want the national executive committee (NEC) to revisit the issue, on which it has so far sided with the court.

The recommendation comes after two weeks of intense pressure on the Government to come up with solutions to a crime problem which Mandela has said is "out of control".

Speaking at the end of the two-day security summit yesterday, Justice Minister Dalhia Omar said it was the view of the summit that "the ANC, as a leading democratic force representing the will of the people, should not be afraid to reassess its position on the death penalty".

The summit was attended by cabinet ministers, members of provincial executive councils and leaders of ANC study groups on defence, safety and security, intelligence and defence.

The decision to make the recommendation was greeted by loud applause from delegates.

Current ANC policy is opposed to the death penalty, and the party was vociferous in its opposition to the method in the past.

Hangings were stopped in 1990 when the National Party introduced its political reforms, and no one has been executed in South Africa since then.

Omar said summit delegates were not saying that they were in favour of the death penalty, but that the NEC should revisit the matter.

"They must either make the ANC policy, and explain why, or change its policy," he said.

Senior ANC leaders present at the summit tried to play down what appears to be a radical departure from party policy.

MP Carl Niehaus stressed that the ANC was not saying that it would support the death penalty, but that delegates had merely restated the intense debate in their constituencies about the matter.

"There is obviously a lot of discussion about it in our community and we in the ANC must be open to discuss it," he said.

NEC member and presidential aide Joel Netshihetse warned that "in the final analysis the Constitutional Court has interpreted that the death penalty is unconstitutional" based on the interim constitution's Bill of Rights.

He conceded, however, that the constitution could be amended should the ANC join opposition parties such as the NP, the Freedom Front and Inkatha Freedom Party in calls to reinstate the death penalty.

Safety and Security Minister Sydney Mufamadi told the summit on Saturday that one of the Government's greatest challenges, and an urgent political priority for the ANC, was the reduction of crime.

Omar said a close partnership
Ex-generals will testify before TRC

Top cops and military to reveal their part in apartheid abuses

By Waghiid Misbach
Political Reporter

OF FORMER SOUTH AFRICAN DEFENCE FORCE AND SOUTH AFRICAN POLICE OFFICERS are set to reveal their role in human rights abuses during successive apartheid governments to the Truth and Reconciliation Commission by September 15 at the latest.

On Friday, TRC commissioners met former generals Johan Coetzee, John van der Merwe and Mike Geldenhuys, who assured them they would testify on their role in politically motivated human rights violations.

The three were to be subpoenaed today, along with retired generals Basie Smut, Krappies Engelbrecht and Johan de Robe.

Although they refused to comment on their meeting with the TRC, it is expected that they will represent the top leadership of the former SADF and SAP.

The generals were expected to make a submission after National Party leader F.W. de Klerk told the TRC two weeks ago that his party would only take "political responsibility" for past human rights abuses. The generals and other top army and police leaders would fill in the details.

TRC chairman Archbishop Desmond Tutu said the generals would make a "voluntary omnibus admission" and reveal about 50 incidents. He said the generals would replace "seven former police commissioners and many policemen, who have already supported 22 policemen who applied for amnesty earlier this year, and who admitted to a number of human rights abuses. However, the TRC can still subpoena anyone.

There has been increasing speculation that one of the names on the list to be announced by TRC investigative unit head Mr Dumisa Ntsebeza today, is that of former state president PW Botha.

The commission has remained tightlipped about the list all week, but did indicate last week that Botha could be subpoenaed if his evidence was required.
Archbishop Desmond Tutu is not daydreaming when he stalks into the Truth and Reconciliation Commission hearings, he is fighting to hold back the tears.

These tears flow from listening to the anguish of witnesses. Much of their continuing pain arises from a blackout of the truth in apartheid South Africa.

Tutu, the TRC chairman, would be the first to agree that the best way to dry the tears would be to expose the truth since many witnesses are still desperate to know what happened to their loved ones.

"We have many pleas who killed my son and why? If a loved one is missing, what happened? Is he alive or dead? If he is dead, where are his remains?"

"We have decided to subpoena people to begin to answer these pleas. We do not have too much time and need to short-circuit the process," Tutu has said in an interview.

He says the TRC was hoping those with personal knowledge of atrocities would come forward voluntarily and tell their stories.

"We took a deliberate decision to emphasise first and foremost victims and survivors, and we thought the amnesty provisions would unlock their secrets. But it has not yet done so to any noticeable extent."

**Short shelf life**

Tutu and his team of commissioners and committee members are conscious of the TRC's short "shelf life" and their need to unravel the truth sooner, not later.

"By the time we are running smoothly, it will be time to be unwinding. I feel a little sad (about this) but I agree entirely that this type of work should not be allowed to drag on.

Tutu says one of the TRC's strengths is a superb staff dedicated to their task. And he commended his deputy, Dr Alex Boraine, for the role he has played.

There have been tense moments in the TRC, particularly over security leaks, but there has not been the explosiveness he had anticipated.

Another positive aspect was the incredible "nobility of spirit" of the survivors of gross human rights violations.

"I can't tell you how 99.9 percent of witnesses come before the commission and, despite horrendous suffering, say they are ready to forgive. This is an enormous plus."

Tutu says the opportunity given to so-called ordinary people to appear before the TRC has contributed to healing in the country.

Many witnesses have said a burden was lifted from their shoulders after appearing at hearings. One victim from Beaufort West said the TRC had given him back "a key to his heart."

"Even if there was just one such person, we would be more than justified in what we were about."

In addition, the TRC has helped to remove the scales from the eyes of many - whether they were wilfully blinded or blinded by the system - through the devastation that has been revealed.

He welcomes the apologies from political parties for the damage they have done "Where else in the world have you heard of a former head of state coming and saying 'we are sorry'."

"The horror (of the violations) has hit most of us. It was almost as if we were dealing with statistics before and now there are real people of flesh and blood sitting in front of us.

Tutu says it was extraordinary what modest expectations most witnesses had of compensation from the TRC.

"We have no way of adequate compensation. Reparations will be symbolic. They will be an expression that we are very sorry but they will not be substantial."

"We mustn't end up creating expectations which are not fulfilled," he warned, adding that if the TRC failed it would have disastrous consequences for South Africa.

The Archbishop admits the TRC cannot offer "retributive justice" to witnesses. They may have to pay the price for freedom twice, firstly through their suffering and secondly, because the perpetrators will not be found guilty and sent to jail.

But there will be a "restorative justice" in line with the tradition of African jurisprudence.

"Someone may have to say they are murderers and that might be more traumatic than prison. Their family and community might not handle the truth."

Tutu says he finds it painful to treat both sides of the apartheid conflict equally and that is helped by his "theology of grace."

He feels the black community is finding healing and reconciliation through the TRC. However, he feels unable to assess the impact on the white community.

**Benefited from apartheid**

"They may not be able to deal with the fact that they benefited from having a white skin. Acknowledgement is all that is required. A denial just adds to the pain."

He hopes to improve coordination between the human rights violations and amnesty committees although they "have not been at odds too much.

Tutu says the TRC was one of his most draining assignments, emotionally and physically. "Alex and I need to provide pastoral concern to each of the four offices and find out where people are."

A pastor at heart, he plans to spend a day in each region listening to staff concerns and checking on their medical and psychological health.

He says TRC members are soaking up so much anguish they needed an outlet or it would cause havoc in their lives.

He sometimes bites his hand to restrain his tears during hearings.

The TRC has finally exposed him, and South Africa, to the human cost of the country's violent past.

"I knew it in my head but now I know it in my heart and guts - and it's tough."

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**Tutu’s tough mission**

What has the Truth and Reconciliation Commission achieved so far - and what can it still achieve? How much time is left? Features writer Claire Keeton talks to Archbishop Desmond Tutu...
ANC rethink on the death penalty

High crime rate forces review of party stance on capital punishment

By Waghiid Mishbah
Political Reporter

In a dramatic policy shift, the African National Congress says it is prepared to review its stance on the death penalty.

Speaking in Cape Town yesterday at the end of a major two-day summit on peace, stability and security, Justice Minister Mr Dullah Omar said the ANC would consider reviewing its policy on the death penalty in the interests of the people of the country and the fight against crime.

Omar, who is known to be personally opposed to bringing back legislation on capital punishment, said "It is the view of the summit regarding the death penalty that the ANC, as a leading democratic force representing the will of the people, should not be afraid to assess its position on the death penalty."

Speaking before several Cabinet Ministers and other top Government officials, he said the summit had recommended that the ANC's national working committee should as a "matter of urgency" look at the issue of the death penalty.

New position

The ANC's new position on the issue comes in the wake of the spiralling crime rate in South Africa and the formation of groups such as People Against Gangsterism and Drugs.

The summit also discussed a number of issues, including community policing, a new role for security companies in helping to combat crime, the vexing question of revamping the criminal justice system and formulating a new prosecuting policy.

It is expected that a number of proposals will be made after the conference for discussion and endorsement by the ANC's NEC and will probably be turned into legislation later this year.

The Government has already introduced a batch of new legislation before Parliament - a collection of Bills called the Proceeds of Crime Bill - aimed at strengthening its fight against crime.
ANC cool towards death penalty call

IT was highly unlikely the African National Congress would change its policy on the death penalty, spokesman Carl Niehaus said today.

Mr Niehaus branded as incorrect reports that the policy would be reviewed after the two-day party summit on security and peace at the weekend.

He said Minister of Justice Dullah Omar had taken note of calls from the community to reinstate the death penalty and this needed to be discussed by the ANC's National Executive Committee, scheduled to sit in November.

"We are not treating this as anything out of the ordinary. It is highly unlikely the ANC will change its position," he said.

Mr Niehaus said he was against the death penalty.

The spokesman for the president's office, Parks Mashamba, said the government would not re-examine its decision on the death penalty unless the constitution was altered.

"The question of the death penalty was decided by the Constitutional Court on the basis of the provisions of the interim constitution. Until the constitutional position is altered, the Constitutional Court takes a different position, the status quo will prevail," he said.

The ANC decision to refer its stance on the death penalty to its NEC has met with mixed reactions from other parties.

The National Party and the Freedom Front welcomed the move, while the Democratic Party criticised the ANC for sending out "mixed signals." Anna van Wyk, speaking for NP leader F W de Klerk, said the party welcomed the new "realism" shown by the ANC.

"It is a pity it took them so long though, because a lot of damage has been done to the economy of the country and investor confidence, as reflected in the latest international tourism figures," she said.

The NP did not believe the death penalty was the only answer to the state of lawlessness. "Good and proper government would go a long way towards stimulating domestic and foreign confidence.

Freedom Front spokesman Rosier de Ville also welcomed the ANC's willingness to re-examine its stance on the death penalty, calling it "an acknowledgement that the government is losing the fight against crime and is powerless to halt the current wave of serious crime."

DP spokesman Robert Desmarais lashed out at the ANC for sending conflicting signals to the public. He said the ANC had to realise it was the government and had to lead from the front, not through a "public talk shop."
CRIME SUMMIT ASKS FOR REVIEW

Uproar over ANC death penalty call

AN ANC SUMMIT'S call for the party to review its policy on the death penalty is likely to win the support of South Africans who see it as the ultimate deterrent, but will spark furore debate, Political Writer HENRY LUDSKI reports.

ANC summit's surprise resolution calling on the party to review its policy on the death penalty has drawn fierce opposition from some members.

The recommendation — announced yesterday at the end of the two-day summit in Cape Town on peace, stability and security — was applauded loudly.

The death penalty had been presented to ANC national and provincial leaders as a possible answer and ultimate deterrent to rampant crime and lawlessness.

Minister of Justice Mr Dullah Omar said “it was the view of the summit that the ANC represents the will of the people, should not be afraid to reassess its position on the death penalty.”

It is the first time the ANC has shown signs of willingness to depart from its strong stance against the death penalty.

Several ANC cabinet ministers have threatened to resign if this position is ever reversed.

“Opposition to capital punishment is a bedrock of ANC policy,” a minister said. “I’m surprised that the proposal was even considered because there is no possibility of the party’s rethinking its position.”

The conference brought together influential ANC committees that are studying such issues as policing, crime, defence, prisons and intelligence. The death penalty and abortion remain the most contentious issues.

The ruling a year ago by the president of the Constitutional Court, Mr Justice Arthur Chaskalson, that the death penalty was unconstitutional has not blunted calls for it to be reinstated.

In a recent survey, 81% of people questioned in the Western Cape supported its reinstatement.

Although the summit’s resolution is likely to find support among the growing number of South Africans who consider it one of the most effective deterrents against crime, it will take more than public pressure to bring about a change.

Even if the ANC lobby persuades the ANC to reverse its stance, reinstating the death penalty would require a two-thirds majority in Parliament to pass it into law.

The ANC would then face a tough battle getting the legislation past the Constitutional Court.

Omar said the Constitutional Court's ruling abolishing the death penalty meant, in effect, that people on death row had not been sentenced. They had been transferred from death row, but the courts had yet to re-sentence them.

The socio-economic causes of crime had to be addressed and legislations tightened, Omar said.

“We want to send a clear signal from the ANC that we cannot allow criminality to prevail. The death penalty is an issue of concern to communities throughout our country. We are saying it has to be discussed.”

Delegates to the summit believed there should be no short sentences or early releases and that life sentences would be appropriate. Legislation should convey the clear message that serious crime would not be tolerated.

Laws and rulings

- Death penalty allowed for under the Criminal Procedures Act
- Between 1910 and 2007 1110 prisoners were executed
- 1990 — then President F W de Klerk imposed a moratorium on hangings
- 1995 — Constitutional Court president Mr Justice Arthur Chaskalson rules that capital punishment is unconstitutional
- 1996 — The Criminal Law Amendment Bill, deleting all references to the death penalty, is scheduled to go before Parliament
- An estimated 450 prisoners sentenced to death and transferred from death row are awaiting resentencing pending legislative changes
DP's Gibson slams ANC death penalty turnabout

Wyndham Hartley

CAPE TOWN — The DP has attacked the ANC and the NP for "playing politics" with the death penalty after an ANC conference on crime at the weekend urged the party's leadership to review its policy on hanging.

The conference asked the ANC's national executive committee to review whether the death penalty should remain outlawed.

Yesterday ANC spokesman Carl Niehaus said the conference had not recommended that the death penalty be reintroduced.

DP justice spokesman Douglas Gibson said the ANC did not know what it was doing. He said no sooner had Justice Minister Dulalah Omar announced the ANC was reconsidering its position on the death penalty than Niehaus was announcing that the ANC did not mean the policy would change.

"The NP, too, plays up to the public by asking for the reposition of the death penalty, hoping the public will forget that it was the NP which stopped hangings and which failed to make the death penalty a sticking point in the constitution," Gibson said.

The NP argued while there was overwhelming public support for the death penalty, it had to be remembered SA's major problem was its failure to arrest criminals and bring them to court.

The courts also failed to prosecute crimes properly and "the chances of someone who commits a crime actually being punished are remote." The criminal justice system needed to concentrate on arrests, convictions and appropriate punishments, because one did not hang people except for the most serious "aggravated" crimes.

"While the possible reposition of the death penalty is being studied and considered, the fight against crime must be intensified," Gibson said.

Management problems in the SAPS and justice department must be solved and the deterrent of an efficient criminal justice system re-established.

Gibson's statement came as members of the ANC attempted to downplay the call from its weekend conference. If the ANC decides to reposition the death penalty, the constitution will have to be changed if the Constitutional Court refuses to certify it. A formal amendment to the constitution would have to be approved by two-thirds of Parliament.

Deborah Fine reports that police commissioner George Fyaz welcomed the call emanating from the ANC, saying the step recognised the importance of "harsher and realistic" punishment for violent crimes such as murder and hijacking. However, Amnesty International yesterday expressed its "dismay", saying the government was being "seduced" from its human rights reforms by the public and other political parties who wanted "revenge for the high levels of unacceptable crime".

Amnesty said SA society could not be "further brutalised by institutionalising state-sanctioned murder." The death penalty was not a deterrent, it said.

Fyaz said yesterday while he and the SAPS fully accepted human rights principles, there was a public perception that "human rights apply only to criminals".

This perception threatened to erode the credibility of the SAPS, the courts and the prisons as the public felt that criminals were "literally getting away with murder".

Appropriate punishment for criminals was also crucial in maintaining SAPS morale in the fight against crime.

Fyaz also welcomed recent steps by Omar and Correctional Services Minister Sipho Mzimela to impose longer jail sentences, tighten parole conditions and restrict bail for suspects under certain circumstances.
ANC divided over reintroduction of death penalty

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BY PICTON MATTAL
Police captain under scrutiny at Nelspruit TRC hearings

A victim gets a chance to tell his story before his alleged torturer retires from police service due to poor health

*SAPA*
Nelspruit

A former regional police spokesman, who has been on leave for the past year due to work-related stress, featured prominently during testimony about police torture at the Nelspruit sitings of the Truth and Reconciliation Commission (TRC) yesterday.

According to one of his alleged victims, Captain John Walters personally headed torture and beating sessions involving detained school pupils and other protesters in 1986, African Eye News Service reported.

"This man would lead us to the fifth floor of the Nelspruit police station and blindfold us before his friends would join him. Our hands would be tied behind our backs and we would be tortured," said Neville Shabangu.

"We could not protect ourselves or even see our assailants. They said we were not co-operating and that the only way we would be able to get out was to die or escape."

On one occasion a group of policemen led by Walters entered a cell containing five detainees and ordered each prisoner to choose a policeman to beat them, he said.

Insisting he had not been an MK member and had never left South Africa for training of any sort, Shabangu told the TRC the police had not believed him and had put him in prison for three months.

Shabangu and almost 50 other detainees were released only after a visit from Mr Justice Richard Goldstone, who advised them to lay charges against the police.

"We were released just days after his visit, but I did not lay charges as the very same people who had beaten me were the people I was supposed to report the matter to," he said.

Walters was transferred into community policing structures after leaving the security branch and served as a taxi industry negotiator and press liaison officer in Nelspruit until 1995.

Although no one at the Nelspruit police station would comment on his current status, the station's human resources department said he was leaving the SAPS at the end of this month for health reasons.
ANC to discuss death penalty calls

Political Staff

THE African National Congress has moved swiftly to stem the rising furore over its security leaders' call for a review of the death penalty as condemnation pours in from human rights organisations, previously the ANC's allies on the issue.

But various political parties and national police commissioner George Fvaz have welcomed the initiative, saying it shows an appreciation of the crime problem in the country. Detailing the peace and security summit's resolutions in a statement yesterday, the ANC seemed to be taking a softer stance than when delegates at the Cape Town conference applauded Justice Minister Dullah Omar when he said that the ANC's national executive committee would be asked to review the policy position.

The ANC said the delegates had emphasised that the time had come "to act harshly against criminals, and that the velvet glove must be removed."

"It was, however, also emphasised that this must be done with due respect to our human rights culture and the various provisions of the Constitution."

"It was in this context that the often heard call from some sectors that the death sentence must be re-introduced was noted by delegates."

"The summit recommended that the NEC should discuss these calls and decide whether the ANC's opposition to the death penalty should be re-assessed. There was, however, no recommendation from the summit that the death penalty should be re-introduced," the organisation said.

Should the Constitutional Court refer the final constitution back to Parliament for redrafting, it is possible some political parties and lobby groups will reopen the debate over the right to life guaranteed in the Bill of Rights.
453 death row inmates await resentencing.

DAN SIMON

MORE than 450 prisoners are technically still on death row despite the moratorium on executions in February 1990 and the subsequent abolition of capital punishment by the Constitutional Court in June last year, the Department of Correctional Services said yesterday.

Among the inmates who were sentenced to hang and who must still have their death sentences changed, are Sydney Andile Mkhosana, 24, who was sentenced to death five times in the Cape Supreme Court in May last year for the brutal axe murders of the Ouffer family and their domestic servant in Stellenbosch in July 1994.

Triple killer Antonie Wessels is also waiting for his death sentence to be reviewed after he was sentenced to hang in December 1992 for the "brutal, callous and cold-blooded killing" of American tourist Mr Eddie Perlmuter, whose throat was slit on the Outeniqua hiking trail.

Another notorious case trial in which the death penalty was handed down was that of three Bland men who were sentenced to death in April 1990 for the "most heinous acts committed during a horrifying reign of terror".

Mr Justice D M Williamson sentenced Jerome Piemar, Roderick Bock and Steven Smith to death for rape after they kidnapped, raped, sodomised and indecently assaulted two women and a man.

Correctional Services spokesman Mr Barry Eksteen said that, following the last execution in November 1989, there are 453 prisoners who had been sentenced to death and who have not yet had their sentences changed.
Death sentence
favoured by 80%

CYNTHIA VONGAI

Almost 80% of people polled by the Cape Times on city streets yesterday said the death penalty should be reinstated.

An exception was Ms Gcobisa Mtshabe, of Langa, who said she did not want it back because “no one had the right to end a life.”

But Ms E Ismail of Gatesville disagree, saying there was too much crime around and murder was too easy to commit because there was no fear of receiving a death sentence.

“Bring it back because life is too easy for criminals and sometimes their sentences are too light,” she said.

Ms Lorraine Ngungane, of Langa, said she felt the death penalty should be reinstated so that criminals could get a tougher sentence and pay society for their crimes.

Ms Angela and Mr Mairl Robinson, British tourists on holiday in Cape Town, said they felt the death penalty was wrong and should not be brought back.

They felt life sentences should be imposed instead as they believed no one had the right to kill.

Members of the police service Sergeant Marian Williams and Jacobus Hendricks felt there was a need to bring the death penalty back.

They believed it would be a way to decrease serious crimes and perhaps also lead to a drop in the crime rate.

“Serious crimes like rape and murder should get an automatic death penalty,” Williams said.

Ms Millicent January, of Sea Point, said the justice system was letting criminals off lightly and that there was a need for tougher sentences for serious offenders.

She felt this was particularly important, because of the high levels of corruption she believed there were in the police force.

Mr Tom Spring, of Camps Bay, felt the death penalty should be brought back.

“This country needs a deterrent to put people off committing all these crimes and prevent the situation getting worse,” he said.

Ms Valentino Giovacchi, of Sea Point, said “People are not punished enough and never learn from being in prison.”

She also felt that there should be stiffer sentences, especially for child murders.

“And they should be executed immediately,” she said.
Legal profession takes issue with Judge's reasons for resigning.
Commission told of police whim to bury youths alive

POLICE ordered nurses not to treat four badly injured ANC youths who had been ambushed by soldiers and instead suggested they be buried alive, the truth commission heard in Nelspruit yesterday.

Phendile Ngcobo was only 15 years old when the soldiers ambushed her and fellow comrades during a midnight meeting on a mountaintop in Kanyamazane outside Nelspruit, African Eye News Service reported yesterday.

Phendile said after the soldiers told nurses at Thembusa Hospital that the "comrades must not be treated", they took her and her friends to the Nelspruit police station, where they were beaten.

"We stayed there for two weeks without any food except what our families brought us," she said.

"We were never treated for our wounds." Phendile said they were once taken to the police mortuary to identify corpses but were unable to do so.

After two weeks, the youths were released.

Phendile, who had been shot in the knee, asked the commission to compensate her for medical expenses over the past 10 years because her knee is "not working" to this day.

The sister of a man who was allegedly killed by police told the commission that police kicked her brother's corpse several times after a stranger brought his body to their house.

Mildred Mthethwa said a man arrived at their home carrying a corpse and asked if someone could identify it.

"It was my brother," Mthethwa said.

Mthethwa said the man found Bethuel Mthethwa's body after Mthethwa attended a secret ANC meeting on a mountain in Kanyamazane.

She said a group of youths sang freedom songs on the way home and were attacked by police and members of the Kabasa gang.

She said the stranger had gone to several houses with the corpse, trying to find his family.

Her father phoned undertakers who arrived with policemen, she said.

"When the police kicked my brother's body, my family armed themselves with anything they could find in the house."

She said the driver of the hearse was terrified and would not put her brother's corpse in the vehicle.

"My father said he was prepared to carry my brother to the mortuary, but the hearse driver agreed to take Bethuel," she said.

Mthethwa said her family had always warned Bethuel not to get involved in politics. "But he said if he would die, it would benefit the community."

Mthethwa asked the commission for a tombstone to commemorate her brother. "Dead comrades were always given tombstones," she said. — Sapa.
A senior judge who resigned from the Witwatersrand Local Division of the Supreme Court because of the government's "undermining of the judiciary," warned today that the judiciary was in danger of becoming a "toothless bulldog," unable to curb rampant crime.

Mr van Schalkwyk, a judge of the Rand Supreme Court for the past 10 years, said comments by Minister of Justice Dullah Omar and other African National Congress members that the judiciary was "illegitimate" had seriously undermined the courts' authority and credibility.

Mr van Schalkwyk warned that like him, many judges were deeply worried about the deterioration of the criminal justice system and wanted to resign - but were forced by financial constraints to remain.

Mr van Schalkwyk had severe criticism for Mr Omar, who "on more than one occasion" had remarked that the increasing crime rate was a result of the "increasing illegitimacy of the judiciary."

He said Mr Omar had also stated that "racial prejudice" among judges was one of the reasons the ANC was against the re-introduction of the death sentence.

He referred to an address by the Mr Omar in Lenasia in which he said there had been "white judges who did not give a damn if 100 black persons were hanged each day."

Mr van Schalkwyk said "that's not merely wrong and provocative. I think it amounts to an abrogation of his responsibility as minister of justice."

He said the minister's comments meted racial hatred by suggesting there were white judges who would use the death sentence to exterminate black people.

The authority of the judiciary was also being eroded by the contempt with which his orders were often treated.

"We've all had the experience of having to deal with expert applications brought urgently to prevent trivial things from damaging property or from intimidating others, to eject tenants who refuse to pay their rental for months on end."

"Of course these are emotive issues, but one has to apply the law and so you make the order, but with the knowledge that the order will probably be defied - and defied with impunity."

"The court has no authority other than the authority a civilised society has to impart to it, and if the society does not recognise its authority the court has very little authority at all."

Mr van Schalkwyk said Mr Omar's comments about "illegitimacy" of the judiciary were particularly irresponsible and inflammatory because of volatile recent history.

"He must have appreciated that it was most important to support the judiciary rather than to do the opposite."

Mr van Schalkwyk said affirmative action appointments had been made recklessly and had undermined the effectiveness of the judiciary.

A spokesman for Mr Omar said he had decided not to respond to Judge van Schalkwyk's statement.

Judge van Schalkwyk said affirmative action appointments had been made to ensure the "presence of black faces and a quota of women, at all costs."

He said he recognised it was important to promote the careers of lawyers from traditionally underprivileged backgrounds who had been prejudiced in the past, but that should not mean "appointing unqualified and underqualified people to the bench."

Mr van Schalkwyk raised the issue in a letter to Mr Omar, to which Mr Omar had replied: "Clearly you were quite happy in apartheid South Africa and find the new democracy distasteful."

In a subsequent letter Judge Van Schalkwyk described the reply as "reckless and demonstrably false."

Mr Omar had not responded to this letter.

Judge Van Schalkwyk said Mr Omar's remarks reflected the "increasingly ominous trend" among ANC officials to label as "undemocratic and racist" anybody who dared to disagree with their point of view.

Another concern was the untimely and irresponsible release of prisoners.

South Africa had been "paying the price" ever since the National Party government initiated its policy of releasing "political prisoners" indiscriminately to solve a political problem of how to define a political prisoner.

The ANC had merely perpetuated the problem and had included common criminals among those released.

"Those who wanted it did not trust the judiciary with the final determination of constitutional disputes."

"Those disputes could and should have been resolved by the ordinary Supreme and Appeal Courts, he said."

The Constitutional Court was "the ANC's own selected court, superfluous, expensive and one dimensional and failed to reflect the diversity of opinion within South African society."

Judge Van Schalkwyk, who said he was in favour of the death sentence in certain cases, described the Constitutional Court's decision to outlaw the death sentence as "the best example" of its one-dimensionality.

Sheila Camerer, National Party spokeswoman on justice, said Mr Van Schalkwyk was expressing publicly fears many officials involved in the administration of justice expressed privately.
Playing Hide and Seek with the TRC
ANC urged not to court disaster by reviving noose

WILLEM STEENKAMP

If the ANC adopted a suggestion that it made to the Constitutional Court in terms of which the death penalty was abolished, it would undermine the court ruling, the statement said.

"Every society seeks protection from crime," the statement said.

"Far from being a solution, the death penalty is not a deterrent and gives the erroneous impression that 'firm measures' are being taken against crime."

The cabinet should focus its attention on solving the country's problems and "desist from political point-scoring," the statement said.

The international community had welcomed the abolition of the death penalty, it added.

It would undermine international confidence in South Africa if the ANC decided to consider reintroducing capital punishment, the statement said.
ANC and AWB supporters to seek amnesty in North-West

SEVEN ANC supporters paled for killings in gold-mining centres in North-West Province are to appear before the TNC's amnesty committee next week.

Four brothers, all alleged AWB supporters, will apply for amnesty at the same hearings in Potchefstroom.

In a statement yesterday, the commission's amnesty committee said the brothers - Adriaan, Willem, Gideon and Davad van Straaten - were convicted of murder and robbery and sentenced on May 14, 1991. They were found guilty of murdering Mr Wanton Matshoba and Mr Sazse Qhetluso in Vereeniging in June 1989.

Willem van Straaten was sentenced to 15 years' imprisonment, and his brothers to 13 years each.

The amnesty committee will also hear applications from Mpayphi Faltena, 23, and Johnson Ncube, 25, who were sentenced in September 1993 to 12-year prison terms for the murder of Vigilantes Gang member Mr David Mayeko in Rustfontein, Carletonville. The two claim to be members of the ANC Youth League.

The other applicants include:

- Peter Lebone, 24, and Solomon Lekatlane, 29, two self-described ANC marshals, who were sentenced to 10 years' imprisonment in August 1992 for the murder of JZ Dlamini in Orkney in July 1991.
- Mosowa Popane, 29, Gcpula Dlamini, 25, and Thamsanqa Mboneni, 25, who were convicted of killing Abednego Mazo at the Khuma taxi rank in Stellenbosch in October 1990.

The three, who say they were members of the SK Youth Congress and the ANC, were sentenced to terms of imprisonment ranging from eight to 12 years for murder and attempted murder - Sapa.
Dramatic increase in number of child abuse cases forecast

 Armed Police Service Child Protection Unit

According to a recent report, there were an estimated 2,400 child abuse cases reported in the first quarter of this year. This represents a significant increase compared to the same period last year, where the number was just over 1,000 cases. The report indicates that the increase is due to a number of factors, including better awareness and reporting mechanisms.

Experts are warning that if current trends continue, the number of child abuse cases could reach unprecedented levels. The report also highlights the importance of early intervention and prevention strategies to address the issue.

The report calls for increased resources and support for child protection services, as well as better coordination between agencies to ensure effective intervention.

Interviews with victim support organizations and child welfare agencies have confirmed that the increase is real and that it is having a significant impact on their services. They are calling for urgent action to address the growing problem.
a web of intricacies
The TRC entangled in

Commission

By W. James Nicoll
Brits in same boat as SA

Wills soon Asians wrestle with the dilemma of whether to bring back the death sentence in a desperate attempt to stem serious crime spiraling out of control. Britain's, too, are desperate for answers which do not involve murdering and raping each other's children. But the Republic's horrendous toll of brutal murders and rapes, there is increasing concern that it may yet come to that in Britain.

Over the past 20 years or so, the British have listened to the open voicing of the liberation's urgent cry for help. Over the past 20 years or so, the British have listened to the open voicing of the liberation's urgent cry for help.

Latest statistics show that under-18s are responsible for one fifth of all crime in Britain and 40 percent of burglaries and there is a feeling that if these jobs were subject to public identification and humiliation they would refrain from re-offending.

There is, of course, nothing new in the tactic. Virtually every public park and village green in Britain once had its stocks in which lawbreakers were clamped on the wrists and put on display, thereby being identified as deviants and earning the derision of the community.

And in an age in which anti-social behaviour brought deep shame upon the miscreant and his/her family, it probably had some effect.

But would it work now in communities where the thief is too often the hero, where the mugger walks tall, where the spoils of crime are so often supplemental the family budget and where parents, if they can be found, turn a blind eye or even approve?

Role models

 Probably not, for Brits live in a society in which television makes role models of the rebel, in which campaigning journalists too often concentrate their all on trying to prove the innocence of the guilty and show no such enthusiasm about protecting the victim, and in which so many politicians and do-gooders find it fashionable to denounce the establishment and its norms.

University of Wales researchers found that 25 percent of teenagers fell into that category, and Professor Leslie Francis said, "We are dealing with young people who in some sense or other feel socially isolated. I fear for some of them.

The TV addicts are apparently quite happy that they may not find work and certainly prefer social security....
Truth Commission told of plot to murder Buthelezi


John Vidal
Federation demands death penalty

By Shirley Jones

DURBAN — Black business yesterday demanded the reintroduction of the death penalty to combat a number of violent crimes, including murder, robbery and hijacking.

At a press conference which followed Nafcoc's 32nd national conference, Nafcoc (National African Federation of Chambers of Commerce and Industry) representatives said black business owners had suffered at the hands of criminals.

Nafcoc members welcomed the government's national crime prevention strategy and called for its speedy implementation. They pledged to assist and participate in community policing forums.

The 21 resolutions on which Nafcoc members battled to agree at the close of the conference marked by confusion and disorganisation, covered a number of controversial issues.

They called to maintain a 45-hour working week, demanded the restructuring of the Durban Board and other boards which are exclusively white, and requested formulation and implementation of a policy for the transfer of ownership of minerals to black business.
Most favour death penalty

PRETORIA. More than 71% of South Africans favoured the reinstatement of the death penalty, the Human Sciences Research Council said.

This had emerged from a survey in July, an HSRC senior researcher said.

He said the ANC's decision to review its stance on the death penalty reflected a groundswell of support for capital punishment. Studies in 1994 showed 67% of the population thought the government would be able to curtail crime. In July this year only 44,1% held this view. — Sapa
ANC stalls hearing on judge's charges

Wyndham Hartley

CAPE TOWN — The ANC has used its political muscle in Parliament's justice committee to stall a hearing with Judge Rex van Schalkwyk over his charges that he resigned from the bench because Justice Minister Dullah Omar was undermining the judiciary.

Van Schalkwyk hit the headlines yesterday when he justified his resignation by saying that statements by Omar and other ANC members that the judiciary was not legitimate were undermining the authority of the courts.

DP MP Douglas Gibson said yesterday that he had approached Van Schalkwyk to ask if he was prepared to tell the justice committee about his problems, and he had agreed. He suggested to the committee that a special hearing be convened.

ANC committee chairman Johnny de Lange and his colleague Wilbe Hofmeyr rejected the suggestion, and said Van Schalkwyk had been appointed in the period of the worst human rights violations by the state, the mid-1980s, and his voice had not been heard then. He asked whether it should be heard now. The NP's Jacko Maree and Shula Camerer suggested the ANC was attempting to "sabotage" the issue that Van Schalkwyk had serious problems with the way the government was handling the judiciary.

The ANC component of the committee suggested, as a compromise, that the occasion of the Justice 2000 public hearings in November should be used to hear Van Schalkwyk's opinions. De Lange said that the committee would be hard pressed to complete its legislative programme this year and this imitated against a special hearing.

It was agreed that De Lange would invite the judge to address these hearings on his views on the role of Omar, the Constitutional Court and affirmative action in the justice department. ANC members told the committee Omar was prepared to take questions on Van Schalkwyk's objections today.
Majority favour return of capital punishment

PRETORIA — More than 71% of South Africans favoured the reinstatement of the death penalty, the Human Sciences Research Council found in survey results released in Pretoria on Tuesday.

This had emerged from a survey in July, senior researcher Mandla Seleane said. He said the ANC decision to review its stance on the death penalty reflected a groundswell of support for capital punishment.

"It indicates that the organisation is coming into line with the views of the majority of people in SA," Seleane said. He said another recent study by the University of Stellenbosch had found that 64% of ANC members were also in favour of the death penalty.

Support for capital punishment had grown significantly since last year, when only 62% of the population came out in favour of the death penalty.

Seleane said research into crime in July this year clearly indicated people felt criminals were treated too leniently by the courts.

Of 2,000 respondents, 69% felt criminals needed harsher sentences. Scepticism about government's ability to curb crime had also grown.

Studies in 1994 showed 67% of the population thought government would be able to curtail crime. In July this year only 44.1% held this view.

People who considered themselves safe in the country had dropped from 73% in 1994 to 39% in February, rising to 51% in July this year. — Saps.
IFP testifies
‘because of many deaths’

Wyndham Hartley

CAPE TOWN — The IFP had decided to testify before the truth commission because the murder of thousands of supporters was being ignored, leader Mangosuthu Buthelezi said yesterday. Buthelezi began his submission to the commission with a blistering attack. He said it was doomed to fail in its search for truth and reconciliation because of the way it was composed and its terms of reference.

"I have decided to come here because we cannot remain silent when no effort is made by this commission to question who has killed 430 of the IFP's leaders and murdered thousands of its supporters," he said.

Buthelezi, assisted by IFP national chairman Frank Mdlalose and central committee member Ben Ngubane, levelled the charge that few South Africans knew of the extent of the ANC's involvement in violence because of a conspiracy between the previous government and the ANC. The IFP was "paying the price for this complicity of silence with the death of its members."

The 700-page submission contains a list of IFP leaders the party claims have been murdered as well as hundreds of quotes from ANC publications and Radio Freedom "demising" Buthelezi and calling for his destruction.

There is also a section devoted to an alleged ANC plot to assassinate Buthelezi in the late 1980s, which names the alleged assassin as Umkhonto we Sizwe (MK) member Terence Tyrone Mdlalose, who opened the IFP team's submission, said the conflict was sparked by differing strategies on how to overcome apartheid, which came to a head at the 1979 London summit between the two parties.

Because the IFP was not prepared to accept the armed struggle and the destruction of the SA economy, it became a target for destruction, he said.

"It is a matter of public record that the IFP and its predecessor have never embarked on a course of violence to overthrow the state in SA. Its whole strategy was and has remained getting hold of apartheid structures the government sought to create, thus ensuring that the policy could not be implemented and that those structures themselves could be used as measures against apartheid," Mdlalose said.

Ngubane charged in his part of the submission that the NP government had conspired with the ANC to allow MK to continue operations against the IFP from Transkei.

He said the former government and the ANC's intelligence services had "operated in seeking to ensure the demise of the IFP."

The ANC declined to comment on the IFP submissions, saying that it had always seen the struggle in SA as one between the forces of democracy on the 'one hand and, "the system of white minority rule in all its manifestations" on the other.

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Is a Waste of Money
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The cost of...
Now consumer faced with 14% VAT on bank charges

OWN CORRESPONDENT
JOHANNESBURG: The government is planning to take advantage of the high service fees banks charge customers by imposing a further 14% VAT from October 1. This move,-signalled in the March budget, will take an extra R1000 million from consumers for government revenues over the next year.

The VAT charge adds to the 20% the government already charges for each bank transaction. While local banks persist with charging fees that are among the highest in the world for routine transactions, South Africans will have no choice but to pay.

Big business will not be affected - it will simply claim the VAT back from the government. However, VAT on services such as deposits and withdrawals, cheque payments and debit orders will increase by almost R500 from R3360 to about R3716.

The VAT charges will apply to a vast range of services, from deposits and withdrawals, cheque payments and debit orders to transfers. Banks have compiled a 12-page list of services which will become taxable.

Economists said the informal sector would be hard hit as it relied on daily cash transactions. The South African Council of Banks (Cosab) confirmed that banks had not been told how to convey the VAT charge to customers. Although the country's major banks - First National, Nedcor and Standard Bank - said they would distinguish clearly between the bank's service fee, the VAT added to that fee and the government levy, which was not taxable.

Standard Bank is expected to increase fees by between 12.5% and 13.3%. General manager of financial and recreational services, Mr. Henry Shaw said the benefit of VAT credits which the bank was due to receive would be passed on to customers.

South African Chamber of Business (Sacch) economist Mr. Bertus Lockwood said the total amount of the VAT charge expected to recoup by levying VAT on service fees was about R150m.

But the financial services sector was not prepared to increase fees by as much as banks and institutions, who would fall away. This meant a R50m loss to the government when banks no longer had to levy the additional quarter per cent on interest.

This was a drop in the ocean compared with the additional 14% that the government hoped to collect from the taxation of the retail bond industry, and the 1% which the government had from foreign currency as a result of restructuring personal income tax.

Standard Bank economist Mr. Nico Cypreska said the new tax would make no difference to the recoverable income as the timing of its introduction would coincide with the scrapping of the levy.

"Consumers will foot the bill for the new levy unless money market conditions at the time of introduction make it possible for banks to drop lending rates by a quarter percent - because interest rates were caused by the new tax when the levy on interest was introduced," he said.

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The courts where justice is strangled (252)

HILDE RAP PORTER

"FREEDOM is the right to do as one pleases. What is pleasing to me is not pleasing to you. Freedom is subjectivity. If freedom is subjectivity, then there are no rights. There are only constraints or limitations. Freedom is the right to do as one pleases. The question is: What is pleasing to me?" - Henry David Thoreau.

"The courts are the last bastion of democracy. They are the place where the rule of law is applied. If the courts are not functioning properly, then democracy is under threat. The Struggle for Justice is about ensuring that the courts are functioning properly," said Advocate Lulama Mabula, chairperson of the Federation of South African Bar (Fedisa).

The federation has been calling for the government to provide adequate resources to the courts so that they can function effectively. The federation has also been calling for the government to address the issue of the backlog of cases in the courts.

"We are concerned about the backlog of cases in the courts. The backlog is causing delays in the delivery of justice. This is unfair to the people who are waiting for their cases to be heard. The government needs to take action to address the backlog," said Advocate Mabula.

The federation has also been calling for the government to increase the number of judges in the courts. The federation has said that the current number of judges is not enough to cope with the workload.

"The government needs to increase the number of judges in the courts. This will help to reduce the backlog of cases in the courts. The government needs to take action to increase the number of judges," said Advocate Mabula.

The federation has also been calling for the government to provide adequate resources to the courts. The federation has said that the current resources are not enough to cope with the workload.

"The government needs to provide adequate resources to the courts. This will help to reduce the backlog of cases in the courts. The government needs to take action to provide adequate resources to the courts," said Advocate Mabula.

The federation has also been calling for the government to address the issue of the low salaries of judges. The federation has said that the current salaries are not enough to attract qualified judges to the profession.

"The government needs to provide adequate salaries to judges. This will help to attract qualified judges to the profession. The government needs to take action to provide adequate salaries to judges," said Advocate Mabula.

The federation has also been calling for the government to address the issue of the appointment of judges. The federation has said that the current process is not transparent.

"The government needs to provide adequate resources to the courts. This will help to reduce the backlog of cases in the courts. The government needs to take action to provide adequate resources to the courts," said Advocate Mabula.
ANC ‘tried to make Inkatha a subordinate’

ROGER FRIEDMAN reports.

INKATHA was “singed out as an enemy” by the ANC in 1979 when the Africa National Liberation Movement resisted attempts to make it a surrogate of the ANC at bilateral talks between the organisations in London.

Yesterday, during the IFP’s submission to the Truth and Reconciliation Commission in Cape Town, the party urged the commission to call on both the IFP and the ANC to publicly and simultaneously reveal the details of those talks. The contents of the talks were vital if the commission was serious about discovering the truth and fostering reconciliation.

“The differing strategies to overcome apartheid proved reconcilable at that conference,” the IFP stated in its submission by party leader Chief Mangosuthu Buthelezi, chairman Dr Frank Mdlalose and KwaZulu-Natal MEC Dr Ben Ngubane.

Inkatha had “refused to crook the knee to the ANC or accept its strategy of armed struggle and the declaration of the SA economy”.

The submission — which listed the names of 422 IFP office-bearers killed since 1985, and documented several hundred incidents of violence perpetrated against IFP members and supporters since 1991 — follows submissions by most other political parties two weeks ago.

“The conflict between the ANC and our organisation is rooted in differing responses to the problem of apartheid. Those responses began more than three decades ago. Unless there is an acceptance that there were differing responses to apartheid, there will be no reconciliation in our land. There will never be reconciliation in this land until the truth about our past and what is happening now is laid bare for all to see,” the IFP said.

“”In the dark years of apartheid we were all conditioned to think of black and white, in stark contrasts. There were no in-betweens, no greys,” the IFP’s thinking has journeyed with us into what we call the new South Africa. We are still busy crafting political and cultural myths in which we cast ourselves as the only righteous force in the struggle for freedom,” the IFP said.

“The work of this commission too is in danger of becoming a victim of this malaise. Its brief is essentially to investigate human rights violations under apartheid. But the conflict between Inkatha and the ANC was not about apartheid. The conflict was about the nature of the system that would replace white rule, and the identity of those who would wield power after liberation,” the IFP said.

“We wish to remind the commission that the campaign to render South Africa ungovernable was not only directed against the apartheid state. KwaZulu and the IFP in particular have been targets of ANC destabilisation policies since the failed 1979 conference to persuade them to make the ANC to table all its strategy documents, both those distributed externally and internally, before the commission so that the truth about their objectives might become a matter of public record. If the ANC fails to do so voluntarily, the documents should be acquired by subpoena.”

“While it cannot be again said that apartheid lies at the root of many of the country’s political and social problems, the IFP believes it is equally true that the ANC’s response to apartheid and particularly its ungovernability programme is the father of today’s violence and the cause of the conflict between the ANC and the IFP.”

“Ungovernability campaigns might well have been replaced by massatrophy programmes, but the heritage of schemes to sow anarchy is with us, as most South Africans know only too painfully.”

“The ungovernability not only sought to destroy constitutional authority, but it sought to replace it with essentially illegal structures that were based on violence and coercion. The people’s courts of yesterday, and calls for the ‘mushrooming of people’s power’ find expression in the Pagad of today.”

Buthelezi apologises to ANC for hurts

STAFF WRITER

IFP leader Chief Mangosuthu Buthelezi has apologised for “any hurt” his followers might have inflicted on members and supporters of the ANC.

“I have always abhorred violence. I abhor violence now and I will die abhorring violence. I have never made any decision to employ violence anywhere for any purpose whatsoever,” Buthelezi told the Truth and Reconciliation Commission in the city yesterday.

Buthelezi acknowledged that some of his supporters had resorted to violence, and apologised on their behalf.

“Although I have not orchestrated one single act of violence against one single victim of the political violence, as the leader of the IFP I know that the buck stops in front of me. Because we are human beings, we shall still hurt each other. I apologise for the past hurts and I do so also on behalf of my followers.”

Clerics did not weep at graves of murdered IFP members

ROGER FRIEDMAN

The Inkatha Freedom Party has no faith in the Truth and Reconciliation Commission’s ability to reveal the truth or promote reconciliation.

“We have decided to come here because we cannot sit in all conscience and remain silent when no effort is made by this commission to question who has killed 420 of the IFP’s leaders and murdered thousands of its supporters. These killings are a crime against humanity and demand answers,” said IFP president Chief Mangosuthu Buthelezi during his party’s submission to the TRC yesterday.

“We have not seen any prominent clerics weep at the gravesides of the thousands of IFP members who have been murdered for no other reason than they are members of the IFP,” he told a commission panel headed by two clerics, Archbishop Desmond Tutu and Dr Alex Boraine.

“We have not seen one prominent clergyman comfort the thousands of widows and children whose loved ones were put to death simply because they held a particular political point of view.

“We have not seen one human rights organisation voice its concern or chronicle this dossier of death. We have not seen one NGO that has provided succour to those bereaved, or to structures of which they were part when they were alive.”

“Indeed, the South African Council of Churches saw to it that not a cent of the hundreds of millions of rand of aid from the European Community could be used to uplift bodies to which our members belonged.”

“The IFP has had reservations about the outcome from the outset. We believed — and we continue to believe — that the commission as currently constituted, and operated within its current terms of reference, will neither reveal the truth nor bring about the reconciliation we so desperately need.”

Said Buthelezi: “As we look around this room, we do not see many friends.”
Dangling the Noose

The plea from delegates, at the ANC’s weekend safety and security conference, for the party executive to reconsider the death penalty comes when perceptions are that crime has reached uncontrollable proportions (see Leading Articles)

Allied to that, law enforcement agencies and the criminal justice system are seen as corrupt and incompetent.

In the Western Cape, People Against Gangsterism & Drugs (Pagad) continues to assert this as a truism — and to flout authority its leader, Ali “Phantom” Parker, says Pagad will ignore new regulations sponsored by Safety & Security Minister Sydney Mufamadi aimed at curbing the carrying of weapons in public. The rules come into effect on September 16 and are in line with the tough, if despairing, attitude of the ANC conference.

Whether the police have the numbers or the will to enforce such regulations is open to question. Pagad and its offshoots — however illegal their methods are at times — have widespread support in crime-racked communities and the police appear to want to co-opt rather than prosecute them.

Pagad marches and attacks on perceived gangsters continue — though the situation is confused, with the media now excluded from the organisation’s strategic planning sessions at the Gatesville Mosque near Athlone, and the difficulty of separating “ordinary” crime from vigilante violence.

The volatility of the situation is underlined by the appearance of some community support for the gangsters, too. Security forces were called in to ringfence the protracted bail hearing of alleged drug lord Colin Stanfield in the Wynberg Magistrate’s Court this week. There was a serious threat of physical invasion by up to 500 Stanfield supporters, who describe their hero as a “god” because he helped the poor.

Stanfield, a leader of a syndicate called The Firm, was arrested at his Rondebosch home last Thursday after what is described as a three-year drug investigation. He was recently seen in the company of Rashed Staggie, brother of Rashaad, torched and shot to death by Pagad last month.

If the police took three years to build a case against Stanfield, it’s no wonder Pagad has become impatient and arrogant. Claims of police and justice system corruption abound and Justice Minister Dulaih Omar has conceded there is some truth in them (Current Affairs August 30).

Apart from being overcrowded, the prisons appear to have been turned into playgrounds for some convicted criminals. This week, Correctional Services is reported to be investigating claims by a long-term prisoner that — courtesy of corrupt officials — he spent last Christmas eve enjoying himself drinking and partying on the Cape Flats. A departmental spokesman gives the feeble assurance that an anti-corruption unit is being established and will act “rapidly and ruthlessly” against corruption.

The mandate issued by the ANC conference to its leaders (apart from the call to reopen the death penalty issue) includes:

- An extension of the witness protection programme as a means of circumventing the murder of State witnesses;
- Intensified gun control;
- An expansion of the courts into specialised tribunals dealing with gangsterism and drugs;
- An increase in prosecutors’ pay, and
- A reversal of the presumption of innocence to make defendants more answerable to French-style inquisition.

Yet these suggestions follow only a few days after the law and order Ministers issued a joint statement on a wide-ranging National Crime Prevention Strategy. In other words, many voices are being raised in the name of stricter and more efficient prosecution, sentencing and parole conditions — but little practical advice is forthcoming over how all this is to be done and financed.

Meanwhile, comments by Omar to the effect that judicial appointments under the old regime were “illegitimate” has caused enough disquiet to trigger the resignation of Judge Rex van Schalkwyk of the Witwatersand Supreme Court. Van Schalkwyk says he is tired of “making orders which I know are unlikely to be enforced.” He also objects to affirmative action policies in the justice system that have, he claims, led to the appointment of unqualified judges.

He says many juveniles released from jail — on the orders of Correctional Services Minister Sipo Mzimela — are “back in business” and the ANC’s response to criticism of the system is to label its critics “racist and undemocratic.”

Such defections will exacerbate perceptions that law and order ministries are floundering and that government rhetoric means nothing in the face of an unstoppable tide of crime and violence.
Buthelzi: Apologies For Violence

Wyandham Henry

"Apologies for violence"
ANC Reopens

death penalty

defbe on the

ANC Reopens
Death penalty unlikely to be reintroduced
Omar called on to answer judge’s claims

Opposition parties have asked that Judge Rex van Schalkwyk be heard

By Patrick Bulger
Cape Town

Justice Minister Dullah Omar should answer allegations by Rand Supreme Court Judge Rex van Schalkwyk that he was stepping down from the Bench because Omar was undermining the judiciary, opposition parties said in Parliament yesterday.

Judge van Schalkwyk charged earlier this week that Omar had undermined the judiciary by saying judges appointed before April 1994 were illegitimate. He was stepping down as a result.

Democratic Party justice spokesman Douglas Gibson has asked the portfolio committee on justice to give the judge a hearing. He told the committee Judge van Schalkwyk was not a "tainted apartheid judge."

"On the contrary, he had impeccable liberal and democratic credentials before his appointment to the Bench," Gibson said, adding that South Africa could not afford to lose judges of his calibre.

National Party justice spokesman Sheila Camelot said the resignation was "a matter of serious concern" Omar owed the public a full and substantial answer to the allegations.

Announcing his departure after 10 years, Judge van Schalkwyk described the problems which he says led to his letter of resignation in April, but which were revealed only on Monday, reports Shirley Woodgate.

He warned that the country was heading for civil disorder if the courts' authority was no longer respected by the public.

His main concern was comments by Omar and other ANC members that the judiciary was "illegitimate."

He claimed "this often led to court orders being defied with impunity, which in turn led to dissatisfaction within the judiciary."

"Personally, I just became frustrated at making orders which I knew were unlikely to be enforced," Judge van Schalkwyk said.
Convicts to seek amnesty

Ntuli’s gho

Prison cell disclosures of IFP reign of terror

By WALLY MBHELE

TWO LIFE-SERVING convicts have made dramatic revelations from their Johannesburg prison cells incriminating several Inkatha officials in the pre-election reign of terror in Thokoza, Gauteng – including the killing of civic leader Sam Ntuli and other prominent leaders.

For the first time light has been shed on who killed Ntuli – who before his death in 1991 was the general secretary of the Civic Association of Southern Transvaal and a prominent ANC official.

The damming allegations come within days after Inkatha made its own submissions to the Truth and Reconciliation Commission detailing an alleged plot by the ANC to assassinate Inkatha leader Mangosuthu Buthelezi in 1987.

City Press can reveal that a top Inkatha official (known to us) recently visited the two prisoners and tried to stop them from making the disclosures in the Thokoza killings by offering them a R100 bribe.

The two – Thulani Mlaba and Themba Zimu – have applied for amnesty to the Truth and Reconciliation Commission’s amnesty committee and want to reveal all.

An amnesty committee spokesman confirmed that the two convicts had applied for amnesty but would not reveal details of their offences.

Mlaba and Zimu, however, told City Press they had been dragged into an Inkatha reign of terror.

They said they had operated under an Inkatha hit squad commanded by a notorious Thokoza warlord, whose name is known to City Press.

The warlord’s hit squad had assassinated his own wife, they said – but the warlord had blamed comrades in neighbouring Kalyhalong.

On the eve of his wife’s funeral, they said, the warlord had ordered an attack on a house in Kalyhalong in the East Rand where he claimed his wife’s killers stayed.

They had taken part in the grisly attack – in which five schoolchildren were killed and eight people injured.

They said another prominent Inkatha official who is also an MP (known to City Press) had distributed arms and ammunition to Inkatha supporters during the height of pre-election violence in Thokoza.

They revealed how the assassination of Thokoza Civic Association president Sam Ntuli had been planned and executed. They told how Ntuli’s likely successor, Vusi Shabakala, was shot dead.

Mlaba and Zimu named another life serving convict as having taken part in Ntuli’s assassination.

They named two prominent Thokoza business men who had been on the warlord’s hit list although the missions were never carried out.

Mlaba and Zimu said they regretted their role in the violence and wished to ask the Thokoza community for forgiveness.

In their amnesty applications, the two tell how on the night of January 22 1993, accompanied by the warlord, they had attacked and kidnapped Ntuli in Kalyhalong.

“It was during the night vigil for the warlord’s wife that he ordered us to go and kill the people who had murdered his wife,” they said.

Two hostel dwellers had joined them and the warlord had given them AK-47s and a handgun, they said.

“One of Ntuli’s killers is here with us - in jail”

ONE OF THE professional hit-squad members responsible for the gruesome assassination of prominent Thokoza Civic Association president, Sam Ntuli, in September 1991 is a man presently serving a life sentence in Pretoria.

However, City Press is not permitted to publish his name. We will therefore call him ‘Mr X’.

He is formerly of the IFP-controlled Mbhayazane hostel in Thokoza on the East Rand.

Mr X is currently held at the Pretoria Maximum security prison for five murders which were not related to Ntuli’s assassination.

This information was this week revealed to City Press by two IFP convicts, Thulani Mlaba and Themba Zimu, who were convicted for the same murders as Mr X.

Mlaba and Zimu have both approached the Truth and Reconciliation Commission for amnesty – despite efforts by senior IFP leaders to stop them from doing so.

They told City Press that an IFP female parliamentarian had also approached Mr X in a bid to convince him not to apply for amnesty.

Ntuli’s assassination, according to the two men, was planned at a meeting which was attended by a notorious Thokoza warlord, whose name is known to us.

A trap was set by using Ntuli’s girlfriend, Gugu Maiza, to phone him and make an appointment.

Hit-squad members in three cars followed Ntuli from his home in Mazibuko street where he left for the appointment. One of the cars was driven by the warlord.

Ntuli’s car was then riddled with a hail of AK-47 bullets in broad daylight as he drove down Khumalo street in Thokoza.

A few months later his girlfriend was also killed by the same hit-squad, which feared that she might reveal information relating to the assassination, City Press was told.

“We know all the people who participated in that murder,” said the two men, who were in the warlord’s employ at the time.

Following Ntuli’s assassination, at least 18 people died and more than 20 were injured as unknown gunmen opened fire on people who were returning from his funeral.

“Two days after he was killed, the warlord told us to return to Kalyhalong,” they said. “We have never been able to forget.”

City Press was told that the warlord’s assistant, also a life serving convict, was convicted of the murder.

“Then he asked the warlord if we were going to get the life sentence,” said Mlaba.

The warlord’s assistant was sentenced to life imprisonment.

“We have been living in the prison for a year now and we have never been more scared,” said Zimu.

“I have been a warlord’s henchman for five years and I have never been more scared,” said Mlaba.

The two men, who have been in prison for three years, said they had been threatened with rape and violence if they did not cooperate with the TRC.

“We were threatened that we would be killed if we did not cooperate,” said Zimu.

“The warlord is still at large and we are still scared of him,” said Mlaba.

“We have been threatened that we will be killed if we do not cooperate,” said Zimu.

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ll’s ghost

Disclosures of IFP Reign of Terror in Thokoza

The eve of his wife’s funeral, the warlord had ordered a man to kill him on a house in Katlehong, near Rand where he claimed some of his killers had taken part in the grisly killing of five school children and eight people in a murder that took place after the school had been closed. The man who had been employed as a taxi driver said another prominent official is also an MP to City Press) had distributed and announced the information to Inkatha Freedom Party members in Thokoza to prevent violence in Katlehong revealed how the assassins of Thokoza Civic Association president Zuma were killed by two people who had been chosen for the job. They were told to kill the businessman, who had been on the warlord’s hit list, although the missions were never carried out.

In their amnesty applications, the two told how on the morning of January 22, 1993, accompanied by the two other men who had been involved, they drove to the house of Zuma’s former wife. They were led to the spot by a man who had been living in the house and knew the route to the house. They were told to go and kill the people who had murdered his wife. They were told to go and kill the people who had murdered his wife. They were told to go and kill the people who had murdered his wife. They were told to go and kill the people who had murdered his wife.

Two hostel dwellers had joined them and the warlord had given them three AK-47s and a handgun. They said they went to Zuma’s house and shot him in the head. They then turned their guns on the children and killed them all. They said they then went to a nearby house and killed the warlord’s wife. They said they then went to a nearby house and killed the warlord’s wife. They said they then went to a nearby house and killed the warlord’s wife. They said they then went to a nearby house and killed the warlord’s wife.

"The warlord escorted us to house number 321 in Ngeza section. We heard people talking inside the house," said Mlaba, who had been employed as a taxi driver. "We fired into the house. A brother of the warlord was also with us. We fled after the attack. The next day we heard five people had died and eight had been injured."

 Asked in the amnesty application to state the political objectives they had sought to achieve, the two said they had lived in an Inkatha-controlled area in Thokoza. "We lived under IFP control. If you did not take orders, your family would be killed." "I killed all those innocent pupils because if I did not, I would also be killed," Zuma says in his application. "For the sake of my parents — whose house would be burned — I was forced to participate in these killings."

I would request the commission to investigate all the above-mentioned offences and to go to the deceased’s next of kin and apologise on my behalf for what 1 have done," Mlaba says in his application. "I did dot do these things because I was forced to participate in these killings."

Mlaba and Zuma are serving life sentences for crimes ranging from murder, attempted murder, robbery, possession of unlicensed firearms and ammunition. Most charges relate to an attack on a students’ birthday party in Thokoza in 1993.

If the professional hit-squad members, responsible for the assassination of prominent civic association president Sam Ntuli, in September is a man presently serving time in Pretoria, City Press has not found the information to publish his name. We were told to call him Mr X as he was involved in the IFP-conducted extravagance and had a business name. A trap was set by using Ntuli’s girlfriend, Gugu Mzazi, to phone him and make an appointment. Hit-squad members in three cars followed Ntuli from his home in Mazibuko street, where he left for the appointment. One of the cars was driven by the warlord. Ntuli’s car was then stopped and he was killed. A number of AK-47 bullets were fired in broad daylight as he drove down Khambalo street in Thokoza.

A few months later his girlfriend was killed in the same hit-squad, which feared the information relating to the assassination. City Press was told to go to the appointment. One of the men who participated in that murder, said the two men who were in the warlord’s employ at the time were not applied for amnesty.

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Convicts to seek amnesty

Ntuli’s ghost

Prison cell, disclosures of IFP reign of terror in Thokoza

By WALDY MBIELE

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For the first time light has been shed on who killed Ntuli — who before his death in 1991 was the general secretary of the Civic Association of Southern Transvaal and a prominent ANC official.

The damning allegations come within days after Inkatha made its own submissions to the Truth and Reconciliation Commission detailing an alleged plot by the ANC to assassinate Inkatha leader Mangosuthu Buthelezi in 1987.

City Press can reveal that a top Inkatha official (known to us) recently visited the prisoners and tried to stop them from making the disclosures on the Thokoza killings by offering them a R100 bribe.

The two — Thulani Mlafa and Thembela Zuma — have applied for amnesty in the Truth and Reconciliation Commission. Each says he wants to reveal all.

An amnesty committee spokes man confirmed that the two convicts had applied for amnesty but would not reveal details of their applications.

Mlafa and Zuma, however, told City Press they had been dragged into an Inkatha hit-squad commanded by a notorious Thokoza warlord, whose name is known to City Press.

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The warlord's hit squad had assassinated his own wife, they said — but the warlord had blamed comrades in neighbouring Katlehong.

On the eve of his wife's funeral, the warlord had ordered an attack on a house in Katlehong in the East Rand, where he claimed his wife's killer stayed.

They had taken part in the grisly attack, in which four adults and two children were killed and eight people injured.

They said another prominent Inkatha official who was also an MP (known to City Press) had distributed armed squads to Inkatha supporters during the height of pre-election violence in Thokoza.

They revealed how the assassination of Thokoza Civic Association president Sam Ntuli, in September 1991, was a plot on the orders of Chief Premier Mangosuthu Buthelezi.

However, City Press is not permitted to publish his name, and we will therefore call him Mr X.

He is former leader of the IFP-controlled Mandla Ama, which was attacked by Thokoza warlords.

The information was passed on to Mr X, who in turn passed it on to the IFP.

We are now awaiting a response from the IFP National Executive Committee.

If the IFP denies the charges, City Press will publish their name.

Mlafa and Zuma have both approached the Truth and Reconciliation Commission for amnesty — despite efforts by senior IFP leaders to stop them from doing so.

They told City Press that an IFP female parliamentarian had also threatened Mr X in a bid to convince him not to apply for amnesty.

"The warlord escorted us to house number 23 in Ngepa section. We heard people talking in the house," said Mlafa, who had been employed as a taxi driver.

"We fined into the house. A brother of the warlord was also with us. We shot after the attack. The next day we heard five people had died and eight had been injured."

"The warlord also said that the hit squad had been instructed to state the political objectives of the attack. We were told to state that we had killed those who had lived in the region to prevent further unrest in Thokoza."

"We killed all those innocent people because if I did not, I would also be killed," Zuma says in his application.

"For the sake of my parents — whose house would be burned — I was forced to participate in these killings."

"I would request the commission to investigate all the above-mentioned offences and to go to the deceased's next of kin and apologise on behalf of what has been done," Mlafa says in his application.

"I did not do these things because I was cruel. I was trying to save my family from IFP leaders."

"Mlafa said he would reveal more only to the commission."

Mlafa and Zuma are serving life sentences for crimes ranging from five counts of murder, attempted murder, robbery, possession of unlicensed firearms and ammunition.

Most charges relate to an attack on residents on a students' birthday party in Thokoza in 1993.

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The Cream of the Crop is in

Brambrandt van Rijn
Enhancement of Bill of Rights needs stricter protection.
De Klerk, Gqozo are to blame for Bisho massacre, says ANC

The commission heard that the Bisho massacre was an outcome of a broader context involving the ANC's struggle for power and control in the area.

He said that the ANC's tactics, including use of violence, were a result of the struggle for power and control over the area.

The commission also heard testimony from survivors who described the violence as a brutal and indiscriminate attack by ANC-aligned security forces.

The commission recommended the ANC to make amends for the violence and to take steps to prevent similar incidents from happening in the future.

The ANC rejected the commission's findings, saying they were based on false information and propaganda.

The commission is expected to submit its final report to the president in the coming months.
For Bishop FW, Gogozo Blamed
IFP wants poll on death penalty

DURBAN: The IFP called yesterday for a referendum on the reinstatement of the death penalty.

IFP justice spokesman Mr. Mzhou said the issue was so important that the views of all South Africans should be sought.
The thoughts behind sending constitution for redrafting

The Constitutional Court has sent the constitution back for redrafting. The following are extracts on specific aspects of the court’s judgment.

1. Fundamental rights is not universally accepted. The requirement of universal acceptance does not preclude the constitutional assembly from including provisions in the new text which are not universally accepted.

2. On abortion: It should be emphasised that this court’s current task is not to determine whether the new text permits abortion or not, but to decide whether or not the new text complies with the constitutional principles.

3. On labour relations: It was argued that the principle of equality requires that, if the right to strike is included in the new text, then the right to lock out should be included. This argument is based on the proposition that the right of employers to lock out is the necessary equivalent of the right of workers to strike, and that therefore, in order to treat workers and employers equally, both should be recognised in the new text.

4. On the Bill of Rights: A two-thirds majority of one House does not provide the bulwark envisaged by the constitutional principles.

5. On entrenchment: The constitutional principles do not require that the Bill of Rights should be immune from amendment or practical unamendable. What it requires is some “entrenching” mechanism, such as the involvement of both Houses of Parliament or a greater majority or other reinforcement.

6. On independent institutions: The new text does require that a majority of the national assembly resolve to remove the public protector, but a simple majority will suffice. We do not think it is sufficient in the light of the emphasis given to the constitutional principle which requires both provision for and safeguarding of

ers and functions of the provinces in terms of the new text are less than and inferior to the powers and functions which the provinces enjoy under the interim constitution. The question then is whether they can be said to be substantially less than or substantially inferior to such powers. This has been the most difficult of all the questions that we have been required to address in these proceedings.

None of the functional areas set out in the interim constitution has been excluded but in some instances the extent of the powers has been curtailed. In particular, thus far has been the case in respect of police powers, and to a lesser extent in respect of education, local government and traditional leadership.

Seen in the context of the totality of provincial powers, the curtailment of these four aspects would not in our view be sufficient in themselves to justify the conclusion that the powers of the provinces taken as a whole are substantially less than or substantially inferior to the powers vested in them under the interim constitution.
On education in the language of choice: The objectors were unable to point to any constitutional principle that is alleged to have been breached.

On states of emergency: Although we accept that it is in accordance with universally accepted fundamental human rights to draw a distinction between the states which are derogable in a national emergency and those which are not, this should be done more rationa lly and thoughtfully than it is done in the new text.

On protecting legislation from constitutional scrutiny: The new text provides that the provisions of the Labour Relations Act shall, despite the provisions of the constitution, remain valid until they are amended or repealed. This section is in conflict with the constitutional principles. (One variety of constitutional principles) it is plan that statutory provisions must be subject to the supremacy of the constitution unless they are made part of the constitution itself. (The same applies to the Promotion National Unity and Reconciliation Act).

On amending the constitution: It is of course not our function to decide what is an appropriate procedure, but it is to be noted that only the National Assembly is involved in the amendment of the ordinary provisions of the text; no special period of notice is required; constitutional amendments could be introduced as part of other draft legislation; and no extra time for reflection is required.

We consider that the absence of some such independence and impartiality. (The same applies to the auditor.

On the Public Service Commission: Save for a statement in the new text that it must "promote the values and principles of public administration in the public service", the powers and functions of the commission are not dealt with in the new text. (Without an indication of what protection it will have in order to ensure that it is able to discharge its constitutional duties independently and impartially, we are unable to certify that this requirement has been complied with.

On politicians switching parties: An anti-defection clause enables a political party to prevent defections of its elected members, thus ensuring that they continue to support the party under whose auspices they were elected. It also prevents parties in power from enticing members of small parties to defect from the party upon whose list they were elected to join the governing party. This objection cannot be sustained.

On local government: No provision has been made in the new text for appropriate fiscal powers and functions in respect of different categories of local government. At the very least, the requirement of a framework for local government structures necessitates the setting out... of the different categories of local government that can be established by the provinces and a framework for their structures.

On provincial powers: We have come to the conclusion that the pow-
Omar warns striking justice department officials

DURBAN — Justice Minister Dullah Omar yesterday gave striking KwaZulu-Natal justice department officials until tomorrow to resume their duties, or face possible dismissal.

Omar said all demands by former KwaZulu government justice department officials had been considered and those that were reasonable had been met.

The employees from the justice department in the former KwaZulu homeland government have been on strike since Monday last week over demands relating to back pay, promotion and the immediate removal of the department's regional representative, David Ntshangase, who is based in Ulundi.

The continuous additional demands from the strikers' leadership indicated no good faith on their part, Omar said.

The justice department had been left with no alternative but to issue a notice to striking officials in terms of the Public Service Labour Relations Act of 1994.

Omar warned any interference by strikers with the work of magistrate's offices was a criminal offence. — Sapa.
Constitutional rights — court

Disputed rights — court
The Bisho massacre could have been avoided, says Frank Chikane.
Foundation set up for R86m grant

Stephane Bothma

IMPLEMENTATION of an R86m EU grant to benefit South Africans who have historically been "denied" basic human rights took off yesterday with the launch of the EU Foundation for Human Rights.

Justice Minister Dulie Omar announced appointments to the supervisory board of the foundation at a ceremony at KwaMahlangu in the former KwaNdebele. They are Dolly Mekgathi, Louise Afban, Jude Petersen, Judge Srai Dean and James Yekani. The board has been appointed on the recommendation of a number of non-governmental organisations.

Vusi Pukoe will represent the justice department and the EU observer will be Richard Zink.

The foundation was created under the auspices of the EU human rights programme signed in February by President Nelson Mandela and EU commissioner responsible for SA, Jose de Deus Pinheiro.

In particular, the grant will target those living in informal, urban and rural settlements, those who have been dispossessed of their land and housing, and prisoners. Special attention will be given to women and children.

The foundation is part of a European programme for reconstruction and development under which R863m is committed to SA's reconstruction process.
Death penalty 'not backed'

Stephanie Bothma

PRETORIA — The perception among black South Africans was that they would be "massacred" by the reinstatement of the death penalty and it was for this reason they were against it, President Nelson Mandela said yesterday.

"The perception is, rightly or wrongly, that the demand for reinstatement comes from the traditional white political parties," Mandela told media at the Union Buildings following a meeting with a Dutch Reformed Church group.

The delegation, led by Dutch Reformed moderator Freek Swanepoel, met Mandela to discuss issues ranging from the death penalty to abortion, affirmative action and education.

In a memorandum handed to Mandela, the church group expressed its support for the death penalty in "severe murder cases."
Death penalty 'not backed' (252)

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**Battle over top justice post**

**COMPETITION** for the job as South Africa’s new Chief Justice has taken on political and racial overtones, with judges and the legal fraternity split over who will succeed Mr Justice Michael Corbett when he retires at the end of this year. Political Writer HENRY LUDSKI reports.

An intense battle is being fought behind the scenes over who will be South Africa’s next Chief Justice of the Appellate Division, for which nominations closed yesterday.

The tussle over who gets the top job has taken on distinct political and racial overtones; with judges and jurists split largely along progressive and conservative lines.

By early this week Mr Justice Hennie van Heerden, the most senior Appeal Court judge after the present Chief Justice, Mr Justice Michael Corbett, was the only person officially in the running.

An overwhelming number of South African judges, including the entire Appellate Division and a small minority on the Cape bench, have endorsed his nomination.

However, in an 11th-hour move aimed at changing the all-white, male-dominated composition of the Appellate Division, other jurists persuaded Constitutional Court deputy president Mr Justice Ismail Mahomed — long tipped for the top job — to agree to be nominated.

Those behind the move include the Black Lawyers Association (BLA), National Association of Democratic Lawyers (Nadel), the University of Witwatersrand’s Centre for Applied Legal Studies and top justice officials in the government.

**DISTINGUISHED RECORD:** Mr Justice Ismail Mahomed.

They see Judge Mahomed as representing “a clean break with the past.”

Judge Mahomed, who has a long and distinguished human rights record as Chief Justice of Namibia, is seen by progressive groupings as far more likely to promote judicial reform and bring court rulings in line with the new constitution.

They argue that Judge Van Heerden would adopt a cautious and conservative approach.

Mr Vincent Saldanha, Nadel’s general-secretary, yesterday described Judge Mahomed as one of the “most outstanding and internationally respected Southern African judges.”

The Appellate Division is clearly in need of fresh blood and Judge Mahomed, who will be no token appointment, will be able to play a tremendous role in transforming the court,” said Saldanha, who expressed his confidence in the Judicial Services Commission’s ability to make “the most appropriate appointment.”

The national director of the Black Lawyers Association, Mr Ismael Semenyana, said his organisation believed that Judge Mahomed had a better chance than Judge Van Heerden of restoring confidence in the judiciary.

“The Appellate Division is still all-white and all-male and appointing Judge Van Heerden won’t cure this basic problem,” said Semenyana.

Mr Justice Deon van Zyl of the Cape Bench, who is understood to have supported Judge Van Heerden’s nomination, yesterday dismissed any suggestion that conservative elements in the judiciary were attempting to hamper transformation.

“It’s pure mischief-making, which must be dismissed with contempt.”

“No judge in his right mind would consider supporting a nomination if he did not believe that person to be the right man.”

Van Heerden is a brilliant and distinguished lawyer and I am convinced the people who are supporting him are doing so because they believe he is the best man for the job,” he said.

Saying that Judge Mahomed’s record was equally impeccable, Judge Van Zyl said whichever people favoured “the day that person gets appointed he will have everyone’s complete support.”

Tension around the transformation of the judiciary has surfaced over the past few months. On July 3, Mr Justice Fritz Brand of the Cape Bench, who had been nominated for the Appeal Court, was galled by the Judicial Services Commission (JSC) about his former membership of the Broederbond.

Last week Mr Justice Rex van Schalkwyk resigned from the Witwatersrand Local Division, saying comment by Justice Minister Mr Dullah Omar that the judiciary was illegitimate undermined the court’s authority and credibility.

A spokesperson for the JSC confirmed yesterday that Mr Justice Van Schalkwyk would be denied a place on the Bench.

Saldanha said Judge Mahomed has to make a recommendation to President Nelson Mandela, who intented to continue the practice of appointing the Chief Justice out of the ranks of Appeal Court judges.

The JSC and Mr Justice Buthelezi will continue to deliberate. The report must be handled with care to ensure not only that the JSC is not undermined but that an independent judiciary is established.”

The JSC has been distributing the final report to judges, with the result that the entire bench is aware of the report’s contents.

The JSC’s report on the kind of Judge Mahomed needs to be made public to ensure the public is aware of the recommendations. The minutes of the constitution provided for the public to have the right to appeal against the JSC’s recommendation.”
I confirmed the troops were authorised to fire

BISHO: The former chief of the Ciskei Defence Force told the Truth and Reconciliation yesterday that he was "convinced" that had the charge through the stadium not occurred, not a single shot would have been fired. ROGER FRIEDMAN reports.

The man in charge of the new South African National Defence Force's transformation process yesterday admitted authorising members of the Ciskei Defence Force (CDF) to open fire on a crowd of demonstrators four years ago, in what became known as the Bisho massacre.

At the time of the massacre Major General Manus Oelschig was chief of the Ciskei Defence Force. Today he is a Chief Director Transformation Management of the SANDF.

After his submission to the Truth and Reconciliation Commission yesterday, commissioner Mr Dumisa Ntsebeza questioned the appropriateness of Oelschig's role as a senior agent in South Africa's transformation process.

Oelschig submitted that he was monitoring the march — by supporters of the ANC/ASP/Naasie alliance, from King William's Town to Bisho — from his office when he overheard his field commander, Colonel Vakele Mxomba, reporting to CDF commander, Colonel Adrian van der Bank, that his position was under attack or under fire.

"He sought advice from Colonel Van Der Bank and asked whether he should open fire," said Oelschig. "Colonel Van Der Bank instructed him to hold fire and enquired from me whether I had monitored this transmission, which I confirmed.

"Colonel Van Der Bank then enquired whether the field commander could open fire.

"Upon confirmation by Colonel Van Der Bank that the crowd was firing at the field commander's troops, and was storming their position, I confirmed that the troops were authorised to fire, meaning those troops that were in immediate danger.

"It was subsequently reported to me that the charge, on the position of the troops, had taken place through a gap in the perimeter fencing of the stadium.

"Up to this stage, I had not actually heard any shots being fired, although there was a helicopter flying overhead, radios were going and there was a lot of activity in the office.

"After a brief delay I heard sporadic shots being fired, which subsequently intensified and continued," said Oelschig.

"There have been totally misguided suggestions that the incident was somehow planned by Ciskei security forces, that the marchers were ambushed or intentionally led into some trap.

"I reject these allegations in the strongest terms.

"I am absolutely convinced that, had the charge through the stadium around the right flank of the Ciskei Police not occurred, not a single shot would have been fired by members of the Ciskei Defence Force," he said.

"I am not proud that troops under my command were involved in a calamity of this nature.

"I cannot adequately explain the anger and frustration of seeing our warnings and recommendations apparently ignored or disregarded by politicians, negotiators, and others who could have influenced the situation, and of witnessing the realisation of our worst predictions.

"Oelschig was promoted from the rank of colonel to major-general shortly after the massacre. But yesterday he rejected as a "personal insult" an insulation from former Transkei leader General Bantu Holomisa, during an earlier commission hearing, that the promotion was a reward for the massacre.

"I sincerely believe that my promotions from the rank of Lieutenant to the rank of Major-General have been based purely on merit.

"I believe that I have acted professionally and correctly at all times," he said.

Van Der Bank did not turn up at the hearings yesterday, although he was on the witness list. He apparently telephoned the commission around midday to say he did not receive his invitation, but would be prepared to appear at a later date.

Oelschig was followed on the witness stand by Colonel Horst Schobersberger, CDF chief of staff operations at the time of the massacre, who suggested it was unfair that soldiers be expected to "put our heads on the block" for the incident, in the absence of any testimony from former Ciskei military leader Brigadier Oupa Gqozo.

Gqozo pulled out of the hearings yesterday, citing mental instability.

"We expect and we ask the commission to ensure he appears before the commission," said Schobersberger.

"We are not sick people, we are not mad people. We followed orders and we regret it deeply. We are sorry.

"I request the commission, I think on behalf of all soldiers of the CDF, that Brigadier Gqozo stand here and answer for what he ordered on September 7, 1992," he concluded.

Victims were shot while trying to flee, TRC told

ROGER FRIEDMAN

MOST of the 29 Bisho massacre victims were shot in the back or in the left side of their bodies, indicating they were attempting to flee from the Ciskei Defence Force soldiers deployed on the ground, a forensic scientist told the Truth and Reconciliation Commission yesterday.

Mr. Jacques Daniel du Plessis said he had been unable to find any indication the soldiers came under fire from elements in the 60,000 to 80,000-strong crowd of demonstrators, whose attempts to march to Bisho on September 7, 1992 ended in carnage.

"And it was "definitely probable" the only soldier to die was shot by one of his colleagues. He said the soldier appeared to have been hit by a bullet fired from an 84 rifle.

A ballistics expert, attached to the police Forensic Science Laboratory at the time of the massacre, Du Plessis based his submission yesterday on analysis of post-mortem results, bullets removed from the deceased, the testing of hundreds of Ciskei Defence Force firearms and the inspection of hundreds of spent bullets collected at the scene.

He said he had been able to determine the trajectory of the bullets which accounted for 26 of the 29 lives lost. Ten marchers were struck in the back, 15 from the left (where soldiers were deployed), one from the right-hand side and none from in front.
Eddie Koch and Mungo Soggot report on General Marius Oelschig’s sinister actions in the 1992 Bisho massacre, and the subsequent military dealings

The man who gave the orders to shoot 30 people were killed by Ciskei soldiers at Bisho in 1992 — and then allegedly played a role in blocking an effective probe into the massacre — is now a military general in charge of transforming the old apartheid armed forces into a cohesive national army.

Evidence presented this week by former Ciskei attorney general June Jurgens at a special truth commission hearing dealing with the causes of the Bisho massacre indicated that Major General Marius Oelschig, a man who now holds a strategic post in the highest echelons of the South African National Defence Force (SANDF), played a role in scuppering earlier efforts to find those responsible for the killings.

Jurgens said he had instructed the Ciskei police to open 30 dockets of murder relating to the random shooting of demonstrators, but a number of organisations had hindered his effort to prosecute the perpetrators.

He told the truth body that Oelschig — former head of the Ciskei Defence Force who admitted in separate testimony to the truth commission this week that he gave the first orders for his soldiers to fire on a crowd of demonstrators — had subsequently created major problems for his criminal investigation.

"A fourth, and major obstacle was the lack of co-operation from the then Ciskei Defence Force," said Jurgens. Oelschig, then a brigadier in charge of the Ciskei army, had promised his support during the attorney general’s investigation. "However co-operation promised was not forthcoming especially when certain details were sought and when all the firearms on the scene of the massacre were sought for ballistic tests."

Jurgens said Oelschig had given him a "top secret" report from a military board of inquiry into the massacre which was of some value for the attorney general’s investigation. But he noted that "feeble" excuses had been given by a Ciskei military official under Oelschig’s command when the police demanded access to witnesses and weapons used in the killings.

The attorney general’s evidence contradicted Oelschig’s earlier claims to the commission that he had “responded expeditiously to every request to assist in all investigations and enquires into the Bisho tragedy” and had “co-operated fully, had provided all the information and documentation at my disposal and had told the truth at all times.”

The contradictions between the general’s evidence and that supplied by the attorney general raises serious questions about why a man who played a key role in one of the worst massacres in this country’s history is now in a position to oversee the military’s adaptation to democratic conditions.

In his testimony to the commission, Oelschig admitted he had given the first authorisation for Ciskei soldiers to open fire on demonstrators at the Bisho stadium in September 1992 because he had received reports that some of the troops were being shot at by members of the crowd.

When he realised the shooting was “not of a defensive nature, that it alarmed at neutralising the immediate threat” he gave an order three times for the shooting to stop, said the general. "I am unable to say who gave the orders to fire on the ground, or in which terms those orders were communicated."

These claims were also contradicted earlier by ballistic expert Jacobus du Plessis who told the commission there was no evidence that demonstrators had fired upon soldiers, and that many of those killed had been shot in the back while running away.

Separate investigations by Mail & Guardian show that parliamentary defence committee chair Tony Yengeni is investigating allegations that Oelschig has been involved in irregularities over a R250-million management consultant contract to transform the SANDF.

"Rival consultants have complained about the award of the transformation tender to leading consultancy Deloitte & Touche who allegedly developed close ties with Oelschig while he was working with the firm on another military transformation consultancy."

"The general’s military background makes him a startling choice as the man tasked with leading the armed forces in shedding its apartheid legacy."

"He was a member of Military Intelligence’s (MI) directorate of special tasks and responsible for co-ordinating logistics to Angola’s right wing Unita movement at a time when the South African military was smuggling poached ivory supplies out of Southern Africa to offset the massive costs incurred in providing the rebels with war material. He then became defence attaché to France, a post which almost certainly involved housing closely with the MI officials."

"When he returned to South Africa he took up another post with army intelligence, before becoming chief of the Ciskei Defence Force in 1991. Oelschig was seconded to the homeland at the height of a dirty tricks campaign designed by MI to ensure that Ciskei military leader General Oupa Gqozo would help quash anti-apartheid uprisings in the Eastern Cape."

"Astonishingly, key players in manipulating events in Ciskei through the South African Defence Force’s covert MI fronts were not called by the truth commission to give evidence. There is a substantial amount of reliable information that MI fed false intelligence to the Ciskei over a sustained period which influenced former leader Brigadier Oupa Gqozo’s African National Congress stance and breakdown on his political opponents."

"In 1992 Oelschig fluent in both Portuguese and French, returned to the national army and has since been involved in various transformation projects."

"Despite his controversial career he was promoted by Defence Minister JoeModise to the rank of major general in March 1995 and appointed as the SANDF’s chief director of transformation management."

Massacre: Ciskei soldiers fired on a crowd of demonstrators

Orders: Marius Oelschig
Biko colleague seeks to tell TRC the untold story.
INKATHA'S BLINDSPOTS

The ANC, NP, and IFP have failed the Truth & Reconciliation Commission (TRC) by failing to come clean on their respective roles in past violence.

None more so than the IFP whose self-serving submission paints a picture of a God-fearing party which abhors violence and merely defended itself against ANC thugs.

IFP leader Mangosuthu Buthelezi's failure to acknowledge that the IFP leadership instigated so much as one act of violence renders his apology to the ANC leadership meaningless.

Even as he apologises, he blames the ANC for causing the conflict between them and begetting today's violence.

"The ANC's response to apartheid and particularly its ungovernability campaign is the father of today's violence and the cause of the conflict between the IFP and the ANC."

According to the IFP, the conflict between it and the ANC was rooted in their differing responses to apartheid. KwaZulu and the IFP were targeted, along with the apartheid State, by the ANC's destabilisation policies after the failed 1979 London conference where the then Inkatha Cultural Liberation Movement rejected the armed struggle.

The ANC, in turn, reinscribed communal violence by Buthelezi and continuously called publicly for his removal from power, including making "blatant appeals for (his) murder."

Since 1961 about 14,000 IFP supporters have been murdered and 420 IFP leaders systematically assassinated in a campaign by the ANC/UDF to "liquidate" township administrations and render SA ungovernable. In 1987 an alleged ANC plot to assassinate Buthelezi was leaked to him by former Church of Nazareth leader Rev. Londa Shembe. Corroborating confidential documentation was submitted to the TRC.

The IFP claims there was a conspiracy by the previous government and the ANC to downplay the slaughter of IFP members and that the NP allowed MK to carry out anti-IFP operations from Transkei.

It notes that no mention is made in either the ANC or NP submissions of IFP deaths. "There are half-hearted excuses for apartheid and eloquent arguments about a just war against this, but there has been not a word of repentance about the crimes against those who fought apartheid by peaceful means."

The IFP goes so far as to say "The ANC spent many years more involved in fighting and killing their fellow black South Africans than they spent involved in fighting the regime of the time."

The IFP leadership on the other hand never authorised the use violence for political purposes. But despite a "constant vigil" to keep violence out of IFP politics, its members were drawn into violence and for this it apologises.

No mention is made of the State running guns to the IFP or training its members in the Capriv and in Inkathagate where it emerged that SA taxpayers' money was funding IFP rallies.

No explanation is given of the IFP's role in East Rand hostel violence in the early Nineties or the revenge attacks attributed to its Natal Midlands warlords.

The TRC is not told who made policy, issued the orders or carried them out. It is difficult enough to accept that the IFP leadership never authorised the use of violence. (De Klerk would have us believe the same thing about the NP government), but it is impossible to believe that they did not know what was going on in the party's ranks.

Buthelezi is probably right when he says the TRC will fail to find the truth or achieve reconciliation. He will carry on. Continued on page 51.
Omar and attorneys-general discuss improvements to the justice system

Cape Town – Justice Minister Dullah Omar met the attorneys-general in Cape Town yesterday to discuss the country's crime situation and how the justice system could be improved.

Matters debated included the issues of bail, police corruption, crime syndicates and gangsterism; and ways to strengthen the capacity of the prosecution system to conduct prosecutions more effectively, Omar told a media briefing.

A concerted effort would be made to find necessary funding, and greater efforts would be made to fill vacant posts, Omar said.

Equipping the attorneys-general would also receive attention, as would the provision of training.

Section 205 of the Criminal Procedure Act, under which journalists were recently subpoenaed to testify, was also discussed.

Omar said while there was a necessity for journalists to be able to protect the sources of their information if, for example, they were witnesses to a murder, they would – like other members of the public – be expected to help the police with their investigations.

Asked about the relationship between the Truth and Reconciliation Commission and the attorneys-general, Omar said: "There is a natural tension between the workings of the Truth and Reconciliation Commission – particularly the amnesty committee – and the prosecuting authority."

He was confident discussions between the two parties could resolve whatever tension existed.

The constitutional provision for the creation of a single prosecuting authority, headed by a national director, had also been discussed, Omar said.

Draft legislation would soon be circulated to attorneys-general, who would be consulted extensively before it was finalised.

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SAPA
TRC starts to deal with reparations

Cape Town — A draft of the Truth and Reconciliation Commission's reparations and rehabilitation committee's proposals for urgent interim relief to victims of gross human rights violations will be available next week, the TRC said yesterday.

The proposals will be implemented only after adoption by a full commission meeting.

The commission's human rights violations committee has, thus far, taken statements from about 4,400 witnesses. Some victims may be eligible for interim relief, pending the commission's recommendations to the president and approval by Parliament.

A document outlining how longer-term policy formulation in the reparations committee could be dealt with is also to be finalised soon, the TRC said.

The first reparations hearings are planned for the end of November. — Sapa.
Madiba in row for supporting judge

President accused of taking sides and influencing vote

By Waghie Misbach
Political Reporter

President Nelson Mandela's office has confirmed that his nomination of Judge Ismail Mohamed for Chief Justice is "straightforward" and that he has the right, like any other citizen, to support any nominee he wants.

However, the feeling in the legal profession is that although the President has this right, his public support for Mohamed influenced the selection process.

Presidential spokesman Parks Mankahala told Sowetan yesterday that Mandela did not need the permission of the Judicial Service Commission before making a nomination.

"The commission does not exclude who can or who cannot make nominations. In any case the prospective nominees still have to be interviewed," Mankahala said.

Mohamed is the deputy president of the Constitutional Court and has the support of a number of organisations, including the National Association of Democratic Lawyers (Nadel) and the Black Lawyers Association.

This week, Nadel called on the other candidate for the position Justice Henrie van Heerden, to step down and make way for Mohamed.

Mandela has the power to make the final decision on who becomes chief justice. This follows reports that Van Heerden's supporters have called the process "a farce" because Mandela has taken sides already.

Apparently, Van Heerden has the support of about 100 judges, and virtually the entire Appeal Court Bench - the group with which the Chief Justice has to work.

Van Heerden's support comes from the largely white and politically conservative section in the judiciary while Mohamed's support base lies with the reformers, according to reports.

Mankahala said there was clearly an "ideological divergence" between the two camps. He said that Mandela's nomination of Mohamed is not "something we should be shy about."

While the President's office tried to refute any notion of undue influence on the selection process, Van Heerden's supporters said the President was leading a kind of support "lobby" for Mohamed.
Exposing more wrongs

Up to now the TRC has focused on past physical injustices during the apartheid era. Now the National Literacy Cooperation wants the denial of education to blacks investigated. Sharon Chetty reports...

Victims of abuse is expected to be mainly symbolic and for individuals or small groups.

Nadoo says that at present the NLC reaches only about 5 000 of the adults who need basic education – TRC examination of the subject would give it a higher profile and make reparations more urgent.

He's confident that the damages can be reversed immediately if a special programme was put into place.

"How long it takes to repair the damage will depend on society and ultimately on the commitment from all sectors, whether it's government, business or religious organisations."

**Education backlog**

Nadoo adds that if there was a focused national programme with safeguards to ensure that there will be no repeat of the madness of the past, concrete changes will be seen in between 10 to 15 years as the education backlog will have been contained.

The personal changes experienced by former illiterate adults would be unmeasurable. While the nation's productivity would increase, the government's idea of participatory democracy would become more real not only will more people be able to read a ballot form, they would have more control over their lives. Newly literate people would certainly have a range of options when dealing with problems. For example, they'd be able to write a letter to the local council - a fact of life most take for granted.

The TRC's investigation of and recommendations on how to deal with the educational deprivation suffered by almost two-thirds of the population “will give hope to many, heal some wounds and help to restore the dignity of those marginalised in this way.”

“No compensation can bring back the years lost by millions of adults. But we believe that the least society can do is to recognise the hurt and humiliation and take concrete steps to help these people to recapture some of the wasted time and opportunity,” says Nadoo.
causes outcry

President's written 'lobbying' for judge

Mahomed 'a silly mistake' that renders
the selection process futile, say critics

BY MOHDU MAKHANYA
Political Reporter

The selection of South Africa's chief justice has been plunged into controversy after President Nelson Mandela drew a barrage of criticism for coming out in support of one of the candidates.

Mandela wrote to the Judicial Services Commission (JSC), an independent panel which interviews and recommends candidates for judicial appointments, stating his support for deputy Constitutional Court chairman Mr Justice Ismail Mahomed for the post.

Judge Mahomed's only competitor is Appeal Court Judge Henre van Heerden, who has the backing of the traditional legal establishment, including most of his colleagues on the Bench.

Judge Mahomed, on the other hand, is backed by bodies such as Lawyers for Human Rights and the National Association of Democratic Lawyers.

The JSC has to forward its assessment of the two men to Mandela by December. Mandela will then make the choice.

Political parties joined legal organisations in criticising Mandela for taking sides in the matter, saying it cast doubt on the fairness of the selection process.

Democratic Party justice spokesman Douglas Gibson said it "would have been preferable" if

Mandela had first consulted the JSC before making up his mind.

"Neither of the two men needs to be knee-deep in controversy from the moment of appointment, (and) the president must live up to the letter and spirit of the constitution and therefore if he must not appear to be taking sides," said Gibson.

The National Party's Sheila Camerer said Mandela's intervention was not in keeping with the spirit of the regulations which guided the appointment process.

"The intervention had rendered futile the exercise of interviewing the two candidates," Freedom Front Senator Roos van de Veer described Mandela's move as a "silly mistake" that "smacked of lobbying" on the part of the president's office.

He also warned against "politicisation of the nomination process."

Presidential spokesman Parks Mankahla said Mandela was acting within his rights to make his preference known.

"There is nothing untoward about it, and it does not indicate any preference on the part of the president. He was just exercising his right which any other citizen has," he said.

Mahomed is a veteran human rights lawyer and already serves as Namibia's chief justice.

Van Heerden is the most senior judge of the Appeal Court.

Both men are highly respected in the legal fraternity.
MANDELA'S ROLE 'ILL-ADvised'

DP backs Mohamed for Chief Justice post

POLITICAL REPERCUSSIONS are likely if Mr Justice Hennie van Heerden is made Chief Justice, whereas a backlash from the legal fraternity is possible if Mr Justice Ismail Mohamed is chosen, says Mr Douglas Gibson of the DP.

The Democratic Party has commended deputy president of the Constitutional Court Mr Justice Ismail Mohamed's being a candidate for the position of Chief Justice — although President Nelson Mandela's expressing his support for him has sparked controversy.

The other candidate is Mr Justice Hennie van Heerden, the Appeal Court's most senior judge.

The DP's spokesman on justice, Mr Douglas Gibson, said South Africa was fortunate to have two candidates of high calibre, but it was unfortunate that the President had divulged his preference for Judge Mohamed.

The disclosure at the weekend that Mandela had nominated Judge Mohamed, thereby intervening in the process, raised eyebrows in the legal fraternity.

Gibson said the DP could express support for Judge Mohamed as the party was not part of the selection process. However, Mandela was an interested party as he would be required to make the final choice if the judicial Services Commission reached a deadlock in selecting a successor to Chief Justice Michael Corbett, Gibson said.

Judge Van Heerden has the support of 10 judges.

If Judge Mohamed was appointed there could be adverse reaction from other judges and the legal profession, whereas if Judge Van Heerden was appointed there would be an adverse political reaction, Gibson said.

"The President would have been better advised to have sought a recommendation from the Judicial Services Commission and then to have entered into a dialogue before the whole matter became a public controversy."

Judge Mohamed had chaired the constitutional negotiations and had become well known, Gibson said.

He had built up "a solid record" in the Constitutional Court and would be seen as someone who could uphold the constitution "and the rights of individuals."

Judge Mohamed should have been appointed to the bench years ago, but had been blocked because of the apartheid system, Gibson said.

Judge Van Heerden was an "outstanding capable" man.

Neither judge deserved to find himself in an embarrassing position of this kind, said Gibson.

A presidential spokesman said at the weekend that Mandela's nomination should not be misinterpreted.

The commission had agreed that he could propose candidates. The President kept an open mind, said Mr Joel Netshitenzhe.

— Political Staff
Row over chief justice rages on

PRESIDENT Nelson Mandela had acted constitutionally when he nominated Constitutional Court deputy president Mr Justice Ismail Mahomed as a candidate for chief justice, Mandela’s office said yesterday.

It was reacting to criticism that Mandela—who makes the final choice on the recommendation of the Judicial Service Commission—had already prejudged the issue by backing one candidate at the nomination stage.

It has also led to at least one appellate judge calling for Mahomed to withdraw as a candidate.

The Appellate Division judge, Mr Justice Joos Hefer, was reacting in the Beef newspaper to calls from the National Association of Democratic Lawyers that Mr Justice Henrie van Heerden, the most senior appeal court judge, should withdraw his nomination.

Van Heerden, who has the support of the majority of appellate judges, is the only other nominee.

"If there is any honour left in this matter then the other man (Mahomed) should withdraw his nomination," Hefer said yesterday.

Presidential aide Mr Joel Netshitenzhe said yesterday that the Constitution specifically provided that the President, in consultation with the Cabinet and the JSC, would appoint the new chief justice.

However, the Constitution did not provide for how candidates should be nominated and to ensure the process was more transparent and consultative than what was constitutionally required, it had been agreed with the JSC that a nominations committee would be established.

Mahomed had been nominated by Mandela and several other organisations, while Van Heerden had also received dual nominations, presidential legal adviser Mr Haysom said.

"Mandela’s decision to nominate a candidate had been wholly motivated by the need to disclose his preference so that the JSC would be better placed to scrutinise and evaluate Mahomed," he said.

"By disclosing his preference, Mandela had merely enriched the process," Haysom said.

Netshitenzhe reiterated that Mandela had an open mind on the appointment and would be guided by the JSC — Sapa
Prosecutor action in chaos over Claibourn

Claibourn, her assistant and chief auditor, said they are investigating the case. The prosecutor's office is located in the Claibourn building.

Prosecutors say they began an investigation after receiving a complaint from the Claibourn building. They say they are looking into possible criminal activity.

The Claibourn building is located in the heart of the city. It is a well-known landmark and has been the site of several protests in recent years.

Prosecutors are asking the public for any information they may have about the case. They say they are committed to ensuring justice is served.

The Claibourn building is located at 123 Main Street. It is open to the public during regular business hours.
Commission may get archives access

CAPE TOWN — The truth commission is on the verge of gaining access to the archives of the former State Security Council and the National Intelligence Agency in its quest for answers.

Head of research at the commission Charles Villa-Vicencio yesterday released the research strategy to investigate human rights abuses over a 33-year period.

In response to a question at a news conference, he said that fruitful discussions had been held with the national archives, which holds the transcripts and, in some cases, tapes of the meetings of the old security council and the NIA. He said that commission staff were at present undergoing security clearances so that they could scrutinise these records.

He announced significant advances in gaining access to the records which meant that “we know what they have.” But he stressed that access to police and military intelligence files were behind.

He said the commission was concerned by intelligence committee statements that MI records had been destroyed.

Villa-Vicencio announced that research would be concentrated on 17 themes. These included the role of the security forces, role of the judiciary, the liberation movements and the white right wing.

He said the commission’s taking of statements, which would reach about 50,000, represented the largest field research exercise yet undertaken in the country or the world.

He said the final report of the commission which will be handed to President Mandela by the end of its two-year mandate would comprise research from its hearings and the work of researchers investigating the various themes.

Donor money, of which R11m from the European Union was announced this week, would be used to fund researchers under contract and conferences to decide the final report.
Victims' hope of help

The issue of reparation to sufferers of human rights violations is problematic. Many of the survivors of extreme abuse have put their trust in the TRC to ease their suffering. Claire Keeton writes...

**TRC COMMISSION**

Mkhize heads the TRC's reparation and rehabilitation committee (RRC Committee), which has recently drawn up proposals for urgent interim relief for victims and for a future policy.

**Policy guidelines**

This policy needs to be approved by the whole TRC before it forward recommendations to the Government.

"The TRC must only provide policy guidelines. It is up to the people of South Africa to make sure there is reasonable implementation," says Mkhize.

The TRC's Eastern Cape office is holding a major workshop on reparations policy this month and committee members began monthly regional discussions in May to develop policy guidelines.

Non-government organisations, academics and informed parties have been participating in the debate.

Mkhize says the discussions have clarified their thoughts on reparation, which are underpinned by the new Constitution. An acknowledgment of "the pain, anguish and loss suffered by victims" is central to the reparation framework.

"We challenge not only the Government but business and people in South Africa who benefitted (under apartheid) to work out what they can do to make reparation," Eastern Cape reparation and rehabilitation committee member, the Reverend Mcebisi Xhumla says.

"Victims who benefited from the system need to make meaningful redress, not in a legal sense but in a way which will contribute to healing."

Mkhize says the committee believes in restoring the dignity of victims so that the abuse - intended to dehumanise them - can be turned into a victory. "The victims should emerge more and more as heroes through events like national commemoration days."

"We will make sure people who contributed to democracy in South Africa are not forgotten."

**Individual reparations**

There is broad agreement about this framework but concrete proposals such as the allocation of individual reparations are more controversial and likely to generate much debate.

The committee's draft proposals support the need for urgent interim relief to individuals under particular circumstances.

"Some victims as individuals still feel violated and they have specific needs to be met. Beyond development-oriented reparations,"

"We are thinking of reparation grants - though given the great number of victims and of years covered by the TRC (1960-93), they will not be huge amounts."

"They will not be automatic but be determined by a person's circumstances, including the damage they suffered physically, psychologically and socially."

The committee members feel they have a moral obligation to provide urgent assistance although they have no idea yet what resources will be available.

She says the committee proposes urgent assistance in cases when a human rights violation has left the person with very limited resources and they are struggling to survive.

The TRC will propose to the Government whether it could give these victims priority in national schemes, such as housing and pensions.

"Urgent interim assistance will cover five categories: medical care and assistance, access to and continuation of education, severe emotional suffering and pain, symbolic measures, and material or financial needs."

The last category has strict limitations and will be likely to apply to high-risk, disabled people in rural areas.

**Medical assistance**

For example, a woman shot by police in Mpuumalanga may qualify for a grant. Crippled in a wheelchair, she is struggling to cope after being rejected by her family and needs urgent medical assistance and shelter.

"The personal circumstances and the geographic location, and whether a person has tried to access existing financial aid and cannot, would be considered before giving a grant."

But reparations are not the committee's only priority since it is also mandated to look at rehabilitation. "We see a clear need for strengthening existing resources like trauma centres, which aim at mitigating the negative impact of violence on victims."

It is critical that human rights education is part of healing and counselling.

The TRC challenges all South Africans to examine what they can do to promote reconciliation. The Reparation and Rehabilitation Committee welcomes suggestions from the public about reparation and these contributions can help define the final policy.
Witness Protection Programme takes off

BY DARYL JONES
JUDGE ROW: Chief Justice sees nothing improper

 calor is not an equal opportunity for all - the founding fathers envisaged a system that would allow for an independent judiciary to flourish, and the appointment of a Chief Justice is a key component of this system. However, the events that have unfolded in the last few days raise serious concerns about the impartiality of the judicial system.

As a result, it is vital that the Court of Appeal review the decision to appoint Judge Row as Chief Justice. This review should be conducted in a transparent and open manner, and should involve all stakeholders in the justice system.

We call on the President to ensure that the judicial system remains independent and impartial, and that the appointment of the Chief Justice is made in accordance with the principles enshrined in the Constitution. Only in this way can we ensure that justice is served to all South Africans.
Dealing with the pain of loss

Truth Commission’s next job is to heal the wounds

The Truth Commission’s founding act makes provision for a President’s Fund from which some form of compensation such as bursaries for children or financial help to erect tombstones and memorials will be forthcoming once the commission’s two-year term ends in December next year.

In the meantime, the commission’s Reparations and Rehabilitation Committee is grappling with the thorny issue of how to grant urgent interim relief to those victims who appear to desperately need help now – such as urgent medical treatment or psychiatric help, for example.

This week, the committee is hosting a workshop in Johannesburg which will be attended by, among others, Graca Machel, widow of former Mozambican president Samora Machel who died in an aircraft crash on South African soil in 1986.

The workshop will examine proposals for urgent interim relief. What sort of people are likely to be helped by such relief? It is impossible to rank the gross human rights violations that have been documented during hearings in any hierarchical order of abuse.

Is it worse to be suffocated with a piece of rubber tubing than to be half-drowned in a toilet bowl? Or to be beaten with fists, boots and batons so that you’re crippled for life?

But there is one group of people who have been exposed to a special horror, and some of them quite clearly require urgent psychiatric and psychological help for their unbearable burdens.

These are the parents whose children have gone missing, often in circumstances that suggest the worst, but where certainty has been lacking for weeks, months, years or – in the worst instance – even decades.

One such person is Nolile Nka-Jones, a 56-year-old Uitenhage woman who told the Truth Commission’s human rights violations committee that her three sons had disappeared in 1966 and she still did not know what had happened to them.

She testified that police and soldiers carrying rifles and shotguns had kicked open the door of their home in the Kwa-langa shack area about 1 am on a July morning and called for her sons by name.

"They found Thembinkosi in the house and they took him and loaded him in the Hippo. His cries are still haunting me today," she said.

"Vusumzi and Sabelo, who had been sleeping in their shack in the backyard, also were arrested and loaded into the armoured vehicle."

"About 6 am I was called outside by a Mrs Mambele, who has since died. She showed me pieces of clothing which belonged to my three sons, lying on the road. Sabelo’s ‘skimmer’ was in tatters and bloodstained."

Mrs Nka-Jones collapsed with shock and had regained consciousness in the provincial hospital where she was kept for a day.

Later, she was told that policemen had burned bodies in black plastic bags at St Albans. Also, she heard stories that pigs had devoured these corpses.

She had never reported her sons as missing because “it was the policemen and soldiers who killed my children. The police were the very perpetrators.”

“I also feared being labelled an Umphulumu and being burned,” she said.

Asking the commission to help her find out what happened to her children, Mrs Nka-Jones said “If they are dead I need to know who killed them and why I also need counselling and medical attention.”

Commissioner Mapule Ramashala, a member of the “R & R” committee and a clinical psychologist by profession, agrees that there is a special torment for parents who don’t know what has happened to their children.

She believes the Truth Commission, through its investigative unit, has a special duty to try and find out what happened, not only to missing children, but also to adults who “disappeared into thin air.”

“We need to do this so that the family can be helped to close the book, to say finally, ‘Our children and our loved ones are dead’, because the lingering pain is too much to bear,” said Dr Ramashala.

“People suffering the trauma of disappearances probably would show both psychological and physical symptoms, so to Dr Ramashala.

She had spoken to Mrs Nka-Jones after her testimony and found she had been affected in this way since 1976. “She is not very well and she really does need some help.” And we are recommending that people like Mrs Nka-Jones should be referred for counselling. We’ve identified those who need urgent mental assistance and we’re trying to get them plugged into the system as quickly as possible.”
Worthy candidates for same top law post

An 19196 (2)
HRC resignation stands

Cape Town — Max Coleman wanted to withdraw his resignation as commissioner of the Human Rights Commission, but it had been submitted to Parliament already, the chairman of the joint parliamentary committee on the commission, Bulelani Ngcuka, said yesterday.

The committee, which wanted the HRC to explain why Coleman had suddenly resigned, also wanted a meeting with the HRC because it was concerned that the commission was not living up to expectations.

The HRC's annual report was almost ready to be submitted to the committee, Ngcuka said.

Shortlists for the vacancies would be submitted by each party next Thursday and interviews would take place from October 21-23. — Sapa
‘Used, shunned, betrayed’
De Kock hits at generals

‘Each one was going to try and get amnesty. The very last thing on their agendas is to be discredited.

BY NOUMAN CHANDLER
Pretoria Bureau

Eugene de Kock said yesterday he had been betrayed by former police commissioner General Johan van der Merwe and other top generals.

He displayed visible anger towards his senior police colleagues for no longer supporting him.

“Tik every one of them and the final message to me that they were not giving their support was when I saw them get off a bus outside the Durban Supreme Court and go inside to support General Magnus Malan. They had dissociated themselves from me,” he told the Pretoria Supreme Court.

The final straw was when he heard that General Nick van Rensburg had applied for amnesty to the Truth and Reconciliation Commission but had requested that his name be kept secret.

“Each one was going to try and get amnesty. The very last thing on their agendas is to be discredited. They and Van Rensburg are no man enough to stand up and say I am going to seek amnesty” It was then that I decided to look after myself,” he told Mr Justice Willem van der Merwe.

De Kock said his life had never been the same since Butana Almond Nofemela and Dirk Coetzee – both former policemen – had revealed in 1989 the existence of a police hit squad.

When the 1989 Harms Commisson said, “the interest of higher authority in Vlakplaas slumped dramatically. Headquarters had fallen all over us previously but that all ended. Generals who greeted us how shunned us.”

After the unbanning of the ANC, the Pan-African Congress and the SA Communist Party in 1990, he was told by General Willie van Rensburg that the time had come to “scrap Vlakplaas.”

De Kock told the court “This was my work. The enemy was the ANC, PAC and SAPC. I felt the state had decided we had to go, to cut us loose. My loyalty was to the government and the police. It was absolute. I did not leave voluntarily. It has been made to look as if I took personal General (Krappies) Engelbrecht is the only one who supported me.”

De Kock was originally offered a R145-million retrenchment package but finally left with R1-million.

“When I was told this by Engelbrecht, he was so emotional I thought he would cry. He told me it was unnecessary to buy a house out of my settlement and that before I left I had to put in false claims for R250 000 in order to buy a house. This I did, and later sold it. I don’t feel too happy about this,” he told the court.

He had then tried to become an arms dealer; selling G-5 and G-6 artillery pieces on behalf of a partner called Verster, whom he said worked for the Reutech company, to the Serbian army at a cost of $1.5-million (about R67.7-million) each. The deals had fallen through when the United States got wind of them.

After being arrested by the police in connection with Vlakplaas activities, he had asked a friend to deposit R365 000, US$16 000 and £85 000 in a bank account in Portugal on behalf of his family.

The friend, who is linked to the French Foreign Legion, stole the money and then telephoned him, taunting him.

De Kock disclosed that before he finally left the police, he had spent hours burning tons of files connected with covert operations, while the technical division threw their files into two cement-mix trucks, charred them up and then burnt the documents.
ONLY WAY TO KEEP SYSTEM WORKING

Crisis management an art at Wynberg Court

THE JUSTICE DEPARTMENT staff at Wynberg Magistrate’s Court have decided on a common approach to make the existing justice system work there and beat the problems. Contributing Writer EUGENE HUGO reports

Justice Department officials at Wynberg Magistrate’s Court are becoming adept at crisis management — the only way they can keep an overstretched, understaffed and worn-out criminal justice system operational. This is the situation in one of the most modern courtroom complexes in South Africa where provision has been made for many of the facilities that do not exist elsewhere in the country.

An example is Wynberg’s special G-court which deals exclusively with sexual offences and has an intermediary camera to protect victims from face-to-face confrontations with the accused.

But it has emerged during a Cape Times investigation that Mr Dullah Omar’s Department of Justice is putting a pretty face on a situation in which it is throwing away the only initiative which makes it look good.

Wynberg’s G-court is stagnating and Mitchell’s Plain is screaming for similar facilities to handle the proliferation of child sexual abuse cases. In what was supposed to be a ambitious pilot project, it eventually extended throughout South Africa.

At the same time, Wynberg has to handle an enormous caseload with too few prosecutors, piles of paperwork, witness intimidation and dockets that have gone missing.

Chief Magistrate Van Reenen, while claiming that he has virtually the best lawcourt in the land, waxed fulsome about how he and the prosecutors work together to handle all their problems. One is reminded of the unfortunate Paul Saldanha’s comment about the "most beautiful prison in the world" when Mandela was released.

This cooperation goes to fine detail — they have changed the Yale locks to stop any interference with court documents and as a double security the department has provided 47 steel cabinets in which to file them.

David’s explanation is: "We have accepted that the courts, the magistrates and the prosecutors are overworked. But we have made the system work and we can do this with better courtroom management. We have the complete co-operation of the senior magistrates, including the chief magistrate." Van Reenen says, "Our motto is to assist people and deliver a service to the public.

The message from Wynberg’s Magistrate’s Court is that while there is a serious, they are going to do their best to deliver within its confines.

The chief magistrate and the prosecuting staff are determined to "prioritise" and then try to solve problems. They are looking at:

- Too many waiting trial children in prison;
- The removal of the assess-

sor system, including, if possible, training for the lawyers who give a valuable input in court decisions.

DOLL COMFORT: Social worker Ms Elzabe Dart-Fitchet with the doll.

- The "humane" administration of justice.
- Becoming more user-friendly,
- Getting a legal aid office.
- Introducing new procedures.

Buckling under pressure of sex offence cases

EUGENE HUGO

Senior public prosecutor Mr Frank Davids and attorney-general Mr Frank Kahn are upset that what is happening at G-court in Wynberg.

Their precious baby is being slowly decimated by mindless bureaucracy. G-court is the dust of two Cape Town courts set up exclusively with sex offences — the fruit of co-operation between Khan and women’s organisations.

The court’s high conviction rate is regarded as an indicator of its success, but social worker Ms Elzabe Dart-Fitchet points out that the "good" conviction rate of about 70% is also achieved because cases tend to be selected.

This court illustrates the overload of cases at Wynberg — aggravated by the fact that cases are referred from Langa, Nyanga, Guguletu and Khayelitsha.

Adults can wait up to four months from their complaint, and children face a six-month wait — mainly because of the intermediary system. Cases can then be postponed three or more times, often starting a year after the offence.

Dart-Fitchet notes that even though CapeTown is leading the country in terms of Xhosa-speaking official and the case load is putting an strain on this "model" court.

Davids agrees. He would love to open more of these special courts, but points out that he is short of experienced prosecutors.

There are more than 1 000 applicants, but they are not being filled if only they would understand that if we hire from the bottom we can release more experienced people to do specialised work."
Fight against crime gets R20-m boost

Donation to be used to train judges, magistrates and admin staff

By Waghiel Misbach
Political Reporter

South Africa's ability to fight soaring crime was given a major boost with a R20 million donation by the Canadian Government for the training of judges, magistrates and other judicial personnel.

At a Press conference in Parliament yesterday, Justice Minister Mr Dullah Omar signed a memorandum of agreement with Canadian high commissioner Mr Arthur Peron, which will see the money being used over the next four years for projects including the training of prosecutors and other administrative staff.

The Canadian government will also be sending some of its judicial experts to the country to assist in needy areas.

Omar told journalists that his department had consulted extensively with magistrates, judges, non-governmental organisations and prosecutors before coming to the agreement with the Canadian government. He has the support of the Judicial Service Commission.

He said South Africa could learn a great deal from the Canadian government, which had just become a constitutional state and had drawn up a Bill of Rights.

"We are going through that process right now, so we can learn a great deal from them," Omar said.

A management plan is expected to be finalised in the next 90 days, which will outline the time frames and areas of assistance that need priority.

Omar said there were no strings attached to the agreement and South Africa would have complete control over the project and how the money was spent.

However, this country's Government would keep its Canadian counterparts informed on the progress of the projects to be undertaken.
Legal aid row jeopardises submissions by police

Former police generals have warned they will be unable to make their submission to the Truth and Reconciliation Commission unless police commissioner George Fivaz agrees to pay the legal costs of police wanting to testify.

Negotiations with Commissioner Fivaz's office on legal aid for serving and retired policemen were at a "critical stage", former police commissioner Johan van der Merwe said.

"The date for the (commission) hearing is dependent on the outcome of the negotiations."

If no agreement was reached, it would be "very hard" for the generals to go ahead with their submission, in particular in detailing incidents of gross human rights abuses in which police had been involved, he warned.

At a recent meeting with senior commission officials, General Van der Merwe and former police commissioners Mike Goldenhuys and Johan Coetzee undertook to provide details of about 50 incidents of politically motivated abuses.

The meeting, in late August, took place after Deputy President Thabo Mbeki reportedly intervened to stop the commission from issuing subpoenas to the men.

Mr Mbeki said the generals were assisting the Ministry of Safety and Security with its own planned "truth submission".

Yesterday, General Van der Merwe said for the first time that the only information on the generals had on the 50 incidents had been compiled from court records and police dockets.

"We have said we have a list of incidents which fall within the (mandate) of the commission. We never said those incidents were committed by policemen."

"There is a possibility that police were involved, but it may also have been other security force members or members of MK (Umkhonto weSizwe)."

He said the generals were relying on individual policemen to provide them with details of atrocities.

This could be done only through the offices of attorneys, as it would be illegal for him and his colleagues to "consult with anybody who confesses to a crime."

"If they (the policemen) are not afforded legal assistance that will hamper the proceedings and make it difficult for us."

"It is important that the members should consult attorneys to advise them on how they should proceed."

Without their help, the submission to the commission could not go ahead as there were "very few cases in which the commissioners have personal knowledge", General Van der Merwe said.

A spokesman for the commissioner's office, Director Joseph Nobeni, confirmed the discussions between Mr Fivaz and General Van der Merwe.

"He said the request for legal aid needed to be looked at by the departments of justice, finance and the SA Police Services."

"The matter has various legal implications," he said.

The present policy of funding the legal costs of a policeman charged with criminal offences "resulting from the execution of his official duties" was being reviewed, he said. — Sapa
It's unclear what the exact context of this text is, as it appears to be a mix of unrelated sentences and phrases. Some of the content seems to be discussing a commission, possibly related to a government or bureaucratic role, with mentions of political information and the need to ensure that information is not used inappropriately. The text also references a commission's report and the need to act on its findings.

Despite the apparent lack of context, here is a possible interpretation of the text:

"Questions are being asked about the commission's findings, particularly regarding the handling of political information. It is essential that the commission's report is acted upon to ensure that such information is not misused. The commission's report highlights significant issues that need to be addressed by both the public and government officials."
Two days later generals Van der Merwe, Geldenhuys and Coetzee met Tutu, his deputy Alex Boraine, Ntsbeza and Goosen. At a media conference afterwards, Tutu said it had been agreed the subpoenas would not be issued.

He said the thrust of Mufamadi and Mbeki's intervention had been "that these former commissioners and other high-ranking police officers were ready to co-operate with the commission and [they] thought the use of subpoenas would be counter-productive."

"They were saying — and we have agreed — that they would want to voluntarily make an omnibus submission. Then there would be a supplementary list, in which they would list certain incidents — they spoke about 50 or so incidents where they would be able to speak in general.

A senior officer close to the former police commissioners this week said it was not true that their approach through Mbeki had been merely in reaction to the subpoenas. There had been a series of meetings long before the subpoenas were mooted, laying the groundwork for the generals to encourage their former subordinates to make their own approaches to the commission.

He said it had been proposed that a broadly philosophical document be submitted by the generals to the commission which would not be seen as prosecution in their countries.

He said the generals also needed assurances that security force members would not lose their right to state legal representation, should a matter come to trial in ordinary courts, when a confession is made to the commission. At present, security force members only qualify for state legal representation when they plead not guilty, which they cannot do if they have already confessed to the truth body.

The officer confirmed the generals had mooted the possibility of helping the commission get closer to the truth in an estimated 50 cases, and was ready to put out a signal to former subordinates to confess. But he said that could only be done once the assurances had been given.

"We want to act as a catalyst, but we have to be convinced first, that we don't have the military authority anywhere that we can say to former subordinates, 'Left, right, left, right, you go there.'"
ACRIMONIOUS STORM BREWING

By endorsement Judge Ismail Mahomed as a candidate to succeed Judge Michael Corbett as Chief Justice, President Nelson Mandela may have hangered rather than boosted Mahomed's chances of securing the coveted judicial post.

Mandela's controversial intervention in favour of Mahomed and, by implication, against rival candidate Judge Hendrik Van Heerden, has been a major talking point in legal circles.

Two issues have been central to these discussions whether Mandela's intervention has been helpful to Mahomed and, as important, whether it may lead to a constitutional crisis.

Peter Leon, DP leader in the Gauteng Legislature, believes it may have harmed Mahomed. Describing Mandela's nomination of Mahomed as 'unfortunate,' Leon says 'It may make Mahomed look like the President's man.' Worse still, Leon adds, the furore surrounding Mandela's action may blind the public to Mahomed's strengths as a prospective Chief Justice and even result in him being forced to withdraw.

Leon describes Mahomed as an outstanding candidate, a first-rate lawyer and a man of intellectual independence. He believes Mahomed's appointment as Chief Justice would send an important message to the community.

Dennis Davis, director of the Centre for Applied Legal Studies and a man who is by no means hostile to the ANC, reckons that Mandela's intervention may even work to Van Heerden's advantage.

Under the interim constitution, the Chief Justice is appointed by the President in consultation with the Cabinet and after consultation with the Judicial Service Commission.

After appraising the candidates, the 17-member commission will make a recommendation to Mandela. If, Davis reasons, the recommendation favours Van Heerden, Mandela will be hard-put not to heed it to show that he is not sticking obstinately to his own nominee.

The issue has immersed one of SA's two most important judicial appointments — the second is that of the president of the Constitutional Court — in controversy and raised profound legal and political questions.

Mandela, observes Leon, is obliged to apply his mind to the commission's recommendation on who should succeed Corbett. The question raised by Mandela's intervention is whether he will be able to apply his mind without bias when he has already declared for Mahomed.

Denials to the contrary by the President's Office have not convinced many legal observers that the issue has been foreclosed by his intervention.

Judge JJF Hefer, like Van Heerden a judge of the Appeal Court, observes 'Mandela has told the commission (Mahomed) is my choice. That is the sting of it.'

In the circumstances, it is not clear whether the commission will make a recommendation, he says, adding 'Whatever it does will have to go back to the same man. The legitimacy of that is not beyond doubt.'

Hefer has dismissed calls by the National Association of Democratic Lawyers for Van Heerden to withdraw. He has called instead for Mahomed to withdraw.

'I know Mahomed as an honourable person,' he says. Therefore, in the light of his lack of experience on the bench and in the Appeal Court, the support of Van Heerden by all the permanent Appeal Court judges, and the intervention by the President, he should consider whether it would not be the honourable course for him to stand down.'

Leon's riposte to Hefer is 'Mahomed was kept off the bench for a long time because of apartheid but has served as president of the Appeal Court in Lesotho and Chief Justice of Namibia.'

Since the unbanning of the ANC in 1990, Mahomed has moved rapidly up the ranks of SA's judiciary, he is now deputy president of the Constitutional Court.

Van Heerden, a former chairman of the General Council of the Bar, is a respected figure in the legal fraternity, he has been an Appeal Court judge since 1980 and is praised in an article in the SA Journal of Human Rights for an enlightened dissenting judgment on the State of Emergency imposed by ex-President PW Botha in the Eighties.

A co-author of the article is Nicholas Haysom, now Mandela's legal adviser.

SCANDALOUS DENIAL

A government committed to transparency and open governance, with full accountability, should not accept anonymous gifts in cash or kind.

This statement made in parliament by Deputy Finance Minister Gill Marcus last week is the bottom line in the Sarsfina 2 donor row. It is regrettable that Health Minister Nkosazana Dlamini-Zuma and President Nelson Mandela have failed to grasp its import. Instead, they retreat behind Public Protector Selby Baqwa's finding that she has not acted illegally.

Baqwa recommends that in future anonymous donations be turned down unless the political office bearer, accounting officer, Public Protector and Auditor-General are apprised of the

Continued on page 50
and 'apolitical' judge favoured by his colleagues?

Chief Justice

Mungo Soggot

A CACEMPS has written this week's described Judge Hennie van Heerden as having an exceptional legal mind with an impressive track record on the bench.

He has a low profile — several lawyers were unable to offer an opinion on him. He had had contact with many of them. A master's and Van Heerden was appointed for the job and had given several conservative decisions.

Another academic legal said: "He is austere and unrelenting. He runs a tight but traditional court. "The academic, who asked not to be named, said: "Another academic said: "Judge Hennie van Heerden: He is austere and unrelenting. He runs a tight but traditional court."

Van Heerden, 65, was educated at the universities of Stellenbosch and the University of Pretoria, where he obtained an LLB in competition law. He became senior counsel in 1975, was appointed to the Free State Provincial Division in 1978 and the Appellate Division in 1980.

This week's profile emerges as a voice of reason in academic analyses of the Appellate Division's support of the State of Emergency legislation during the 1980s. In the United Democratic Front's State President in the majority of the appeal bench — who included Judge Jousie Liefer and the then Acting Chief Justice Pierre Rabeau — refused to uphold a lower court's decision to strike down certain Emergency regulations for their vagueness.

The regulations held, among other things, that it was subversive to invite or encourage members of the public to attend a public gathering. The regulations defined a "subversive statement" as one which incited or encouraged an act of omission or commission of a person as threatening the public order or prolonging the State of Emergency.

In an article called "The War Against Law," published by the South African Journal of Human Rights, Professor Frank Hayden and Dr. Frank Hayden said that in this case Rabeau effectively held the courts had no role in checking abuses of power. He said the courts' intervention was not necessary because the executive would control its own excesses of power. After Rabeau left open the question of whether the commissioner had uncontrolled power, Judge Adamson stepped in. He made the "callous assignment" that the commissioner had not been given adequate powers because the state president had called on him to clamp down on "subversive statements" which were easy to identify.

There can be no more effective criticism of this reasoning than that offered by Van Heerden in his dissenting judgment, said Hayden and Frank. Van Heerden held the power given to the commissioner was unacceptable, amounting to carte blanche to amend the regulations.

He also said one of the regulations was defective because, among other reasons, the absence of clear guidelines as to what the commissioner would be unable to decide whether his decision coincided with the opinion of the state president.

Van Heerden: Judge with a low profile

Judge Van Heerden: In the middle of a controversy over whether he should get the job of chief justice.

But he turned such handicaps to professional advantage. A notorious workaholic, he became an authority on the Group Areas Act and won recognition as one of the leading experts on administrative and constitutional law.

He was widely recognised as one of the most gifted creators at the South African bar, on occasion being brought in to capital cases to argue in mitigation as if he were the only one left to argue for the law. He was a respected figure who was always ready to bring in new talent and to help those who needed it.

But when the National Party came to power in 1948, he was appointed to the presidency of the South African Constitution Court — a post for which it was said he had been prepared for many years. He was the last Black South African to be appointed to the Supreme Court of Appeal, where he served until his retirement in 2000.

In retirement, Van Heerden continued to be active in legal affairs, serving as a consultant to several law firms and as a mediator in disputes.

World-class software produced in South Africa

See our online review of LegalWrite, Taxmaster and Pastel SOHO Accounting.
The ‘honorable’ judge who called on Mahomed to back off

Mungo Soggot

T he appeal court judge who called on Ismail Mahomed this week to withdraw from the race for the position of chief justice was a champion of apartheid Emergency legislation during the late 1970s.

Described as a “regressive and regressive” by Professor Nelson Mandela’s secretary, Judge Joost Hefer, set on a string of Emergency legislation appeals with a very good record.

Hefer wrote on an unprecursive manner, in the matter in which the kind of Emergency legislation that was effectively mandated to have been observed.

Among Judge Joost Hefer’s findings was that the “inflexible and disastrous” could serve the purpose for the same case.

Inflexible and disastrous alternatives could serve the common purpose.

The court dismissed the appeal, which granted an extraordinary leave to appeal. In his judgment, Judge Joost Hefer rejected the application for an extraordinary leave to appeal.

Mungo Soggot

"Who’ll be chief justice: the one-time human rights lawyer and gifted orator, or the quiet

Battle lines drawn over..."
Generals hint at details, but turn to torture was contradicted by the
large number of deaths in detention and by findings by “even the
most conservative” judges who had ruled that supposed confes-
sions had been extracted under torture, Ntsebeza said.

No one had ever been suspended or dismissed as a result
in several cases, those involved
had subsequently been promot-
ed, he noted.

“So De Klerk (was) making a
mockery of the entire process.
‘I’ve now heard four histories
about this country – from the NP,
ANC, FPL and PAC – and they are
different’,” he added.

The investigative unit still
believed that its preferred tact-

e of forcing alleged perpe-

trators to testify under oath
through the judicious use of sub-
poenaus would be the most effec-
tive way of uncovering details of
human rights abuses, Ntsebeza
added.

“We must do this now, other-
wise we will be losing credibility
with the public.”

The subcommittees of the ANC
had come closest to what the
commission had hoped for, Ntse-
beza suggested.

“Your may still question their
level of preparedness to say it all
and to say it truthfully – the
Thamalakane story, for example, is
does not wash.

“There’s something they are
not telling about Zulu, but at
least they have listed some of the
things they have been responsible
for, not all of which are com-
plimentary

“The ANC annexed copies of
all the commissions into the
murders and the tortures at
their Angolan camps. They have
talked about people who were
killed by ANC cadres and about
people whom they have unfortu-
nately framed and whom they now
want to rehabilitate.

But, for instance, (Freedom
Front leader) Constand Viljoen
just kept on wanting to horse-
trade with us. He wanted guar-
antees that as a commission you
simply cannot give.”

The NP’s claim that it had
never sanctioned murders and

By JOHN YELD

A submission by former South
African police commissioners to
the Truth Commission contains
more graphs and data than about
the army - according to the
commission’s lawyers.

The lawyers said the tentative
move appeared to be supported
by former South African police
commissioner John van der Merwe
and former South African
Commissioner of national police
General Jack Dlamini.

The lawyer said they had sup-
ported the move and would pro-
spectively support it.

In June, the Pretoria-based
commission asked the police to
testify under oath for a number
of reasons, including the knowl-
dge that the police had been on
the verge of making an agreement
with the army.

In December, the army had
been on the verge of making an
agreement with the police.

The former South African
Commissioner of national police
General Jack Dlamini and the three
commissioners agreed to testify
under oath.

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Wit and wisdom - the case for Mahomed

No contest' in race for chief justice job

OWN CORRESPONDENT

Johannesburg - The nomination of Ismail Mahomed for the post of South Africa's chief justice may have been dogged by controversy, but it is widely believed in legal circles that this commanding figure with a devastating wit is the only man for the job.

It therefore comes as no surprise that whenever the retirement of Chief Justice Corbett crops up in conversation, Judge Mahomed's name is fired back as quick as a reflex action. "By the sheer weight of his credentials, Ismail chooses himself," said one colleague.

So the controversy surrounding his nomination for the post, when President Nelson Mandela openly signalled that he favoured Judge Mahomed above his other rival, Justice Henmee van Heerden, is described as nothing short of "irritating" by friends.

"It is surely disingenuous to focus the debate on the issue of Mr Mandela's intervention," said London-based advocate Clifford Maier, who has served as junior counsel to Judge Mahomed.

The real issue is whether Ismail Mahomed should be the first judge appointed in the new South Africa to grace the high office of Chief Justice. "The simple answer is yes, there is no contest," he said.

It is a sentiment felt widely across the legal fraternity by Judge Mahomed's supporters, who believe the deputy president of the Constitutional Court has too long been excluded of his place on the judiciary. The first black person to be appointed a Supreme Court judge in 1991, Judge Mahomed's face has come to represent a new era for the bench.

Words and a razor-sharp talent for choosing the right turn to turn tided propaganda into poignant exhortations and make legal jargon sound incisive, are his stock in trade. His colleagues at the bar were awed by his command of language.

"He has a sharp ear for saying something just at the right moment," said one. His courtroom repertoire is now almost legendary. "The sharp wit is tied to the personality," said another former junior counsel. "But those devastating epigrams are really part of the moment, and get lost when you take them out of context."

As co-chairman of the group-breaking Codesa talks in 1991, his favourite phrase to those who rambled on and repeated themselves was, "Yes, to endure is not necessary to augment."

"That might sound flat on paper, but coming from a man, it just bounces off the wall with vigour," said one politician.

His defence of Wilfrid Marwani in the Appellate Division in 1981 was considered his severest test at the bar.

Arguing before 11 judges - only the third time in the country's history that an advocate had done so - he won the appeal on the submission that Mr Marwani's conviction under the Terrorism Act in Bophuthatswana was invalid.

Interestingly, his one confrontation with Judge Van Heerden came in the late 1980s, when he appealed the conviction for high treason of Umkhonto we Sizwe member Ebrahim Ebrahim. Mr Ebrahim had been abducted from Swaziland by South African security officials, tried for treason, and sentenced to 20 years imprisonment.

Appearing before Judge Van Heerden, then-advocate Mahomed argued not against the conviction, but on the fact that Mr Ebrahim had been abducted illegally from Swaziland. He won the case and retracted the law on the subject.

Indeed the intensity may be veiled by the no-nonsense tones, but the vocabulary belies moderation. "Yes, he does turn it on a bit for the audience," said one colleague.

But the reality is that this is no act, only a projection of a life-time commitment to alleviating the human rights abuses that history has imposed on himself and his clients. For Mahomed, the public person is the private person and his years as a victim of apartheid have been woven seamlessly into a single fabric.

Ironically, should he be appointed Chief Justice he would have to move to Bloemfontein where, less than a decade ago, legislation prevented him from staying overnight. He was not allowed to stay overnight in the Free State and whenever he had to appear before the Appellate Division he would have to take the overnight train from Johannesburg, which arrived in Bloemfontein at 4am.

He would then sit in station's waiting rooms, sometimes in sub-zero temperatures, waiting for the court session to begin at 9.45am.

"He now chooses to live Bloemfontein and he is a better and more forgiving human being than most of us could be," said Mr Maier.

"For years, even after he took silk, the Group Areas Act denied him the right to have chambers in the city centre and he was forced to 'borrow' friends' offices, at times even reduced to consulting clients in the waiting rooms."

Those close to him say these experiences have left him more sad than bitter and have never impinged on his personal relationships.

"He is an infuriatingly good friend," said a former junior counsel. "He is a deeply emotional person in the best times of the word."

Born in Lautum, where he still lives, Judge Mahomed has been married for more than 40 years and has no children.

He is known to form close relationships with his young staffers and virtually everyone interviewed considered their lives "touched and privileged" by his influence.

"He has not been my boss. He has been my teacher, my mentor and my friend," said one young staffer.

"He has a unique ability to combine passion and compassion with intellect in his approach to life and law," she said.

The flip side of his passionate commitment and intellect is an arrogance that makes him bluntly impatient with anyone less smart, less quick and less decisive.

"It's true, he does not suffer fools gladly," said one advocate.

But there is no question of the authenticity of his commitment, the ferocity of his passion to end injustice and to seek out the loopholes when all else seems doomed.

Some of the countries best advocates - Gilbert Marcus, Shaun Naidoo, Paul Kennedy, Clifford Maier and Martin Brasse - have acted as his junior counsel and have come through as his protégés.

"I am not ashamed to say that he frequently made my life a misery," said one advocate, who put in an 18-hour stretch over a weekend preparing for a treason trial during the mid-1980s.

"But he has this extraordinary sense of discipline and he exacts the same standards from his juniors," said one.
Bisho massacre: Did jumpy troops panic?

Questions remain after TRC probe

JOHN YELD
ON THE TRUTH COMMISSION

Were 29 people shot to death during the infamous “Bisho massacre” because a South African police helicopter firing overhead sounded like gunfire to terrified Ciskei soldiers? That unfortunate possibility emerged from testimony during last week’s special Truth Commission hearing which provided some answers but left several questions hanging.

Several victims of the massacre on September 7, 1992 insisted they had heard shots being fired from a police helicopter flying overhead as they made their way towards the Bisho stadium.

This claim was contradicted by ballistics expert Jacobus du Plessis, who told the commission he had not found any evidence of shooting from the helicopter.

In response to a question by commissioner Denzil Potgieter, Mr Du Plessis said the blades of a helicopter banking sharply could make a sound like gunfire, although he was hesitant to suggest this as an explanation.

The commission heard from former senior Ciskei Defence Force (CDF) officers, including chief Marius Oelschig, that they had instructed troops to shoot at marchers only after the soldiers had reported they were under attack and being fired at.

General Oelschig confirmed that he had been at the top of the chain of command and had issued the order to fire.

But, the commission also heard, there was no ballistic evidence to support the claim that Ciskei troops had been shot at.

Some observers suggested this left only one possible conclusion: the Ciskei troops, already terrified by the size of the crowd and the rumors that a detachment of Umkhonto weSizwe (MK) cadres would lead an attack on them during the march, had panicked when they heard the “gunfire-like” noise of the helicopter and believed they were being fired at.

Observers at the commission’s hearing also remarked on what appeared to be a significant discrepancy in evidence about the shooting: the time taken by soldiers to respond to the supposed “attack” by marchers.

It was common cause that senior ANC leader and current Deputy Defence Minister Ronnie Kasrils, accompanied by colleagues Chris Hani, Smutts Nyongyama and Linda Mu, had led a charge by a “flanking” group of several hundred marchers through an airfield flattened section of the perimeter fence around Bisho stadium.

It was thus that triggered the first shots.

This is composite reconstruction of CDF communications via a radio network:

- An unnamed major reports to field commander Vakele Mkosana that a crowd of marchers is “coming forcefully” towards them and that his troops are being shot at.
- Colonel Mkosana reports to Dirk van der Bank, CDF commander who was standing on the roof of the National Assembly building, that soldiers are being shot at. He asks for orders.
- Colonel Van der Bank instructs him to hold fire and asks Brigadier Oelschig, inside the building, whether he has been monitoring this exchange.
- Brigadier Oelschig says he has.
- Colonel Van der Bank asks Brigadier Oelschig whether the field commander can give an order to open fire.
- Brigadier Oelschig tells Colonel Van der Bank to confirm the soldiers are under fire.
- Colonel Van der Bank asks Colonel Mkosana for confirmation.
- Colonel Mkosana (presumably after another exchange with the unnamed major) confirms.
- Colonel Van der Bank passes on this confirmation to Brigadier Oelschig.
- Brigadier Oelschig then gives the order for the troops to fire, “meaning those who were in immediate danger”.
- Colonel Van der Bank conveys this order to Colonel Mkosana.
- Colonel Mkosana tells the major the troops can fire “with minimum force”.
- The major relays the order to an unnamed captain for the troops to use “single shots”.

Truth Commissioner Dumisa Ntsebeza, who heads the commission’s investigative unit, said he was not aware of the theory about the noise of helicopter being to blame, but agreed there were still crucial gaps in the explanation for the massacre.

“If I look back on the evidence, it may well be that the soldiers believed the noise of the helicopter was shots being fired. Because of the state in which the soldiers were at that time, they were ready to believe anything,” Mr Ntsebeza said.

Although properly trained soldiers should have been able to distinguish between the noises of shots being fired and a banking helicopter, the intelligence reports which had been fed to the Ciskei soldiers in the run-up to the march – such as the “planned MK attack” – had made them nervous. “So anything that sounded even remotely like gunfire could have been interpreted by them as gunfire.”

But the problem is it is not the soldiers who should be asked what question – it should be directed at Colonel Dirk van der Bank, but unfortunately he also stayed away from our hearing. What exactly was it that he heard over the radio that made him seek the authority from General Oelschig to open fire?”

Mr Ntsebeza said he was inclined to believe Colonel Mkosana’s version of events, that he (the colonel) had ordered a small detachment of soldiers who genuinely believed they were under fire to shoot back, using minimum force, and that those soldiers deployed at other points had never been ordered to shoot.

“It was the soldiers elsewhere who started to shoot at people who were not threat to them. Not only were these marchers not going through that gap in the fence, but in fact they were trapped on Colonel Mkosana’s own evidence, soldiers became excited and they acted contrary to orders.”

Brigadier Oelschig said, and indirectly, Colonel Van der Bank had failed to condemn an obvious act of indiscipline; Mr Ntsebeza said “And in fact Oelschig still perpetuates the view that this massacre was a set-up and that the ANC has to assume sole responsibility.”

“This is rubbish – all the evidence shows the conduct of those Ciskei troops was reprehensible, they just went crazy. And this is something that Oelschig would have known immediately from the board of inquiry instituted by the CDF.”
Generals not co-operating, says TRC

Cape Town - Former police generals were deliberately putting obstacles in the path of the Truth and Reconciliation Commission's investigations and making unreasonable demands before agreeing to testify in full, Dumisa Ntsebeza, the head of the TRC's national investigations unit, said yesterday.

"They are interested in horse trading, asking for things I cannot guarantee," he said.

These included assurances from the commission that they would be immune from prosecution in neighbouring countries and that their legal costs would be covered.

At a recent meeting with senior TRC officials, former police commissioners Johan van der Merwe, Mike Geldenhuys and Johan Coetzee undertook to provide details of about 50 incidents of politically motivated abuses.

Van der Merwe said on Friday that if no agreement was reached as to who would cover legal costs, it would be "very hard" for the generals to go ahead with their submissions.

Ntsebeza downplayed reports that the commission was at loggerheads with Deputy President Thabo Mbeki after he apparently intervened to stop the commission issuing subpoenas to the generals.

"I don't know if we are making a mountain out of a molehill," said Ntsebeza.

While he accepted that Mbeki had acted in good faith, he said the commission's timing had been disrupted because the generals would now be able to examine the testimony of convicted hit-squad killer Eugene de Kock before testifying.

The commission had lost the advantage of having them testify first, he said - Sapa.
Death penalty poll demand

An overwhelming majority of readers in The Star's survey want harsher penalties for rapists, murderers and hijackers.

By Graham Rees
Marketing Editor

An overwhelming 93% of readers who have responded to The Star's "Tell it to the President" survey have demanded a national referendum on the reintroduction of the death penalty. 973 replies from all ethnic groups have been analysed and only 7% were against the referendum.

Of those, many were strongly in favour of life imprisonment without remission for murder, and much harsher penalties for rapists, hijackers and child molesters.

At least 90% of the readers believed the current crime wave called for special measures to combat it.

They believed the temporary introduction of emergency regulations and the suspension of some civil rights would be justified.

One reader, who preferred to remain anonymous, wrote: "No murderer or rapist has ever committed another crime after being hanged. That is a deterrent."

Among the minority against capital punishment, Albert Mangena said: "Most of the black people are poor and cannot afford to pay lawyers. In this way it is only black people who will be hanged in great numbers."

B Islam of Fordsburg said: "If democracy supports the majority view, then the death penalty must be brought back."

An Esterus, a woman, N Makalane, wrote: "Mr President, I feel the people who commit all the murders, hijackings and rapes are slapping you in the face after you spent 27 years (in jail) for our freedom. That is how they repay you."

Graham Dlamini of Dobsonville called for the referendum and stronger measures by the courts against criminals.

He also wants to see more black magistrates appointed.

"People prepared to trade a life, forgo the right to live their own," a Cranefield couple, W. and N Pretorius, said.

Writing from Kyalobang, Jabulani Lshabalala said: "The power of the Government is vested in the people and is subject to the people's will."

He also called for the death penalty.

"The victim also has a right to life," was the view of D Meyer of Randburg.

"What the hell happened to..."
Death penalty poll demands

and democracy? asked pro-hanging R Steenkamp of Brompton.

"Andrew Rex" of Randburg said: "Since the ANC came to power, the crime rate has become increasingly evident. Having explored alternatives and failed, the death penalty seems a plausible option."

Pro-hanging Prince Patrick Dlamini from Mpondoland in KwaZulu Natal said: "If South Africa is truly democratic, then it is definitely our right. The Government should and must listen to our laments about crime."

Respondents to other sections of the survey were equally divided on the question: "Do you believe police corruption to be as bad as ever?" The vote was exactly 50-50.

There was a large majority who believed they were already paying enough taxes to enable the Government to provide adequate protection for themselves, their families and their property.

The Star has received wide support for the continuation of the "Tell It" survey, and many topics have been suggested for the future.

Top of the list of topics suggested for the next survey was again one for the president. That is: On the Government's qualifications to run the country efficiently and the issue of accountability.

Next was the subject of education, with taxation and the national revenue service, abortion and child abuse all getting strong support as well.

All replies to the survey will now be sent to the Office of the President with the request that they are studied and a reply given to the concerns voiced by readers.

The Star's campaign against crime goes a step further next week when we link up with a major national financial institution to test in even greater depth the feelings of readers on the prevention and punishment of those who break the law with no respect for life or property.
Co-operate or face search and seizure. TRC warns military demands are unreasonable.

Ex-Generals
Will the JSC be a rubber stamp?

Gerald Gordon

The final result will be a rubber stamp, without President Mandelas not taking on a new office by the passage of the 'Commission on the JSC Act'.

The Constitution, which is a living document, allows for the establishment of the JSC, and its powers and duties are defined in the Act. The Constitution also provides for the principle of accountability and transparency in the workings of the JSC.

The JSC Act contains provisions that ensure the independence and accountability of the JSC. The Act also provides for the appointment of members of the JSC, including the Chief Justice, as well as the removal of members of the JSC.

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Coleman’s resignation from commission ‘stands’

Renee Grawitzky

Coleman said he had submitted his resignation in July and at no time had he contemplated withdrawing it. “The die has been cast”, he said. A number of members of the commission had tried to persuade him otherwise, but “my resignation stands”, he said. He rejected the notion that the report of his change of heart was an attempt to force him to withdraw his resignation.

Coleman said he had resigned for personal reasons, which he would not elaborate on. His term of office expires at the end of next month.

MAX Coleman said yesterday there had been no truth in reports last week which implied that he had had a change of heart and wished to withdraw his resignation from the Human Rights Commission.

It was reported last week that Bulelani Ngcuka, chairman of the joint parliamentary committee on the human rights commission had been quoted as saying that Coleman had wished to withdraw his resignation, but it had already been submitted to Parliament.
Events leading to Duncan Village massacre recalled

EAST LONDON: A violent uprising in Duncan Village in August 1985 was suppressed by police and troops who sealed off the township, cut electrical supplies and telephone lines, and then went on a shooting spree, the Truth and Reconciliation Commission heard yesterday.

At least 23 people were killed and scores injured in clashes between residents and the security forces in the days after the funeral of slain activist Mrs Victoria Mxenge, widow of murdered human rights lawyer Mr Griffiths Mxenge, the commission was told.

The commission is holding a two-day event hearing on the week-long wave of unrest, which became known as the 1985 Duncan Village Massacre.

In a five-page submission on the shootings, the ANC called on the commission to ensure that victims' families and survivors were "reasonably compensated".

It also apologised for what it called "excesses" committed in the township in its "just war against the apartheid state".

ANC MPL Mr Joe Jordan admitted innocent residents had been targeted as informers and collaborators by the "very communal organisations that should have protected them".

Those at the forefront of organising community resistance had been forced to resort to "desperate measures" to keep the community together, he said.

The measures had included the merciless treatment of informers, the setting up of people's courts to maintain order and discipline, and a community ban on alcohol consumption.

In detailing the steps taken by security forces to crush the uprising, Jordan said in one incident a military Casspir had driven over a car used to transport shooting victims to hospital, killing a local activist.

The soldiers had set up bases around Duncan Village and had turned the township into a "war zone".

Jordan said Victoria Mxenge's funeral had triggered the violence in which five offices, barracks and homes of collaborators and policemen had been burnt down.

"The golden rule, however, was that no person should be harmed or killed."

The SADF and the riot unit had started shooting at everyone they came across in the street.

Farmer's killing a senseless act — wife

KLERKSDORP. The wife of a Swartkops farmer killed by guerrilla fighters in 1978 in the Thabazimbi area, yesterday told the TRC's human rights violations committee that South Africans should learn violence was not the best method to solve problems.

Mrs Susan van der Merwe, who had been shot in the head by guerrilla fighters, had disappeared on November 1, 1978.

A search for him continued until several years later, when she was informed he was dead.

Van der Merwe said her husband's killing was unnecessary because he was a good man.

She said she wanted to find her husband's body to give him a proper funeral.

"Her family wanted to know why the freedom fighters killed her husband and what they gained from his "senseless killing", she said.

Hospital superintendent helped to find suspects

EAST LONDON. A former superintendent at Frere Hospital here co-operated in the police search for shooting victims of the Duncan Village massacre in August 1985, the Truth and Reconciliation Commission heard yesterday.

A spate of arrests at the hospital had prompted township residents to set up a first-aid post at a Roman Catholic church for the scores of people injured in clashes with security forces, the ANC said.

During the week of violence that followed the funeral of Mrs Victoria Mxenge, security forces blocked entrances to the township, preventing many wounded people from seeking proper treatment. Those wounded who managed to get to Frere Hospital were arrested by police, said Mr Joe Jordan, an ANC member of the provincial legislature.

"The acting superintendent had a negative attitude towards the people. When we asked him why our people were being treated in this manner, he said they had been involved in a riot against the government."

Jordan said East London's then-director surgeon, Dr Basil Wagnee, had "suspended" relatives of those shot.

"He was very negative. We cannot forget him. I would be glad if he could give evidence on his role," — Sapa
Official investigations at Winfield may hold the key

Bid to unravel middle of blackbag

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TRC asks for full list of officers

Doctors and lawyers of victims have been asked to make submissions

By Mzimasi Ngudle

The TRC, the Truth and Reconciliation Commission, yesterday asked former security authorities for a full list of officers who were in charge during the 1985 Duncan Village massacre.

Addressing the last day of the commission's hearings in Gomo, near Duncan Village, East London, Finca also asked doctors who treated the victims and attorneys who represented them to make submissions to the TRC.

Meanwhile, the two-day hearing saw tears streaming down the faces of widows and mothers of those who died.

Survivors related their close brush with death when former South African Defence Force members went on a shooting spree, killing 23 people and injuring 138 others in 1985.

The violence erupted after the funeral of activist Mrs Victoria Mzimane.

Sports Minister Steve Tshwete, a former activist who came out from hiding to deliver a militant speech at the funeral on August 11, 1985, was one of many speakers who sparked the ire of residents in their fight against state-imposed councilors, forced removals and rent increases.

“People were shot at randomly, even when going to the toilet,” said Mrs Msimiyelwa Zanzisa, whose husband was shot dead by the SADF while going to buy milk from the shop.

Mrs Jane Mxoli said her son Nothobuzo Suthu died instantly after he was shot by the SADF on August 13, 1985.

Mrs Nonkululeko Ngcuka said the SADF shot dead her eight-year-old son, Thembekele, who was playing with other children near Douglas Smith Highway in Duncan Village.
Bosses of fired workers must ‘explain actions’

EAST LONDON - The managing directors of companies which dismissed workers wounded in the 1985 Duncan Village massacre are to be called before the Truth and Reconciliation Commission to explain their actions, it was announced yesterday.

The SA National Defence Force and SA Police Service would also be asked as a "matter of urgency" to provide the names of senior officers based in East London during a violent uprising by Duncan Village residents in August 1985.

The uprising followed the funeral of slain human rights activist Mrs Victoria Mxenge, widow of murdered lawyer Mr Griffiths Mxenge. At least 23 people were subsequently killed and scores injured in clashes between residents and the security forces.

The spate of deaths, referred to as the Duncan Village massacre, had left the former NP government "cold!", Eastern Cape commissioner Mr Bongani Finca said.

"We were being asked if the commission completed a two-day sitting on the massacre. "No judicial inquiry was ordered into the event," he said.

"According to the evidence placed before us even so-called opposition parties, who claim to have clean human rights records, did nothing to force the government to order the inquiry,"

Finca said the commission was not in a position to close its file on the massacre, as many questions remained unanswered. A second hearing would be held when army and police officers would be called to give evidence.

"We also need the names of doctors and other medical staff who were in charge of the hospitals treating the victims of the massacre," he said.

The commission heard on Monday that a spate of arrests at Frelle Hospital in East London forced Duncan Village residents to set up a first aid post at a Catholic church to treat massacre victims.

Finca said the managing directors of companies which dismissed workers wounded in the violence would also be called to testify.

Among the companies named in testimony yesterday were National Converter Industries (NCI), Flascos Paint and Hemlone Electricals.

Mr Rogers Gqigze, who was shot in the spine when police allegedly opened fire on a crowd of protesters at the height of the unrest, testified yesterday that he had been sacked by NCI on his return to work. — Sapa

Mother tells of infant's death by police teargas

EAST LONDON: A 16-month-old baby became one of the first fatalities of a security force crackdown on Duncan Village township in August 1985 after inhaling teargas.

The TRC was told yesterday.

The commission also heard more tales of random shootings by soldiers on the second day of its special hearing on the 1985 Duncan Village massacre.

The "massacre" refers to the security force clampdown on a violent uprising by township residents which left 23 dead.

Mrs Norette Wilt told the commission how her infant son Goodbye was injured on the first day of the unrest, following the funeral of human rights lawyer Mrs Victoria Mxenge.

Wilt said she had been at home with Goodbye and her husband when police fired teargas canisters in the direction of her shack.

"As we went out another canister landed near the door. We were forced to run away with the child." Shortly afterwards Goodbye developed respiratory problems.

The following day Goodbye was admitted to Frelle Hospital.

"When the doctor examined him later that day she was told he had died. "I would like to request that an investigation be done into the death of my child," she said. — Sapa

Lebaleng residents speak of suffering

KLERKSDROP: The core of submissions to the Truth and Reconciliation Commission sitting in Klerksdrop yesterday focused mainly on the sufferings of the people of Lebaleng township in Malawesime from the mid-1970s to the early 1990s.

Six of the 11 witnesses told commissioners the police had made their lives unbearable, harassed them continually, beat them and injured their genitals for crimes they had not committed.

Ms Kedibone Cynthia Morake and Mr Thabang Regnald Mopeola told of their suffering.

"We were being arrested with our families, we were being arrested at home. We were being attacked on the streets by residents, and we were being beaten up by the police."

"They were then taken to a Suthonten police station, where the torture had continued."

"Mopeola said the police had tortured him, injuring his genitals, resulting in sexual problems and his inability to father children."

"An elderly Leuudoringstad woman, Ms Meriam Mmolawa, told of constant harassment and torture her family endured from the police in the late 1980s."

"Her husband had been continually beaten and harassed by police, who accused him of encouraging a "black spirit" and inciting the youth against coloured people."

"Mrs Helena Kroon de Kock said the hatred of people who lacked vision for a changing South Africa had led to the bombing of a private school in Klerksdrop late in 1991."

"The trouble had been sparked by one "beautiful little black girl" being admitted. The town council had refused to register the school."

"Mr William Nxaxo, a taxi driver from the Oosdal township of Letsopa, said he had been assaulted by four AWB members who had found him and friends in a parked car at September 1990."

"They had then been taken to a police station, where the torture had continued. — Sapa
KLAAS DE JONGE TO HEAD OPERATIONS

TRC to extend probe to Europe

The Truth and Reconciliation Commission (TRC) has extended its investigation into the affairs of former South African President Jacob Zuma, who is alleged to have been involved in the country's apartheid regime. The TRC has also expanded its investigation to include the activities of former South African Police Minister Bheki Cele, who has been accused of corruption.

The extension of the TRC's investigation follows a series of allegations made against Zuma and Cele, including allegations of corruption and mismanagement of public funds. The TRC has been investigating the activities of former South African leaders and officials, including former President Thabo Mbeki, who was in power during the apartheid era.

The TRC's extension of its investigation to include Zuma and Cele is seen as a significant development in the country's efforts to address past human rights abuses and to promote accountability and justice.

The TRC was established in 1995 to investigate past human rights abuses during the apartheid era and to recommend reparations to victims. The TRC has been praised for its work, but has also faced criticism for its slow pace and lack of resources.
Truth commission to raid Cape naval base

CAPE TOWN — The truth commission’s investigating unit will make its first “raid” on a military facility today when it visits a Cape naval base to “take possession” of certain material.

Unit head Glenn Goosen has confirmed that SAS Wingfield, one of a number of bases that served as a base for elements of military intelligence, was visited last week.Media reports that the unit had conducted any raids were incorrect, he said.

Goosen’s statement comes in the wake of predictions of a serious collision between the commission and the SANDF over access to files.

It was confirmed that when the SANDF was approached for material held in Western Cape bases, the investigations unit was told it would need a search warrant.

Goosen said members of the investigations unit would be holding further discussions with Maj-Gen J A Klopper, a former head of military intelligence, who has been appointed the liaison officer between the commission and the SANDF. Klopper heads up the so-called nodal point established to improve communications between the commission and the SANDF.

These developments follow criticism by overall TRC investigations head Dumisa Ntsebeza of the way in which the nodal point is operating, and his vow that the commission will have to get tough if it is blocked from gaining access to military files. He said that he would not hesitate to use subpoenas.
PAC President Clarence Makwetu chairs a news conference at the organisation's convention in Mamelodi outside Pretoria.

PAC to set up own truth commission

Nomavenda Mathiane

THE PAC would establish its own truth commission, to be chaired by Bishop Stanley Mogoba, PAC political commissar Johnson Mlambo said.

This emerged yesterday at the three-day PAC convention held at the Mamelodi Vista campus outside Pretoria at which the organisation resolved it would continue with the liberation struggle until Africans were politically and economically liberated.

Convention organiser Ike Mafule said the party had achieved the purpose of the convention, which was to unite PAC members and reintroduce a culture of open debate in keeping with PAC tradition.

The convention followed a decision taken at the Bloemfontein congress in April where delegates were outspoken about lack of confidence in the leadership, and blamed it for the party's failure to win both the 1994 national elections and local government elections last year.

Issues discussed at the convention ranged from whether the party was relevant to the present SA, whether to change its strategies or abandon its principles, and how to position the PAC in the new political dispensation.

Inside sources said the party also took a critical look at itself.

Several members who had been in exile told how fellow members had abused them while they were in other countries, which led to the decision to set up an internal truth commission.

In one debate, PAC president Clarence Makwetu accused MP Patricia de Lille of making media statements about anonymous assassination calls made to her without telling him about them. De Lille said she had several times informed Makwetu and nothing had come of it. She said she had reached a point where she trusted none of the security structures, be they those of the state or the PAC.

Resolutions adopted included a leadership training plan in preparation for the party's December elections.
Law Commission finds banning of polygyny to be ill-advised.
PAC sets up own 'truth commission'

By Pamela Dube
Political Reporter

Party has never publicly admitted human rights abuses in exile

Azanian Peoples Liberation Army and PAC leaders were notorious for abusing their positions. In some cases, members complained of torture.

APLA cadres complained of being denied access to educational institutions and also accused some leaders of nepotism. This sometimes led to cadres being denied United Nations scholarships.

The convention decided to establish "its own truth commission" to investigate these allegations.

PAC secretary for political affairs, Mr Johnson Mlambo, said the commission, to be established soon, would be headed by Bishop Stanley Mogoba of the Methodist Church.

The admission of abuses by the PAC, however, did not come as a surprise to the rank and file.

Just like the ANC, the PAC in the past used to complain about infiltration by agents of the National Party government. This led to innocent cadres being tortured. But unlike the ANC, the PAC never went public about its human rights abuses.

During a submission to the Truth and Reconciliation Commission last month, PAC president Mr Clarence Makwetu did not touch on alleged abuses particularly in its military camps in Tanzania.
Madiba won’t even review death penalty

Public concern about the matter due to lack of information

President Nelson Mandela yesterday rejected calls for a review of the death penalty, saying public concern about the matter was due to what he called a lack of information.

“I will not even ask that the matter be discussed in the national executive committee of the African National Congress,” he told reporters in Pretoria.

Recent surveys have indicated the majority of South Africans favoured the return of capital punishment.

In a poll conducted by a Johannesburg newspaper, 93 percent of its readers demanded a national referendum on the reintroduction of the death penalty.

Mandela said the Constitutional Court had ruled that capital punishment was contrary to the Constitution.

“There is going to be no review whatsoever,” he said. “Our task is to indicate the strategies that should be adopted if we want to reduce the level of crime.”

Mandela earlier met the SA Human Rights Commission, which stressed human rights should not be disregarded in the fight against crime.

Welcoming Mandela’s stance on the death penalty, commission chairman Barney Pityana said South Africa should remain faithful to the Constitution in dealing with crime.

“In all the discussions about crime, very little cognisance is given to the importance of our constitutional responsibility in terms of human rights.”

“It appears that there is a great deal of ignorance or lack of confidence in the capacity of the criminal justice system to deal with crime,” Pityana said.

Gathering momentum

Mandela said the tide against crime was gathering momentum.

“We do not want to arouse false expectations, notwithstanding the success we have achieved in our strategies.”

The anti-crime plan, which had proved to be successful in KwaZulu-Natal, was being put into action in Gauteng.

“We believe that we will be able to bring down the high level of crime in the province in due course,” Mandela concluded. — Sapa
Ban on death penalty stays, says Mandela

President Mandela said yesterday he would not consider repealing the death penalty despite a survey in The Star that showed 93% of readers wanted a referendum on hangings to combat increasing violent crime.

"There will be no review by this government. We have outlawed the capital sentence," Mandela said.

Rapidly escalating crime, from car hijackings to commercial fraud, is a main obstacle cited by the business community to economic growth and by South Africans who are leaving the country.

A poll published this week by The Star showed only 7% of its readers, of all ethnic groups, opposed a return to state hangings.

Of those many wanted life imprisonment without remission for murderers.

The majority wanted a state of emergency introduced and said a suspension of some civil rights was justifiable to counter the nearly 2 million serious crimes reported last year, including 18,983 murders and 66,838 robberies.

But Mandela said the death penalty went against fundamental human rights and was an outdated answer to crime. "Our task is to go to the grassroots, to modernise them and indicate the strategies that should be adopted if we are going to bring down the level of crime."

Pledging his faith in anti-crime measures begun during his two years in office, Mandela said a campaign to root out corruption in the police force had led to the arrest of 108 officers between July 1994 and June this year.

"So, the tide against crime is gathering momentum. We believe that in due course we will be able to bring down the high levels of crime," the president said.

The crime wave prompted Justice Minister Dullah Omar to announce recently that the ANC would reassess its opposition to the death penalty.

But Mandela has always made clear that state hangings are repugnant to the human rights culture he wants to uphold. — Reuters
TRC raids navy base to secure documents

TRUTH and Reconciliation Commission investigators — armed with a search warrant — retrieved a batch of documents from the SAS Wingfield naval base yesterday.

But the base's Commanding Officer, Commander Gerry de Vries, expressed "surprise" at the particular documents the investigators had requested, saying that they contained "nothing".

"If the Defence Force was involved in any dirty dealings then we (the navy) certainly don't know anything about it," said De Vries, who described the TRC visit to his base as something of a "fishing" expedition.

It was the first time TRC staff — or anybody else — had entered a naval base with a search warrant to take possession of highly-classified documents. But it is unlikely to be the last.

"Such a visit in future may require other documents and encounter procedural problems which prevent us from doing so we will have no hesitation in executing a search warrant," said TRC Western Cape media spokesperson Mxolisi Terreblanche.

The TRC's investigating unit would be going through the documents to satisfy itself it had retrieved the correct information, and would return if it required additional documents, she said.

Terreblanche refused to reveal the nature of the investigation, saying that doing so could "compromise" the particular investigation.

However, it is understood it could be related to military-style attacks on anti-apartheid activities at the height of the struggle against the previous regime.

TRC investigators previously took documents from the Youngsfield military base near Wynberg, but they met with resistance when they tried to conduct a similar operation at Wingfield.

Last Friday they left Wingfield empty-handed when they were prevented from taking the material in spite of having obtained a search warrant.

However, after what the TRC described as "protracted negotiations" yesterday, they left Wingfield with the documents.

Former Broederbonder asks Tutu for forgiveness

OWN CORRESPONDENT

PRETORIA: Truth and Reconciliation Commission chairman Archbishop Desmond Tutu was faced with hard-hitting truth and forgiveness here last night when a former foe stepped out of an audience and asked for forgiveness.

Tutu was the speaker at a Rainbow Nation celebration at the University of Pretoria last night when former member of the Afrikaner Broederbond, Pastor Blackie Swartz, stepped up to the podium and recalled how he witnessed the mistreatment of the archbishop.

Swartz said he was working with the defence force on a security operation on the border of the former self-governing state of Venda in the early 80s.

The archbishop — who was the general secretary of the South African Council of Churches — came to the border post and I saw how he and others were manhandled by soldiers, he said.

As a Christian I must ask for his forgiveness because as a Christian I did not speak up for him and help him when I was in a position to do so.

Tutu and Swartz then embraced.

Tutu told the small audience that if only a third of former Vlakplaas commander Eugene de Kock's testimony is true, it should serve as a reminder of all that has been accomplished since 1994.

There's been an incredible transformation in this country. We have very short memories, making people forget that we were on the verge of an awful bloodbath just before 1994 elections, he said.

Referring to the TRC's request that the SANDF reveal the names of soldiers involved in the 1985 Duncan Village massacre in the Eastern Cape, he said more names of army personnel involved in similar massacres should also be forthcoming.

Particular events such as these serve as a window on this type of activity.

We would obviously want the judiciary, the medical profession and business to come forward and state what their role in this tragedy was, he said.

The TRC already indicated earlier this week that the managing directors of companies which dismissed workers wounded in the Duncan Village massacre will be called to explain their actions.
Rights body unveils proposals on racism

PRETORIA — Proposals that racism be outlawed in SA were released by the SA Human Rights Commission in Pretoria on Wednesday. It also recommended all public and private institutions be subjected to an annual racism audit by an independent evaluator.

"Such an audit should have the same force in law as a financial audit, and the results should be published," the commission said in a report recently submitted to the government.

It had been compiled after a request by the UN to the government earlier this year for information on what SA was doing to curb racism and racial discrimination. The matter was referred to the commission, which drew up a proposed programme of action. The recommendations were adopted by the commission last week.

The commission proposed legislation to declare all forms of racism and racial discrimination punishable offences.

Such legislation should outline national policy guidelines on affirmative action, procedures to ensure compliance, and incentives for promoting good race relations. The SA Law Commission should amend all laws perpetuating racism and racial discrimination.

It said a commission member should be appointed as public investigator to inquire into
Meets the 'Eye' of the President Mandela's Invention in the Country for Our Interest Thai
TRC to rethink amnesty cut-off date

**By Robert Brand and Sapa**

A possible extension of the December 6 1993 cut-off date for amnesty would be a "major item" on the agenda of the Truth and Reconciliation Commission's next meeting, commission deputy chairman Dr Alex Borane said in Cape Town yesterday.

Borane said commissioners had already discussed the matter but felt that it needed to be debated formally at a full meeting of the 17-member panel, Sapa reports.

The commission is due to meet on October 7.

Borane said there were mixed feelings among commissioners on extending the cut-off date. While some believed the date should remain fixed, others were pushing for it to be moved to May 10, 1994, the date of President Mandela's inauguration.

Freedom Front leader General Constand Viljoen recently told the commission the present cut-off date discriminated against Afrikaners who had committed politically motivated offences after December 6. He said he was unable to 'encourage supporters to appear before the commission as they could incriminate themselves.'

The commission is going ahead with preparations for a submission by officers of the former SA Defence Force on Monday despite the military's "unilateral" cancellation, Borane said.

"It is totally unacceptable to issue a one-liner to the media calling the meeting off. We can see no genuine reason for the delay. We are expecting the submission to be made at 10am on Monday as per arrangement," Borane said.

He added that he was "extremely angry and annoyed" by the cancellation.

SA National Defence Force spokesman Major Fanze Pretorius said the submission had been cancelled because of "unforeseen delays in obtaining certain inputs" from the officers concerned.

The SANDF claimed it was the commission last week having access to documents at military bases, and the cancellation has plunged the relationship between the TRC and the military to new depths.

Pretorius denied the SANDF was unwilling to co-operate with the commission, saying Monday's submission would have been on behalf of members of the former SADF. The SANDF was preparing a separate submission, which would be made at a later date.

A spokesman for the defence department said a retired officer would attend Monday's hearing to ask for a postponement.
Mandela promises tight bail conditions

PRETORIA — Legislation to tighten bail conditions would go ahead despite threats by "idealists" to take the government to the Constitutional Court over the matter, President Nelson Mandela said yesterday.

"We are prepared for that," he told reporters after meeting an SA Council of Churches delegation at the Union Buildings in Pretoria. Mandela said he had assured the council that legislation on stricter bail conditions would be introduced during the current session of Parliament.

"But I must point out, these are not easy issues. Among us we have idealists... who are not concerned with what is happening on the ground."

These people were of the opinion stricter bail conditions would be contrary to the Bill of Rights.

He said he agreed with the delegation that there was widespread dissatisfaction about crimes committed by suspects out on bail. "We had to listen to this outcry, and we will be introducing legislation to tighten bail conditions."

In a memorandum handed to Mandela, the council delegation said crime was affecting every facet of life in SA. The delegation expressed concern at education subside cuts, saying this was aggravating the crime in education, as well as in church schools.

On vigilante groups, it voiced understanding for communities striving for security, but said it could not condone such behaviour. The delegation pledged the council's support of government efforts to fight crime and violence, and said a church campaign in this regard would be launched.

Mandela also renewed calls on skilled South Africans not to leave the country, saying their expertise was vital to transformation.

Reacting to reports linking emigration to crime and violence, he said his appeal applied especially to those who had enjoyed education and other opportunities which the majority had been denied.

"You can't transform the country without people who have skills and training. That is why it is so crucial for those groups who have had this opportunity to stay with us and to help us."

A human resource consultancy on Wednesday reported most people emigrating had cited crime and violence as the reason. — Sapa.
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"No budget cuts for Truth and Reconciliation Commission"

Both President Nelson Mandela and Deputy President Thabo Mbeki had given the assurance that no final decision had been taken on cutting the Truth Commission's budget, deputy chairman Dr Alex Bophane said yesterday. He said the matter had been raised when he and commission chairman Archbishop Desmond Tutu met Mandela and Mbeki recently.

The meeting followed a warning from the Cabinet that the commission's R150-million budget might have to be trimmed in line with national priorities.

Bophane believed the proposed budget cuts were the result of a misunderstanding.

"It seems they (the Government) thought we were asking for additional funding," - Sapa.
De Kock determined to get amnesty from TRC

By NORMAN CHANDLER

Eugene de Kock intends to go down fighting.

He made this clear yesterday when he told the Supreme Court in Pretoria that he would be seeking amnesty from the Truth and Reconciliation Commission by again naming the top security officers who ordered him and his Vlakplaas-based C-10 counter-insurgency unit into action against the opponents of apartheid in the 1980s.

He has already named former presidents PW Botha and FW de Klerk as well as former cabinet ministers Pik Botha, General Magnus Malan, Louis le Grange and Adriaan Vlok and top police generals of being aware of dirty-tricks operations launched from Pretoria.

Among the operations, he told the court, was the bombing of the London headquarters of the ANC and the killing of Swedish prime minister Olof Palme 10 years ago in an operation called Long Reach which he claimed was masterminded by superspy Craig Williamson.

Mr 'Justice' Willem van der Merwe told De Kock yesterday he would be asking questions about the Palme assassination, which has never been solved despite international efforts to find the killer.

Swedish police have said Wilkinson had been a suspect several years ago in regard to the assassination but no firm evidence could be obtained.

Earlier yesterday, De Kock agreed with Transvaal Deputy Attorney-General Anton Ackerman that his Palme revelation was "the most astonishing statement".

He said he had not mentioned it earlier because he had not recollected being "told about it "in about 1982-83" but had, however, made a statement on the matter to Antoinette de Jager of the attorney-general's office.

"There was no specific reason why I had not said anything earlier," he told the court.

He was merely pointing out that there was "a huge (security) system in operation in South Africa at the time."

The trial, which has already run for more than 18 months, has been adjourned until October 7, when cross-examination by Ackerman will be completed and expert testimony for the defence, led by Flip Hattingh, SC, is provided by five witnesses, including psychiatrists, psychologists, medical doctors and criminologists.

One aspect which is to be covered concerns De Kock's statement that he is suffering from post-traumatic stress syndrome (PTSS), a condition first diagnosed among returning American soldiers from the 1960s Vietnam conflict.

De Kock says he is suffering from strange dreams, lack of sleep, nervousness and stress as a result of his experiences in the Koevoet army and police unit which operated in the former South-West Africa (now Namibia) during the so-called "bush war, and with C-10."

He has been receiving treatment for PTSS for two years.

It is expected that sentence will be passed by the end of next month. De Kock has already been found guilty of six murders, two conspiracies to murder and numerous charges of fraud.

De Kock -- nicknamed "Prime Evil" by his colleagues and "Sourface of God" by the ANC during the "total onslaught" years of the former government -- told the court that he had made an application to the TRC for amnesty but had received a letter which stated that he had incorrectly filled out a form detailing his experiences.

He had not yet replied to the Truth Commission but was determined to seek amnesty "even from behind bars".

"I am not far away from sentencing," he said. "The end result of my amnesty application is to go free. I had not been sitting in this court, I would have already applied for amnesty."

De Kock said he would be making full confessions to the TRC as he believed he had had "heaps of dirt" paled on him by police generals, whom he said no longer supported him as a result of testimony he gave last week.

"The generals have decided among themselves not to support police personnel," he commented.

In cross-examination this week, De Kock again named top officers who he believes have turned their backs on him.

They include generals Bassie Smit, Krappies Engelbrecht, Johan Coetzee, Nick van Rensburg, Johan van der Merwe, Jac Buchler, Gerrit Erasmus, H G de Witt and Herman Stadler.

He denied that he would have killed his own colleagues unless he had been ordered to do so -- as was the case at Motherwell, near Port Elizabeth, where four people, including three policemen, been murdered.

SPILLING BEANS: Eugene de Kock to name security officers
Judges take sides in hunt for new chief

FIFTEEN judges have broken ranks to back Justice Ismail Mahomed for the country's next chief justice — a move which comes only days before the Judicial Service Commission is due to interview the only two candidates for the post.

Justice Mahomed, deputy president of the Constitutional Court, and Appeal Court judge Henré van Heerden will be interviewed by the commission in Cape Town on Friday. It will be the first time a South African chief justice has been chosen after a process of nomination and public interviews.

The final selection will be made by President Nelson Mandela in consultation with the cabinet.

Among the 15 judges who have declared their support for Justice Mahomed's candidacy are judges Mohammd Navaa, Robert Nugent, John Myburgh, Chris Nicholson and Edwin Cameron.

The process has already proved controversial, with up to 100 judges throwing their weight behind Judge van Heerden, leaving support for Justice Mahomed to be expressed by a number of legal organisations involved in human rights work, and most controversially by President Mandela.

In their memorandum to the commission this week, the 15 judges said they had no objection to either of the candidates and that they would normally have left the matter to be decided without any comment on their part.

However, because other members of the judiciary had informed the commission of their preference for one candidate, they felt obliged to say they did not share this view.

Explaining their support for Justice Mahomed, the 15 judges said that under the new Constitution, the traditional role of a judge had to be reappraised. Judges had to infuse the law with a proper recognition of the rights of all and to ensure public confidence that the judiciary would carry out this function.

They said they believed Justice Mahomed was best able at this time to provide the leadership needed to carry out this task.

He had a record of commitment to the values of the new Constitution which the courts had to apply, he would be able to give the guidance needed and, in a sense, he would be able to symbolise the judiciary's commitment to applying the values of the new Constitution.

The public interviews will take place at the Waalburg Conference Centre.

By CARMEL RICKARD
Our readers are sick to death of criminals

By CP REPORTER

“HANG THE criminals”, “Yes, to the hangman”, was the outcry from the majority of City Press readers, who voted overwhelmingly for the re-introduction of the death penalty.

With the scourge of crime currently sweeping South Africa, it was clear from the readers votes that a “desperate situation demands desperate means”.

As Tunu wa Motau of Diepkloof, Soweto, put it: “Criminals execute their dastardly acts with impunity, fully aware that President Mandela has assured them of the right to life at the expense of us law abiding citizens.”

“Bring back the noose, because it is a deterrent,” added Motau.

Of more than 1 000 votes we received, only a few were against the death penalty.

Says Lazarus Mohlala of Springsfield: “I hate the death penalty and I hate to support criminals with the taxpayer’s money.”

Zimbabweans divided over death sentence

HANGINGS are set to continue in Zimbabwe, despite calls by human rights and religious activists for the abolition of capital punishment.

Zimbabwe’s Justice Minister, Emmerson Mnangagwa, said this week that a new hangman had been hired after a lengthy search. His predecessor died in March.

Capital punishment in Zimbabwe is constitutional only in cases of murder where there are no extenuating circumstances, but human rights groups there argue that the death penalty should be abolished for all crimes.

“We are opposed to this old-fashioned way of punishing criminals. Death should be replaced by life imprisonment,” said Elizabeth Feltoe, acting director of the Catholic Commission for Justice and Peace in Zimbabwe (CCJP).

“We petitioned the government to stop this, because we believe in the reform and rehabilitation of offenders,” Feltoe added.

David Chimhini, director of Zimrights, another human rights group, said capital punishment was morally unjustifiable.

This is an emotive issue for most Zimbabweans, some believe it to be the only way to achieve stability in their society, and some believe the State has no justification for killing criminals.” -- Sapa-IPS
Religious leaders say Nelson should 'sanctify' relationship

STANDING of marriage, South African religious leaders say they would fully support President Nelson Mandela if he chose to make Graca Machel the mother of his Africa. While most religious leaders who spoke to the Mail & Guardian this week said they didn't want to interfere with Mandela's "democratic rights", the general consensus was that any adult relationship should be sanctified by wedding vows.

Former Anglican archbishop Desmond Tutu has already made clear his hope that the leading statesman would tie the knot. This week he was joined by several other religious leaders.

Mohan Church Bishop Stanley Magoba said he didn't "really think we can have a head of state in a relationship without marriage, but I don't want to pressure them".

Rhema Ministries Pastor Ray McCusley said he would "very much like to see [Mandela's] commitment in such a way that it would not only be an example but also a comfort and companionship in his golden years.

Orthodox Chief Rabbi Cyril Harris agreed, but said it was all up to the president: "The's a mind to yes.

Nederlandse Gereformeerde Kerk spokesman Willie Botha said: "They are adult people, and it's up to them to decide. If they are having an adult relationship, I would say get married. It's not a political issue, but also a personal one." South African Hindu Maha Sabha secretary Rajeev Kallidam also left it to the president: "As one of the great statesmen, he has the right to make up his own decision. There's nothing to stop him."

Moulianah Ahmed Khatun of the Natal Jamat Ul-Ulama said it was "their life", but added that if anybody is committed to it, it will be wrong whether it's the president or someone else.

Church of England Bishop Joe Bell agreed: "It's a personal decision, but we would condemn pre-marital sex," he said.

A loss is still a loss. Gay men at last weekend's Johannesburg Gay and Lesbian Pride Parade

Are legal gay weddings next?

Islamic and Hindus are about to find out whether they should have legal marriage recognition under the new constitution.

The Law Commission's Professor Thandahloko Nhlapo said moves to recognise Muslim and Hindu marriage were also under investigation following the commission's decision six years ago to consider "top priority" raising the reform of marriage and divorce laws.

We haven't included in the new paper on customary marriage simply because it's simpler to research them separately, but we may still end up with one marriage Act," he said.

Moulianah Ahmed Khatun of the Natal Jamat Ul-Ulama said Muslim theologians had presented Bills to the Ministry of Home Affairs in 1994, but "we are still waiting for our first marriages to be recognised, never mind our polygamous marriages"

Waiting with them is a growing number of gay and lesbian couples who want the state to recognise their partnerships, and give them the right to marry, said Kevin Botha, legal advisor to the National Coalition for Gay and Lesbian Equality.

"We get six or seven calls a day from couples wanting to know whether they can get married," he said. "The pressure is building in the community."

While Botha said the coalition was currently campaigning to end discrimination in more personal aspects of gay partnerships, such as workplace discrimination against persons and other benefits, moves to demand same-sex marriage recognition were not far off.

"The current marriage Act isn't actually discriminatory, but the way it is applied is something we believe should be amended," he said.

"Marriage should be dealt with as a block. I don't see that all forms of marriage should be accepted at the new South Africa."

Masudende Rose, editor of gay and lesbian magazine Guguhle, said the current system was not right to marriage, but the practical problems created for same-sex couples.

"If 10 couples are a couple, they buy a house together and Bob dies, then Bob's parents can throw Jack out of the house in Bob's name," she said. "We can't get bonds together, can't put our pensions on our medical and schemes, and can't go for the immigration of our foreign partners. A heterosexual couple can.

Rose said she didn't believe there was a single gay couple out there who wants to parenthood. "What worries me is the recognition of partnership in South Africa."

Graca Machel: Should the president marry his beloved?

The Law Commission's Nhlapo said he was "certainly we will face growing pressure over gay marriages in the coming months", but the gay community is aware it is likely to face vocal opposition.

"The religious right is going to have a field day, but we are not asking for a minister or a rabbi to condone a heterosexual marriage," said Rose.

Nevertheless, there are signs that the views of some religious leaders are beginning to bend. While most continue to object to homosexuality on religious grounds, many say they will not turn gays and lesbians away from their congregations and some have even begun to re-examine the issue entirely.

Union of Orthodox Synagogues Chief Rabbi Cyril Harris said gay unions were "unacceptable because they are not productive. The purpose of a marriage is twofold mutual commitment and companionship and productivity. Show me a gay couple that have produced a child and they're a real estate.

Others such as the Nederlandse Gereformeerde Kerk and the Methodist Church said they would not turn gays and lesbians away, although they do not condone gay marriages.

Rose and Botha said, however, that some churches had already begun to perform gay ceremonies. The coalition had successfully helped defend it from the United Congregational Church from censure last year after it performed a same-sex wedding ceremony.
Marriage

Moves to grant legal recognition to customary marriages have opened the door to changes.
More bids for amnesty

OWN CORRESPONDENT

DURBAN: Two high-profile amnesty applications will be heard by the Truth and Reconciliation Commission in KwaZulu-Natal before the end of the year.

In the first application, to be heard in Pietermaritzburg later this month, convicted policeman Brian Mitchell will testify about his role in the notorious Trust Feed massacre near New Hanover, in which 11 people were murdered in 1988. Mitchell was sentenced to death on 11 counts but the sentence was later changed to 30 years' imprisonment.

In the other amnesty hearing, self-confessed hit squad leader and Vlakplaas operative Mr Dirk Coetzer, Mr Almond Nofonela, and a man called Tshakalanga will give evidence about the death of UDF activist and human rights lawyer Mr Griffiths Mxenge. Coetzer is out on bail pending the Mxenge trial.
Trust Feed Convict applies for amnesty
Justice ministry plans skills revamp with Canadian help

Stephen Lowo

The Canadian government would help SA's justice ministry set up a training programmes for prosecutors and magistrates, Justice Minister Dullah Omar's adviser Enver Daniels said yesterday.

Daniels said there was an urgent need for a re-orientation of skills within the criminal justice system as morale was low among prosecutors and magistrates. Their skills had been learned under a repressive system and were unsuited to SA's needs.

The justice ministry was considering structures which would allow petty cases to be diverted away from the criminal justice system in an attempt to allow magistrates courts to concentrate on more serious crime, he said.

A community court system which would integrate existing structures such as religious courts and street committees, was under discussion. It would be more effective than community policing forums which were not working in many areas because some communities believed the forums were run by former special branch officers.

Daniels said there was no final decision on how the state would ensure the rule of law prevailed and constitutional freedoms were upheld in community courts. Suggestions include intensified mutual surveillance by police and court members.
Truth Commission switching from victims to perpetrators

BY ROBERT BRAND

The Truth and Reconciliation Commission is poised to swoop on suspected human rights violators countrywide following a decision to swoop the "velvet glove" approach for "a fist of steel". TRC chairman Archbishop Desmond Tutu has disclosed

The commission's national investigations office has issued an ultimatum to retired police generals to make a detailed submission on apartheid crimes before Friday, while regional offices have been instructed to prepare subpoenas for other policemen accused of crimes in testimony heard at public hearings across the country.

Announcing the new get-tough approach after a meeting of the TRC's human rights violations committee in Johannesburg yesterday, Tutu said the commission would scale down victim hearings to leave its hands free to take on the perpetrators.

"We have bent over backwards to accommodate the alleged perpetrators now we want to show the velvet glove does have a fist of steel which could be used if necessary."

Expanding on the new strategy, TRC deputy chairman Dr. Alex Boraine said the first move was the ultimatum to the seven retired generals, who include the immediate past commissioner of police, General Johan van der Merwe, and three other former commissioners.

The TRC was ready to serve subpoenas on them in August, but held back when the generals agreed to make a voluntary submission. That move is now widely seen as a delaying tactic.

Their written submission was handed to the commission two weeks ago but was "totally unsatisfactory", Boraine said.

"We told them they have two choices: either they rewrite their submission with details of specific events they have knowledge of, or we will serve subpoenas on all of them," Boraine said.

"We are sorry it has come to this. We have tried our best to be co-operative. But if the opportunities which are given are spurned, or abused, we have no choice."

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'Fist of steel' hangs over rights violators

OWN CORRESPONDENT

Johannesburg: The Truth and Reconciliation Commission (TRC) is poised to swoop on suspected human rights violators countrywide following a decision to swap the "velvet glove" approach for a "fist of steel," TRC chairman Archbishop Desmond Tutu said.

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POLICEMAN Jetta Sethwala was killed by a mob near Upington in November 1985. Fourteen of the 26 people accused of his murder were sentenced to death under the common cause doctrine, in spite of assassinated SWAPO lawyer Anton Lubowski's spirited defence.

None were executed — benefiting first from the moratorium on the death penalty, they were eventually granted amnesty and freed.

Today several of them, including Ms Evelyn de Bruyn and Mr Neville Witbooi, as well as Sethwala's widow, Mrs Betrus Sethwala, return to Upington to re-examine the circumstances of the murder, the trial, and subsequent events at a Truth and Reconciliation Commission hearing.

Anthropologist Professor Martin West, will start proceedings with a lecture on common cause.

Staff Writer
Come clean or else, TRC warns generals

Johannesburg - The Truth and Reconciliation Commission is threatening to subpoena top apartheid-era police generals unless they come clean by Friday on at least 60 human rights violations attributed to police.

The generals promised last month to co-operate with the commission to avoid being forced to testify.

But Alex Boraine, the commission's deputy chairman, told a news conference yesterday their written submission was incomplete and that the TRC wanted the generals, who include former police commissioner Johan van der Merwe, to rewrite it before Friday.

"After giving very careful consideration to it (the report) we decided that it was totally unsatisfactory," Dr Boraine said.

Archbishop Desmond Tutu, who heads the commission, told the conference that the TRC would in future take sterner action against alleged perpetrators of apartheid crimes who did not voluntarily appear before it.

"We are saying this velvet glove does in fact have a fist of steel, which can be used when it seems necessary," Archbishop Tutu said.

He said the commission had instructed its offices nationwide to start preparing subpoenas, but did not name any offenders.

Archbishop Tutu said that since the Truth Commission had started its work in April, it had mostly heard harrowing tales of abuses from victims, and requests for amnesty had come from people already convicted and in prison.

"But the one part of our work which we have not succeeded in dealing with, has been to provide people with information - who killed so-and-so, and if they did do it, who gave them the orders," he said, explaining the TRC's stricter approach.

It has power to grant amnesty to perpetrators of abuses who fully confess to their deeds, but has yet to make any breakthroughs in exposing those with blood on their hands from apartheid's "dirty war" - Reuters.
Truth commission threat to subpoena ex-police generals

The truth commission adopted a tough stance towards former police generals yesterday, warning it would subpoena them if they failed to provide detailed written representations on about 60 incidents of gross human rights violations by Friday.

Commission chairman Desmond Tutu said the body was entering a stage "where the velvet glove does in fact have a fist of steel which can be used" when necessary. All alleged perpetrators whose names the commission knew would from now on be subpoenaed and questioned.

The commission branded a previous submission by the police generals as "totally unsatisfactory". It wanted representations on specific events about which the generals had information.

Deputy chairman Alex Boraine said the commission had bent over backwards to cooperate with the generals. It now had to use all means at its disposal to uncover the truth.

Tutu said the commission had thus far failed to glean details of human rights violations because most amnesty applicants were convicted prisoners and could shed no new light on events.

He denied that Deputy President Thabo Mbeki had interfered with the commission by attempting to prevent it from issuing subpoenas to the generals last month. Mbeki had merely told Tutu police generals who believed they would be subpoenaed were willing to come forward voluntarily.

Tutu said there had been the commission's decision to allow the generals to come forward at their will. "At no point was there any pressure placed on the truth commission."

However, their representations fell short of the commission's expectations.

Boraine said the commission was unable to guarantee that the generals would be immune from prosecution in neighbouring countries — an issue they had indicated was a major concern. However, it was improbable that SA authorities would consider extradition requests because legislation that would be prepared to answer queries.

In an apparent warning to the military generals, Boraine said the commission was not interested in "a soft analysis of overall warfare at war." The commission said it would scale down on hearings involving its human rights violations committee in order to concentrate on other aspects of its work — including its capacity to gather more statements and make findings.

Tutu said the commission's reasons were getting ready to start issuing subpoenas. This would help streamline the process and give the national investigative unit a nationwide programme of section 29 hearings, at which subpoenaed people appeared.

Continued on Page 2

Continued from Page 1

Subpoena

provided for amnesty was sovereign.

He said the commission would provisionally hear submissions from military generals on December 21. The original hearing last last month was delayed after SANDF chief Gen Georg Meiring said more time was needed to incorporate submissions from generals who had recently given information.

The commission hoped it would receive the submission well in advance. It wanted to forward questions to the SANDF ahead of the hearing so it would be prepared to answer queries.

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All hail to which chief?

We candidates for the post of Chief Justice Robert

The Judicial Service Commission sits tomorrow to interview

(323) 844-1016

The Chinese Exclusion Act
Welfare dept reassures anxious Jafta on closure of homes

BY WILLIAM-RAE PERRY

The Department of Welfare has assured pensioners that if the Johannesburg Association for the Aged (Jafta) closed before the end of the year, it would seek alternative accommodation for them.

But the association's chairman, Mr. Bafalon, has warned that hundreds of frail and destitute old people could be on the streets by January unless the association receives a large cash injection.

Jafta chairman Bill Bafalon attributed the crisis to the freezing and reduction of state subsidies to old-age homes which effectively halved the association's income by about 50%.

But Margot Davids, Gauteng director of social services, said yesterday there was no reason for the El Kero home for the aged in Hillbrow – one of the homes run by Jafta – to close down with the money they had received regularly from the state.

Davids said El Kero was one of the few institutions that was receiving government m sums every month and one of the few centres whose budget was cut by only 10%.

But other services such as rehabilitation centres have experienced cuts of up to 70%, she said.

The reduction in state aid and Jafta forms part of a R50-million cut in subsidies to old-age homes announced by the Government in May. This means that only people with a monthly income of R1,330 and less are now eligible for subsidies and can stay at state-funded old-age homes.

Bafalon said that without additional financial assistance all services provided by Jafta would come to a complete halt or be scaled down dramatically, leaving residents out on the streets.

It would also result in a loss of close to 300 jobs and the closure of two of the organisation's buildings, which together have state mortgages totalling almost R4-million.

But Davids said the Department of Health and Welfare contributed at least R191,000 a month in subsidies for services run by Jafta.

"This amount can be more if the home (El Kero) and the service centre is fully utilised and no more beds could be subsidised should the home be re-registered after they meet all the requirements," she added.

Bafalon, however, remains adamant that Jafta, which he says faces a shortfall of about R20,000 a month, will close down unless financial assistance is found.

The Soweto Home for the Aged, which accommodates about 100 pensioners, is battling to maintain its services in the face of crippling government subsidy cuts.

A spokesman for the home, Nomia Nkoko, said since the cutbacks kicked in around the second half of the year, the centre was struggling to provide medicines, hearing aids and even simple equipment such as crutches.

The home has asked anybody able to offer assistance to please contact them on (011) 922-0500.

Pensioners tell of 'hardship nightmare' as chaos reigns

BY TROY LIND

How to get one square meal a day without a cent and keep her diabetic husband’s sugar level stable has been Eveline Loderwack’s daily nightmare for seven months. It will continue to be until the chaos at Gauteng pension offices is under control.

The 65-year-old woman, who spent yesterday morning in the queue at Johannesburg’s pension office for the sixth time since she applied for a pension in March this year, is one of about 100,000 people of Greater Johannesburg in the same predicament.

The Gauteng pension offices have not paid out anyone who applied this year because of the shambles caused by the amalgamation of the apartheid-era welfare offices.

"They say I will get money soon. I don’t even know how much I will get. Anything at all will do," Loderwack told the pension clerk. "I never dreamt retirement would be like this. I always thought you get enough money to grow old on after working your whole life," she said.

Loderwack, who lives with her 79-year-old husband in Eldorado Park, said the pension office, which she described as "a joke", has not been able to give her the correct information.

The pension office, which she described as "a joke", has not been able to give her the correct information.

"I can’t even get her first cheque before March next year. The new computer system has not yet been installed and staff have to be trained on them before the backlogs are addressed," Loderwack said.

The pensioner’s basic expenses – rent, water and electricity – amount to R320 a month, while she is also saddled with medical bills of R100 a month.

"Our chemist has rung up an account for our medicine – how to pay this we will think about later. My few thousand from work has gone. All the world’s windfalls, God will see to later," she said.

Loderwack heard for the first time about food parcels for those waiting payment. But pension office employees, said parcels went to the most needy, stressing there were many people more destitute than herself.
Too many murders, too few pathologists

'Numerous' miscarriages of justice in South Africa as forensic experts struggle to cope with a case load far beyond them

SAPA

South Africa has one of the highest murder rates in the world, but its radical shortage of qualified forensic pathologists has resulted in numerous miscarriages of justice.

"I have no qualms in saying that justice has been compromised in many instances (where medico-legal services have been required)," says Dr Gert Saayman, chairman of the SA Medico-Legal Society.

There are about 80 000 post mortem examinations needed in South Africa each year, and only 15 qualified forensic pathologists in the country. This means doctors with little or no qualification in the field have to perform autopsies.

South African pathologists each perform up to 1000 post mortems yearly, compared with the United States' ratio of approximately 250 post mortems to one forensic pathologist. Guidelines state that no person doing autopsies should do more than about 250 yearly if that is their only obligation, Saayman says.

Health Minister Nkosazana Zuma is to meet all nine provincial health MECs this month to discuss proposed changes to the medico-legal service. According to a national policy document on medico-legal services which Zuma and the MECs are to discuss, the system of medico-legal investigation into death in South Africa is plagued by inefficiency, incompetence and often results in the miscarriage of justice.

Starting by placing medico-legal services entirely under the jurisdiction of the Health Ministry, the proposed plan moves to bring South African medico-legal services in line with international standards of efficiency, competency and independence.

The proposed changes also aim to remove the perception that forensic pathologists and other doctors performing autopsies are in any way linked to the police, who are responsible for the transport and storage of corpses.

"The perceived allegiance of doctors to the police has tarnished the reputation of legal medicine in South Africa to the extent that it will take years to mend, even if drastic steps to address the problem are taken," the document warns.

It says there is ample evidence of police abuse in the case of corpses, such as tampering, sale of body parts and forcing people to look at bodies. This is unlikely to occur if the service is administered by an agency with no "power" over citizens.

The doctors who drew up the document describe medico-legal death investigation as "a science in itself" which should be governed by uniform and accountable protocols and standards.

Saayman says police response to the proposals has been favourable.

Health dept may not perceive value of the service

The doctors have proposed the drafting and eventual promulgation of a new Forensic Medical Service Post Mortem Act making provision for a chief forensic medical examiner in each province or region and assistant forensic medical examiners in cities and towns.

These officials would have support staff, adequate facilities and equipment - something few doctors who do post mortems now have. Even pathologists and doctors working in large city mortuaries have to endure conditions Saayman describes as "atrocious".

The proposals also make provision for better ancillary services: microbiology, chemistry, specialised forensic services and specialised pathology services.

An adequate training programme, monitoring of service standards, a research programme and central data bank and adequate remuneration are imperative, the document says.

South Africa's "exceptionally high" violent death rate made it one of the best places for research in the field, and research could generate substantial revenue.

Saayman, a lecturer at the University of Pretoria's Department of Forensic Medicine, says students and doctors show interest in the field, but those who choose to specialise usually study another field.

"It's a pity. The work is interesting. Each case is a lucky packet. You get to answer your human curiosity as a 'medical detective' applying scientific knowledge."

The proposed system, if implemented, will probably be initiated in the Free State, says Dr Leon Wagner, a senior state pathologist and lecturer at the University of the Orange Free State's Department of Forensic Medicine.

The restructuring process is in an advanced stage in the province and has the support of the provincial health department.

Three of the 15 forensic pathologists in South Africa live in Bloemfontein and internationally renowned forensic pathologist Dr Joseph Davis, of Florida's Dade County, visited the province last month.

Davis, whose Miami laboratory is probably the most advanced in the world, described it as "a model laboratory" and said it would be difficult to form another one of similar status.

"This would provide an objective for "everyone else" to achieve," he warned that there was a worldwide lack of awareness of the importance of medico-legal services' role in the judicial system.

This warning was echoed by the doctors who drew up the South African policy document: "Unfortunately, the real danger exists that the Department of Health may not fully perceive the value of the service, since the true end-line users of the service are indeed the departments of Safety and Security and Justice."
Chief Justice interviews to proceed despite controversy

Cape Town – The only two nominees for the post of chief justice, Judges Ismail Mahomed and Hennie van Heerden, will be interviewed for the position by the Judicial Services Commission (JSC) in Cape Town tomorrow.

The selection of a candidate to succeed retiring Chief Justice Michael Corbett has been dogged by controversy, including claims that President Nelson Mandela has ridden roughshod over the appointment process.

The hearings, which will be open to the public, will begin at 9.30am at 28 Wale Street in central Cape Town.

The JSC recommendation will go to the president, who, according to the constitution, must appoint the chief justice “in consultation with the Cabinet and after consultation with the JSC.”

Judge Mahomed, a former human rights lawyer, became the country’s first black senior counsel, but was passed over for the Supreme Court Bench on several occasions by the National Party government.

He wrote Namibia’s constitution and became that country’s chief justice before being appointed deputy president of the Constitutional Court.

Judge Van Heerden, South Africa’s most senior judge after Corbett, has been described by academics and legal professionals as having an exceptional legal mind with an impressive track record on the Bench.

Most Appellate Division judges support his nomination.

A JSC spokesman said Judge Mahomed would be interviewed first tomorrow.

With two of its 17 members overseas, only 15 members of the JSC would be available for the interviews. They will be joined by presidential adviser Pik Botha.

Botha was one of the four members of a special committee set up by the JSC and the president’s office to oversee the selection process.

The committee invited the Appellate division, the nine provincial judges-presidents, Mandela and several legal associations to make nominations.

It was supposed to come up with a shortlist, but found that only Judges Van Heerden and Mahomed had been nominated.

When Mandela came out in favour of Judge Mahomed, he was accused of having prejudged the issue ahead of the JSC interviews and its recommendation.

The National Association of Democratic Lawyers then called on Judge Van Heerden to withdraw his candidacy.

A senior appeal judge, Mr Justice Joos Hefer, in turn called on Judge Mahomed to withdraw because of his inexperience, the fact that most judges favoured Judge Van Heerden, and Mandela’s apparent intervention.

Judge Corbett, who chairs the JSC, said in a later statement that calls for either candidate to withdraw were unjustified and an interference with JSC procedures.

Under the pre-1994 government, the appointment of a chief justice was the sole prerogative of the country’s president. – Sapa.
Officers approach TRC

Five decided not to wait for generals and want to apply for amnesty on their own

BY DAISY JONES AND SAPA

Archbishop Desmond Tutu has confirmed that five former security officers, ranging in rank from Captain to Brigadier, have approached the Truth and Reconciliation Commission to discuss applying for amnesty.

The five men are among the 22 policemen and seven former police generals who sent a letter to the commission in June, saying they were contemplating applying for amnesty for apartheid-era human rights violations.

The generals made a submission to the TRC last month but it was described as "totally unsatisfactory".

The five unnamed policemen were reported to be "no longer prepared to wait for the generals", and have decided to start amnesty proceedings on their own.

They are believed to have contacted the amnesty committee of the TRC directly last week.

Commission spokesman John Allen would not provide their names or details of their applications. "The commission has undertaken to keep this confidential."

Meanwhile, the seven former police generals are preparing a response to the TRC's threat to subpoena them if they fail to provide details of about 50 incidents of human rights abuses by tomorrow, former police commissioner Johan van der Merwe said yesterday.

He said a letter would be faxed to the commission's Cape Town offices today on behalf of himself and former commissioners Mike Goldenhuys, Johan Coetzee and Henri de Witt.

"We would not like to respond in the media before the commission has read our letter," he said.

TRC deputy chairman Alex Boraine said on Monday the commission was interested only in specific incidents of human rights abuses.

Van der Merwe said recently the generals could not provide the information the commission was looking for as long as the issue of legal aid for policemen wanting to testify before the commission remained unresolved.

Boraine responded that legal representation for former policemen was being considered "at the highest level" in government, but the commission could not make any promises.
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Van der Merwe said a letter would be faxed to the commission's Cape Town offices on behalf of himself and former police commissioners Mr Mike Goldhuys, Mr Johan Coetzee and Mr Henne de Witt today.

"We would not like to respond in the media before the commission has had an opportunity to read our letter," he said.

The commission criticised their previous submission as failing to live up to expectations. Deputy commission chairman Dr Alex Boraine said the commission was only interested in specific incidents of human rights abuses.

Van der Merwe recently said the generals could not provide the information the commission was looking for as long as the issue of legal aid for policemen wanting to testify before the commission remained unresolved.

Boraine said the question was being considered "at the highest level", but that the commission itself could not make any promises. — Sapa, Own Correspondent
Tutu vows to get truth out of Vlok

'Nowhere to hide'

JOHN YELD, JOSEPH ARAMES AND LINDSAY BARNES
ON THE TRUTH COMMISSION

Truth Commission chairman Desmond Tutu has pledged that the commission will "extract the truth" from former law and order minister Adriaan Vlok and former high-ranking police officers, saying that if they thought they could hide, "they are being unrealistic".

Archbishop Tutu told the Cape Argus: "We will sit there and extract the truth."

And in a new move today, commission deputy chairman Alex Boraine announced that postponed submissions by the SA National Defence Force and the disbanded SA Defence Force would take place on October 21.

The submissions would be made in the same format as those by political parties and the commission would ask questions only on points of clarification at the first hearing.

Commenting on the subpoenas to appear before the commission, due to be served today on Mr Vlok and police generals, Archbishop Tutu said it was "stretching credulity a little too far" for police to suggest the only information they had on many incidents of interest to the commission was in official records and reports.

He said it was "a shame" that subpoenas had to be issued, as he had hoped the generals would have approached the commission voluntarily - particularly after the intervention of Deputy President Thabo Mbeki. "We had hoped we could have a non-confrontational relationship."

Asked whether he was concerned the generals might simply claim they could not remember - as they had threatened at
Tutu vows to get the truth out of Vlok

From page 1

their meeting with the commission three weeks ago – Archbishop Tutu said the commission had people skilled in eliciting information.

“We will sit there and extract the truth,” he said. “There are also other sources of information available to us and anyone who thinks at this stage of the game they can hide, I think are being unrealistic.”

“I think it would be a shame if they (the generals) didn’t use the opportunity to speak openly because we are not looking to prosecute but for the truth, so that the country can heal. We are not in a power game with them.”

Dr Boraine said the decision to issue the subpoenaeas followed a letter from former police commissioners Johan van der Merwe, Mike-Geldenhuys, Johan Coetzee and Hennie de Witt stating that their knowledge of human rights violations was based on “general information” as contained in police docket, court records and media reports.

But Dr Boraine said the decision to subpoena Mr Vlok was based on his name being mentioned a number of times during the commission’s hearings. “A lot of allegations have been made and we want to get firm information from him and will ask him specific questions.”

Dr Boraine said the police officers and Mr Vlok had been given a chance to make a written submission to the TRC.

“Three weeks ago we received their submission but found it unsatisfactory and told them to rewrite it. They instead sent the letter in which they stated they were willing to co-operate and asked us to subpoena them. We, however, provided them with further details,” he said.

Dr Boraine said the commissioners decided at the last meeting that it was time to issue the subpoenaes.
Allegations push police cadres to come clean

SOUTH AFRICA
Police captain ordered shredding of documents’

JOHN YELD
ON THE TRUTH COMM.

Upington. — Police have been shredding large quantities of documents and records during the past four weeks, probably ahead of a visit by a Truth Commission investigator, the commission has been told.

The allegation was made by former municipal policeman Nicholas "Oupa" Links, who now works as a labourer at Upington police station.

He said in bombshell testimony to the commission’s human rights violations committee that the order to destroy the documents had been given by Capt. Raff, who was present at the hearing. "He's working outside but I don't think it will be difficult to get him in here," said Mr. Links.

At the hearing, commission chairman Desmond Tutu announced he had had a letter this week from Safety and Security Minister Sydney Mufamadi, informing the commission that "many records" of the police service had been destroyed. This was a "very serious matter" and the commission had asked for a full inventory to be made of missing documents and who had ordered their destruction.

Mr. Links said he had seen documents being shredded about four weeks ago and I assume that it was as a result of the Truth and Reconciliation Commission investigator’s pending visit to the police station.

He said a clerk in the archives section of the police station, a Ms. Kock, had told him Capt. Raff had ordered the shredding. She had used a shredder in the section — there was another one upstairs in the security police section — and the remains had been pushed by bulldozers into trenches on an ash heap. Asked how many documents had been shredded, Mr. Links said "Many — there was a pile almost as big as a table."

At a press briefing afterwards, Archbishop Tutu said the commission would inform Mr. Mufamadi about Mr. Links's allegations.

"I don't know there is a great deal more we can do. But we have asked the minister to set up an investigative unit to look into the issue of missing or destroyed documents," he said.

"When we first met with him [earlier this year], we said we wanted to initiate this search ourselves, but we have now told him that we do not have the resources to do this."

Commissioner Denzil Potgieter said it was part of the commission's brief to report on missing documents and it would have to consider putting Mr. Links's allegation directly to Capt. Raff.

"We have other means of inquiry at our disposal — for example, Section 29 subpoenas — but we have a fairly good relationship with police in Upington so I'm sure we can do this on an informal basis," said Mr. Potgieter.
Vlok: ‘I’m ready to co-operate fully’

Former Law and Order Minister finds TRC decision to subpoena him ‘strange’; generals willing ‘to act as a catalyst’

BY DAISY JONES

The retired police generals and commissioners being subpoenaed today by the Truth and Reconciliation Commission have already warned that the only information they have about human rights abuses is from court records, police dockets and media reports.

And former law and order minister Adriaan Vlok said yesterday he found the decision to subpoena him “strange”. He is the first minister of the apartheid regime to be forced to testify to the commission.

“I have said repeatedly I am prepared to co-operate fully and accept full personal responsibility for decisions by the ministry. But thus far I have received no request from them to answer any questions,” he said.

The high-ranking policemen will be obliged to answer questions from the TRC investigators about the apartheid-era human rights violations.

The commission said yesterday that among those it is ordering to appear are retired police commissioners Johan van der Merwe, Johan Coetzee, Mike Credlin, and Ernie de Witt. Some of the others are generals Basie Smit, Krappies Engelbrecht, Bertus Sten, and Johan Le Roux.

The TRC had issued an ultimatum on Tuesday which gave Van der Merwe and his colleagues until today to make a detailed written submission about the apartheid-era crimes they knew about.

The generals’ response was a letter faxed to the commission yesterday in which they said they were willing to assist the commission but could not give it the detailed information it required.

The generals said they were prepared to act as a “catalyst” to persuade other former members of the police to come forward with information. However, they could not undertake this task before the state guaranteed it would provide legal representation for former policemen.

At a media conference in Cape Town, however, TRC deputy chairman Dr Alex Boraine said individual policemen were capable of representing themselves and did not need the generals as intermediaries.

Last week’s approach by five former security policemen to the commission’s amnesty committee indicated that “they are not waiting for the generals, and the generals must take their turn like everyone else”.

Boraine said the generals were not alone on the list of subpoenas. The commission’s national and regional offices already have more extensive lists of subpoenaed ranks and dates, which they will use sporadically and when deemed necessary.

Boraine said Vlok’s name was added to the list because allegations had been made against him at a number of the commission’s public hearings.

Van der Merwe said the decision to subpoena him was “not to the best advantage of the commission” because it could destroy whatever confidence policemen might have had in the commission.

Lower-ranking policemen, especially, had a severe lack of confidence in the TRC at the moment, he said. They were relying on individual policemen to provide them with details of the atrocities.

This could be done only through the offices of attorneys as it would be illegal for him and his colleagues to consult with anyone who confessed to a crime.

Vlok and the generals will be questioned by investigators in camera, but the commission may publicly release information gained in the inquiries.

TRC legislation provides for a six-year term of up to two years for anyone who refuses to answer questions, or answers them falsely in inquiries such as this.

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SUBPOENA’S FOR POLICE GENERALS

Sheriff goes knocking on Vlok’s door today

DEPUTY-SHERIFFS around the country will soon be delivering subpoenas to former policemen and former cabinet minister Mr Adnaan Vlok to answer questions about security force complicity in violence. ROGER FRIEDMAN reports.

FORMER Minister of Law and Order Mr Adnaan Vlok will be the first member of an apartheid-era cabinet to be subpoenaed to appear before the Truth and Reconciliation Commission. Vlok — who was shifted from the law and order portfolio to correctional services in July 1991 following revelations of secret government funding for Inkatha and allegations of security force complicity in violence — will be asked by the commission to expand on various allegations made against him by convicted Vlakplaas killer Eugene de Kock, among others.

"Former minister Vlok has been mentioned a number of times by Eugene de Kock and others. Allegations have been made. We want confirmed information, not allegations. We will be asking him specific questions relating to specific allegations that have been made," commission deputy chairperson Dr Alex Boraine said yesterday.

The process of issuing subpoenas against Vlok and a number of other high-ranking police officers — including several former national commissioners — summoning them to appear at "investigative inquiries" begins today.

The subpoenas will be issued in terms of Section 29 of the Promotion of National Unity and Reconciliation Act, which grants the commission the power to call upon anyone to appear before it to give evidence or to answer questions relevant to the inquiry.

Neither Boraine nor commission investigative unit head Mr Dumisa Ntsebeza would disclose details of the subject matter of inquiries. The Section 29 hearings would be held in camera in accordance with the law, although the commission could later release information at its discretion.

Boraine said the decision to issue the subpoenas followed receipt of a letter yesterday from four former national police commissioners: General Johan van der Merwe, General Johan Coetsee, General Mike Geldenhuys and General Hennie De Witt.

In the letter the generals asserted that their knowledge of gross violations of human rights was solely based on general information contained in police dockets, court records and media reports.

"Any possible involvement on our part with regard to any alleged gross violations of human rights may be restricted to limited instances, and even in those instances proper legal advice will have to be obtained in order to determine whether any such instances actually constitute any gross human rights violations, as defined in the act," the generals wrote.

They went on to outline legal problems they believed inhibited them from constructively engaging the commission, or expanding on an initial submission delivered to the commission a few weeks ago.

They concluded their letter stating they were "still prepared to do everything possible to furnish the commission with such details as may bring perspective to the various confusing issues and misconceptions. We will therefore appreciate it if the commission could subpoena us first."

Section 39 of the Act provided for penalties to be imposed on any person failing to respond to a subpoena, or failing or refusing to answer lawful questions satisfactorily to the best of their knowledge, Boraine said.

"They will be under oath, and anyone under oath has to be very careful that they answer fully and truthfully or they themselves will incur problems. We will test their replies, or lack thereof, against information we have and then take the necessary steps," he said.

‘Police shot my daughter’

UPINGTON: A mother told the Truth and Reconciliation Commission hearing here this week how her pregnant daughter was shot dead days before the expected birth of her baby.

Mrs Flora Isaaks told the commission her daughter, Beulah, and friends were shot after giving police directions, it was reported.

Isaaks said one of the policemen later admitted that the shooting was a mistake. She said they had acted on the orders of a policeman known as the Red Major.

Isaaks said she thought they were found not guilty of murder when they appeared in court.

‘Venda leader was torturer’

THOHOYANDU: Former Venda military leader Brig Gabriel Ramushwana was one of several Venda National Force members who manhandled and tortured detainees in 1978 and 1980, the TRC was told yesterday.

Ms Sonosana Newswa said her brother, Mr Mdegeni Ravele, became "useless person" after his private parts were allegedly burnt during police interrogation in December, 1980. She was told Ramushwana was one of those who had beaten her brother during questioning.

Hearing for women only

DURBAN: A TRC hearing accommodating women only will be held here on October 25 to give women the opportunity to relay their personal experiences of human rights violations in the apartheid era.

Sapa
...the process of selection...
**Intervention was badly timed**

GERALD GORDON QC writes that he hopes today's hearings by the Judicial Services Commission for the Chief Justice post will not be clouded by President Mandela's premature intervention in the selection process.

The purport of my article "Will the JSC be a rubber stamp?" (Cape Times, September 23) has clearly been misunderstood by Wilie Hofmeyr in his reply "President is just sticking to the constitution" (October 1).

I did not "expect the President to give up his constitutional responsibility of stating his own choice" for the Chief Justice. I questioned the timing and the inadvisability of stating this choice to the JSC before it had made its recommendation to him as the constitution requires it to do.

Hofmeyr writes that by doing this, "President Mandela has made an attempt to make the process more open than the constitutional requires". Criticism of these "efforts to make our constitution more open should be balanced with praise."

Section 97 says "There shall be a Chief Justice of the Supreme Court of South Africa, who shall be appointed by the President in consultation with the cabinet and after consultation with the JSC."

Hofmeyr says that "in consultation with the cabinet means that the cabinet must agree." But the Concise Oxford Dictionary (in his photograph accompanying his article Wilie is seen clapping a copy) defines "consult with" as "have deliberations with, seek information or advice from."

There is no question, therefore, that the Cabinet must agree. Indeed, the President might even reject the views of his cabinet. For the section says "a Chief Justice shall be appointed by the President." It does not say "by the cabinet."

Hofmeyr goes on to write that "after consultation with the JSC" means that the President "must inform the JSC of his proposed decision". And surely Hofmeyr does not suggest that the nomination of Mahomed by the President was done to "inform" the JSC of his "proposed decision."

Indeed this interpretation of the section lends support to my submission that the JSC is in danger of becoming a rubber stamp.

Hofmeyr writes that Gordon "along with a number of other commentators, does not distinguish between the appointment of ordinary judges and the appointment of the Chief Justice," and that the constitution specifies completely different ways for the appointment of the Chief Justice and ordinary judges. This point however has nothing to do with my above submissions on the meaning in the section (97) which provides for the appointment of the Chief Justice. And in any event, the ways of appointing a Chief Justice and ordinary judges are almost indistinguishable.

The point I have tried to make is that so much idealism, hard work, thought, sacrifice (incidentally by people as respected as the President and Hofmeyr himself) went into the creation of the new constitution, that it would be a pity if its growth should suffer by some ill-advised step taken in implementing it.

I am not alone in taking this line. There has been much criticism and by constitutional lawyers of standing — of the President's action in nominating Mahomed before the JSC has sat.

Thus, Prof. Dennis Davis, a constitutional expert, wrote in the Sunday Times of September 22, supporting Mahomed but saying "it is most regrettable that President Mandela chose to intervene prematurely. His ill-advised letter to the JSC."

The trouble is that if a proper running of the process results in the democratic appointment of Mahomed, there will be hostile voices claiming it was due to Mandela's pre-emption.

As for myself, while in my previous article I reframed completely from discussing the merits of the two contestants, I may say now that in my respectful view the cause of justice in South Africa will be best served by the appointment, despite certain imperfections, of Mahomed.

And I for one will be sad that what would otherwise have been a clean appointment on merit, will be clouded by the President's premature nomination.
Former minister Adrian Vlok to be supported by the DA
I didn't defend apartheid, says candidate for top judicial post

Judges take the stand in bid for position of chief justice

WILLIAM-HEINZ GUNNEDIE
Staff Reporter

Judge Henkie van Heerden told the Judicial Service Commission (JSC) that he had defended the previous government at the International Court of Justice at The Hague does not mean he supported its apartheid policies.

Judge Van Heerden was senior counsel for the South African legal team at The Hague on two occasions, where he argued for the extension of its control over South West Africa.

Judge Van Heerden and deputy president of the Constitutional Court Judge Ismail Mahomed are the two candidates for the position of South Africa's chief justice, following the retirement of Judge Michael Corbett.

Judge Van Heerden told the judicial commission he would have no problem serving under Judge Mahomed as deputy chief justice if his (Van Heerden's) bid failed.

Judge Mahomed said he was prepared to relinquish his present post of Chief Justice of Namibia if he was appointed Chief Justice of South Africa.

He said he thought it would be possible to hold both posts, but that he would have to give up his post in Namibia if his position there interfered with his South African work.

Judge Mahomed said his appointment would signal that the transformation of the judiciary was inevitable and make it much more acceptable to ordinary citizens.

Mr Mahomed said he would be happy to work with the Appeal Court judges who opposed his appointment.

"The Constitutional Court judges should have opinions, and I respect their views. In any case, it would be counter-productive from me to be hostile to opposition judges," Judge Mahomed said.

Judge Mahomed said the biggest challenge facing the judiciary was to make the law the friend, rather than the enemy of the people. "People of colour had seen the law as an alienating, arbitrary set of rules to maintain white rule," he added.

Pensive: Judge Van Heerden before his interview.

He warned that the government's efforts to combat crime would not succeed until ordinary people internalised these values and made justice the instrument with which they expressed their confidence.

Judge Mahomed said he was unsure about the prospect of going to Bloemfontein, where the Appellate Division is based, because in his days as an advocate he had not been allowed to sleep overnight in the city or to eat in its restaurants.

"My memories of Bloemfontein are not something I want to talk about with any enthusiasm. He said he still imagined seeing "whites-only" signs, even though they had long disappeared. "My wounds are deep and my trauma is still very, very deep," he added.

He said he had to accept the judgment of those who considered him an interventionist judge. "Some people have the gift of arguing silently with themselves, but I do not. So I argue loudly with whoever opposes me," Judge Mahomed, a former human rights lawyer, became the country's first black senior counsel, but was passed over for the Supreme Court bench on several occasions by the National Party government.

He was involved in writing Namibia's constitution and became that country's chief justice before being appointed deputy president of South Africa's Constitutional Court.

The judicial commission recommendation will go before the president, who according to the constitution must appoint the chief justice "in consultation with the Cabinet and after consultation with the JSC."

When President Mandela came out in favour of Judge Mahomed, he was accused of having prejudged the issue ahead of the JSC interviews and its recommendation.

The National Democratic Lawyers of South Africa called on Judge Van Heerden, an Appeal Court judge, to withdraw his candidacy. Judge Van Heerden, has been described as conservative by academics and legal professionals.

Appeal judge Joos Hefer also called for Judge Mahomed to withdraw, ostensibly because of the president's intervention.

Outgoing Chief Justice Michael Corbett, who chairs the JSC, then intervened and said calls for either candidate to withdraw were wholly unjustified and an interference with the commission's procedures.
Judges at the bar of history

By CHIARA CARTER

ISMAIL MAHOMED and Hennie van Heerden both have highly distinguished legal careers stretching back four decades.

Both have been nominated to replace Michael Corbett in the country's top legal post - Chief Justice.

The very different roads each have travelled to get to the top of their profession were outlined when the two were interviewed by the Judicial Services Commission (JSC) in Cape Town this week.

Judge Mahomed, a self-confessed workaholic with an "interventionist" style on the bench, exuded bonhomie and passion as he was questioned by commission members.

Mahomed, the country's first black Supreme Court judge, is deputy president of the Constitutional Court. He was nominated for the Chief Justice post at the eleventh hour and is supported by the Black Lawyers' Association and National Association of Democratic Lawyers.

He described himself as a "reluctant candidate," saying his past two years at the Constitutional Court had been "the happiest of his life" and he was loath to go to Bloemfontein, a place "where they never wanted me."

From the outset of the interview, it was clear that to a large extent Mahomed's life and career have been shaped by a struggle against racism.

Mahomed, who grew up in Pretoria, attended the University of the Witwatersrand, where he was an outstanding student. The university had "academic non-segregation" - but this did not extend to social life.

After graduating, apartheid laws meant he was effectively an "illegal squatter" at the Bar - unable to rent chambers and instead borrowing office space from colleagues.

He changed in a separate room and struggled to get briefs. Ironically, when he appeared in Bloemfontein, he was forced to leave the Free State each night because the province's ban on Indians.

In response to a question by George Bizos SC, Mahomed said even though 40 years had passed, he was still unable to speak about a racial incident which occurred while

The road to the top has been very different for the two candidates for Chief Justice.

Judge Ismail Mahomed

Bizos was preparing him for his first appearance in court.

Bizos then told the JSC that a colleague had seen fit to tell a joke with an Indian accent while Bizos was putting studs into Mahomed's collar, prior to appearing in court:

"I never felt equal, always felt excluded," Mahomed told the JSC.

"My dignity was assaulted at every level."

Mahomed, one of the country's finest civil rights lawyers, said not only did apartheid force him to devote greater efforts to his work, but it gave him a "moral passion."

Mahomed was South Africa's first black senior counsel but only joined the South African bench in 1991. He is also Namibia's Chief Justice and said if he was given the South African post, he would like to keep both jobs.

Mahomed said his conscience would not have allowed him to enforce laws before this.

He spoke at length about the need for South Africans to see the legal system as legitimate - something not possible in the past where, too often, justice and the law appeared to be very different:

His experience in neighbouring states had given him insight into the role of the judiciary in a country undergoing transformation.

Mahomed said people needed to be free to express their experiences.

He cited the case of hanged ANC guerilla Solomon Mahlangu, saying he had seen a "young lad selling apples" who had become caught up in a "complex process." The judge in the case had been a "terrorist."

Mahomed argued strongly that the constitution and human rights should not be an esoteric specialty but part and parcel of South Africans' consciousness.

The constitutional jurisdiction which the new constitution gave the Appellate Division would allow the development of common law in accordance with constitutional values.

The chief question mark raised by the JSC about Mahomed was over his duties in neighbouring states. Mahomed is Chief Justice of Namibia and a member of the Court of Appeal in Swaziland.

He recently resigned as Chief Justice in Lesotho.

Hennie van Heerden, the judge next in line for the Chief Justice post, in terms of seniority and reputed to have the backing of all but one of the Appeal Court judges, cut a reserved and more traditional figure.

A graduate of the University of the Orange Free State, he studied abroad before joining the Orange Free State bar. His specialty was laws of competition and mercantile law.

Van Heerden was part of the legal team which represented the South African government at the International Court in the Hague where South Africa argued that there was no universally accepted doctrine of human rights of which South Africa was depriving the Namibian people.

Van Heerden told the JSC that this had not been his personal view but his client's views did not always mesh with his.

Van Heerden, appointed a judge in 1978, said there were relatively few instances where he had ruled against apartheid laws and wherever possible he had ruled in favour of the individual rather than the executive.

There had been little space for such rulings, however.

JSC member Wim Trengrove drew Van Heerden out on several liberal judgments and minority opinions which he had passed.

Van Heerden's leading role in developing international law which excluded discrimination was discussed.

Like Mahomed, Van Heerden expressed concern that the judiciary needed to be seen as legitimate. He said the judiciary needed to be representative in terms of colour and gender but that this should not mean a decline in legal standards.

Van Heerden said if he was not appointed Chief Justice and subsequently asked to stand for the post of assistant Chief Justice, he would accept such a nomination.

If Mahomed was appointed, he would welcome it and give him all the help possible.

The new Chief Justice will be appointed by President Nelson Mandela after he receives the JSC's recommendations.
Fortunes held to ransom by crisis in court office

By CARMEL RICKARD

DISSATISFIED staff at the Supreme Court Master’s office predict the imminent “total collapse” of their department — with a dramatic effect on the economy.

The Master’s office deals with insolvent and deceased estates.

The office is obliged to make appointments, such as liquidators in insolvent estates, and to issue related documents quickly and efficiently to ensure the money involved is put back into the economy as soon as possible.

Officials of the newly formed organisation representing staff of the Supreme Court Master’s and Registrar’s office wrote to the Minister of Justice, Dullah Omar, this week, outlining their continuing dissatisfaction over working conditions and staff shortages.

In the letter, the chairman of the organisation, Thinus Rudolph, said that key grievances had been discussed at a meeting on August 8.

Staff had been promised that salary discrepancies and the filling of vacant posts would be given immediate attention.

At follow-up meetings with staff at the Department of Justice, they received similar promises, but nothing had materialised.

Now resignations in the Master’s office had reached “alarming proportions”.

Rudolph said the problems in the Master’s office would have little impact on the criminal justice system, but would have a “great influence” on the economy because of the vast amounts of money involved in the work of the office.

Rudolph said their grievances should be dealt with urgently.

"The Master’s office is facing total collapse, which will have a dramatic effect on the economy."

Officials said this week that staff shortages and other problems had now reached such a level that the Master’s office was unable to do its work properly.

The issuing of documents and appointment of liquidators was being delayed, with the result that millions of rands were unnecessarily tied up and prevented from getting back into the economy.
Mahomed persuaded to accept nomination

Wyndham Hartley

CAPE TOWN — The man tipped to be SA's next chief justice, Ismail Mahomed, had to be persuaded by a group of eminent judges to accept nomination for the country's top judicial posting.

Mahomed, whose nomination as a candidate for chief justice had been highly politicised in recent weeks following President Nelson Mandela's endorsement, told the Judicial Services Commission at the weekend that he had been persuaded his appointment would be a symbolic demonstration that the judiciary was changing.

During public interviews by the commission, Mahomed said he was ambivalent about the job because the past two years spent as deputy president of the Constitutional Court had been the happiest of his life. He said he would accept the job because he had been persuaded the symbolism of his appointment would help restore the legitimacy of SA's courts.

Mahomed and senior appellate division judge Henric van Heerden were interviewed by the commission and fielded questions from retiring chief justice Michael Corbett, Constitutional Court judge president Arthur Chaskelison, Justice Minister Dullah Omar and other commission members. They are the only two candidates for the job.

Van Heerden is the longest serving member of the appeal court in Bloemfontein while Mahomed accepted an appointment to the bench only after Mandela's release from Robben Island in 1990.

In addition to Mandela's endorsement, Mahomed has the backing of a number of black lawyers' groups, while Van Heerden, apparently, has the support of most of the appellate division judges.

The commission must make a recommendation to Mandela on who is the best candidate for the job. Corbett said that the commission had not set itself a time limit to come to the decision.

Questioned during the hearing about the politics surrounding candidates for chief justice, Mahomed said he regretted the way in which things had transpired with different groupings backing "their man".

Mahomed said he felt "ambivalence" about going back to Bloemfontein, the seat of the appeal court, because as a young advocate he was not allowed to spend a night in that city or to eat in its restaurants.
Kriel scraps selection of casino team

CHRIS BATeman
POLITICAL WRITER

The issuing of casino licences in the Western Cape has been set back by at least five months as Premier Hermus Kriel has scrapped the selection process that would have led to the appointment of the powerful seven-member Gambling Board.

Kriel said yesterday a special audit to ensure that the appointment procedures were followed "unimpeachably and correctly" had found "shortcomings".

Although Kriel's statement did not give details, it is understood from well-placed sources that these shortcomings included the procedure followed by police in investigating the backgrounds of candidates. These were carried out as names were put forward instead of all 30 being investigated at the same time.

The Western Cape Gambling and Racing Bill, approved in May, allows for wide-ranging probes into shareholdings and interests held by any board member. The intention is to ensure board members will be above reproach in awarding licences and regulating the industry.

A spokesman for Kriel, Mr Erich Ondoa, said there was "nothing sinister" at the Premier wanted it to be 100% above board with no possible comebacks.

Kriel said the audit findings had convinced him to suspend immediately the appointments process and to begin advertising, investigating and selecting "from scratch".

Advertising began in May. The province's Taxes and Levies chief, Mr Chris Lotter, received 30 applications, a shortlist of which went before the executive committee two weeks ago.

Kriel has the power to appoint a chairperson and deputy chairperson from the executive committee shortlist.

Pretoria has allocated to the Western Cape five casinos, one of which is to be in the Cape Metropole.

Speculation has centred on one being on the West Coast, another in the Southern Cape and one each in the Overberg/Beetle River and Central/Little Karoo regions.

Neither Kriel nor Mr Lotter was available for comment last night.
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Security under review after court shooting

Stephané Bothma

PRETORIA — Security at the Pretoria Magistrate's Court building was under urgent review yesterday following an incident in which an Eersterust gang member was gunned down in a court room by a rival — who then managed to use the lift from the fourth floor, walk past security guards and jump into a getaway car.

A massive police hunt was still under way late yesterday to capture Abdul Mohamed who allegedly shot co-accused Lawrence Fisher eight times with a 9mm pistol during a tea break at court. Fisher, shot in his head, neck and body, died a few hours later.

A bystander was slightly injured in his leg and foot.

Mohamed and Fisher were both members of the Bad Boys gang operating in a township north of Pretoria. They were on bail pending a charge of attempted murder and had to appear in court when the shooting took place.

Chief prosecutor Tom Dicker said urgent steps would be taken to beef up security at the court building. He had submitted a report to the justice department in this regard. He also expressed concern for the safety of his staff, magistrates and State witnesses.

"What if an accused is unhappy about a decision by a magistrate or evidence by a witness?" he asked.

Police spokesman Capt Dave Harrington said court security was handled by the justice department and he could not comment on how Mohamed managed to bring in a firearm.

Sources said the rivalry between Mohamed and Fisher started when Mohamed supplied information to police which prevented Fisher from getting bail. Fisher was later granted bail on appeal by the Transvaal Supreme Court and took out a contract on Mohamed's life for betraying him.

Mohamed learnt about the contract and showed up at court armed and allegedly shot Fisher, who was in a court room on the fourth floor.

Mohamed was due to appear in court with Fisher, but arrived late. Police are also looking for four men who escaped with Mohamed in a white car.
Court stenographers refuse to record cases
Pahad tells Zimbabwe SA is not delaying trade pact

Michael Hartnack

HARARE — Deputy Foreign Minister Aziza Pahad yesterday strove to reassure Zimbabweans that SA was not delaying the signing of an updated “most favoured nation” bilateral trade pact until it had concluded a preferential trade agreement with the European Union.

Responding to allegations made at the weekend by Confederation of Zimbabwe Industries president Jonee Blanchfield, Pahad said tariff barriers against Zimbabwean exports, especially textiles, could not continue.

“We cannot continue with the high protective regime,” Pahad said at the outset of an inaugural joint commission meeting between the two countries. The session is to last two days.

“There is a genuine commitment to accelerate the process,” he said, denying Blanchfield’s charge that SA was using “delaying tactics” in seeking irrelevant points of information.

“Negotiations with the EU have not even started. We will never do anything to finalise our negotiations with the EU without taking into consideration its implications for other countries in the region,” he said.

“There is political will and genuine commitment to resolve this (updating the mbond 1964 trade pact) without further delay.”

Blanchfield protested that although Commerce Minister Nathan Shamuyirira had announced a “breakthrough” and signing of the new pact by the end of August, another month had passed without progress due to further queries from SA.

Blanchfield’s protest at a trade balance R3bn in SA’s favour was echoed by Deputy Foreign Minister Nicholas Goche at the meeting.

The commission’s agenda is understood to be largely a formality, containing neither the trade pact nor the other issue vexing relations — jailed SA agents. President Robert Mugabe has rejected repeated approaches from President Nelson Mandela for the release of the agents, all serving life sentences for acts of terrorism in 1987-88.

New great trek faces red tape and rain

Tim Cohen

CAPE TOWN — The first 20 “new great trek” farmers would settle would be Lichinga, about 4 000km from Pretoria and close to the eastern shores of Lake Malawi.

The “pioneer group” is expected to lead hundreds of other farmers in what
New provisions for imposing states of emergency allow governments wide powers to suppress basic protection
Flashback to the old days... Images of troops in the townships during the state of emergency will live in the memory for a long time.
Human rights dilemma

A HEADS OF MISSIONS Conference a year ago, Foreign Affairs Minister Mr Alfred Nzo said a commitment to human rights was one of the underlying principles guiding South Africa's foreign relations.

Since then the Government has come under attack for what is seen as a lack of commitment to international human rights. And our relations with Nigeria and Indonesia are examples of where we can be seriously criticized.

There are those who believe that a human rights-oriented foreign policy is an unattainable objective. Not only can it harm South Africa's trade and other relations with transgressors, but it is also believed that it is an idealistic approach, considered unrealistic and based on the country's position.

But a commitment to human rights as a principle of foreign policy is no longer considered unrealistic.

Starting with the end of World War II and the creation of the United Nations, human rights slowly found their way into the foreign policy principles of most states, even though they often only paid lip service to this commitment.

Long struggle

There are also an increasing number of NGOs who campaign internationally for the protection, respect and extension of human rights.

Because of the long struggle against apartheid, South Africa is today considered as a prime example of a society where respect for human rights has won the day.

This country is an inspiration to and an example for many and there is also an expectation that South Africa will lead the way, or at least play a role in the promotion of human rights.

However, a commitment to international human rights is more easily voiced than implemented and its implications should be thought through carefully.

There are four inherent problems to this approach: Firstly, sovereignty is a basic ground rule of international relations. The state or government of a country is the highest authority in its territory and may use force to assert its will on its population.

And a general rule is that states are not allowed to interfere in the domestic policies of other countries as this would be a denial of the target state's sovereignty.

This rule has made it possible for many governments to hide or deny human rights abuses and to refuse to change their policies.

They claim, like South Africa did during the apartheid era, that their internal policies are not of concern to others.

In international law, the acceptance of the sovereignty of the state means that the rights of citizens are usually subordinate in democracies, where people's rights are respected and guaranteed by a bill of rights in the constitution, this does not create a problem. But in authoritarian states, human rights abuses are not checked by a constitution and international rules often favour the state rather than the individual.

Yet, intervention in the internal affairs of a state is prohibited. This rule, aimed at protecting states against external aggression, is often invoked by governments who abuse human rights.

Despite the rule of non-intervention there are certain measures, like diplomatic or economic sanctions, that can be used to put pressure on transgressor states.

The second problem has to do with the definition of human rights. International action against human rights abuses is often restricted to a rather narrow definition of human rights as basic civil and political rights like the right to life or freedom of association.

When applying sanctions against governments which abuse these rights of citizens, it often happens that the other rights of citizens are violated in the process.

If one accepts that the right to health is a basic human right, then economic sanctions which result in people being deprived of medical care and medication result in an abuse of people's rights.

Suffering

This is the problem with UN sanctions against Iraq. Sanctioning it to sell its oil internationally has led to a lack of food and basic medicines in that country, creating suffering for a large section of the population.

States which claim to make human rights a cornerstone of their foreign policy should therefore think carefully about how they define it and to what extent they might contribute to an abuse of human rights in their attempts to punish abusers.

A third problem has to do with the instruments and resources available to implement such a policy.

Most Western states that are serious about promoting human rights are able to use aid as an instrument -- whether granting or withdrawing it (or threatening to withdraw it).

But a developing country like South Africa cannot do the same. As we do not have the resources to be a donor nation.

It therefore has to rely on other means.

In the case of Indonesia, it has been suggested that South Africa should sever its trade links with that country. The question is what would be the outcome of such action?

Our trade with Indonesia is too small to hurt that country and breaking off diplomatic links would mean that we have no way of exerting influence or pressure on that government.

If we severed trade and diplomatic ties, we would "feel good" and occupy the moral high ground. And we may lessen the threat that cheap imports hold for our Labour market.

Unrealistic principle

But we would not have achieved much as even the influence that our human rights record might have had on that government would be lost, since there would be no more contact.

However, I do not mean that human rights are an unrealistic principle on which to base one's foreign policy. On the contrary, it is of crucial importance to our commitment to improving the human condition.

But in order to be effective, we have to work out a policy that acknowledges our strengths and weaknesses.

Some of the options for a developing country like South Africa include:

• Multilateralism -- building coalitions of like-minded states which can collectively exert pressure on transgressor states;

• Support of international organisations involved in the promotion of human rights;

• Public condemnation of abusers, and

• Taking firm and practical steps to build regional consensus on how human rights can be promoted in Southern Africa and further afield.

It is easy to claim that we want to promote human rights, but to implement such a policy is a long and difficult process.

Max van Aardt is a lecturer in international relations at the Rand Afrikaans University.
Truth Body to hear kids tales of rape and terror
Extradition promised if Palme’s killer found

Wyndham Hartley

CAPE TOWN — If a top-level Swedish investigation could prove a South African was involved in the murder of former Swedish premier Olof Palme, SA would co-operate in extraditing that person to face charges in Sweden, Justice Minister Dullah Omar said yesterday.

Omar was speaking at a news conference to welcome a high-powered Swedish investigation team which arrived in the country yesterday to follow up claims by former Vlakplaas commander Eugene de Kock of a SA connection in the assassination of Palme.

Omar said that even if the truth commission had granted amnesty to an SA national found to be involved in the murder, he would insist on having that person extradited.

Omar said it was not possible to grant amnesty for crimes committed in other countries.

The Swedish investigation team is headed by chief prosecutor Jan Danielsson and superintendent Hans Olubro. Danielsson said he had been offered all the help needed by Omar.

and Safety and Security Minister Sydney Mufamadi. He said the team could be in SA for some time in an attempt to get to the bottom of De Kock’s claims.

He denied that the possibility of an SA connection had ever been excluded by Sweden. He said it was the aim of the investigation team to establish whether such a connection existed or not.

Interviews with former security force officers and old-order politicians could form part of the team’s work.

Omar said arrangements so far had been made on the basis of the friendship between the two states.

He hoped evidence would be given to the Swedes voluntarily, but would not hesitate to force SA citizens to give evidence to the investigators.

Mufamadi and Omar, in response to questions, said that there had been no progress on the SA side as court procedures had run their course before the attorney-general in Pretoria could resume questioning De Kock.

The minister pointed out cross-examination of De Kock had been completed only on Wednesday. This was why no further questioning had yet taken place.

Commission will address sexual abuse

Farouk Chothia

DURBAN — The truth commission would hold its first hearing for women only in Durban on October 26 to give women an opportunity to speak about the violation of their personal rights during the apartheid era, commissioner KwaZulu-Natal spokesman Mdu Lambedi said yesterday.

He said most of the people who had appeared before the commission had been women. However, they had not testified about human rights violations — such as sexual abuse. The commission had decided to arrange a “small and intimate” hearing at which women could relate their suffering to women commissioners, Lambedi said.

About 30% of the commission’s KwaZulu-Natal investigative unit were made up of women, who would take statements from victims, he said.

The commission will hold separate sittings in Durban and Maritzburg over the next two weeks where other, high-profile cases will be dealt with.

These will include President Nelson Mandela’s biographer Fatima Meer, who will recall an attempt to assassinate her husband, ANC KwaZulu-Natal MP Ismail Meer, and the 1978 assassination of Natal University political scientist Rick Turner.

The amnesty application of police Capt Brian Mitchell, convicted on 11 counts of murder and eight counts of attempted murder in connection with the 1988 Trust Feeds massacre, will be heard in Maritzburg next week.
Magnus Malan may now face TRC hearing

'Better chance of finding truth'

Clive Sayer
Political Correspondent

General Magnus Malan and other officers and Inkatha members acquitted of charges of involvement in the 1987 KwaMakutha massacre may yet face subpoenas by the Truth and Reconciliation Commission.

The acquittal was further proof that the Truth Commission, rather than the courts, had a better chance of uncovering the truth about past human rights abuses, commission chairman Archbishop Desmond Tutu said yesterday.

The state had failed to secure a guilty verdict in spite of spending an estimated R7 million on a lengthy trial, Archbishop Tutu and his deputy Alex Borame said in a joint statement.

'The court has weighed up the evidence, the accused have been found not guilty, and we certainly would not quarrel with its decision. But the outcome of the proceedings demonstrates our conviction that the commission offers a better prospect of establishing the truth about our past than criminal trials,' he said.

He said it was unlikely that many convictions would be secured if the state persisted in trying to prosecute the perpetrators of human rights abuses committed in the past 30 years.

But it would be unwise for perpetrators waiting in the wings to think that the outcome of the trial offered them any reassurance, he added.

'The Motherwell and De Kock cases give the lie to the suggestion that because people were acquitted in this case, all perpetrators can breathe a sigh of relief,' he said.

Developments around the commission in the next few weeks are likely to indicate that it is important for perpetrators to come to the commission before they face the alternative of being prosecuted in a court of law,' the statement said.

Archbishop Tutu said the commission had not yet decided if it would conduct its own investigation into the issues raised in the Malan trial.

'But as with any other investigation, if we were to go ahead we would not hesitate to invite or subpoena those involved in this trial, including those who have been acquitted,' he said.

Earlier, at the opening of an exhibition on the apartheid conflict in Paarl, Archbishop Tutu said being acquitted by a court of law said 'very little about moral guilt'.

'The court acquits because the evidence is not sufficient to prove beyond a reasonable doubt. But you know as you walk free out of the court that people know that you did this. You still have to face your God,' he said.

Those who did not come forward to confess to their crimes were merely postponing the inevitable, he said.

'Many thought that their evil deeds of darkness would never see the light of day. But there were others carrying a heavy burden of guilt who were letting all kinds of cats out of all sorts of bags,' he added.

The acquittal of General Malan and 15 others has dashed African National Congress hopes that this would be the first court judgment of a link between the former National Party government and apartheid-era violence.

The ANC has accused the prosecution of failing to prepare a watertight case, and has questioned why this was so. A triumphant F W de Klerk, of whose cabinet General Malan was a member, responded by saying the case should never have taken place.

In his judgment, Mr Justicee Jan Hugo harshly criticised the work of the special investigating unit into the massacre. He said there was no evidence to prove that training provided in Caprivi was intended for any unlawful purpose or for hit squad killings.

He also declined to give immunity from prosecution to three key state witnesses, saying they had not answered all the questions put to them during the trial frankly and honestly.

The government, military intelligence operatives Johan Opperman, Andre Cloete and Caprivi trainee Alex Khumalo, declined to address the court on their legal right to immunity.

The Criminal Procedure Act allows immunity from prosecution to be given to accomplice witnesses, even if they incriminate themselves, provided they are honest witnesses.

General Malan told reporters outside the court that the truth had prevailed, and thanked President Nelson Mandela for the opportunity to defend himself in court.

Freedom Front leader Constand Viljoen, a former defence force chief, said the front had been brought back together and was considered the result of a political and propaganda agenda.

General Viljoen said his information was that Natal attorney-general Tim Mcnally had expressed doubts about the acquittal before the trial that his prosecution would succeed.

Mr Mcnally said he did not intend appealing against the acquittal or prosecuting the three accomplice witnesses.

Mr Mandela called on all to respect...
You still have to face your God, says Tutu after Magnus Malan acquittal

From page 10

Judge Hugo's decision, and said the Government would carry on investigating apartheid-era atrocities. "We will continue to investigate who was responsible and who, in regard to the army and the special forces, was responsible for directing these activities," he said. He also had high confidence in the judiciary, because without confidence in the courts, society would degenerate into private vengeance and extralegal activities.

Mr McNally, who before the trial was criticised by the ANC for failing to institute prosecutions of those allegedly involved in violence in KwaZulu Natal, again came under fire from the party. "The people of our country who fought against apartheid and made many sacrifices expect that there should be proper investigations into the activities of hit squads, including those members of the former NP government who may be implicated in such activities," the ANC said.

The ANC also questioned why Mr McNally had decided to prosecute General Malan and others without ensuring there was adequate evidence to put before the court. "Many questions have been asked as to the manner in which the prosecution was conducted," the ANC said.

The ANC is expected to issue a fuller statement this weekend after studying the judgment. It will also respond to attempts by Mr De Klerk to turn the tables on the ANC by calling for prosecution of some of its top figures.

Mr De Klerk said the initial reaction by the ANC, in which the party was quoted as saying the judgment had far-reaching implications, should be condemned. "This subtle threat reveals an unwillingness to accept the independence of the judiciary."
Mahomed should not become top judge, say Griquas

JOSEPH ARANES

The Griqua National Conference of South Africa has called on President Mandela not to appoint Mr Justice Ismail Mahomed as the country's chief justice because they believe he has been instrumental in violating the rights of Namibia's indigenous people.

Mr Mandela was due to hold talks with Judge Mahomed, present Chief Justice of Namibia, yesterday.

Griqua National Conference chairman Cecil Le Fleur said Judge Mahomed's input in the drafting of the Namibian constitution made him responsible for entrenching the violation of rights of the indigenous Rehoboth Baster nation.

"As a major intellectual contributor to South Africa's constitution, he has also been instrumental in entrenching illegally the denial of the sovereign rights of the Griqua and other indigenous Khosaan nations in this country."

He said Mr Justice Mahomed's current positions as deputy president of South Africa's Constitutional Court and Chief Justice of Namibia showed there was a clash of interests that was not good for South Africa.
Top apartheid cops to tell all
Policemen to shed light on unsolved murders

By MARLENE BURGER

THE five former security policemen whose amnesty applications will be filed with the truth commission tomorrow were among several facing imminent arrest by the investigators of the Transvaal Attorney General, Dr Jan D'Olivera.

The five were among 23 former security policemen who approached the commission in June through a letter endorsed by seven retired police generals to test the amnesty waters.

The "incidents" which the men indicated they "might" be able to supply information about include some of the most sensational unsolved murders of the apartheid era.

These include:

• The May 1983 disappearance of the so-called Phebo Three – Sipho Hashe, Qaqawu Godoloto and Champion Galela – abducted from the Port Elizabeth airport.

• The 1986 murders of the Kwandebele activist, Dr Fabian Ribeiro, and his wife, Florence, gunned down at their home.

• The 1988 murder of Kwandebele cabinet minister Piet Ntuli, who died in a car bomb.

• The 1985 deaths of eight Congress of South African Students (Coasa) members in Duduzula who had been supplied with booby-trapped hand grenades by former Umkhonto operative Joe Mamasela, and:

• The murders of ANC members Jeffrey Sibuya, Harold Sefola, Andrew Makupa and Jackson Maake.

The most senior of the five, Brigadier Jack Cronje, served as commanding officer of Unit C10, based at Vlakplaas, from 1983 to 1985, when he handed the reins to Eugene de Kock.

Mamasela alleges Cronje was a key figure in the 1983 cover-up of hit-squad activities at the Harsma commission.

The commission was in charge of Unit C10 at the time of the Phebo Three-disap-
By CARMEL RICKARD in JOHANNESBURG

A JOHANNESBURG advocate will square up to high
professional standards this week, arguing for the right to take
work directly from the public, rather than on referral, from an attorney.

The general counsel of the Bar, the body representing most practising
advocates, has asked the Transvaal Supreme Court to strike out an affidavit
by Van der Spuy, SC from the roll of advocates appearing for a client without an
attorney being involved.

This goes against a long-standing principle in the code of ethics of the country and its member Bars.

Van der Spuy is a member of the Independent
Association of Advocates of South Africa, a breakaway body which has
rafted its own code of conduct which permits members to take work directly
from the public.

Van der Spuy claims the referral system is not in
the public interest since it involves paying two legal professionals.

But members of the Bar argue there is nothing to
stop a lawyer charging fees at the same rate as advocates in addition to
their own attorney’s fees.

Commentators add that advocates who take
work directly from the public do not have the backing of the attorneys’
fi d e l i t y fund and their clients are therefore not protected.

Legal commentators say the case is important because it will finally decide whether advocacy is a referral profession in South Africa. If the court rules it is not, it will fundamentally change the way the profession operates and could spell the end of the Bar as a separate profession.

Since Van der Spuy has claimed the issue affects advocates’ constitutional rights, it is likely to end up in the Constitutional Court, whatever the ruling.
Five named for
Appeal Court

President Nelson Mandela yesterday announced the names of the judges who will serve on the Labour Appeal Court and the Labour Court.

The Labour Appeal Court judges include Judge E Cameron, Judge JH Cargill and Judge CR Nicholson, as well as Dr Breytenbach and advocate E Rellias. They were appointed Labour Court judges.

Labour Minister Tho Mbwembe said in a statement that the appointments followed an extensive process of advertising and interviews by the National Economic Development and Labour Council and the Judicial Services Commission. The president had therefore appointed these judges on the advice of Nedlac and after consultations with the Judge President of the Labour Court, Mbwembe said.

The president had appointed only two members of the Labour Court after considering the fact that all of the members of the Labour Court were white and no suitable black person was recommended as yet, Mbwembe added.

Also, recent amendments to the Labour Relations Act would allow for fresh nominations to the above court on a basis which may facilitate, among others, the appointment of a more representative Bench in the Labour Court.

The appointments will take effect from October 11 for a 10-year period and the judges will take office from November 1, also for a 10-year period. Members of the Essential Services Commission will be announced today.

— Sapa —
amnesty
in bid for
Killer cop

By Walter Minton and

Amnesty

Correron 14/11/96

Killer cop
Cape Town - President Mandela yesterday announced the names of the judges who will serve in the Labour Appeal Court and the Labour Court.

The Labour Appeal Court judges include Judge B Cameron, Judge JH Connah and Judge CR Nicholson. Professor D Basson and advocate E Reveilles were appointed Labour Court judges.

Labour Minister Tito Mboweni said the appointments followed an extensive process of advertising and interviews by the National Economic Development and Labour Council and the Judicial Services Commission.

The president had appointed the judges on the advice of Nedlac and after consultation with the judge, president of the Labour Court, Mboweni said.

Recent amendments to the Labour Relations Act would allow for fresh nominations to the court on a basis which may facilitate, among others, the appointment of a more representative bench in the Labour Court - Sapa
FOCUS ON HUMAN RIGHTS

Police recruits, Matie students in audience

WHEN the Truth and Reconciliation Commission's first hearing in the Winelands opens today, it will be notch up four other firsts, among them the only church submission and conscript's story to date. ROGER FRIEDMAN reports.

POLICE recruits attending the police college in Paarl are to sit in on Truth and Reconciliation Commission (TRC) hearings this week to give them a feeling for human rights and violations of these, according to a TRC spokesperson.

The three-day hearing in Paarl is also to be attended by students at Stellenbosch University, the first university to observe proceedings.

The Stellenbosch ring of the Dutch Reformed Church is to be the first church group in the country to make a formal submission to the commission.

In another first for the hearing, which begins today, the commission is to be told its first conscript's story when a mother testifies about her son, a national serviceman who died on the Angolan border.

The commission has aggressively pursued the involvement of the Afrikaans-speaking community for its first hearing in the Winelands, a community that has largely shunned the TRC, which it regards as a witch-hunt and pro-ANC.

Opening the commission's first exhibition — at the Oude Pastorie, Paarl, on Friday — TRC chairman Archbishop Desmond Tutu expressed "delight" at the NGK's volunteering its submission and urged Afrikaners to stop feeling sorry for themselves.

"We appeal to Afrikaners, let us hold hands. Let us work together as we look the beast in the eye. The beast is the awful past that we have all experienced — let us not pretend it did not happen," Tutu said.

The country needed Afrikaners "with all your unique peculiarities." It was a pity that Afrikaans newspapers Die Burger and Rapport had refused to become part of the new South Africa, Tutu said.

"They are nostalgic for a past that will not return. They are not doing their people a service by pandering to a useless nostalgia."

Five policemen, among them former Vlakplaas operatives, have applied for amnesty in connection with more than 40 deaths — and have confessed to involvement in two of the best-known unsolved murders, Sapa reports.

They claim they were involved in, or have knowledge about, the assassination of activist Dr Fabian Ribeiro and the Pehco Three who disappeared in 1985.

The most senior of the five is former Vlakplaas commando Brigadier Jock Cronje, the highest-ranking policeman to have applied for amnesty.

The others are Colonel Roelf Venter, at one time attached to Vlakplaas, Captain Wouter Mentz, Captain Jacques Hechter and Warrant Officer Paul van Vuuren.

Brian Mitchell, the policeman convicted of the murders of 11 people at the Trust Feed village near New Hanover, KwaZulu-Natal, is to appear before the Truth Commission's amnesty panel in Manzimkulu tomorrow. He is serving a 30-year sentence.

The commission moves to Durban next week to examine events surrounding the death of Natal University lecturer Dr Rick Turner — Sapa
TRC told of police link to gangs, says Borasie
Ex-police chief faces subpoena

JOHN YELD
4 Dec 14/10/96

Five former security policemen who are applying to the Truth Commission for amnesty for their involvement in more than 40 murders plan to subpoena former police commissioner Johan van der Merwe to testify about the background to their deeds.

Commission deputy chairman Alex Boraine said today this was "a very interesting development" and the logical conclusion was that General Van der Merwe would also have to apply for amnesty.

The policemen are a former Vlakplaas commander, Brigadier Jack Cronje, Colonel Roelf Venter, who was also based at Vlakplaas in 1984 and 1985, Captain Wouter Mentz, who worked at Vlakplaas from 1989 to 1992, Captain Jacques Hechtel, a former explosives expert now a businessman living in Pretoria, and Warrant Officer Paul van Vuuren, who is now farming in the Warmbaths area.

Their amnesty hearing will be in Johannesburg next Monday - the day the Truth Commission hears separate submissions in Cape Town from the former SA Defence Force and the SA National Defence Force.

Legal representatives of the former security policemen are flying to Cape Town today to hand the commission the last of the five amnesty application forms.

The five are expected to reveal details of murders including that of Pretoria doctor Fabian Ribeiro, and the fate of Eastern Cape activists known as the Pebco Three.
**Arbitration to assist courts**

Deborah Fine  
214/10/96

FORMALISED arbitration and other methods of alternative dispute resolution could play an important role in relieving SA's overburdened and underresourced courts, Justice Minister Dalish Omar said on Friday.

Speaking at the official launch of the Arbitration Foundation of Southern Africa he said even the most advanced countries with the most sophisticated judicial systems had a need at every level of society for speedier, less cumbersome and often "less abrasive" means of resolving disputes.

The foundation was formed in June as a venture between the legal, accounting and organised business professions to provide and administer resolution services in southern Africa.

Founding members include every Society of Advocates affiliated to the General Council of the Bar of SA, 28 attorneys' firms, eight accounting firms, the SA Chamber of Business, the SA Corporate Lawyers Association and the SA Association of Arbitrators.

Disputes previously levelled at the foundation, Omar said business and other interest groups had the right to seek alternative and legitimate mechanisms through which disputes could be resolved effectively and in the most "economically possible" way.

The criticisms had included concerns that the foundation was elitist, designed to provide justice for only the rich and was racist in that it had been motivated by an opposition to transformation and the appointment of black Supreme Court judges.

Omar said arbitration and other forms of alternative dispute resolution should not be seen as inherently antagonistic to, or a substitute for, the judicial system, but rather as complementary means of solving problems.

It was clear that alternative dispute resolution could play an important role in broadening access to justice at all levels, including the commercial, labour, family law, juvenile law and customary and indigenous law fields.

The foundation has offered cheaper forms of arbitration to ensure alternative dispute resolution was more accessible to the smaller business person and a broad base of SA citizens.

Foundation chair Frances Turk said after the launch that Omar's statement was "certainly the most positive and encouraging indication ... and we hope to fulfill his expectations".

Others at the launch included Transvaal judge president CF Bloch, deputy judge president HCJ Fleming, Gauteng safety and security MEC Jesse Duarte, and former Chamber of Commerce and Industry president Mervyn King.
Truth won’t ease Ribeiro family’s pain

OWN CORRESPONDENT

HOPE lights Mr Chris Ribeiro’s face — he believes he will soon know the truth behind the murders of his parents, Dr Fabian and Florence Ribeiro.

The answers — 10 years after he walked into his parents’ Mamelodi, Pretoria, home and found them sprawled in a pool of blood — could bring him a little ease, but the wounds will never heal, he says.

It was through the weekend press that the four Ribeiro siblings learnt that five high-ranking former policemen were willing, in exchange for amnesty, to tell the Truth and Reconciliation Commission (TRC) about their alleged involvement in the couple’s murder.

Ribeiro, 24 at the time of the killings, believes granting the former policemen amnesty would “be a further insult to our dignity.”

“The amnesty clause is a mechanism to appease whites, the right wing and perpetrators of gruesome crimes,” he says.

“What was a bright and sunny day in 1986 turned into a dark and dreadful experience when I found my parents sprawled on the floor. My mother gave her last breath in my hands.”

The Ribeiro siblings, all of whom were at university, had to learn to live from hand to mouth. Life became a vacuum without their father, their “protector”, they say. Their mother’s compassion and warm laughter can never be replaced.

“I will never be able to forgive the people who assassinated my parents,” says Chris.

His sister, Barbara, 38, a medical doctor, is not interested in testifying. “Hearing the truth will not heal the pain. We were closely-knit and the deaths of our parents tore the fabric of the family. That damage will not be reconciled by the TRC.”

For Chris, the TRC offers his family a chance to highlight their pain.
TRC veers crazily between its two poles of obligation

THE Truth and Reconciliation Commission faces a hapless task because of the contradictory nature of its brief, argues Contributing Editor ANTHONY HOLIDAY.

As a crisis of confidence corrodes to the very core of the criminal justice system in this country, it is becoming increasingly clear that the Truth and Reconciliation Commission (TRC) is part of the problem, not a feature of the solution. If, indeed, there is a solution.

In the wake of the public outrage over the acquittal of Magnus Malan and his colleagues and resolution at the revelations of Eugene de Kock, the Commission's deputy chairperson, Alex Rosaal, may talk exuberantly of "breakthroughs" in the body's attempt to uncover the facts about apartheid-era atrocities. And his chairperson, Desmond Tutu, may even imply that the Malan trial debacle illustrates the superfluity of the TRC's approach: But, in their private moments, both men know that the task they face is hopeless.

Certainly, these two worthies have no reason to rejoice at the outcome of the Malan trial. For the general, who has stored in his memory the fine-grained detail of military Intelligence operations during the era of clandestinity, it is, now, free to seek a smack at the TRC as he has done all along, but with greater legitimacy. The TRC can subpoena him, but he now has no need of the indemnities it is empowered to offer in exchange for full and frank disclosure and is thus under no compulsion to sing the canary. De Kock has historically sung.

But the real source of the TRC's impotence lies in the contradictory nature of its task, the stupefying comprehensiveness of its investigatory procedures, the well-meant but mystifying demand of some of its officials and (above all) its lack of intellectual clarity about what it is supposed to be doing, and how, in the short span of its remaining lifetime.

This emerged forcibly for me at a recent seminar, held at the TRC's Cape Town headquarters. It was part of a series of such seminars, instituted to give "intellectual context" to the TRC's work — although not a single senior commission found time to attend.

Instead, the panel of speakers faced a half-filled room of academics, NGO workers and a few TRC staff — one of the seminar rooms at "workshops" of a politically correct sort, at left-fringe theatrical performances and in the confines of our "historically disadvantaged" universities.

The impossibility of the TRC producing anything like a complete picture of the murders, tortures and other travesties of human rights and dignity, committed between March 1969 and December 1993, became plain when Willem Verwoerd of the organisation's research department outlined for the seminar's benefit the lengthy and complex set of procedures envisaged to enable the commissioners to arrive at findings on a balance of probabilities basis concerning tens of thousands of alleged violations that happened during the period in question.

As Verwoerd explained, section 46(9) of the Promotion of National Unity and Reconciliation Act requires that before the TRC can declare anyone to be either a perpetrator or a victim of a human-rights abuse, it must be able to base its finding on "factual and objective information and evidence."

In pursuit of this ideal of objectivity, the TRC must embark on an elaborate process of statement-taking, statement registration, data processing, verification and corroboration, which could occupy it until the start of the 21st century if it worked on a case-by-case basis.

Not only must the TRC statement recipients establish whether each alleged human-rights violation really took place in the period under review, emanated from past conflicts, was politically motivated and counts as a "human rights violation," but each separate incident mentioned in a given statement must be corroborated by checking the statement against print-outs from data processors and against other statements that have emerged from the same geographical area.

However, with all this work to do, the TRC does not yet appear to know what it means by a "gross human-rights violation" for, as Verwoerd conceded, it is still in the process of formulating a working definition of what the Act calls "serious ill-treatment." Even this procedural fumbling seems to me to be less serious than the TRC's evident failure to marry its truth-finding to its reconciliation function.

To be sure, this was never going to be an easy task. The Act that brought it into being explicitly excludes the Commission's mandate to seek out the truth and report its findings in terms that are unmistakably "juristic and forensic."

While it need not reach findings that pass the test applied by our criminal courts of being "beyond reasonable doubt" — that is, findings based on a set of facts that point in only one direction — it must achieve findings that, as civil hearings, hold on a "balance of probabilities." Reconciliation, on the other hand, is a far more nebulous matter.

How a public quasi-judicial body was supposed to achieve this has never been clear to me, unless the lawyers, so ably represented by their white-collar client, are taking a g-msg and understandably declared that granting murderers and torturers amnesty in exchange for a full confession (which, legally speaking, need include no lots of penitence) would somehow do the trick.

In the event, since it commenced its hearings, the TRC has veered crazily between these two poles of its obligation.

At times it has resembled a tasteless group-therapy session, with its "crying rooms," official comforters and the revivalistic antics of its chairman. More recently, it has tried to talk tough about "taking off the gloves" in its determination to get at the facts and balance the probabilities.

I take it that Verwoerd was talking in this latter vein when he told the TRC seminar that the decision to allow a group of top-ranking former police officers, including the controller and chief of the Security Police, Johan Coetzee, to testify in camera was motivated by a desire to prevent the men from colluding to corroborate each other's evidence — a revelation that certainly disturbed another seminar participant, political philosopher André Du Toit, who had nailed his colours to the TRC ship's reconciliation mast.

But that, it may, this appearance of directionlessness is good news for those who have an interest in evading the TRC's probe into pre-apartheid gangsterism and very bad news indeed for such credibility as Archbishop Tutu and his cohorts still enjoy among the victims of political gangsterism.

That, in its turn, sounds a dire warning for the entire South African system of justice, the credibility of which is already in an untenable state.

For the TRC, despite its parentage in a series of compromise deals between politicians, is umbilically attached to the Department of Justice and is the creation of our elected legislators.

Should it fail in its task of merely identifying the perpetrators of political crimes and telling the populace what they did, in the way that the courts appear to be failing in their task of making criminals pay for their crimes, then it will be only a matter of time before some people consider taking the law into their own hands, as has happened already in the struggle against gangsters and drug dealers.

It must be remembered that South Africa has only lately emerged from a period when the vast majority of our population successfully took the law into their own hands against the discrédited legal edifice of a racist system.

Should they do so again, the resulting vortex of lawlessness could prove to be unending.

Q: Dr Anthony Holiday teaches philosophy at the University of the Western Cape's School of Government.
Amnesty International opens first SA office

CYNTIA VONGAI

AMNESTY International, in a major step since its unbanning in 1990, opened offices in the city yesterday, its first in the country.

The organisation's South African secretary, Mr. Stephen Langtry, said Amnesty had been fighting human rights abuses in South Africa since the 1960s, although it was banned by the former government. "We are happy to finally have a base from which to co-ordinate our work."

Amnesty's work in SA has included submissions to the Constitutional Assembly on the abolition of the death penalty. It has also concentrated on women's rights and is campaigning for an International Criminal Court to deal with cases of genocide, war crimes and other crimes against humanity.
Our masters deceived us, says amnesty man

JOHN YELD
ON THE TRUTH COMMISSION.

Maritzburg - President Mandela had been portrayed to policemen serving the apartheid government as "a monster, a communist and a violent man", amnesty applicant Brian Mitchell said at his hearing.

"One can see now the deception and the disinformation that was fed to us.

"Robert McBride was put under the same comb until I met him in Westville prison in 1992. Having exchanged ideas and views with him, my perception changed. Likewise with Mr Mandela," Mitchell said here today.

"I am just sorry that the changes that have taken place with the elections did not take place 10 years ago.

In his amnesty application, Mitchell, who is serving his sentence in Maritzburg prison, testified that he had been a supporter of the Inkatha Freedom Party and the National Party.

He said he joined the police on December 31, 1975, and had just completed his training when he was "loaded into the back of Bedford trucks and carted off to the Soweto riots" in June 1976.

"As a young white South African, I was for the first time confronted with an uprising that left me shivering in my boots.

"During this uprising, I experienced the solidarity of the black masses like never before, and the brutality of the law enforcers to put down the uprising. The hostility of the blacks towards us was real and constant." He also served in South West Africa (now Namibia) against Swapo forces.

"Being faced with contact situations and losing a very good friend in a contact as well as detonating a landmine were part and parcel of my experience.

"On returning from border duty, he was transferred to riot control work in Natal.

"While doing a roadblock in Chesterville, a sergeant with his men stopped off there for a while. He was on patrol duty. He remarked that he felt like shooting a 'kafir.' They eventually drove off into the township.

"About a quarter-of-an-hour later he reported that he had shot somebody who had stoned them. The victim denied this and said he was just standing in the yard in front of his house.

"He was loaded on to the spare wheel on the honnet of the vehicle and driven to a point where an ambulance collected him."

Mitchell said it had not been a pleasant experience trying to stop unrest.

"Up until today when I see visuals of unrest on television I get a feeling of fear that grips my heart and I feel my flesh crawl."

During police training courses they had repeatedly been shown visuals of unrest, including victims with hands and heads cut off and those who had been necklaced.

"The sad bit about this is that it makes a man hard. We were never taught how to deal with our fears, our hatred, our frustration or fatigue - the killings, the burnings and stone-throwings, the petrol bombs."

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Probes of amnesty applicants forges ahead

CRIMINAL investigations against five police officers whose applications for amnesty were due to be heard next week, and 17 others who had signed an exploratory letter to the truth commission in June were proceeding, Transvaal attorney-general Jan D'Oliveira said yesterday.

His staff was working on the matter and he would look at prosecutions of... Continued on Page 2

Amnesty

Continued from Page 1

asked to suspend their activities pending the outcome of an amnesty application if charges have been laid or a trial is under way. Formal charges have not yet been levied against the five officers applying for amnesty or the 17 signatories to the letter.

The five policemen — some were stationed at the Vilaklas security police base and some at the SAP's Northern Transvaal security police headquarters — will appear before the truth commission's amnesty committee in Johannesburg next Monday. They are expected to provide information on the death of 40 opponents of apartheid, including the Fezoo Three, Mamelodi doctor Fabian Ribeiro and his wife, and two groups of Mamelodi youth activists.

Investigations against the 17 signatories to the June letter would continue as normal, D'Oliveira said.

A separate source refused to confirm that the five, who have applied for amnesty, were assisting prosecuting authorities in their investigation of the 17. Asked about their ranks, he said they ranged "from top to bottom".

Continued on Page 2
Police captain tells of student’s death

A police captain told the truth commission yesterday how a white colleague told him “tonight, I shoot dead a Hottentot” only minutes before gunning down law student Adri Faas.

Capt Peter John Clayton told the commission’s Paarl, Boland hearings that Lt-Col William Oosthuizen had been armed with a non-police issue shotgun.

Clayton said he had been on duty at the Paarl East police station on the day Faas was killed.

He had been standing outside the station with several colleagues when Oosthuizen pulled up in a Ford Cortina.

“Hey, man, ek moet n Hottentot (Tonight, I shoot a Hottentot).” A few minutes later... I heard him over the radio with an instruction for someone to call a van to pick up Adri’s body.”

Oosthuizen later alleged he had shot Faas as he bent down to pick up a stone. However, a post-mortem showed that the student had been shot in the back.

Clayton said when he arrived at the scene of the shooting he was disturbed by what he saw. The stone that Faas allegedly tried to pick up was lying close to his hand and was no larger than a dove’s egg.

Faas’ father, Alexander, testified that his son’s friends told him they had been standing around a fire moments before the shooting and had not been involved in the fighting which had erupted in the township earlier that night. Faas’ father said the last time he saw Adri alive, his son had been walking his girlfriend home.

The commission also heard allegations that a PAC-linked group in Paarl had colluded with police in attacks on United Democratic Front supporters.

The group was described by witnesses as the PAC, Azanian People’s Organisation and the Azanian Youth Union. — Sapa
Police captain tells of student's death

PAARL — A police captain told the Truth Commission yesterday how a white colleague told him “tonight, I shoot dead a Hottentot” only minutes before gunning down law student Adriaan Faas.

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'Police killed informer cop'

Trust Feed amnesty bid at TRC

Pietermaritzburg – Convicted killer and former policeman Brian Mitchell says a special constable was shot dead by members of the police murder and robbery unit because he had been about to inform on them.

In an amnesty application to the Truth and Reconciliation Commission, Mitchell also says that the special constables were "clearly an auxiliary or third force" used by the apartheid government against the United Democratic Front and the African National Congress in KwaZulu Natal.

"It had taken the form of "offensive assistance" for the Inkatha Freedom Party in the Natal Midlands in December 1988.

He is the first member of the security forces to be heard by the amnesty committee. Mitchell was convicted of 11 counts of murder and two of attempted murder for ordering special constables under his command to attack supposed United Democratic Front (UDF) supporters at Trust Feed.

However, the attackers targeted the wrong house and most of those who died were Inkatha Freedom Party supporters. They were among 19 people in the house at the time, gathered for a candlelit wake for an old man who had died of natural causes. Mitchell was sentenced to death 11 times for the massacre but was later commuted to 30 years in jail.

Evidence at his trial was that the murders were planned as part of a deliberate strategy to weaken the influence of the UDF in the area and to bolster the image of local IFP leader Jerome Gabela, who was regarded by the police to be weak.

"The court heard the attack was planned by Mitchell, his superior officer, Maritzburg riot squad head Deon Terblanche, Mr Gabela, KwaZulu MP and alleged Maritzburg "warlord" David Ntombela and others.

"In his application, Mitchell said he had been told by riot squad officer Jacobus van den Heever – co-accused at his trial and acquitted – that Mayor Terblanche had been murdered by a special constable in his cell.

"He told me that the special constable had taken out because he had a green pocket book with a record of all the activities committed by members of the riot unit and was going to reveal this information," Mitchell said.

Mitchell said Van den Heever had told him another offensive unit of special constables had been operating in the Maritzburg area but had not given details.

"He also made mention that what (former police minister) Adriaan Viljoen had told them at a meeting had far-reaching implications. He said he would use his information if the pressure was put on him regarding this case."

Mitchell repeated evidence at his trial that police had helped destroy evidence after the Trust Feed massacre.

Mitchell did not testify personally at today's hearing. The start was delayed by nearly an hour because of the late arrival of some of the relatives of the massacre victims.

Before Mitchell was called, a member of the amnesty committee, Judge Bernard Nqobe, said he was "deeply troubled" that not all the families of victims and other interested people had been properly informed about the amnesty hearing, as set out in the commission's founding act.

After a postponement during which the families present were consulted, about 25 of them indicated they wanted to be legally represented at the hearing. Committee chairman Judge Hassen Mall then postponed the hearing until 9.30 am tomorrow.

"This might cause a lot of inconvenience to others. Unfortunately, that inconvenience cannot be avoided," Judge Mall said.

Brienne du Port, an advocate representing Mitchell, said there was no objection to the postponement.
Amnesty appeal: former police captain Brian Mitchell at the Truth and Reconciliation Commission hearing in Mantsburg today.
of the police as it was clear there was collaboration between the vigilante group called the Pan Africanist Congress (PAC) and the police," she said.

Mrs Sishuba said that in 1985 she had tried to help Ntemi Phike, who was bleeding to death after being attacked by PAC members while two policemen "just stood there and waited for him to die.

A week before Mr Phike's death, 16 women had marched to the police station to demand police act swiftly to quell the growing conflict between the United Democratic Front (UDF) and the PAC.

"There were sporadic actions after the murder of a man called Rasta in the township by PAC members but these incidents were not taken seriously by the police," said Mrs Sishuba.

She said collaboration between the police and the PAC groups became evident "beyond any reasonable doubt" when the police started to hand over UDF comrades to them after they had been detained.

Lizzy Phike, the mother of Ntemi Phike, gave evidence about her detention and interrogation by police. At the time she had been actively involved in the "struggle." She had been told of her son's death while being held in Pollsmoor prison under the state of emergency in 1985.

"The police, together with Azapo youth, were killing UDF youths. My cousin's sister, Lizl Gutshu, visited me and told me they were being harassed by the police. I told her they must take my son to my brother who stayed in Guguletu."

But he had been murdered on December 26 1985 after returning from Guguletu. At her son's funeral, which she attended after Dr Iqbal Omar and other UDF members demanded that she be released, Mrs Phike said she had pleaded with UDF comrades not to avenge her son's death.

Patric Qumza said he escaped certain death by "playing dead" after being hacked and stabbed by Azapo members.

"Azapo were supported by the police when they fought us. On December 26, 1985, I was attacked with pangas and knobkierries by Azapo members."

Mr Qumza said he fooled his attackers by remaining motionless.
They wraped a alive make round. My neck, ex-UDF activist says.
Hearing may query
Trust Feed 'cover up'

OWN CORRESPONDENT

MARITZBURG: The amnesty application by ex-policeman Brian Mitchell is likely to raise questions at the Truth and Reconciliation Commission in Maritzburg on why no independent probe — into a police cover-up of the Trust Feed massacre and other activities, called for by a Supreme Court judge in 1992 — was ever held.

Mitchell was sentenced to death 11 times on April 30, 1992, for his role in the massacre of men, women and children at a wake at Trust Feed, New Hanover. The victims were Inkatha supporters killed when the "wrong" house was targeted.

Mitchell has failed in two applications for indemnity, but his sentences were commuted to 30 years' imprisonment in 1994.

Four ex-special constables, sentenced to 15 years' imprisonment each, were freed under the Further Indemnity Act.

Trial judge Mr Justice A B M Wilson in 1992 called for an inquiry into an alleged police cover-up of the Trust Feed massacre, whether similar operations had been conducted by the Ruit Unit, its former commander, Major Deon Terblanche, or other officers, and the role of the police counter-revolutionary Joint Management System.

Mitchell's affidavit, which forms part of an 850-page submission to the amnesty committee, focuses on his involvement in the SAPS Joint Management System, which he describes as a counter-revolutionary strategy employed to combat the threat of the UDF and ANC in the 1980s.

"This allegedly included the training and use of special constables as a "third force" to lend "offensive assistance" to Inkatha..."
We did not speak out — dissenter voices were suppressed or ignored

The ideology of neo-conservatism and the lack of exposure to alternative perspectives on Africa's political and social issues led to a silencing of voices that disagreed with the official narratives. This was particularly evident in the media and academic circles, where critical views were often marginalized or outright silenced. The result was a homogenization of discourse that reinforced a single narrative about Africa's challenges, ignoring the complexities and diversities of the continent's realities.

The story of the African Commission's work in the 1990s was one of many such instances where the voices of dissent were muted. The commission, which was established to promote human rights and democracy in Africa, often faced resistance from governments and powerful interests that sought to maintain the status quo.

The article highlights the importance of independent media and civil society in challenging power dynamics and ensuring that diverse perspectives are heard. It underscores the need for a more inclusive and pluralistic discourse in Africa, where different voices can contribute to a more nuanced understanding of the continent's challenges and possibilities.
"REFORMED" TRIO: Prominent Dutch Reformed Church clerics (from left) Dominee Frederik Marais, Professor Bethel Muller and Dr Hannes Koomhof, are congratulated by Archbishop Tutu after their confession at the Paarl TRC hearing.

PICTURE: ALAN TAYLOR
Trust Feed massacre ‘part of gov’t strategy’

Convicted former captain hands in documents and amnesty committee gives relatives of victims time to get legal help

**By Robert Brand**
Pietermaritzburg

The Trust Feed massacre in KwaZulu Natal were part of a deliberate government strategy to foster “black-on-black” violence. The former police captain, Brian Mitchell, says in documents submitted to the Truth and Reconciliation Commission yesterday. The attacks, on United Democratic Front/ANC activists, were carried out by special constables acting in collusion with IFP leaders and the police, Mitchell said in an affidavit attached to his amnesty application.

Among the IFP leaders involved in the planning of the Trust Feed massacre of 1988, in which 11 people were killed, was “warlord” David Ntombela, now an IFP member of the provincial legislature, Mitchell said.

Mitchell, who has admitted ordering the Trust Feed attack, was sentenced to death in 1992 for the massacre. The sentence was later commuted to 30 years’ in jail. He is now applying for amnesty.

Amnesty committee chairman Mr Justice Hasen Mally ordered an adjournment until today to give relatives of Mitchell’s victims a chance to obtain representation.

In his affidavit, Mitchell said he had been appointed station commander at the New Hanover police station, north-west of Pietermaritzburg, in 1988. The area was a battleground between the IFP and the UDF, and the IFP appeared to be losing.

“It was my job to see the UDF/ANC countered,” he said.

After consultation with the head of the Pietermaritzburg police unit, Captain Deon Terblanche, it was agreed to station six special constables at Trust Feed to “protect” the local IFP leader, Jerome Gabela. The attack was launched after a meeting between himself, Gabela, Terblanche, Ntombela and other IFP office-bearers, Mitchell said.

His amnesty application concerns only the Trust Feed massacre, but he has promised to assist in investigations into other incidents in KwaZulu Natal of which he has knowledge.
Amnesty hearing told of secret power struggle

Troops were deceived into serving country

PARTIAL GENERALS WERE RUNNING APARTMENT KILLER MITCHELL

SA" SAYS CONVICTED KILLER MITCHELL

ONG VEEDO
Anglican Church must also confess - Tutu

ASHLEY SMITH
STAFF REPORTER

Paarl - Truth Commission chairman Desmond Tutu has called on the Anglican Church to follow the example of the Ned Geref Kerk congregation in Stellenbosch by confessing that it failed to be a witness of truth, justice, reconciliation and love during the apartheid era.

The former Anglican Archbishop of Cape Town said "The Anglican Church has a lot to confess. They must also explain why the first black bishop was appointed only in the 1960s."

Archbishop Tutu made the remarks yesterday after the commission heard a confession by Hannes Koornhof of the NGK in Stellenbosch admitting that members of his congregation had "actively developed and championed" apartheid.

The confession was the first by a church to the commission.

Dr Koornhof said "We have in mind here particularly the past 40 years during which the official policy of apartheid radically impaired the human dignity of people all around us and resulted in gross violations of human rights."
SA’s new Chief Justice
Ismail Mahomed to be
commissioned votes 15–1 in favour
A G's office denies conflict with TRC over amnesty

BY EDWIN MAIDU

Former Vlakplaas commander Brigadier Jack Cronje and Captain Jaques Hechter are expected to appear in court tomorrow on 28 counts of murder, despite a tug-of-war between the Truth and Reconciliation Commission and Transvaal Attorney-General Dr Jan D' Oliveira over their applications for amnesty.

The two former security policemen, due to appear before an investigative inquiry of the TRC on Monday along with three others, are expected to be released on R1 000 bail when they appear in court tomorrow, and to have their case postponed to February.

Defence lawyer Willem Brits and former Vlakplaas commander Dirk Coetzee have criticised D'Oliveira, Coetzee saying it was a "deliberate move by D'Oliveira to upset the amnesty proceedings."

D'Oliveira, who left for Canada last night on a six-week study trip, had discussions with the commission on Tuesday, when he told them he would be going ahead with plans to prosecute Cronje and Hechter.

The two are due to appear before the TRC on Monday, along with Colonel Roelf Verster, Captain Wouter Mentz and Warrant Officer Paul van Vuuren. All five have applied for amnesty.

TRC vice-chairman Dr Alex Boraine confirmed there had been urgent discussions with D'Oliveira to allow warrants of arrest to be served on the two, while ensuring they would be allowed to attend the hearing of their amnesty application.

He said the TRC was surprised at D'Oliveira's decision to issue warrants of arrest a few days before the amnesty applicants were due to appear.

"However, we will not obstruct justice by interfering in the service of warrants of arrest. At the same time, we are determined that the amnesty application next week should go ahead," he said.

Boraine said that after talks with D'Oliveira, the TRC was confident that, although the applicants may be charged in court, they would be available for the amnesty hearings.

"The TRC respects the work with which the attorneys-general are charged and would not obstruct the course of justice. However, the commission is an independent body and we also have a mandate from Parliament which we are bound to implement."

"In particular, we are determined to keep faith with those who have applied for amnesty and to ensure that they appear before the amnesty committee as arranged," he said.

State prosecutor Tore Pretonus said the A-G's office had taken a decision to prosecute because there was a strong case against the two amnesty applicants.

The prosecution was not an attempt to put the TRC's hearings off track. "We started the investigation two years ago and feel satisfied that we have a strong case. The wheels of justice must keep turning," he said.

He denied there was any conflict between D'Oliveira and the TRC. "Instead, we complement and sometimes overlap each other."

Killer cries over massacre mistake
LESS THAN A WEEK after former defence minister General Magnus Malan and his 15 co-accused were acquitted of the 1987 KwaMakhutha murders, former security policeman Brian Mitchell has sworn that state security strategies in the late 1980s sanctioned murder to maintain the apartheid system.

An affidavit by Mitchell, supporting his amnesty application to the Truth and Reconciliation Commission in Maritzburg on Tuesday, outlines a strategy which combined political murder and mistakes to enable security forces to restore law and order.

The KwaMakhutha accused were acquitted of 13 murders after Judge Jan Hugo dismissed key State witnesses as untruthful. He said it was not clear that the military had masterminded the massacre by backing offensive action by military-trained Inkatha supporters.

But, according to Mitchell’s affidavit, offensive action by Inkatha and its police allies included armed attacks against their common enemy the “comrades.”

The police specifically trained special constables to be “available to render military and offensive assistance to Inkatha” in line with their counter-revolutionary strategy.

Mitchell has applied for amnesty for 11 murders, two attempted murders and arson committed on his orders on the night of December 2 1988 at Trust Feeds, New Hanover, where he was the station commander.

Political struggle

“I saw myself engaged in a political struggle. I believed I was acting within the course and scope of my duties. My motive was political, not personal,” he said.

Mitchell said he was driven by his determination to implement the counter-revolutionary strategy which was developed by the Joint Management System on which he served as secretary.

He said an inquiry into the role of the JMS in the Trust Feeds massacre was never held despite the recommendation of Judge Andrew Wilson and promises by a former law and order minister.

“It was in my interests that it should be revealed there was a strategy that there were mistakes by security force members because of the Nationalist government’s policy, and the police were used by them to do their dirty work.”

Mitchell referred to a secret document setting out the government’s strategy through the police against “revolutionary forces”, namely the United Democratic Front and the African National Congress.

Mitchell said when the security forces had failed to prevent the spread of political violence, they decided to attack about 16 000 special constables as an auxiliary force to the roughly 48 000 existing police force members.

They were employed to be a “physica l force, an auxiliary or third force” against UDF and ANC comrades, according to Mitchell’s affidavit. “Policing acquired a black face. Black offensive power was added to the riot units.”

Mitchell said in his experience that riot commander Captain Deon Terblanche decided to make special constables available to “render military and offensive assistance to Inkatha” where their leadership was weak in New Hanover.

Total onslaught

Terblanche told Mitchell “not a further inch of sod in his area” would fall under the influence of the UDF-ANC.

Mitchell said in his affidavit that the operation at Trust Feeds was typical of a total onslaught strategy in which any means were justified to combat the revolutionary threat.

The first step of an operation was a riot police exercise to remove any weapons from the area targeted and to arrest UDF/ANC leaders.

“This would render UDF-ANC supporters more vulnerable to the attack, which would take place with the assistance of the special constables and in conjunction with the Inkatha Youth Brigade,” Mitchell claimed.

In preparation for Trust Feeds, Terblanche allegedly ordered Mitchell to post six special constables with the local Inkatha branch.

“I understood them to be the hit squad that would render offensive assistance to Inkatha,” Mitchell said.

On December 2 1988 the riot police detained young men from Trust Feeds under state of emergency regulations.

Mitchell said this operation told him the attack was about to take place.

He noticed the store of a prominent UDF activist burning when he returned to Trust Feeds on the night of December 2 and went to find the special constables.

“Based on the orders I had been given and on my training, I ordered the special sergeant to ‘take out’ the comrades or terrorists. I also personally gave two orders to attack the UDF comrades.” Mitchell said he never sought the death of women or children at the wake.

Disposed of cartridges

The policeman in charge of the special constables, Captain Jaques van den Heever, allegedly disposed of police cartridges that would have incriminated him in the murders.

After being questioned about his role in the killings, Mitchell was told “not to worry.” “I accepted the incident would be covered up,” he said.

But in 1991, Major Frank Dutton exposed the cover-up and Mitchell was arrested along with four special constables on charges of murder and attempted murder.

He was convicted and sentenced to death on April 27 1992, and his death sentence was commuted to 30 years’ imprisonment two years later.

Mitchell said he deeply regrets what happened at Trust Feeds. “I now realise that it should never have happened. I believe I have already served as an example of what happens when an important state instrument is used and abused to do things which it should not be doing.”

He called on all members of security forces, “past and present, who have been involved in similar actions and conduct”, to come forward and tell the TRC what happened.

“It is also important that those in the previous government stand up, accept responsibility and come forward.”
FORMER policeman Brian Mitchell exposed the ruthless state security strategy of the 1980s, which resulted in operations such as the Trust Feeds massacre, at a public hearing of the Truth and Reconciliation Commission in Maritzburg yesterday.

But Mitchell admitted “The whole operation (at Trust Feeds) went wrong. The wrong people were victims, the wrong house was taken out.”

He said he could not explain why the special constables under his command had targeted that particular house in which 11 innocent people, including children, were killed. The order was to “kill comrades”.

However, Mitchell said the use of special constables to attack popular organisations, in particular the United Democratic Front and the African National Congress, was central to the state’s security strategy.

In an amnesty application and an affidavit to the TRC, Mitchell claimed he was indoctrinated during his long service in the police force to the extent that he believed he was implementing security strategy through the Trust Feeds attack.

The relatives and survivors of the massacre bowed their heads and wept when Mitchell, fighting to hold back tears, asked them to consider forgiving him. They indicated, through their lawyer, that they would not oppose Mitchell’s amnesty application although they would prefer to see him serve his full sentence.

Mitchell was found guilty of 11 counts of murder and three of attempted murder in April 1992 and sentenced to death. In 1994 his sentence was commuted to 30 years imprisonment.

Amnesty Committee is supported by 600 pages of documents, including top secret security documents on the state’s “total strategy” to crush widespread opposition to the apartheid system.

The strategy, implemented through a Joint Management System, ranged from cold-blooded violence to smear campaigns against church leaders like Archbishop Desmond Tutu.

For example, a confidential document from Pretoria police headquarters, dated 1987, dedicates two pages to possible ways the security forces could discredit Tutu, now chairing the TRC Commission.

Mitchell said President Nelson Mandela was portrayed as a “monster, a communist and a violent man”.

“One can see now the deception and the disinformation that was fed to us.”

No section of society was left untouched by this security force strategy, which conspired to control everything including the church, media and education.

Mitchell said: “I never have realised this should never have happened and that the liberation movements were fighting for the freedom of all South Africans.”
Policeman brought bulldozer to community where there was peace before, amnesty hearing told

Killer cries over massacre, mistake
TRC subpoena for ex-police chief Coetzee

CLIVE SAWYER
POLITICAL CORRESPONDENT

Former police commissioner Johan Coetzee has been subpoenaed by the Truth and Reconciliation Commission.

The subpoena was served last night by the commission’s investigative unit and follows subpoenas served last week on Lieutenant-General Basie Smit and Major Krappies Engelbrecht and this week on Lieutenant-General Johan le Roux.

They will appear at investigative inquiries which, in terms of the act governing the commission, will be held in camera.

Meanwhile, the government has vowed to get at the truth of another apartheid-era death shrouded in mystery – that of Mozambican president Samora Machel.

At a commemoration service today, President Mandela said the government would leave no stone unturned to find out what caused the aircraft crash in which Mr. Machel died 10 years ago.

See page 6
Mitchell to beg Trust Feed to forgive him for massacre
give me another chance, he asks hearing

**John Yeld**
on the Truth Commission

Pietermaritzburg - Former police captain Brian Mitchell, jailed for 30 years for murdering 11 people in the village of Trust Feed, wants to go to the community to ask for forgiveness, the amnesty committee has heard.

Mitchell is applying to the committee for amnesty for his crimes.

Yesterday a lawyer representing the Trust Feed community, Mahmod Cajeef, told the committee the people did not wish to testify at the hearing, because civil claims relating to the massacre had been settled.

Neither did they want Mitchell to be released and believed he should serve his full sentence. "But they wish to make it clear they will leave the decision on whether amnesty should be given or not to the amnesty committee, as they believe it is in the interest of the country to take it from its dark past," Mr Cajeef said.

Also, Mitchell had indicated to the community that he wanted to address it in an appropriate forum where he could ask for its full forgiveness.

"They will try to forgive Mitchell if he gets actively involved in the reconstruction of the community he was actively involved in destroying," Mitchell's counsel, Etienne du Toit, confirmed to the committee that the community was willing to grant Mitchell a hearing. "It is his intention to visit the community at an arranged date to offer his apologies."

The committee heard that special constables involved in the Trust Feed massacre wore civilian clothes and drove to the scene in an unmarked car after dark, all in line with a police training manual for clandestine operations "revolutionary forces" in black townships.

Mitchell was sentenced to death for his role in the December 1988 massacre but his sentence was commuted to 30 years in jail, which he is serving in the Pietermaritzburg prison.

Mr Du Toit said it was quite clear Mitchell had been acting under the instructions of a superior officer, Captain (later Major) Dene Terblanche of the Pietermaritzburg riot unit, and that the motive for the attack had been to interfere with gains made by a United Democratic Front-aligned organisation in the area.

Mr Du Toit told the committee he would contact the Truth Commission on behalf of Mitchell within days to give information which Mitchell had of human rights violations not relating to the Trust Feed massacre.

Mitchell appealed to the amnesty committee for a second chance in life, saying the massacre had been "a stupid, stupid mistake."

In emotional testimony before several hundred people in the City Hall, the former police captain asked the families of the 11 victims of the massacre and others affected by the incident to consider forgiving him.

"As a Christian, and with the wisdom of hindsight, I have come to understand what happened and also why it happened. I now realise it should never have happened and that this country should have travelled the road then that it is travelling now."

"I realise now that the struggle for freedom of the liberation movements was not only a struggle for their freedom but also my freedom and that of white South Africans."

Mitchell, whose wife divorced him after he was convicted, said "I have lost my family and I have lost everything of value to me."

He was overcome with emotion when his junior counsel, Michael Naidoo, asked him when he last saw his son. Unable to speak and choking back tears, he could only nod as Mr Naidoo answered for him that it had been "several years ago."

At the same time, several people in the audience - including survivors of the shooting and their relatives - were crying openly.

Mitchell also called on all members of the security forces, "past and present", who had been involved in similar incidents to acknowledge these publicly and testify before the Truth Commission.

**Ashley Smith**
Staff Reporter

Paarl - A doctor whose mother was shot dead on a farm in Paarl 10 years ago "bears no grudge" against the United Democratic Front activist who committed the murder, the Truth Commission has been told.

A statement written by Ivan Sieberts was read soon after convicted murderer Philemon Maxam apologised for the slaying of the elderly woman and a gardener on a Vlakkeleland farm in 1988.

Dr Sieberts wrote: "I am happy that Maxam wants to make peace because I too felt the burden of anger lying heavily on me over the years. I am glad he is doing this for her and for me."

Maxam is serving a 25-year sentence in Allendale Prison for the killings, after the Cape Supreme Court overturned two death sentences in 1990.

Maxam said "My involvement in the murders has been so heavy that it has hung like a black cloud, not only on myself, but on my family as well."

Maxam had gone to the farm on the day of the murder intent on finding guns to arm UDF members who were involved in a feud with Azapo supporters in Mbekweni township.

Dr Sieberts's mother, the housekeeper on the farm, was shot after she turned her back on Maxam to fetch him a glass of water, the commission heard.

Describing his political activity during the 1980s in Mbekweni, Maxam said he had been responsible for the implementation of the Mandela Plan in the township and was in charge of a UDF-affiliated organisation called Mbeko. "My role was to set up teams of young activists to work on certain strategies to destroy what we saw as apartheid apparatus," he said.

He told the commission he also wanted to apologise to the people of Mbekweni who had been taken into police custody and tortured because his organisation had used their homes as bases to plan the operations.

"I would like to make peace within myself so that one day when I am released from prison I will be able to look them in the eye," he said.

He added that he was prepared to serve the entire sentence and had not yet appealed to the Truth Commission for amnesty.
Amnesty applicants ‘to be granted bail’

Stephané Bothma

PRETORIA — Former security policemen Brig-Jac Cronje and Capt-Jacques Hechtcr are still in the truth commission’s witness protection programme and will not heed a warning by Transvaal attorney-general Jan D’Oliveira to appear in court today on 28 charges of murder.

Cronje and Hechtcr’s lawyer, Willem Britz, said last night his clients would instead appear in the Magistrate’s Court tomorrow.

The matter had been discussed with D’Oliveira, and the two former policemen would be released on bail of R1 000 each after their first appearance. They would also be asked to hand in their passports, Britz said.

“D’Oliveira has given an undertaking that he will not interfere with my clients’ amnesty hearings,” he said.

Although the two were expected to be charged with 28 murders tomorrow, Britz said they would shed light on about 40 murders when testifying in support of their amnesty applications.

Cronje, Hechtcr and three other security policemen, Col Roelf Venter, Capt Wouter Mentz and W/O Paul van Vuuren, all applied for amnesty. Their hearings were scheduled for next week. However, arrest warrants for Cronje and Hechtcr were issued by D’Oliveira on Tuesday and the two were warned to appear in court today.

D’Oliveira also indicated he would use two of the five men as State witnesses against Cronje and Hechtcr and offer them indemnity in terms of section 204 of the Criminal Procedure Act.

It was established last night that Mentz and Van Vuuren were offered the option of section 204, but that the men declined, refusing to testify against their former colleagues.

D’Oliveira had given Mentz and Van Vuuren 24 hours to accept the offer, after which the option to become State witnesses would no longer be available to them.

Britz said his clients would subpoena former security policeman Joe Mamasela to testify at their amnesty hearings. Mamasela, currently in an attorney-general’s witness protection programme, is assisting D’Oliveira with the preparation of several criminal cases against former security force members.

Testifying in the De Kock trial earlier, Mamasela said he had over the years prepared a “thick docket” about security force abuses in the apartheid era. The docket was with D’Oliveira.

Britz said an application would also be brought for Mamasela’s docket to be made available to them.

He said that if the commission granted his clients amnesty, the law prohibited any criminal or civil procedure against them.

Truth

Commission vice-chairman Alex Boraine said yesterday the commission was “surprised at the decision of D’Oliveira to issue warrants of arrest a few days before the amnesty applicants were due to appear”.

He said the compensation would not obstruct justice by interfering in the serving of warrants.

Comment: Page 13
TRC comes under fire from Azapo

BY MONDLE MACHANYA
Political Reporter

The Azanian People's Organisation has slammed the Truth and Reconciliation Commission for its attempts to halt the trials of former security policemen.

Azapo Gauteng chairman Lybon Mabasa told a Johannesburg news conference yesterday that the TRC's attempt to stop attorneys-general from prosecuting perpetrators of apartheid-era atrocities was tantamount to defeating the ends of justice.

"We are concerned that the commissioners are critical of efforts to bring to book those who perpetrated crimes against humanity. In their thinking, justice is of less value than their reconciliation showbiz and avalanche of tears," said Mabasa.

Azapo earlier this year launched an unsuccessful bid to have the TRC declared unconstitutional because, the organisation argued, the commission denied victims of human rights abuses the right to seek redress through the courts.

Mabasa also announced that the organisation would be holding commemorations tomorrow in honour of Black National Solidarity Day. The day marks the October 19, 1977, government crackdown which saw 17 anti-apartheid organisations and two newspapers outlawed and scores of activists banned and detained.

The theme of this year's commemoration is "Black solidarity in the face of serious offensive and assault on black unity.

Mabasa said this "serious offensive and assault" was characterised by political violence in KwaZulu Natal, taxi violence, violence against black women and children, and "rising levels of crime in the black community causing a general state of trauma.

He blamed the Government for this state of affairs.

"The government of the day is committed to pandering to the whites and wishes of the white community and drawing applause from the international community for being extremely sensible," said Mabasa.
Church ‘has misgivings about TRC’

By Pamela Dube
Political Reporter

THE Dutch Reformed Church has not taken a stand to make submissions to the Truth and Reconciliation Commission in spite of the presentation by its Stellenbosch diocese to the commission this week.

On Monday DRC dominus Dr Hannes Koomhof of Stellenbosch apologised before the TRC sitting in Paarl for the church’s role in supporting apartheid and being silent about the injustices of the National Party government.

He admitted that the DRC had failed to speak out against the ‘racist attitudes of its members. We came to be deaf to protests and ones of many of our brothers and sisters in faith.’

DRC national moderator Donnilee Freek SwanePOOL told SowetAN yesterday that the Stellenbosch diocese had “the right to speak to the commission. But the church nationwide has not taken any stand on the TRC, and we cannot say whether we agree with Stellenbosch.”

Not enthusiastic

SwanePOOL said all the DRC dioceses would meet at the end of the month to discuss the Stellenbosch presentation.

“That’s when we will decide whether we follow their (Stellenbosch) route or not,” he said.

However, SwanePOOL added, the DRC was not presently enthusiastic about the operations of the TRC. “We still have concerns about the commission. Some members of the church still feel the TRC is out for revenge and not reconciliation.”

He said the general membership of the church “is waiting eagerly to see an end to the TRC activities so that we can start talking reconciliation.”

In the past the DRC only accommodated white members “We supported apartheid on biblical grounds. We were of the conviction that every ethnic grouping had a right to congregate among their own,” SwanePOOL said.

Koomhof told the TRC that the DRC was uncritical of apartheid because they trusted the National Party leaders who were members of their church to do what was right. “This uncritical assumption further reinforced the widespread acceptance of apartheid as being in the interest of all people in the country,” he said.

In 1986 the new breed of the church’s leadership started questioning the principle and decided that membership be opened up to other races. However, the decision was not unanimous.

Some of the conservative leaders and congregations decided to leave the DRC and formed a breakaway church, the Afrikaanse Protestante Kerk.

In 1990 the DRC decided to go further and invited its sister churches in the black communities – the United Reformed Church in Southern Africa (for Africans and coloureds) and the Indian version, the Reformed Church in Africa (RCA) – to discuss unity.

All inclusive

Despite SwanePOOL’s insistence that there was progress in uniting the churches, the RCA’s moderator Donnilee Kristin Moodley said there was not much the DRC was doing to show they had changed.

He added that even though the DRC now espoused an “all inclusive church”, not all was well in the unity making process.

“They have opened doors to us, but they have not changed the system within. They still use Afrikaans despite the fact that not all new members are Afrikaans-speaking,” said Moodley.
New look at amnesty deadline

BY ROBERT BRAND

The Truth and Reconciliation Commission (TRC) is to ask Parliament to extend the cut-off date for amnesty from December 6, 1993 to May 10, 1994 - the day Nelson Mandela was inaugurated as president.

The extension would require an amendment to the Promotion of National Unity and Reconciliation Act which, in its present form, allows amnesty only for crimes committed between March 1, 1960 and December 6, 1993.

Several political parties, among them the PAC and the Freedom Front, argued in submissions to the TRC in August, that the 1993 date was arbitrary and should be changed to the date on which President Mandela was inaugurated.

This, they argued, was a more logical cut-off point as it signalled the true start of South Africa's non-racial democracy.

An extension of the cut-off date would benefit members of those two parties mostly.

Among those who currently do not qualify for amnesty because their acts were committed after the cut-off date are the perpetrators of Cape Town's Heidelberg Tavern massacre and the rightwingers responsible for a spate of pre-election bombings in the Johannesburg area.

Deputy President Thabo Mbeki has indicated that the ANC would be prepared to consider amending the act tasked by the TRC to extend the cut-off date.
Heidelberg Tavern attack: In this flashback picture from December 30, 1998, emergency services staff remove a body from the Observatory pub.
Pub killers may get amnesty

Call for new cut-off

The Truth Commission is to ask Parliament to extend the cut-off date for political crimes qualifying for amnesty, which could lead to the release of the men jailed for the attack on the Heidelberg Tavern.

This would also allow the cut-off date for amnesty applications for gross human rights abuses to be moved three months from December 14 this year to March 14 next year.

This would give applicants an extra three months in which to apply for amnesty.

The commission will ask that the “arbitrary” date of December 5, 1993 be extended to the “far more symbolically important” date of President Mandela’s inauguration - May 10, 1994.

If Parliament agrees, those involved in the attack on the Heidelberg Tavern in Observatory on December 30, 1993 will be eligible to apply for amnesty - if they argue that the attack was politically motivated.

Four people died and six were seriously injured in the attack.

In June, the three men convicted of the attack were refused leave to appeal against their sentences on four counts of murder, a robbery with aggravating circumstances, two counts of attempted murder; and the
Heidelberg killers could get amnesty

unlawful possession of firearms and ammunition.

Brian Madasi of Butterworth is serving an effective jail sentence of 24 years and Zola Mabola and Luyanda Gumla each an effective 27 years. The three were allegedly members of the Azanian People's Liberation Army - the armed wing of the Pan Africanist Congress.

The PAC has already asked for the cut-off date for amnesty to be extended so that the three can apply.

If the cut-off date is extended, many supporters of the Freedom Front who were engaged in sabotage efforts in the run-up to the April 1994 elections will also be able to apply for amnesty.

In his submission on behalf of the Freedom Front during the political parties' hearing, party leader Constand Viljoen said he could not be completely open and direct with the commission without incriminating himself and his supporters.

At a press conference today after a full Truth Commission meeting yesterday, chairman Desmond Tutu said that one advantage of changing the date would be an "enhanced participation" of the PAC and the Freedom Front.

His deputy Alex Boraine welcomed today's postponement of criminal proceedings against two former security policemen as "a sensible step." Former Vaalpark security police base operatives Jack Cronje and Jacques Hechter were released on bail when they appeared in the Pretoria Magistrate's Court on 27 charges, including murder. They are among five ex-police officers who have applied for amnesty. The applications will be heard next week.
Tight lid on top legal appointment

Deborah Fine

THE judicial services commission would yesterday not confirm or deny a report that its members had voted overwhelmingly in favour of Constitutional Court deputy president Judge Ismail Mohamed as the new chief justice.

Commission secretary Inez Greenstein said she had been authorised by outgoing chief justice and commission chairman Judge Michael Corbett "to tell the media that the JSC's deliberations are confidential and we have nothing to say."

The new incumbent will replace Corbett when he retires at the end of the year.

The report claimed that a "reliable" source had indicated that the commission had voted 15-1 in favour of Mohamed Corbett, who had been the only member to vote in favour of the second candidate, senior Appellate Division Judge Hennie van Heerden.

Both candidates appeared before the commission during public hearings in Cape Town earlier this month, after which it was to have made confidential recommendations to President Nelson Mandela.

Commission member and head of the Legal Resources Centre's constitutional litigation unit Wim Trengove SC would not confirm or deny the report, but said he was "surprised" by the report because it had resolved not to make its conclusions public until after a candidate had been appointed.

The commission believed that while the public was entitled in the interests of transparency to know what its conclusions had been, the commission felt it would not be appropriate to reveal its findings until after the process had been completed.

Presidential spokesman Joel Netshitenzhe confirmed yesterday that Mandela had received the commission's recommendations and would present the findings to Cabinet next week.
ANC to propose easing terms of abortion Bill

Wyndham Hartley

CAPE TOWN — The ANC is poised to table amendments to the abortion Bill which will ease the terms under which abortion on request can be granted.

In another development the Catholic Church denied yesterday that it had paid for an abortion for a member of the church who claimed to have become pregnant after an affair with a priest. It said it had paid for psychological counselling and medication, but not an abortion. The woman claimed a bishop had paid for the abortion.

As opposition parties formally expressed their objections to the Termination of Pregnancy Bill for the first time yesterday, it was learned that the ANC would also table amendments which would see the initial 12-week cut-off for abortion on demand “technically” extended.

After three days of public hearings, the parliamentary health committee began deliberations on the Bill with opposition parties identifying problem areas in the legislation.

It emerged yesterday that in spite of the hearings, the health department had not been influenced in any way and no changes were suggested.

DP MP Mike Ellis said while the DP supported the right of every woman to choose, there were areas of the legislation that, if they remained unchanged, would make it difficult for the DP to support the Bill.

He said that abortion to women between the 13th and 20th week for “social-economic reasons” was too vague and the clause should be deleted.

The issue of parental consent was also raised by the DP. Ellis said while under certain conditions it might be impossible for a minor to consult her parents on the issue of abortion, the blanket allowance of abortion on the involvement of the child “precludes the possibility of parents having a say.” He said the circumstances under which a minor could have an abortion without the knowledge, advice or consent of her parents had to be specified in the legislation.

Ellis and children who were pregnant might not be in a position to fully understand the implications and the risks of an abortion.

The DP also objected to clauses which would criminalise doctors who, after refusing to perform an abortion for reasons of conscience, fail to refer the woman to a doctor who would perform an abortion.

Comment: Page 9

Truth commission to appeal for amnesty period extension

Stephen Laufer

The truth commission is to ask Parliament to extend the period for amnesty from December 1993 to May 10 1994, the day President Nelson Mandela was inaugurated.

The decision, taken at a meeting of the commission in Cape Town yesterday and to be officially announced by chairman and former archbishop Desmond Tutu today, will require an amendment to the Promotion of National Unity and Reconciliation Act.

It comes largely in response to submissions by the Freedom Front and the PAC. Both parties want members or sympathisers who perpetrated politically motivated violent crimes in the immediate pre-election period to benefit from the Act’s amnesty provisions.

On extending the cut-off date for amnesty applications beyond December 13 this year, the commissioners are understood to have postponed a final decision at a meeting yesterday.

Meanwhile, a commission investiga-
Amnesty change may see 'boere' bombers freed

By ADRIAN HADLAND

Right-wing bombers who conducted a violent campaign to prevent the 1984 election will be eligible to apply for amnesty if a bid by the Truth and Reconciliation Commission to extend the amnesty cut-off date is approved by Parliament.

The commission said yesterday it had resolved to ask Parliament to extend the date from December 1993 to the date of the presidential inauguration, May 10 1994, in the interests of national reconciliation.

This would mean that the perpetrators of any serious, politically motivated crime committed between December 1993 and May 1994 would be eligible to apply for amnesty.

While the PAC and the National Front have been pushing for the date change, the ANC has opposed the idea.

President Nelson Mandela said yesterday he was against the move. His spokesman, Park Mankahla, said "The president's attitude is that the extension should not be granted."

The impression has already been created that the South African criminal justice system is soft on crime. The president is not keen to send a message that the Government is willing to make concessions to criminals. He will have to be persuaded before he changes his mind.

Mankahla said, however, that it was up to Parliament to decide on the matter.

Among those who could be affected by a date change are a number of rightwingers, including six sentenced to jail terms ranging from five to 25 years for a pre-election bombing campaign in which 20 people died and almost 50 were wounded.

Eighteen rightwingers were convicted for their roles in the bombing spree. Three who escaped - Abraham Myburgh, Nicolaas Barnard and Jan de Wet - are still at large.

Others who might qualify for amnesty include the Azanian People's Liberation Army cadres involved in the Heidelberg Tavern killings in Cape Town in December 1993 as well as in attacks in the East London area, along with some of those involved in political violence in KwaZulu Natal. Nine people were killed on average every day in the province during March 1994; 180 lost their lives in the last two weeks of 1993.

The Soviet House attack in April 1994, in which six men died, the Bophuthatswana cop and an Azanian Liberation Army attack on a Bantu church in Mantisane in March 1984 could all fall into the extended amnesty period, as could incidents on the East Rand, where there was an explosion of violence.

The granting of amnesty is far from automatic. Two judges heading the commission's amnesty committee are responsible for deciding whether a crime is political. More than half the 1,007 applications received have been returned to applicants as they have not disclosed political objectives for their crimes.

In defending its decision to push for an extension, the commission said yesterday the initial cut-off date had been set arbitrarily as the day the interim constitution was adopted. May 10 1984, when Mandela was inaugurated as president, marked the opening of a new chapter in South African history and had far more symbolic importance.

The commission said the PAC and Freedom Front had indicated they would be willing to cooperate with it if the date were changed. "We believe that it would be an act of generosity in keeping with the spirit of the reconciliation which we seek to promote to move the date," the commission said.

If Parliament agreed to shift the date, the December 14 deadline for amnesty applications would also need to be set back three months to allow those enabled to apply for amnesty reasonable time to do so, while easing other time restrictions imposed on those currently involved in the amnesty process.

The commission emphasised that its proposal was only a recommendation and Parliament would have to decide whether to accept it or reject the idea.

"It would be premature to assume that the dates will change and the commission will not act under that assumption," the commission said.

Meanwhile, Sapa reports that commission deputy chairman Dr Alex Boraine said yesterday the taxpayer would be saved millions of rands by the commission's decision to grant two former Vaalplas employees an amnesty hearing before they went on trial.

Former security policemen Brigadier Jack Cronje and Captain Jacques Hechter appeared in court yesterday in connection with 27 crimes.

TO PAGE 2
**Amnesty**

Borome said it would be an enormous waste of the state's money if, after a protracted and expensive criminal trial, the accused were convicted and then qualified for amnesty.

"By going the route of hearing an amnesty application first, the amnesty committee can decide whether they qualify before a trial. If they are not granted amnesty, they can still be tried in the courts."

He confirmed that former police commissioner General Johan van der Merwe had been subpoenaed to appear at next week's amnesty hearing of Cronjé, Hechter and three other security policemen - Colonel Roelf Venter, Warrant Officer Paul van Vuuren and Captain Wouter Mentz.

"He will appear at the hearings in a sort of collective unity with the men who worked under him. If this is to happen then it is logical to assume that Van der Merwe will be contemplating applying for amnesty."
Killer applies for amnesty
terrorism, says riot policeman
I was loyal soldier in war on
His pride in his medals was such that, at one point during his stay on Death Row in Pretoria Central before his 11 death sentences were commuted to 30 years' imprisonment, he called his advocate to the prison for a special consultation about how he could get to keep them.

The advocate, senior counsel Etienne du Toit, was amazed, and pointed out that the medal issue was "rather minor" compared to the punishment hanging over his head, the amnesty committee heard.

But Mitchell's concern was indicative of how he saw himself at the time - a police officer whose loyalty to the apartheid state was beyond question even if, as he put it, the police had been used by the NP government of the day "to do their dirty work".

And of course he expected loyalty in return. "I believed that I could rely on the backing of the police irrespective of the outcome of my trial," he said in the comprehensive affidavit which accompanied his amnesty application.

"We all fought for the same cause during the total onslaught years."

Mitchell's affidavit, in places poignant and moving - reveals publicly for possibly the first time the indoctrination and bravado, followed by the fear and then the growing sense of futility, that many of his police colleagues must have experienced during their defence of the apartheid regime.

Joining the police straight after completing matric, the young recruits had just finished their basic training in June 1976 when they were ordered onto the back of Bedford trucks and driven to face the angry black students of Soweto.

"As a young white South African I was for the first time confronted with an uprising that left me shivering in my boots," he recalled.

"During this uprising I experienced the solidarity of the black masses like never before, and the brutality of the law enforcers to put down the uprising. The hostility of the blacks towards us was real and constant."

At that time, the police riot unit was never taught how to deal with the killings, burnings and petrol bombs.

"We were never taught how to deal with emotions."

It was a theme Mitchell returned to again in his affidavit. "We were never taught how to deal with our fears, our hatred, our frustration, or fatigue - the killings, burnings and stone throwing, the petrol bombs."

Like his fellow former police colleague, Eugene de Kock, Mitchell spent time "on the border", supposedly defending South Africa against the communist onslaught.

But the reality of that particular experience was not without a cost.

"Being faced with 'contact' situations and losing a very good friend as well as detonating a land mine were part and parcel of my experience."

"On returning home my wife wanted to know what had happened to me to change me so much. This was in 1982."

"We were returned home and expected to live a 'normal life' without being debriefed and told how to deal with our experiences."

"Up until today I get a feeling of fear that grips my heart and I feel my flesh crawl."

Mitchell said it was not easy to make amends for what had happened - "in fact, it is impossible" - but that he wanted to express his deep regret for all those affected by the Trust Feed massacre.

"As a Christian and with the wisdom of hindsight, I have now come to understand what happened and also why it happened. I now realise that it should never have happened and that this country should have travelled the road then, that it is travelling now."

"What has happened to me and in my life and in the lives of so many people in this country is a tragedy."

I would like to be used as an example of what happens when violent means are employed to solve problems, instead of consultation and discussion.

"I want to be used as an example of what happens when police force members are employed to do things which they should not be doing."
Amnesty officers square up to the state
Massacre at midnight

By WALLY MBHELE

SHOCKING confessions about the killing of prominent Botswana businessman Sam Chand—who's legs were stolen after his body was blown to pieces—are among the many chilling tales of murder expected to cause a stir at the Amnesty Committee hearings from tomorrow.

Chand, four members of his family and a security guard were executed in 1990 in a ruthless cross-border raid mounted on the apartheid government's hit squads at the time.

Chand, who was associated with the Pan Africanist Congress, its wife Hagera, three sons (Amnee, Radwan and Imran), security guard Mathewkuse Pule and the family's dog were all shot dead during the night of April 21 1990.

The house—just over the border from Zeerust—was rocked by a massive explosion after the attack. Bodies were found mutilated beyond recognition when they were removed from underneath the rubble.

In the gruesome massacre Chand's body was blown apart with explosives— which, according to family members, were tied around his body before he had been shot.

Pieces of his flesh were picked up under a tree—but his legs were never found.

The faces of Chand's wife and three sons were riddled with bullet wounds and their heads were crushed by the falling roof.

South Africa will get a chance to hear what happened that horrific night when top policemen start pleading for amnesty before the Truth and Reconciliation Commission in Johannesburg from tomorrow.

One of Chand's surviving daughters, Fawzia, told City Press she had kept the hope alive for six years that one day it would be revealed who had killed her parents and brothers.

It was widely speculated at the time that a special South African hit squad was responsible. However, the then minister of law and order, Adriaan Viljoen, said the police had "nothing to do with the attack."

Just when Fawzia was about to give up hope of finding out the truth, truth began to emerge last week.

As chickens come home to roost, sworn affidavits—handed to the TRC by former members of the notorious Vlakplaas unit—allege the raid was carried out with the full knowledge of Generals Krappies, Engelbrecht and Bassie Smith. Viljoen, Smuts and Engelbrecht have all been summoned to appear before the TRC and give evidence.

Pleading for pardon, five hit-squad policemen have told how Vlakplaas operative Mathinus Ras passed on information about the Chand family to Engelbrecht and Smuts. Vlakplaas was later given a green light to raid the house. During the raid, De Kock and another un-named policeman were injured, according to affidavits submitted to the TRC.

According to an affidavit, another Vlakplaas operative, Dous Willemse, shot a guard who had raised alarm—and then shot Chand, his wife Hagera and two other people.

She said the attackers had descended upon their house shortly after midnight. The security guard on duty was heard crying: "Why kill me, what have I done?"

The hit squad then attacked Chand's nine-bedroom house where he was sleeping with his wife. His three sons present at the time were sleeping in separate bedrooms.

"It means had I and my sister, Asia, been at home; we would have also been killed," said Fawzia.

The only one who escaped was the family's domestic worker, Mmatsatsa "Tshekedi," who jumped out of the window of her outside room.

"because the way they killed my family was so cruel, it was terrible!"

Fawzia, who survived the massacre because she was in Johannesburg at the time of the raid, says her anger does not stem from "why they were killed—but how they were murdered."

"If De Kock and his men had anything to do with the death of my father, who was alleged to have been helping the PAC, they still had no right to murder him."

"They should have sought some other form of punishment—rather than mutilate their bodies in that barbaric way I'm very hurt."

"This talk of amnesty," she says angrily, "is all rubbish. These people must be punished."

□The five former policemen who have applied for amnesty are Brigadier Jack Cronje, Colonel Coady Venster, Captain Wouter Mentz, Captain Jacques Hechter and Warrant-Officer Paul van Vuuren.
Apartheid skeletons tumble out

By DESMOND BLOW

STARTLING EVIDENCE is expected tomorrow — when top police officers will for the first time give “full disclosure” about crimes committed under the apartheid government.

Five former security police officers are to appear before the Truth and Reconciliation Commission (TRC) — and must be granted amnesty if they make a “full disclosure” and their crimes had a political motive.

Two of them — Brigadier Jan Hatungy (Jack) Cronjé (59) and Captain Jacques Hechter — appeared in court on Friday charged with 27 murders and the case was transferred to next year.

If they do not make a full disclosure concerning the case against them, they will not be granted amnesty — and the attorney general will be able to continue the case against them.

Their attorney, Willem Britz, said they knew this — and would hold back nothing.

The two were released on bail and went back into the TRC’s witness protection programme.

— FULL DISCLOSURE —

Brig Jack Cronjé (left) and Capt Jacques Hechter

□ CTy Press understands that

● former security branch captain

Hechter will reveal the full story of the murders of Dr Fabian Ribeiro and his wife — and name the high-ranking military officers with whom he was involved in the killings.

□ We also understand that Brigadier Cronjé, a former commander of the Vlakplaas “hit squad” — before Eugene de Kock, from 1983 to 1985 — will reveal that approval was made at cabinet level, including former state president P W Botha, for student members of Cosas to be booby-trapped.

□ The officers will also disclose the full story of what happened to the Pecbo Three — three Port Elizabeth activists who disappeared in 1985.

Their evidence is vital to find out the truth — because all documents were destroyed before President Nelson Mandela came to power.

□ Former police commissioner Johan van der Merwe has been subpoenaed to answer allegations by the five.

The TRC expects their “confessions” to prompt a flood of other police and military officers to make full disclosures and seek amnesty before the final amnesty date runs out on December 14 — less than two months away.

□ TO PAGE 2

FROM PAGE 1

□ The fact that the five — the other three former policemen are Colonel Roelf Venter, Captain Wouter Menz and Warrant-Officer Paul van Vuuren — have rashed to the TRC has angered Gauteng Attorney General Jan D’Oliervier and his team, who brought former Colonel Eugene De Kock to justice and have worked around the clock to bring charges against Cronjé and Hechter.

This has caused a clash with the TRC (See Page 2). Britz, the attorney for the five, said the attorney general had approached Van Vuuren four months ago to give evidence against the others — but he had refused as the five were friends.

“The five approached me and said they were prepared to give evidence for the AG against their superiors — but not against one another. “We took their decision to the AG, who said he would let us know — but we heard nothing further and on September 28 they approached the TRC Commission. On October 7 the AG decided to prosecute Cronjé and Hechter for 27 murders.”

□ These include the murder of former KwaNdebele minister of internal affairs Piet Ntuli, who died in a car bomb explosion on July 19 1986.

The other murders — all of black people — took place in several incidents in 1986 and 1987.

The charges do not include the Ribeiro murders or the disappearance of the Pecbo Three, but the charges against the two are provisional and CTy Press understands that it was the intention of the AG to bring these charges later when the two would be joined by other accused.

Cronjé and Hechter, who has difficulty walking as his one leg was badly damaged in a car accident in 1986, were released on bail of R1 000 each and the case was postponed to March 24 next year.

They were ordered not to contact any of the state witnesses and to report to their nearest police station once a week from November 6.

Transvaal Deputy Attorney General Anton Ackermann SA undertook to supply a list of state witnesses against the accused.
the culmination of months of discussion between the two bodies.

**‘Truth versus justice’ storm**

By DESMOND BLOW

CP 20/10/96

TO BE CHARGED or not to be charged, that is the question. Should the attorney generals and their special squads of top detectives spend millions of rands of taxpayers' money to bring political murderers to justice - only to have them granted amnesty if they volunteer to make a full confession to the Truth and Reconciliation Commission?

This question caused a crisis this week.

Transvaal Attorney General Jan D'Oliviera arrested two former top detectives who had been under investigation for months after it had been announced that the two - Brigadier Jan Hattinig (Jack) Cronje (59), former head of the Vlaklaas "hit squad", and Captain Jacques Hechter (44) - were among five former policemen who would give evidence before the Commission.

Hechter is known to have some involvement in the murders of Dr Fabian Ribeiro and his wife. City Press understands that the AG has not charged him with their murders as they are still being investigated, and that the AG intends to later charge military personnel with the murders, possibly with the two accused.

However, if the TRC is satisfied with the evidence the two give, it is compelled to grant them amnesty under the interim constitution - and the AG will have to withdraw the case against them.

This has caused bitterness in some circles - especially among the bereaved families who feel that justice is not being served.

Chris Ribeiro, son of Dr Fabian Ribeiro and his wife, feels that the policemen have only rushed to the Commission because they knew of their imminent arrest and that they feel no remorse for their actions.

He feels justice can only be served and reconciliation can only be brought about if the killers pay for their crimes.

He has criticised the TRC for "being insensitive" by not informing bereaved families that witnesses were to appear before it regarding the slaying of loved ones.

Attorney Willem Britz, who represents Cronje and Hechter, denies that his clients do not feel remorse.

Archbishop Desmond Tutu, chairman of the TRC, told City Press that the Commission's function was to reconsolidate the nation.

"The TRC did not make the law."

He stressed that had the politicians not come to an agreement over past atrocities - and "they were horrible" - the country would have gone up in flames.

**‘Don’t mess with Schools Bill’**

EDUCATION Minister Sibusiso Bengu on Friday said the government would brook no opposition to the recently approved South African Schools Bill.

Addressing a media briefing in Durban, Bengu said the Bill, approved by the National Assembly's education portfolio committee on Tuesday, had the overwhelming support of the Cabinet.

"We warn those parties (opposed to the Bill) not to repeat the same mistake by trying to delay the education transformation process - because that would be a futile exercise," Bengu said.

On Tuesday the National Party, which with the Freedom Front and the African Christian Democratic Party voted against the measure, said it would weigh up its options before deciding what action to take.

The Bill has been designed to redress the imbalances in state schooling brought about by decades of apartheid. It provides for only two categories of school - public and private - which will mean the end of the Model C system, and lays down ground rules for equitable funding, admission and language policy.
TRC vice-chairman Alex Boraine has criticized editors for not checking their facts in the wake of a call by the founding conference of the South African National Editors Forum for the amnesty applications of five senior police officers to be heard in public.

"The editors have their facts wrong. The amnesty hearings are open, like all other amnesty hearings have been. It staggers me that editors, of all people, should not check their facts," Raymond Louw, the Sun's member who proposed the motion, said he had based it on a statement issued by the TRC about 10 days ago.

However, TRC media liaison officer Christelle Terreblanche said the statement was probably related to the subpoena of the senior police officers for investigation under Section 29 of the National Unity and Reconciliation Act, which the law specified had to be conducted in camera, and not to the amnesty hearings.

Meanwhile, City Press editor Khulu Sibuya confirmed at the conference that he had been summoned to ANC headquarters by an "upset" President Mandela to explain an editorial he wrote criticizing the president's public backing of Mr Justice Ismail Mahomed for the position of chief justice.

Sibuya said Mandela was "very upset" - he thought he should have understood the circumstances much better, especially as a black journalist.

Mandela had told him that unless he had nominated Judge Mahomed he "would have been left with Mr Justice van Heerden and he felt there must be a black chief justice," Sibuya said.
TRC to probe MI missing files

The Truth and Reconciliation Commission will today explore the issue of missing Military Intelligence files when the defence force’s old and new guard appears before it in Cape Town, commission deputy chairman Dr Alex Boraine said yesterday.

“I’m sure it will be raised by the generals themselves, and if not, by the commission members,” he said.

The missing files contain detailed information about MI operatives and covert-style military operations during the apartheid era.

Members of Parliament’s oversight committee on intelligence discovered during a recent visit to the MI academy that the files were missing.

The issue was further exacerbated when SA National Defence Force chief General George Meiring later told the joint committee on defence that he believed the files had been destroyed.

The commission hearings will include submissions from representatives of the now defunct SA Defence Force and its successor the SANDF.

Boraine said it was hoped that the SANDF submission would cover the military’s role during the apartheid era and also detail specific events involving gross human rights violations.

Although a wide spectrum of former generals had contributed to the submission, it was not clear whether former defence minister General Magnus Malan had been consulted.

Boraine said it would be hard to anticipate the contents of the SANDF submission, but if there were any omissions the commission would recall the generals for further information.

The SANDF submission will be presented by retired Lieutenant-General Deon Mortimer, former Chief of Army Staff (logistics).

The SANDF submission, to be presented by Meiring, was aimed at showing the difference between the old military and the new, Boraine said.

Meiring had wanted to make a separate submission as he felt enormous changes had been made.

“We welcome any contribution that suggests the sort of changes that have taken place and still need to take place,” Boraine said - Sapa.
Anti-crime laws threaten to sideline human rights

SUSIE COWEN and NOMBUNTU MBELLE
LEGISLATION MONITORS FOR THE HUMAN RIGHTS COMMITTEE

In the fight against crime, six bills have become the focus of activity in Parliament's justice committees. Last month, the committees heard public submissions on the Bills. The Portfolio Committee (National Assembly) and the Select Committee (Senate) are now deliberating jointly on a bill to pass the bills before the end of session.

Three bills deal with international co-operation in criminal matters. The Extradition Amendment Bill revises procedures for extradition requests; the International Co-operation in Criminal Matters Bill aims to assist foreign states to obtain evidence from South Africa; and the Proceeds of Crime Bill aims to create procedures in South African law to confiscate the proceeds of crime.

The Extradition Amendment Bill seeks to simplify extradition procedures, thereby encouraging reciprocity between South Africa and other countries. It does this by removing the need to enter into formal extradition treaties and by limiting the court's role in the extradition procedure. The major point of contention in the bill is a section that provides that a certificate from a requesting country, stating that they have sufficient evidence for prosecution, is a sufficient proof of such.

This debate highlights the problem that, while there is a clear need for simplifying procedures and facilitating co-operation between countries, the bill fails to address key human rights concerns adequately. There is no clear policy on whether South Africa should extradite fugitives to face cruel and inhumane punishments, such as the death penalty, or face unfair trials. Neither are there clear provisions for ensuring accountability for the minister's decisions. The submission by the Human Rights Committee (HRC) included proposals to deal with these problems.

The fourth bill is the Special Tribunals Bill, which empowers the president to set up investigation units and tribunals to deal with serious government corruption. Some amendments have been introduced by the committees, including those dealing with appointment procedures. Broad agreement seems to have been reached on the bill, although final discussions are still to take place before voting.

The last two bills propose amendments to the Criminal Procedure Act. Although they have not yet been formally tabled in

Parliament, the committees will be finalising deliberations on them early this week. The first deals with police trapping procedures and aims to prevent abuse of the trapping system by setting out the parameters in which evidence obtained would be admissible during a trial. It is also made clear that police who engage in unlawful trapping operations will be prosecuted.

Committee members consider trapping procedures to be crucial in combating crime effectively and are thus concerned that the bill, as initially proposed, might have the effect of outlawing trapping entirely. Current deliberations on the bill are thus focusing on defining the minimum standard that the trap ought to comply with to be in line with constitutional provisions.

It is crucial that human rights concerns are given priority so that members of the public do not become innocent victims. Clear provisions should be enacted to prevent further abuse and corruption in the police service, problems that in themselves pose a threat to the safety of the public.

The Criminal Procedure Second Amendment Bill also aims to simplify procedures and targets several provisions in the Act. A key theme in the bill is to ensure that delays in trials are not caused unreasonably. At present, there are approximately 20000 awaiting-trial prisoners, some of whom have been waiting for up to 18 months. The HRC has recommended that there should be an investigation into trial delays after three months have lapsed.

Other matters dealt with in the bill include legal representation, plea bargaining, transfer of cases between courts, giving evidence through closed-circuit television, providing proof of undisputed evidence and the admissibility of confessions.

The justice committees are meeting every day this week in Committee Room G26. They are expected to finalise the bills by Friday, to be passed before the session ends on November 8.

It is crucial that key human rights concerns are not sidelined in the rush to deal with crime and to meet these deadlines. In considering South Africa's constitutional requirements and the standards set in other constitutional states, it is hoped that the committees will give due regard to the impact of these laws, in promoting and protecting a human rights culture in South Africa.
Magistrates want to train as Supreme Court judges

Durban – Senior magistrates in South Africa will approach Justice Minister Dullah Omar to start a training scheme so that they can become Supreme Court judges.

The resolution was taken by 90 magistrates attending the Association of Regional Magistrates of South Africa congress at Botha's Hill near Durban this weekend.

Outgoing chairman Theo Reed said that while many regional magistrates had the same qualifications as judges, they had not been able to acquire Supreme Court experience.

The congress expressed its dissatisfaction with magistrates' salaries and said, that between 1985 and this year, the wage discrepancy between regional magistrates and judges had increased.

Delegates also noted that Omar had not yet responded to their request for a delegation to discuss salaries with him.

The congress passed a resolution calling for the association to register as a trade union under the Labour Relations Act of 1956, because of the "unsatisfactory" salary negotiations over the past two years.
Policemen may confess at least 40 murders

Former government members expected to be implicated in booby-trap grenades

STAFF REPORTER AND SAPA

A plan to supply booby-trapped hand-grenades to anti-apartheid activists was approved at cabinet level in the 1980s, according to evidence to be presented to the Truth and Reconciliation Commission's amnesty committee this week.

Key members of the former NP government are expected to be named as having consented to the plan.

This was disclosed yesterday by Pretoria attorney Willem Britz, who is representing five policemen, among them former Vlakplaas operatives, who have applied for amnesty. Britz said his clients' testimony would "set the dominoes falling.

Former police commissioner General Johan van der Merwe will be the first witness to testify in the amnesty applications. His evidence will be the start of one of the most significant TRC hearings so far. He has been subpoenaed to testify on behalf of the five policemen.

The policemen, all former members of the Northern Transvaal security branch, are expected to confess their involvement in at least 40 murders. Their evidence is likely to implicate other high-ranking police officers and former cabinet ministers, including Louis le Grange and Adriaan Viljoen.

Among the incidents for which the men admit responsibility is the murder of Mamelodi doctor Fabian Ribeiro and his wife Florence, the disappearance of the so-called Peto Three, the murder of KwaNdebele cabinet minister Piet Ntuli, and the kidnapping and murder of 19 Manushe youths.

The highest-ranking policeman in the group is retired Brigadier Jack Cronje, who commanded the Vlakplaas unit in the early 1980s. The others are Captains Wouter Mentz and Jacques Hechter, Colonel Roelf Verster and Warrant Officer Paul van Vuuren.

Cronje and Hechter appeared in court last week on charges of murder. If their amnesty bid fails, they will go on trial in January. The hearing takes place before the five-member amnesty committee in the Johannesburg City Hall.

Britz said he would ask the commission today to subpoena four state witnesses, including former security policeman Joe Mamasela, in the case against Hechter and Cronje.

He said the four would provide corroborating testimony and demonstrate to the amnesty committee that his clients were making a full disclosure of all relevant facts.

"My clients need a fair opportunity to appear before the commission and to apply for amnesty. These state witnesses will corroborate what we are saying is true."

However, the Transvaal Attorney-General's office has indicated it will oppose any attempt by Britz to subpoena the state witnesses. Deputy Attorney-General Dr Terence Pretorius is expected to appear before the committee to argue against Britz's application.

Britz said today's proceedings in the Johannesburg City Hall would start with him reading out a statement on "truth and reconciliation" signed by the five applicants.

Once he and Pretorius had argued subpoenaing the four state witnesses, former police commissioner Gen Johan van der Merwe would take the stand.
Admit to dirty war, Nats told

Ex-cops testify

John Yeld

Johannesburg - Five former security policemen applying for amnesty for up to 40 murders, bombings and assassinations have called on the National Party to admit authorising actions outside the law while in power.

In an opening statement to the Truth Commission's amnesty committee here today, the five said they had been "thrown in the gutter" by the NP government.

They also seriously doubted the statements made by former state president FW de Klerk to the Truth Commission at its hearings for political parties in Cape Town in July.

At that hearing, Mr de Klerk said he had never been part of any decision, by the Cabinet, the State Security Council or any committee, authorising gross human rights violations.

He said that neither he nor any of his colleagues had directly or indirectly authorised such actions.

The five former security policemen said in their statements they were calling on the former NP government and their superiors to explain certain orders which had been given to them and about which they would testify at the hearing.

They also called on the former government "to admit to authorising actions outside the normal processes of the law, such as are demonstrated by the facts of our deeds, and the authorisations thereof."

The five are Brigadier Jack Cronje, a former commander of the notorious Vlakplaas hit squad base, and his colleagues Colonel Roelf Venter, Captain Wouter Mentz, Captain Jacques Hechter and Warrant Officer Paul van Vuuren.

The deeds for which the five are applying for amnesty are understood to include up to 40 murders and include revealing that former head of state security, Hendrik Verwoerd, was involved in a series of covert operations.

From page 1

ARG 21/10/96

who ordered the assassination of Mamelodi doctor Fabian Ribeiro and his wife Florence, and how, why and by whom the " echo of Three" activists were murdered in Port Elizabeth in 1986.

The hearing started nearly 50 minutes late because of negotiations among lawyers representing all the parties. It immediately bogged down in a discussion as to whether all victims and their families had been properly notified about the hearings.

Pretoria attorney Willem Britz read a mime-page opening statement signed by the five ex-policemen saying they had come "in a spirit of peace and reconciliation."

The five said they would give evidence about their actions during the conflict and would show these were "purely and simply" associated with upholding the National Party government and apartheid, fighting communism, and resisting the liberation of South Africa. "We have decided to come forward as we believe, contrary to the leaders of the previous government and our superiors in the security forces, that the time for conflict is past."

"We call on all other members of the security forces to come forward and take part in this process of reconciliation and nation-building, as we believe that it is the only alternative to further conflict and separation of the people of this country."

After the opening statement had been read, the amnesty committee started hearing arguments from the advocate representing the five - Roelof du Plessis of the Pretoria Bar - regarding the subpoenaing of certain witnesses, and of documents which were in the possession of Transvaal Attorney-General Jan D'Oliveira.

Mr Du Plessis said Dr D'Oliveira had indicated that he wanted to call these witnesses as state witnesses in the court case in which Brigadier Cronje and Captain Hechter have been charged.

Mr Du Plessis said a representative from Dr D'Oliveira's office was present at the hearing and was expected to oppose it.
People must be aware of rights and how to access them.
National Defence Force chief Georg Meiring has admitted that Military Intelligence files were destroyed but has defended the action, saying the destruction "must be understood in the context of a war having taken place".

General Meiring appeared before the Truth and Reconciliation Commission today along with retired defence force general Deon Mortimer.

"It is not a criminal activity," Mr Meiring said of the destruction of the files.

"It was a case of trying to preserve the national interest," he said.

Mr Meiring denied to the commission that Military Intelligence files were destroyed.

General Mortimer told the commission that the files were destroyed.

"I went through the process," he said.

"I approved the destruction of the files," he said.

Mr Meiring denied to the commission that Military Intelligence files were destroyed.

"I did not order the destruction of the files," he said.

"I did not approve the destruction of the files," he said.

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Mr Meiring said he approved the destruction of the files.
Soulless SADF Submission Inadequate

The submission to the TRC should have been an opportunity for the South African Defence Force (SADF) to address the human rights abuses it committed during its time in power. However, the SADF's submission was inadequate and did not properly address the allegations of apartheid and human rights violations.

The TRC, established in 1995 by South African President Nelson Mandela, aimed to investigate human rights abuses committed during the apartheid era. The SADF was a key player in the conflict, committing numerous human rights violations.

Despite the opportunity provided by the TRC, the SADF's submission failed to acknowledge the scale of its abuses or to take responsibility for its actions. This failure undermines the TRC's goal of promoting reconciliation and healing.

The SADF's inadequate submission indicates a continued lack of accountability for past abuses. It also raises questions about the effectiveness of the TRC in achieving its objectives.

To promote genuine reconciliation and healing, it is essential that all parties involved in the apartheid era confront their past actions. The SADF's inadequate submission is a reminder of the urgent need for continued efforts towards this goal.
COMMISSIONERS UNIMPRESSED

SADF’s submission ‘a dry bone with no flesh’ on it

TRUTH AND RECONCILIATION commissioners were unimpressed yesterday with the submission made about the former SADF. “To me it is depressing, because if we are re-writing our history we need to be honest,” said Dr Khosa Mgomo.

ROGER FRIEDMAN writes.

A group of former senior policemen began to lance the old security police boot before the Truth and Reconciliation Commission’s amnesty committee in Gauteng yesterday, senior soldiers and ex-soldiers were delivering a submission in Cape Town described by commission deputy chairperson Dr Alex Boraine as “breathtaking in its one-sidedness.”

After a short statement by the Chief of the South African National Defence Force, General Geoff Meiring, followed by a much lengthier submission “in respect of the former SADF” by the retired Major-General Deon Mortimer, Boraine said it seemed the military was trying to project itself as “a knight in shining armour simply doing its job.”

Commissioner Dr Khosa Mgomo agreed with Boraine “To me it is depressing, because if we are re-writing our history we need to be honest.”

After the submission, Freedom Front leader General Constand Viljoen suggested it was possible that none of the commissioners could understand the defence force’s claim because none of them came from military backgrounds.

Viljoen, an apartheid-era defence force chief, said he believed the submission had been a good starting point to a relationship between the SANDF, former officers and the commission.

Mgomo said of the submission “Just historical data with no feeling at all. It was just a dry bone with no flesh.”

The lengthier of the two submissions was prepared by a group of retired and serving military officers convened by Meiring to assist the TRC meet its responsibilities in accordance with the constitution as well as the Promotion of National Unity and Reconciliation Act”, according to Meiring, who calls the group “a nodal point.”

The submission included a lengthy analysis of the “revolutionary war in South Africa from the perspective of the SADF”, with a tiny section devoted to “black on black violence”, a section into which the KwaZulu-Natal conflict between the chancers and the IPI fell.

Later in the submission, under the heading Special Projects, the Nodal Point devoted a single paragraph to Operation Manon, the codename of an SADF operation offering paramilitary support to Inkatha in the late 1980s and the subject of some interest in the recent KwaMahlathu trial of former defense minister General Magnus Malan. KwaZulu chief minister, Chief Mangosuthu Buthelezi, requested paramilitary support from the South African government, and the government “asked the SADF to render the support,” said Mortimer, a former chief of staff logistics. No further details of Operation Manon were provided.

Mgomo said afterwards “To me their admission that the SADF helped Inkatha is nothing short of third force activities.”

Under the heading Defence Strategy, Plan-

Mortimer said the SADF was “pre-eminently a peacekeeping task force”, but, “owing to the perceived threat and the increasing instability in Southern Africa, the SADF strategy was directed at ensuring the security of the people of the RSA by taking offensive, pro-active steps.”

Under the heading Defence Force Operations, the Nodal Point provided lists of internal and external operations, but conceded the lists “may not be complete.”

A chronological list of 64 internal operations conducted between 1980 and 1993 included cordon and search operations in Welkom (twice), and “hitchhikers who threw stones at vehicles is shot through arm in Witwatersrand area” (December 31, 1985).

Just seven “external operations” against ANC (MK) and PAC (Apla) bases and facilities were listed twice in Mozambique, one in Transkei, one in Leeso, two in Botswana and one in Botswana and Zimbabwe.

Of the dreaded special force, the Civil Cooperation Bureau, the submission had this to say “During 1965 1986 the ANC changed its tactics by intensifying its underground and unconventional methods both internally and externally thus led the SADF to counter the changing threat and establish a new subdivision of special forces called the CCB in May 1986. Civilian and demilitarised personnel from various sources were appointed under contract to form the CCB.”

It was “internationally accepted practice to have an organisation or organisations in military forces which are capable of carrying out special military tasks.” But no CCB-related documentation was believed to exist other than that supplied in evidence to the Hams Commission, the Nodal Point said.

Meiring submitted that “professionalism, efficient planning and goodwill enabled the relatively painless process with which six forces, joined shortly after the elections by Apla as the seventh, united in the National Defence Force in 1994.”

“My humble submission today is that the SANDF, in the way it was established, and is now developing, perhaps sets an example for reconciliation,” he said.

At a press conference held once the general’s had departed, Boraine said he found the submission “bland” and “profoundly disappointing.” No reference had been made to the SADF engaging in any unlawful activities, he said, labelling the Nodal Point’s lack of culpability for apartheid-era wrongs as “breathtakingly one-sided and really almost audacious.”

STANDING POINT: General Constand Viljoen

SUGHT SUPPORT: Chief Mangosuthu Buthelezi
DOCUMENTS DESTROYED: SANDF chief General Georg Meiring submitted a statement to the Truth and Reconciliation Commission in Cape Town yesterday in which he said certain documents containing information about informants and military agents had been destroyed before the 1994 general election.
General admits Khotso bombing

OWN CORRESPONDENT

JOHANNESBURG: Retired police commissioner General Johan van der Merwe and former Law and Order Minister Mr Adnaan Vlok are to apply for amnesty from the Truth and Reconciliation Commission after dramatic new disclosures about their involvement in apartheid-era crimes.

Van der Merwe admitted yesterday he had ordered the booby-trapping of handgrenades that killed eight ANC activists in 1986, as well as the 1988 bombing of Khotso House, the headquarters of the SA Council of Churches.

The orders for the bombing of Khotso House had come from then State President P W Botha, and had been relayed to him by Vlok. The grenade operation had been sanctioned at cabinet level, he said.

Van der Merwe was testifying before the TRC's amnesty committee in support of an amnesty application by former security policemen Brigadier Jack Cronje, Colonel Roelf Venter, Captains Jacques Hechter and Wouter Mertz, and Warrant Officer Paul van Vuuren. They are expected to admit their involvement in 40 murders, which they say were sanctioned by the previous government.

Van der Merwe said he would apply for amnesty for the Khotso House bombing and the hand-grenade incident, and possibly for other incidents, depending on the testimony of the five policemen.

"If there are other incidents they think I should take responsibility for, then I will apply for amnesty for those incidents. It would make no sense for me not to apply for amnesty if I support amnesty applications by my subordinates," he said.

Vlok, contacted at his Pretoria home, would not comment on Van der Merwe's allegations, but confirmed that he would also apply for amnesty for at least the Khotso House bombing.

Van der Merwe denied that specific orders were given by him, the police top structure or the government for any other illegal acts. He said, however, that the general political climate during the 1980s had created a perception among policemen that it was expected of them to go to any lengths to fight the liberation struggle.

"I am fully aware that the actions of various members of the security branch may in the present circumstances appear to be cold-blooded and murderous in nature," he said, adding that propaganda had led to a situation where individual policemen could no longer distinguish between lawful and unlawful acts.

He conceded, however, that no actions by Cronje or his subordinates had ever been repudiated by the police top brass or the government.

Van der Merwe said former President F W de Klerk had not been aware of the illegal operations carried out by the security police.

The hearing continues today, with Cronje expected to take the stand.
Kahn tears political boss row brews on Super A-G
APARTHEID

ASSASSIANS FOR
Vlakplas chief tells of state's secret hit-list group
PW Botha ‘ordered dirty tricks by police’

Stephen Laufer

FORMER president PW Botha and two of his ministers had ordered police dirty tricks in the 1980s which led several anti-apartheid activists dead or maimed and reduced Khotso House to rubble, former police commissioner Johan van der Merwe said yesterday.

In 1988 the then law and order minister Adriaan Vlok had instructed Van der Merwe to organise an explosion which would damage Khotso House, headquarters of the SA Council of Churches and several trade unions — "to such an extent that it could no longer be utilised" Vlok had told him that the instruction had come from Botha. The security forces had believed at the time that the building served as "a sort of internal headquarters of the ANC."

Van der Merwe was testifying before the truth commission in support of amnesty applications by five former SAP officers — Brig Jack Cronje, Col Roelf Venter, Capt Jacques Hechter, Capt Wouter Mentz and W/O Paul van Vuuren. The officers served in the SAP's Vilakazi killer squad and the Northern Transvaal security branch.

They have been implicated in up to 40 murders, including the deaths of the Pelco Three, Nambi doctor Fabian Ribiero and his wife Florence, and two groups of youths lured from the township on the pretense that they were being taken for military training by the ANC. Cronje and Hechter were formally charged in Pretoria on Friday with 27 murders.

Two years earlier then police minister Louis La Grange had approved a proposal from Van der Merwe, who headed the security branch at the time, to supply booby-trapped hand grenades and a limpet mine to East Rand anti-apartheid activists. The Duduzo activists had been targeting black policemen.

Believing the ANC to be the source of the grenades, eight activists had been killed and others injured when they launched attacks on the homes of policemen. Another activist had died while attempting to sabotage an electric substation using the limpet mine.

Van der Merwe said he was aware that actions by security branch members and others in the SAP might "appear cold-blooded and murderous."

However, "militaristic and political-inspired speeches often made it difficult for the security forces, who were ignoring emotionally involved to distinguish between that which was..."

Continued on Page 2

PW Botha

Continued from Page 1

"They know the truth, I know the truth, the men know the truth."

It was a general perception among those who served in the SAP that they had been abandoned by the NP.

He was of the opinion that Vlok would also come forward and apply for amnesty, Van der Merwe said, although "I cannot speak for him."

Former president PW de Klerk had "never been a part of the security system as such and I don't know whether he knew of other matters" not being discussed before the commission.

The body's deputy chairman, Alex Boraine, welcomed Van der Merwe's testimony, calling it "an indication that the flood wall has broken."

There were indications that further big amnesty applications were coming.
Register may be delayed
Publication of financial

Fifth U.S. circuit court of appeals in New York City has ordered the publication of financial statements for the years 1981 to 1983 for the company.

Vehicle subprime lenders

Amnesty leniency is not

Truth commissions reject military's submission
Am partnered warrior, so the inspeca can e
Secret hit squad

By Mzimasi Ngudle

THE FORMER State Security Council's unlawful operations were exposed yesterday when former Vlakplas commander Brigadier Jack Cronje told the Truth and Reconciliation Commission about a special counter-insurgency unit formed to eliminate members of the liberation movements.

Testifying in the Johannesburg City Hall, Cronje said the SSS ordered Colonel Tom Louw to establish Trents - a unit which discussed and targeted members of the African National Congress, the Pan-Africanist Congress of Azania and the South African Communist Party.

Cronje also said the SSS, then headed by former president PW Botha, authorised and approved killings, attempted murders, torture and severe ill-treatment of human rights activists.

Outlining the context in which he and his colleagues committed gross human rights abuses, Cronje said security police believed there was a full-scale war. This belief, he said, was further fuelled by inflammatory speeches by Botha who called "for the elimination of the enemy".

Gave instructions

While working as head of the security branch in Springs, Cronje was instructed by former police commissioner General Johann van der Merwe to use booby-trapped handgrenades which killed eight ANC activists in 1985.

"Van der Merwe gave me the instruction in Springs. He said he got the instruction from former law and order minister Mr Louis le Grange and that Botha approved it," Cronje said.

In a television documentary on Monday, former Vlakplas operative Mr Joc Mamsela confirmed handing over the grenades to a group of activists who were later blown up in an explosion.

Cronje said the decision to form Trents was made after the SSS felt that the legal system was inadequate to deal with the "communist onslaught".

"There was no other means except to use military options and to eliminate the activists. This was considered necessary under the circumstances.

"Reports of the killings were sent to the head office and there was never any unpleasantness or orders that eliminations should stop."

In his application for amnesty, Col. Roelof Venter said Trents supplied them with a list of people who were to be attacked.

However, Venter came under attack from TRC lawyer Advocate Coeky Mphalele for specifically admitting to the killing of the Pebeo Three - Mr Qaqawuli Godolozi, Mr Sipho Haane and Mr Champon Galesa - for which he is applying for amnesty.

While admitting to abducting the three in 1985, Venter said he later heard that the bakkies in which they were travelling was burnt.

"I do not remember instructions that they should be killed. I had no knowledge of any decision that they should be eliminated."

Involved in the operation were Lt. Deon Neuwoudt, Capt. Sakkas van Zyl, Gert Boetler and former askaris Mamsela, Mr Koole Mogoai and Mr Radebe.

Meanwhile, TRC deputy chairman Dr Alex Borane said they would follow up Van der Merwe's allegations that Botha ordered the bombing of Khotsa House, the headquarters of the South African Council of Churches in Johannesburg.

"The allegation cannot be ignored. The commission will not hesitate to subpoena Botha where necessary," he said.

"While the commission has recommended that the closing date for amnesty applications be extended by three months, there is no guarantee that this will happen," he said.

former security policeman Colonel Roelof Venter takes the oath yesterday before testifying at an amnesty hearing of the Truth and Reconciliation Commission in Johannesburg. Venter is accused of being party to the abduction of three activists known as the Pefeo Three in May 1986, but denied involvement in their subsequent murder.
Bigger workload for the HRC

BY HELEN GRANGE

Socio-economic rights, included in the new Constitution, will result in an additional workload for the Human Rights Commission (HRC), which, despite this, has been unsuccessful in getting presidential approval for a bigger budget. The constitutional rights to basic socio-economic resources such as housing and water mean the HRC has the additional mandate of monitoring the Government's delivery on this front, a senior HRC official said this week.

The interim constitution, which will become obsolete if and when the Constitutional Court ratifies the new Constitution, provided only for political and private rights.

HRC chairman Dr Barney Pityana has openly complained that the commission's R6.4-million budget is hopelessly inadequate.

It is understood that an appeal to President Nelson Mandela to augment this has fallen on deaf ears.

The HRC is preparing to hold public hearings into violations of human rights within prisons and has announced similar inquiries will be held into the predicaments of agricultural workers and homeless children.

The HRC is currently investigating 15 cases, a number relating to unfair discrimination on the basis of gender or race in state institutions.

Three cases have been settled or resolved, including a case arising out of allegations of violence by warders of Kransna Prison, and a complaint concerning unfair discrimination by the Durban College of Education.

The commission has received more than 300 complaints which it was unable to investigate as they did not fall within its jurisdiction.

However, many of these cases have been referred to the appropriate body, including the Public Protector.

Madiba's long 'lost' letter

BY JEANINE BWAHLA

President Nelson Mandela is mulling a letter from Zambia.

It has remained locked in a drawer in Lusaka since just after his release in 1990.

A communications officer in the office of Zambian President Frederick Chiluba has been charged with stealing the money he claimed from petty cash for posting letters.

Peter Daka, mail clerk at State House for more than 15 years, allegedly stole the postage money intended for hundreds of letters dating back to 1989.

Chiluba is enraged by this 'breach of loyalty and security' and has ordered that all staff at State House submit details of their background.

Security guards found the letters in Daka's desk.

They included one personally written and signed by former Zambian President Dr Kenneth Kaunda.

The letter was addressed to Just released South African prisoner Nelson Mandela - Star Foreign Service.

TV journo says she had 'unfair deal'

BY CHERYL HUNTER

Media Reporter

SABC television journalist Isabel Jones believes she was given an 'unfair deal' by weekend newspapers accusing her of prejudiced and biased reporting.

Presenter of the popular 'Fair Deal' programme, Jones was reported to the Broadcasting and Complaints Commission of South Africa (BCCSA) last week by the subject of one of her programmes.

Staff of Paul Zwick Productions - the company which Jones uses to produce 'Fair Deal' - had signed a petition against the ongoing of a low-cost restaurant in Blarewood before they produced a programme on the issue.

But Jones was 'hopping mad' yesterday after it was approached by several people at a local post office where she was mailing a letter to do something about the restaurant and that's when I took it up as a community issue.

'I had no idea that some of the production staff had signed a petition and I did my own research and asked my own questions,' she said.

"Had I known who had signed the petition, I don't believe it would have made any difference because I approached this project as I have all of my others," she added.

"No one exerted any influence over me during the making of this programme," she said.

She said newspapers had used her name in articles instead of those who had known about and signed the petition prior to the programme, and also that reporters had misquoted her.

Zwick, one of the signatories, said he was responsible only for the technical side of the production and had nothing to do with editorial content.

"Isabel asks the questions and approves the programmes. She brought it to us for production and the decision to go ahead with any programme is nothing to do with this company," Zwick said.

BCCSA spokesman Rene Conradie said she did not think the commission could resolve the problem because the complaint was not about the content of the programme, but about personal involvement in the production.

"We only deal with complaints pertaining to the content of a programme," Conradie said.
AS SSC head, P W Botta
would have been briefed on "dirty tricks"
Preconditioning must be applied with care... and foods. Suggested by these — and these. 

WASTE STEKKERS: From your convenient kitchen. Lunch, dinner, and ceiling washers, from the

- Preconditioning in the food — and foods. — and foods. — and foods. — and foods. — and foods.
Commission may subpoena Botha on Khotso House blast

Stephen Laufer

THE truth commission would subpoena former presi-
dent PW Botha if he did not co-operate with inves-
tigations into Monday's allegation that he had or-
dered the bombing of Khotso House, commission
deputy chairman Alex Boraine said yesterday.

The allegation — by former police commissioner
Johan van der Merwe, who said he had received di-
rect instructions to carry out the bombing from then
law and order minister Adriaan Vlok — could not be
ignored, and the commission would seek the fullest
information.

Boraine called on Van der Merwe and Vlok to
make full disclosure not only on the Khotso House
incident, but on everything they knew about. He ap-
pealed to all members of the former security forces
involved in gross human rights violations not to de-
lay their amnesty applications.

Political parties, former anti-apartheid activists
and SAPS commissioner George Fivaz joined Bo-
raine in commending Van der Merwe for his state-
ment to the amnesty committee. It is being seen as a
turning point in the body's search for the truth.

Fivaz said testimony on the bombing and the bo-
oby trapping of hand grenades graphically illustrated
the dangers of using police as an extension of party-
political interests. Van der Merwe's approach to the
human rights abuses of the past could enhance the
process of reconciliation and healing. The loyalty of
the new SAPS was to the constitution.

The ANC said Van der Merwe's testimony vin-
dicated its view that covert operations against anti-
apartheid activists were not the work of maverick
elements in the security forces, but had been sanc-
tioned at the highest levels of the state. It suggested
that FW de Klerk's testimony on behalf of the NP had
in many instances fallen short of the whole truth.

The DP said credit should go to Transvaal attor-
ey-general Jan D'Oliveira whose diligent work had
flushed out the confessors now appearing before the
amnesty committee. Their individual accounting
would help restore the rule of law.

Rev Frank Chikane, who was secretary general of
the SA Council of Churches when its Khotso House
headquarters were bombed by the SAP, called for a
direct apology to the body's staff and officials. "This
would be healing for me and many others," he said.

Sapa reports that Botha was flooded with faxes,
telephone calls and by the Tshwane River which also
burst its banks on Tuesday after four days of heavy
rain. The "Groot Krookodi" had little interest in deal-
ing with the rising tide of media interest prompted by
calls that he ordered the bombing of Khotso House.
in 1988, instead evaluating damage to his home,
which was ankle-deep in water.

President Nelson Mandela said he saw no possi-

bility of the cut-off date for amnesty being extended.
Commission chairman Archbishop Desmond Tutu
had proposed an extension to May 10 1994.
New Chief Justice Mahmoud vows to restore legitimacy of the law

Milestone as SA judiciary enters a new era

NEWS

CAPE TOWN, THURSDAY, OCTOBER 24, 1996
Judge slams parole system

A Pretoria Supreme Court judge has slammed the Government's parole system as it relates to criminals serving long prison sentences.

Sentencing Joseph Makua (20) to an effective 33 years in prison for the murder of Witbank couple Johannes and Magdalena van der Merwe and another woman in July 1993, Mr Justice J.M.C. Simat said yesterday the release on parole of long-term prisoners weakened the efficiency of the justice system.

When convicted murderers, rapists and robbers were released before they had served their full sentences, the community lost confidence in the court system, he said.

Makua, who pleaded guilty, was also sentenced to 10 years' jail for robbing the Van der Merwes of household goods worth R71,000. The sentences will run concurrently.

The court heard how Makua and two others drove around for hours with the bodies of the Van der Merwes in the boot of a stolen car in an attempt to sell them to witchdoctors - Pretoria Correspondent.
TRC Collars cops

Former security policemen to be grilled about Rebeco Three
Mohamed appointed new SA Chief Justice

By Rafiq Rohan
Political Correspondent

MR JUSTICE Ismail Mahomed was yesterday appointed South Africa’s first post-apartheid Chief Justice to succeed Mr Justice Michael Corbett who retires next year.

The decision ended months of speculation and also sent a clear signal to judges and jurists that the Government was in favour of a progressive rather than a conservative judiciary.

Although the process has been clouded in controversy, Cabinet Secretary Professor Jakes Gerwel said was not a controversial discussion in the Cabinet.”

The controversy arose earlier this year when it was suggested that President Nelson Mandela had publicly thrown his support behind the 64-year-old Justice Mahomed.

Gerwel explained the procedures yesterday and said it was the President’s duty to consult with the Cabinet on the issue before the decision was announced to replace outgoing Chief Justice Corbett.

Mandela received the two nominations for the position by the Judicial Services Commission – the other was Mr Justice, Hellen Manaka.

Gerwel said the President and Cabinet were not bound by the view of the JSC. The JSC publicly interviewed the two candidates on October 4.

Gerwel said both candidates were considered “fit and proper persons” for the post. The JSC voted on the two names and Mahomed was apparently voted in by a 15 to one margin.

The JSC is made up of the Chief Justice, the president of the Constitutional Court, the Minister of Justice, a representative of judges, two representatives of advocates, two representatives of attorneys, four senators, a representative of law faculties and four people appointed by the President.
Colonel ‘not telling all’

Although he confirms the killing of the Pebco Three as a police operation, Colonel Roelof Venter denies his involvement in the killing. Claire Keeton reports...

Colonel Roelof Venter. the families of the Pebco Three are opposed to his amnesty because of his evidence.

Vilaklzas, Brigadier Jack Cronje, to go to Port Elizabeth to assist in quelling the unrest.

During his time there, he executed instructions from the regional commander of the security branch, which included an order to pick up three prominent activists at the airport.

Venter said his assistants picked up the men and they were delivered to Port Elizabeth security policemen at a meeting place along the coast.

Captives at a braai

He claimed that he only saw the captives a few days later at a braai at an old police station near Cradock and he was unable to see if they had been harmed.

But Venter confirmed that the normal form of security police interrogation was violent.

“The normal way was to assault people, intimidate and humiliate them as a means of gaining information,” he said.

Venter said that from time to time, there were instructions for activists to be eliminated as the Pebco Three were “great troublemakers.”

“The head of the Eastern Cape security branch, General Nic van Rensburg, must have given the instruction,” said Venter.

The murder of the Pebco Three was not an isolated incident, but was in keeping with the way that the security police dealt with political leaders they perceived as a threat to the apartheid government.

Before Venter’s testimony about the Pebco Three, he confirmed that the C3 counter-intelligence unit at Vilaklzas, known as “Trevits,” was established in 1985 to target opponents of the government.

Trevits is an Afrikaans acronym for the Counter Revolutionary Information Target Centre.

He said initially it focused on activists abroad but later included South Africans within the country.

“If people were on the list and identified as targets then attacks were going to be directed at these people. The most active people were at the top of the list.”

He said members of the special forces and military intelligence - both part of Trevits - would execute the attacks outside of South Africa while regional commanders of the security police would plan internal attacks against activists.

State knew of ops

Prior to Venter’s testimony, former Vilaklzas commander Jack Cronje insisted that the State Security Council must have known of Trevits.

Cronje said: “If anyone from the State Security Council said they were not aware of the actions of the security police, that would not be true.”

Cronje explained that the security police treated the conflict in South Africa during the 1980s as a war.

“It was therefore necessary to eliminate insurgents, terrorists and activists, where the circumstances required it,” he said, leaving no doubt that “eliminate” meant kill.

Drastic action

Cronje said the justice system was not equipped to deal with the soldiers of the liberation movements in a way that would permanently neutralise them, so the security police had to take drastic action.

He said specific authorisation was not required for every incident and power was delegated down the hierarchy to combat the “déstabilisation” of the country by any means necessary.

The cold-blooded killing of the Pebco Three, who were on their way to the airport to meet their Israeli sponsors, is a clear example of the methods used by the security police.
New Chief Justice Ismail Mahomed intends to salvage image of the law

BY PATRICK BULGER
AND HELEN GRANGE

Ismail Mahomed – who, when he appeared as an advocate in the Appeal Court, was forced by apartheid to leave the borders of the Orange Free State before dark – is South Africa’s new Chief Justice.

His appointment, which comes into effect on January 1, was announced by President Nelson Mandela yesterday.

In his 12 years at the Johannesburg Bar and during cases heard at the Appeal Court at Bloemfontein in the then Orange Free State, Mahomed was subjected to the discriminatory racial measures exercised against all Indians in the province.

“Every meaningful public facility in the Free State was denied to me when I made my appearance as an advocate in court; and, before the sun could set, I was compelled to skulk across the provincial borders in order to avoid contravention of the law” (Indians were not allowed to spend the night in the OFS).

Mahomed, South Africa’s most senior black legal practitioner, said his main aim would be to restore the legitimacy of the law and to make it the protector of the people. He beat Appeal Court Judge Henrie van Heerden, to the top post after an often-bitter campaign tinged with racial overtones that split the country’s judicial community.

The controversy was marked by Mandela’s personal intervention when he put Mahomed’s name forward for consideration by the Judicial Services Commission after Mahomed had earlier declined to be considered because of the controversy evoked by his nomination.

Sources said Mandela had personally pleaded with Mahomed to make himself available. Mahomed said yesterday he had accepted the nomination with “the same mixed feelings which have aggrieved me ever since my nomination for the position.”

He said a feeling of pain, substantially emotional, came from the “inevitability and the irony of having to have my chambers in the city and the province which historically made the greatest assaults on my dignity and my self-esteem by discriminating against me on the grounds of colour and colour alone.”

Mahomed, who is deputy president of the Constitutional Court, was the first black lawyer to become a senior counsel, in 1974. He practised at the Bar for 35 years during which time he built up a reputation for defending political cases.

Mahomed was repeatedly overlooked for an appointment to the Bench during the apartheid years. In 1991 he was made a judge of the Supreme Court and in 1993 he was appointed a acting judge of the Appeal Court.

When constitutional negotiations began late 1991, Mahomed was one of two judges chosen to preside in the Convention for a Democratic South Africa. This year he was appointed chairman of the South African Law Commission.

Mahomed received a telephone call from the Office of the President yesterday, telling him of the appointment and congratulating him. He said he had been deeply honoured by the appointment and hoped he would be able to contribute to the “urgent need to salvage the image of the law.”

“I see the restoration of the legitimacy of the law in the perception of the populace as the most vital and the most urgent challenge for all lawyers,” he said. “I look forward to serving the help of the entire judiciary in this task.”
Aim to restore legitimacy of law

Determining the legitimacy of the law is the most vital challenge facing lawyers, says the new Chief Justice, BARRY STREERK reports.

As widely expected, President Nelson Mandela yesterday announced the appointment of Mr Justice Ismail Mahomed, 64, whom he himself had nominated, as the new Chief Justice.

Judge Mahomed, deputy president of the Constitutional Court and Chief Justice of Namibia, is the first black person to be appointed to the position. The National Party welcomed the appointment.

In a statement, Mr Justice Mahomed said he was deeply conscious of the fact that the country was irreversibly committed to a new constitutional future based on equality and freedom.

"The President and the country of my birth have deeply honoured me by appointing me to a very high judicial office which would give me the opportunity of giving effect to that commitment."

Restoring the legitimacy of the law in South Africans' perceptions was the most vital challenge for all lawyers, he said.

"It is only through the restoration of that legitimacy that law can play its most important role in bringing justice to the people and restoring the moral fabric of our society so traumatically damaged for so long by the pain and the shame of our racist past."

Judge Mahomed, who will be based at the Appellate Division in Bloemfontein, said he had received the announcement of his appointment with mixed feelings.

He said it was ironic that his chambers would be in the city and the province which "made the greatest assault on my dignity and my self-esteem."

Every meaningful public facility in the then Free State had been denied to him when as an advocate he had to argue cases on appeal in Bloemfontein.

"Before the sun could set I was compelled to skulk away across the provincial borders in order to avoid any contravention of the law."
Real reconciliation requires that the full truth be known.
Majority say truth body will succeed

Farouk Chothia

DURBAN — THE overwhelming majority of South Africans — 60% — believed the truth commission would lead to greater reconciliation, and 78% favoured amnesty for perpetrators of past political crimes, a Human Sciences Research Council survey has found.

The countrywide Omnibus survey was conducted in July A total of 2,411 people were interviewed and the findings were released yesterday.

It found that blacks were most optimistic that the commission would bring about greater reconciliation (70%), followed by Indians (69%), coloureds (58%), and whites (59%).

In a party breakdown, ANC supporters (75%), PAC supporters (68%) and IFP supporters (57%) were the most optimistic. This was followed by DP supporters at 39%, NP supporters at 37% and the supporters of right-wing parties at 15%.

Support for qualified amnesty among all respondents stood at 45%, while 32% favoured a general amnesty. On whether only apartheid-related abuses or all abuses should be investigated, nearly 20% were undecided.

The survey found that 50% of blacks wanted only apartheid crimes investigated against 15% of whites who did A total of 38% of coloured respondents wanted investigations to include abuses by liberation movements, but 37% did not. Indians were more supportive of investigations including liberation movements (50%), while 31% were against this.

ANC will not seek amnesty for acts of war

Stephen Laufer

ANC cadres who had been involved in acts of war would not apply for amnesty even if their actions had resulted in civilian casualties which the party regretted, ANC legal department head Mathews Phosa said yesterday.

The ANC would accept responsibility for all legitimate operations by its cadres, but there would be no apologies for acts of war as it rejected attempts to equate apartheid with resistance to apartheid. The ANC was a signatory to the Geneva conventions governing guerrilla conflict.

Phosa's statement, during a week in which senior police officials implicated former president PW Botha and NP ministers in apartheid atrocities, could harden attitudes among apartheid-era policemen and army officers still contemplating applying for amnesty. They have until December 15 to apply, although the truth commission wants Parliament to extend the deadline.

Phosa's move signals a further step by the ANC to underline the moral distinction between those involved in implementing apartheid — deemed a crime against humanity by the UN — and those who fought against it.

The bombing of Dresden by British and US forces during the Second World War had been regarded internationally as legitimate even though it had resulted in thousands of civilian deaths, Phosa said. Umkhonto we Sizwe's Church Street, Pretoria, bomb targeting SA Air Force headquarters had also resulted in civilian casualties, but had been equally legitimate.

Where there had been gross human rights violations, the party would help operatives apply for amnesty. Cadres were not required to consult the ANC before applying for amnesty, but it would be advisable for them to do so to obtain legal assistance.

Phosa cited the bombing of an Amanzimtoti shopping centre as an example of an operation which contravened ANC instructions on legitimate targets, saying it was carried out outside the brief of the ANC leadership if the perpetrator, who was hanged for the bombing, had lived, he would have been encouraged to apply for amnesty.

Asked whether the party feared exposure of senior members as former apartheid state agents, Phosa said: "Let's have the exposure — it will help clear the worms out if they are there."
Police witnesses subpoenaed

Stephen Laufer

DETAILS of the last days of the Pecbo Three and who ordered their deaths are likely to emerge for the first time next Monday when four former security branch officers appear at the truth commission following a decision yesterday to subpoena them.

The orders to Fort Elizabeth security policemen Gideon Nieuwoudt and Sakkie van Zyl, former Cradock security branch head Eric Winter and former Vlakplaas operative Gert Beeslaar, to appear before the amnesty committee signal new determination to chase the truth beyond mere confirmation of an amnesty applicant’s version of events.

The subpoenas would be delivered today, said amnesty commissioner Judge Andrew Wilson.

The four policemen were named on Tuesday by Col Roelf Venter, who is applying for amnesty for abducting the Pecbo Three. Although he told the commission he believed Qasawuli Goldblom, Sipho Haebe and Champion Galela had been killed by police, he denied personal involvement.

Following submissions by lawyers for the families of the Pecbo Three that Venter might not have made full disclosure, as required by legislation, his counsel yesterday asked the committee to subpoena Beeslaar and Nieuwoudt. They would be able to back his contention that he had handed the three to Eastern Cape security branch officers, and that they were alive when he last saw them at a disused police station outside Cradock.

Beeslaar had said he would testify voluntarily, said Venter’s lawyer, Roelof du Plessis, while Nieuwoudt — currently appealing against a conviction for killing policemen in the Motherwell car bombing — had indicated he would “flatly refuse”.

In reply, the committee issued subpoena orders against both of them and added Van Zyl and Winter of its own volition.

The Johannesburg hearings, in which Venter, Brig Jack Cronje, Capt Jacques Hechter, Capt Wouter Mentz, and WO Paul van Vuuren are asking for amnesty in connection with 16 separate events and up to 40 deaths, were postponed until Monday because amnesty committee head Judge Hassan Mall was ill.

A commission spokesman said the postponement would not affect the amnesty application of former Vlakplaas commander Dirk Coetsee, set to begin in Durban on November 5. If necessary, the Johannesburg hearings would be postponed again.

While waiting for the decision on the postponement yesterday, spectators at the Johannesburg hearings witnessed a remarkable act of reconciliation when deputy education minister Father Smangaliso Mkhathwana shook the hands of all five applicants. Among their amnesty bids is one referring to an attempt to murder him.

David Greybo reports from Cape Town that former president PW Botha indicated yesterday he would not co-operate with the truth commission. The commission warned that if it could not secure his co-operation it would be forced to subpoena him to give evidence.

A spokesman for Botha said the former president was “not terribly concerned”, and had “expected this”. Commission deputy chairman Alex Boraine said the commission sought a meeting with Botha in light of allegations by former police commissioner Johan van der Merwe that Botha had ordered the bombing of Khotso House.

Failure to co-operate could, he said, land Botha with a maximum two-year jail sentence. The first of four senior subpoenaed police witnesses, Maj-Gen Krappies Engelbrecht, is due to testify today.
to speak, or pay?

Can PW be forced

It’s crunch time for secretaries as former president Botha faces a possible subpoena and the Defence

By Mail and Guardian reports

This week’s Kordos House involvement cannot bring

This is the commission’s cross-examination with PW Botha.

MTG 25-31/10/96 (252)

SOUTH AFRICA

Can PW be forced

to speak, or pay?

 để trích dẫn và sử dụng văn bản này, vui lòng liên hệ với tác giả và/hoặc nhà xuất bản.
Ministry turns on former military commanders

'Arrogant' SADF angers Kasrils

Stefanus Brummer

DEPUTY Defence Minister Ronel Kasrils this week joined in condemning the South African Defence Forces (SADF) submission to the Truth and Reconciliation Commission as "arrogant and disappointing" - but added that the ministry can do to force military generals to reveal more.

However, commission deputy chair Alex Boraine said if the generals did not provide satisfactory answers to follow-up questions, the truth body would approach Kasrils and Defence Minister Joe Modise to ensure senior officers who served in the SADF and who still serve in the new South African National Defence Force (SANDEF) are put under pressure to tell the truth.

Major-General Dron Mortimer, former chief of staff logistics, presented the SADF submission to the truth commission on Monday. He said the submission, which attempted to give broad details of apartheid South Africa's security strategy, the SADF's perspective on the "revolutionary war" and defence strategy and operations, was facilitated by the SANDEF.

But Mortimer said the SANDEF could take no responsibility for the

Turn and Boraine are of the opinion that is important to have a high-profile amnesty rulings so that perpetrators can be encouraged to come forward and confess all before the December cut-off date for applicants. If this pressure induces members of the amnesty committee to make an early ruling in favour of the current applicants and scuttle the attorney general's criminal proceedings against the five and disarm the most potent weapon in the arsenal of the Truth Commission.

But, if we look beneath the rose-tinted spectacles, we are, as a matter of fact, to believe the statement of the commission that it is patently clear the police strategy is to use the truth commission, and also the undue haste by some of the leading members to hold a high-profile amnesty hearing, in order to undermine and complicate the statement of the past.

That is why their smart young lawyer is demanding that witnesses in the very favourable for the SADF could be called to reveal at the truth commission what they are going to say in court and why they are in court.

The real agenda of truth is, in this case, are the backroom boys in the Transvaal Attorney-General's office behind sending the killer to jail and if this loophole-secret hearing ends up quashing their efforts, the commission could end up defeating the正义 searches of the court.

Seeking amnesty: Colonel Roelof Venter, Captain Wouter Ketsi, Warrant Officer Paul van Huyssteen, Brigadier Jack Cronje.

Ends a career rather than fulfilling its mission to uncover the grim realities of the past.

Luckily for the truth body, though, the process is more complex and unpredictable. A team of six experienced lawyers, each of them representing the families of people who were murdered by the five amnesty applicants, is now sitting at the kitchen table in the city hall. They are armed with the experience required to interrogate these men and force from them details that may otherwise not have been forthcoming.

The amnesty hearings have also already created the first chuck in the armour that South African Defence Force officers have thrown around themselves since their notorious non-anything verdict in the Magnus Manlin murder trial.

Evidence by Brigadier Jack Cronje, one of the five applicants, that no responsibility for all amnesty in Johannesburg this week, indicates the military was more deeply involved in the operations than what was admitted in its official submission to the truth commission on Monday (see accompanying story).

Cronje revealed the existence of a top-secret "counter-revolutionary information target centre", known as Trevest, which had the job of targeting anti-apartheid activists who needed to be intimidated or eliminated. Military intelligence and the military's espionage services had participated in the centre's monthly meetings.

Evidence about the 1986 murder of Dr Fahamu Shabazz in Windhoek, Namibia, was due to be given by Warrant Officer Paul van Huyssteen, one of the amnesty applicants who participated in the killings, as also likely to show that members of the SADF's Counter-Intelligence Bureau were involved.

Then there is the psychological impact of Van der Merwe's admissions this week. Even though he was under no compulsion to come forward and tell all, the story will have its impact on the spectrum that exists between the big bomb at Kroon Heuse and the biggest bomb dropped here.

Evidence of the former F6 pilot, who participated in the attack on the East Rand, the former general's behaviour and announcement that he will apply for amnesty may well encourage more security force officers to come forward.

But the week was seen by the students of the truth commission as likely to be a highly charged period before the second week in which students of the truth commission will be able to say with confidence that Boraine - even though he and his colleagues didn't exactly plan it properly - was right when he said the settlement was about to crack.

as chief of the SANDEF - to ensure stability.

Boraine said the submission would be carefully studied. "Where there are omissions and where we think it was not at all balanced, we will contact the head of the SADF. If we don't get satisfaction, then we'll go to Modise and Kasrils and get them to ensure those personnel whom the SADF inherited from before 1994 will come forward, although we realise they can't do everything."

General Merrin himself must have some information and knowledge about what happened in the past. It is simply not good enough to say that there was a war and not say there were war crimes. What we have is the empty claim and that there were never any mass-takes - and what about the much-maligned Sandwegren?"

Boraine pointed out recent testimony by police officers has substantiated deep military involvement in organised human rights abuses, and that the Co-Civil operations Bureau, also a creation of the SADF, had never been adequately exposed. "We will certainly be in touch with them. If there is anything we have no satisfaction, we will go to the ministry."

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The Truth & Reconciliation Commission this week toppled the first domino in its quest to expose perpetrators of apartheid crimes and their political masters.

But a question mark still hangs over the commission's ability — or will — to extract information about excesses perpetrated by militants in the ANC and PAC.

As former Police Commissioner Johan van der Merwe's subpoenaed testimony unfolded before the commission's Amnesty Committee in Johannesburg on Monday, it was apparent that the unravelling of apartheid-era murders and security force dirty tricks had finally begun.

"The dam wall is breaking," said TRC deputy chairman Alex Boraine.

Van der Merwe had implicated himself, his predecessor ex-Police Commissioner Johan Coetzee, former Law & Order Ministers Adnaan Vlok and Louis le Grange (deceased) and retired President PW Botha in several murderous deeds.

Van der Merwe's testimony, and that of the five former security policemen seeking amnesty for involvement in up to 40 political murders, rendered meaningless a stolid, sanitised submission by the Defence Force to a commission hearing in Cape Town on the same day.

The 80-page historical account, compiled by a team appointed by Defence chief General Georg Meany and presented by retired chief-of-staff Maj-Gen Deon Mortimer, failed to mention any unlawful acts by the old Defence Force in support of apartheid. This led Boraine to berate the generals for a "breathtakingly one-sided" submission.

But the Defence Force's stalling may be in vain. It seems only a matter of time before the military's involvement in apartheid dirty tricks starts to surface.

Indeed, they were glimpsed in the Johannesburg amnesty hearing this week. Advocate Roelof du Plessis, representing the five former security policemen, said some of his clients would disclose joint security police and military involvement in the murders of Mamelodi doctor Fabian Ribeiro and his wife and KwaNdebele Cabinet Minister Piet Ntuli.

The tempo of applications for amnesty is believed to be rising dramatically as more security officials realise that the game is up and disclosure is their only refuge from prosecution.

In a joint statement read to the commission, the former security policemen — Brig Jack Cronje, Col Roelf Venter, Capt Wouter Mentz, Capt Jacques Hechter and Warrant Officer Paul van Vuuren — called on their former colleagues, superiors and political leaders to come clean to Commissioner Coetzee that a consignment of booby-trapped handgrenades and a limpet mine were surreptitiously provided to East Rand militants who were planning to attack the homes of policemen. The "zero-fused" weapons were delivered as if from the ANC and several activists killed themselves in the attacks.

Van der Merwe stressed that the handgrenades were provided only after the police learnt the militants would carry out the attacks, anyway.

Van der Merwe spoke at length about the context of those attacks, pointing out that the ANC had after 1986 adopted a more aggressive military strategy — scraping the distinction to avoid civilian casualties. As more non-military figures came under attack, more policemen and their families in townships were also attacked and killed — a trend which continued into the Nineties.

Whereas 270 policemen were killed from 1980-1990, 267 were killed in 1993 alone. In 1984-1985, 70 people were necklaced, there were 328 in 1986 alone.

The security forces were powerless to stop the wave of police killings legally as no-one was willing to testify.

Vlok and Van der Merwe say they will apply for amnesty.

The security men's testimony contrasts starkly with the dearth of willing confessors on the side of the anti-apartheid forces. The commission has already heard allegations from former MK combatants about atrocities in ANC military camps and a few brave accounts of mob rule by the "comrades" in the Eighties.

So where are these intimidators — the consumer boycotters who forced old women to eat soap powder, the necklacers and midnight petrol-bombers? Who was behind the alleged ANC order to attack the East Rand policemen whom Van der Merwe spoke of?

The commission has yet to hear from them. Until it does, the impending flood of confessions from the apartheid dirty tricks brigade will be only half the truth.
Tutu objects to ANC stance on amnesty

Calls for ‘a clear statement’

JOHN YELD
ON THE TRUTH COMMISSION
ARCT 26/10/96

Truth Commission chairman Desmond Tutu has told President Mandela there is not much point in having a Truth and Reconciliation Commission if one side believes it can grant itself amnesty.

He called on the African National Congress to make “a clear statement” that its leaders and members will apply for amnesty for any acts for which they may be charged or sued if they did not do this, South Africa “might as well have chosen the course in others parts of the world of granting blanket amnesty”, Archbishop Tutu said.

This follows an hour-long meeting with President Mandela last night to discuss a statement by Mpuulanga premier Matthews Phosa that some ANC leaders would not apply for amnesty because they had acted in the course of a military struggle.

The two men also discussed a proposed change in the commission’s cut-off date from December 15, 1993, to the date of President Mandela’s inauguration, May 10, 1994.

President Mandela said the ANC’s national executive committee may support Mr Phosa, but he also left open the possibility of the premier’s view being rejected.

Last week, President Mandela dug his heels in over the amnesty cut-off date, with a firm rejection of any extension.

“As president, I don’t see any possibility of extending the cut-off date,” he said.

But Archbishop Tutu said the president had explained to him that he had simply been reflecting current ANC policy.

“I accept that he did not prejudice the issue before hearing our motivation,”

“After our discussions, he said he would take the matter to Cabinet.”
Moment of truth as TRC prepares to send out subpoenas

By ESTHER WAUGH and ADRIAN HADLAND

The net being cast around the perpetrators of apartheid era human rights abuses will close a little tighter next week as the Truth and Reconciliation Commission prepares to issue more than 50 subpoenas countrywide.

A commission spokesman told the Saturday Star yesterday that 40 subpoenas were being prepared in the wake of commission hearings in KwaZulu Natal and the Free State, in which victims named alleged human rights abusers.

Eight have been served in the Western Cape while further subpoenas are expected to be issued in all other regions.

The vast majority of the subpoenas will be served on members or former members of the security forces, the SA Police Service in particular.

The family of murdered Durban academic Rieck Turner asked the commission this week to subpoena at least 11 people — including former Durban murder and robbery squad members and policemen associated with the Bureau of State Security — who they thought could help solve the mystery of Turner's death in 1978.

Deputy commission chairman Alex Boraine confirmed that subpoenas were already on their way to six or seven of those named in the Turner hearing this week.

Former security policeman Colonel Gideon Nieuwoudt, one of those subpoenaed this week in connection with the 1985 abduction of three Fort Elizabeth activists, had not been given sufficient time to prepare for his appearance before the commission's amnesty committee on Monday, according to his lawyer, Sapa.

Fort Elizabeth-based attorney Francois van der Merwe said yesterday he had requested the commission to postpone his client's appearance by at least a week so that he could study the testimony of former Vlakplaas operative Colonel Roelof Venter.

Venter implicated Nieuwoudt in the abduction of three Fort Elizabeth Black Civic Organisation activists from Port Elizabeth airport in May 1985 when he testified before the commission's amnesty committee earlier this week.

Result

Venter is among five former security branch policemen who have applied for amnesty for more than 40 murders.

As a result of his testimony, the amnesty committee decided to subpoena Nieuwoudt and three other policemen also implicated in the disappearance of the three activists.

However, Van der Merwe said Nieuwoudt was only served with a subpoena on Thursday afternoon.

"We are of the opinion that the time given to my client to present himself in Johannesburg on Monday is not reasonable. We will be asking the committee to excuse Nieuwoudt from Monday's proceedings. We are not saying that we will not attend the hearings, but my client needs time to prepare himself."

According to the legislation governing the commission, all interested parties should be informed of an amnesty hearing prior to its taking place.

Nieuwoudt arguably qualified as an interested party.

Commission chairman Archbishop Desmond Tutu, meanwhile, will appear before the Cabinet soon in a bid to persuade the Government to extend the cut-off date for amnesty applications, according to President Nelson Mandela.

Mandela, who met Tutu on Thursday to discuss the extension from December 6 1993 to May 10 1994, said that if the Cabinet agreed, Tutu would be invited to put his case.

Mandela and the Cabinet have previously indicated their opposition to the extension on the grounds that it would send the wrong signal to criminals. Several rightwingers and Pan Africanist Congress members who committed atrocities during the extension period will be eligible for amnesty if the date is moved.

Asked about Mpuamalanga Premier Mathews Phosa's statement that Unikomto wSiswane commanders would not apply for amnesty for attacks on legitimate military targets, Mandela said a decision for MK commanders not to lodge amnesty applications for such attacks would have to be taken by the ANC's national executive committee.
Still playing a role ...

Amnesty hot on the case of the new SA

PIETER MA ALAN
STAFF REPORTER

After years of playing a leading role in reporting on and making people aware of apartheid atrocities, Amnesty International is still playing its part as a human rights watchdog in South Africa.

But now the once-banned organisation, which recently opened its first full-time office in the country in Cape Town, is also reporting on the actions of the present government.

Torture, providing amnesty to human rights abusers and South Africa’s relations with countries with less-than-perfect human rights records are still high on the agenda.

South African chairman Noel van Breda said although the chapter on South Africa in the organisation’s annual report had become shorter over the years, with less reference to the serious abuses of the past, the organisation still took a keen interest in what was happening in the country.

He described the organisation, established in 1961, as a worldwide voluntary movement working to prevent some of the gravest violations of fundamental human rights.

Its main focus is on prisoners of conscience, ensuring fair and prompt trials for political prisoners, the abolition of the death penalty, torture and other cruel treatment and extra-judicial executions and “disappearances”.

Mr Van Breda said one of the South African branch’s major focuses at the moment was foreign affairs policy.

“We want South Africa to write a human rights charter into its foreign affairs policy.”

He said this would mean that human rights were always on the agenda when talking to countries like Nigeria, Libya, Morocco, Cuba and Iran.

“We are not saying the government should not talk to these countries, but they should protest human rights abuses when talking to them.”

This, he believed, was not happening enough.

Earlier this year Amnesty International also revealed that South African companies were exporting electricity shock buttons that eventually land up in the hands of Chinese interrogators who use them to torture imprisoned Tibetan monks.

The Cape Town office of the organisation also wrote to Western Cape police minister Gerald Morkel in June after allegations that detectives were still using torture as a means of getting admissions from suspected criminals.

Other campaigns include opposition to the amnesty provisions of the Truth and Reconciliation Commission.

“We believe that those guilty of human rights violations must be punished.”

These include the ANC’s Robert MacBride who should be prohibited from holding public office, he said.

Amnesty International’s Cape Town office is open from Tuesday to Thursday 12pm to 2pm and on Saturdays from 9am until 1pm.

Call them at 243776.
Death of Joe's 'Kamikaze' Kids
29.10.96
The flaming red tongue of death ...

By WALLY MIBELE

"IN A SPLIT second, there was a tremendous explosion that shook my car," Joe Mamasela says as he describes - in chilling detail - the explosion of a booby-trapped landmine that blew a university student, Congress Motsweni, to smithereens.

Motsweni was one of eight students from the East Rand townships of Duduza, Tskanane and Kwa Thema who were killed by booby-trapped hand-grenades and a landmine supplied by Mamasela in a plan devised by Eugene de Kock.

Like a horror story, Mamasela graphically describes that night.

"I saw thick, black smoke billowing into the sky. In the middle, I saw a red tongue of flame. I knew Motsweni must be dead.

"As I drove around a corner, I was surprised not to see my companion, Daniel Nkala. I feared for his life. Then I saw him running to the death. I was relieved he was not dead."

Mamasela, now a state witness in the trial of former Vlakplaas policemen, says they drove away from the scene of the explosion at "neck-breaking speed" with their AK-47 rifles and hand-grenades ready for any roadblock.

"The order had been clear: avoid arrest at all costs - even if it meant killing policemen or soldiers in our way."

The next morning at Vlakplaas, "we started monitoring radio news bulletins. At 7:30 in the morning we heard numerous bodies had been found scattered around the three township.

"News reports at first put the death toll at three. With each news bulletin, it went up and up. When it reached six, De Kock was so excited that he rubbed his hands in jubilation.

"He said the operation was the first in the world where terrorists had blown themselves up. Then I saw we were dealing with an animal - a monster."

Rigged bombs for youths

By CHARLES MOGALE

CITY PRESS can today disclose the events leading to the blowing up of eight youths in Duduza township on the East Rand by Vlakplaas operatives in June 1985.

The youths were given rigged handgrenades to blow themselves up in what security police codenamed Operation Zero Zero Hour.

Convicted killer Eugene de Kock, who masterminded the killings, told these orders that the students be invited by the askaris for "military training" with F1 handgrenades. Mitzweni was fetched from the church in Potchefstroom to join the rest of his comrades.

After the first training session, the students were instructed to return the following day to launch an operation in support of the then Unity in Action strategy of the liberation movement.

They were given rigged handgrenades and Mitzweni, as their leader and "most feared," was given an SPM limpet mine with a zero contact. All the grenades and the mine would explode as soon as the safety pins were removed.

Each was advised to choose a target to attack at exactly midnight, June 25, hence the code name Operation Zero Zero Hour.

At 11:30 pm, the students and the askaris advanced towards their targets.

As expected, the students blew themselves up, and the askaris escaped and withdrew to their base.
kill Cosas students came from Cabinet’

By WALLY MBHELE

CONVICTED self-confessed hit-squad killer Colonel Eugene de Kock promoted former Vlakplaas operative Joe Mamasela to police sergeant after the massacre of eight students with booby-trapped hand-grenades.

The operation – allegedly ordered at the highest level of the former government – so excited De Kock that two other Vlakplaas operatives were each given a reward of R2,000 after a braai was held in celebration.

De Kock – the mastermind behind the grisly operation – later described it as “the first in the world where terrorists blew themselves up”. City Press can reveal today.

Details of the operation were disclosed to City Press this week by Mamasela, who told of how he had infiltrated East Rand Congress of South African Students (Cosas) activists – supplying them with booby-trapped hand-grenades before luring them to their death.

Mamasela’s revelations come in a week of high drama at the amnesty hearings in Johannesburg – in which former police commissioner General Johan van der Merwe for the first time admitted his role in past human rights violations.

Revealing that he had personally ordered the killing of the East Rand students, Van der Merwe told a hushed Truth and Reconciliation Commission hearing that orders to kill students with booby-trapped grenades had been sanctioned at cabinet level.

Van der Merwe also disclosed that former president PW Botha and former minister of law and order Adriaan Viljoen had personally ordered the bombing of the South African Council of Churches headquarters, Khotso House.

Giving details of how the eight student activists had been killed, Mamasela told City Press he had received orders to blast the students from De Kock. The operation had been code-named Operation Zero Zero.

“It was dubbed Zero Zero because it was to take place at midnight,” said Mamasela, who revealed that De Kock had driven from Durban to plan the operation.

This was after a meeting in which Brigadier Jack Cronje – now pleading for amnesty – had said the decision to kill the students could not be his prerogative alone as Vlakplaas was under De Kock’s command.

Cronje had been told by a former Springs security head (whose name Mamasela had forgotten) that all the troublemakers’ home addresses and identities had been established.

Mamasela and another Vlakplaas operative were then given a list of “suspects” who were to be infiltrated. Chief among them was University of the North student Congress Motsepi.

“They went to show us Motsepi’s home in Tsakane at night. For days we went by ourselves the following day,” said Mamasela.

He said they had wondered themselves to Motsepi as graduates from exile who have been instructed to come and help in...
A judge who knows the pain of injustice
THE APPOINTMENT of Judge Ismail Mahomed as Chief Justice of South Africa did not come as a surprise to a country which had already been prepared for this eventuality

When President Nelson Mandela made public his nomination of Mahomed for the senior legal post two months ago, there was little doubt that his endorsement was all over bar the procedural formalities.

By making his preference known in advance, Mandela has placed the incoming Chief Justice at the centre of what his admirers feel is an undeserved focus. Mahomed’s performance will be placed under closer scrutiny than that of any of his predecessors.

Many questions are going to be asked. In spite of his outstanding credentials, there are many among his professional colleagues who are hoping he will trip up – in order to “prove” that Mandela was wrong to have appointed him.

A number of them have expressed displeasure that Mandela nominated him. It was argued that the President was trying to manipulate the Judicial Service Commission, which had to recommend one of the two candidates.

It is also common knowledge that some members of the appellate division who are going to work closely with him had preferred Judge Henrie van Heerden and it is a matter of conjecture what his working relations will be with them.

Going to live in Bloemfontein, the seat of our judiciary, sits uneasily on Mahomed. By his own admission, returning to the Free State “revives fresh wounds and painful memories which I cannot and would not want to obliterate.”

And why should he? Mahomed, like other South Africans of Indian extraction, was barred by apartheid laws from staying overnight in this province. During his years at the Johannesburg Bar he was forced to go to the Appeal Court in Bloemfontein – but had to make sure he was out of town before nightfall, even if his case was not over.

In a press statement released soon after his appointment was announced, Mahomed recalls how “every meaningful public facility in the Free State was denied to me and I was compelled to skulk away across the provincial borders to avoid contravention of the law.”

It is such indignities which are etched in his memory as he contemplates returning to a province which humiliated him for so long.

While the province holds bitter memories for Mahomed, his enormous workload is such that he may not have the privilege of mulling over the irony that from January 1 he will be one of the Free State’s most respected citizens.

Mahomed has the unenviable task of restoring the legitimacy of the judiciary in the eyes of the majority of South Africans. It is a job that will tax even this gifted lawman.

Mahomed is aware of the enormity of the problem and the challenges that lie ahead. He says the restoration of legitimacy can help bring justice to the people and restore the moral fabric of society destroyed over the years by racism.

If there is anyone eminently suited for this Herculean task, it is the Fordsburg lawyer known for his sharp wit and great sense of humour.
Putting Justice Back into S.A.S. Judicary

By Charles Richard

FEARLESS... Ismail Haniyeh will go where few other patriots have gone before: Joe ESFAH
ANC clears up position on amnesty

Wyndham Hartley
and Stephen Laufer

THE ANC moved swiftly yesterday to defuse a potential conflict with the truth commission over remarks by Mpumalanga premier and party legal adviser Mathews Phosa which appeared to be dismissive of the amnesty process when applied to former Umkhonto we Sizwe guerrillas.

Commission chairman Archbishop Desmond Tutu's response that parties could not grant themselves amnesty had been based on misleading reports of what Phosa had said, the party said yesterday.

The reports had left out a crucial part of his statement making it clear that those responsible for legitimate acts of war would apply for amnesty if their actions had led to human rights violations, the party said.

Tutu had earlier challenged the ANC to repudiate Phosa's reported statement that ANC members would not apply for amnesty for acts committed during the armed struggle.

He told President Nelson Mandela last week that if one side awarded themselves amnesty there was no point in having a truth commission.

The exchange came in a meeting between Tutu and Mandela during which the commission chairman was motivating for the December 1993 cut-off date for political crimes to be moved to May 1994 and for perpetrators to be given a further three months to apply for amnesty.

Tutu said he did not accept Phosa's statement that ANC members need not apply for amnesty for military actions because it was a similar argument to that being used by former defence minister Magnus Malan to avoid testifying before the truth commission.

He said that if SA did that it might as well have granted a general amnesty instead of establishing the commission.

Tutu explained that Mandela had given him the assurance that the commission recommendation that the cut-off dates be extended would receive objective consideration.

Mandela explained that his rejection of any change in the dates was simply a statement of ANC policy. He also gave an undertaking that he would arrange for Tutu to address the Cabinet on the matter.

The Freedom Front and the PAC have all motivated for the December 1993 cut-off to be moved to the date of Mandela's inauguration, May 10 1994.
The commission's findings are important, not just for the outcome of the specific cases, but for what they reveal about the culture of the organization and the broader context. The commission's report highlights the need for systemic changes, not just in the way individual cases are handled, but in the way the organization functions as a whole. It is a call to action for everyone involved, from the top leadership down to the individuals on the ground. The report's recommendations, if implemented, have the potential to create a more equitable and just workplace for all.

In conclusion, the commission's work has been a vital step forward in addressing systemic issues. It is a testament to the power of community and collaboration in bringing about change. The recommendations put forward in the commission's report are a clear path forward, and it is up to all of us to ensure that they are implemented with the necessary support and resources. Only then can we truly begin to build a world where everyone is treated with dignity and respect, and where everyone has the opportunity to thrive.
Brigadier enraged by failure of plots to kill ANC activist-priest

A former security police captain told the TRC that he and Warrant Officer Paul van Vuuren had been given this order

By Robert Brand

As a security police chief in 1988, Basse Smit twice ordered the elimination of a Catholic priest and activist who is now a deputy minister and was famous when both plots failed, the Truth and Reconciliation Commission (TRC) heard yesterday.

Policemen testifying in an amnesty hearing before the TRC’s amnesty committee also implicated Military Intelligence agents in the kidnapping and torture of Smangaliso Mkhathwana.

Jacques Hechter, who was a security police captain, told the committee that Smit had personally ordered him and Warrant Officer Paul van Vuuren to kill Mkhathwana in 1986 by forcing an overdose of Mandrax tablets down his throat.

This order followed a failed attempt to assassinate Mkhathwana with a specialist-made sniper’s rifle in Durban, also on Smit’s orders as relayed to him by Captain Flip Loots, Hechter said.

Smit was then a brigadier in charge of the Northern Transvaal security branch, where Hechter and Van Vuuren were stationed. Hechter and Van Vuuren are among five former security policemen who are applying for amnesty for at least 40 murders committed during the 1980s.

Hechter said Mkhathwana was identified as a target for elimination because he had become “a thorn in our flesh” as a result of his mobilisation of youths in Soshanguve, where he was a priest.

Smangaliso Mkhathwana ... the intended target

We did it ... former security policeman Paul van Vuuren

Two special rifles—a 308 and a 22, both fitted with silencers and telescopes and supplied with subsonic cartridges—were made for the operation by the security branch’s technical division.

The division “knew the rifles were intended for eliminations”, Hechter said.

They waited for Mkhathwana at the airport in Durban, where they lured him in a minibus with curtained windows. But the plot failed because several people around Mkhathwana, including a woman who walked right in front of him, prevented a clear shot.

Some months later, Hechter said, Smit called them into his office and ordered them to “plant” Mandrax tablets on Mkhathwana and to “force a bunch of tablets down his throat” so that he would die of an overdose.

They considered this method of elimination too difficult and ignored Smit’s orders, Hechter and Van Vuuren said.

They did not trust Smit because of his role in placing rogue cops Jack le Grange and Robert van der Merwe behind bars, and were unwilling to risk their necks for him, they said. When they later told Smit they had not proceeded with the operation, “there was an explosion in his office”, Van Vuuren said.

As a result, Van Vuuren was made a gardener and driver, while Hechter was transferred to the police’s security clearance division.

Hechter and Van Vuuren also told the committee about a failed attempt to kill trade unionist Jerry Mbeki—now the Speaker of the North West legislature—in 1987 by hurling a homemade bomb through a window of a house in which Mbeki was supposed to be hiding.

They had made a bomb by stuffing an explosive into an empty coffee-tin and fusing it with a five-second fuse. This bomb virtually destroyed the Soshanguve house, but Mbeki, his wife and his child emerged with only minor injuries.
Smit ‘ordered the murder of churchman’

Stephen Laufer

FORMER SAP deputy commissioner Basse Smit had ordered the murder of anti-apartheid churchman Father Smangaliso Mkhathswa, who is the present deputy education minister, and military intelligence (MI) had tortured him, the truth commission’s amnesty hearings were told in Johannesburg yesterday.

The testimony implicating Smit and MI by amnesty applicants Capt Jaques Hechter and WO Paul van Vuuren is a further blow to attempts by leading SAP generals and the SADF to blame the dirty war against anti-apartheid activists on rogue security force elements. Hechter and Van Vuuren have applied for amnesty for their role in trying to shoot Mkhathswa and later to force a Mandruxa overdose on him.

The men told the committee they had been ordered by Col Flip Loots to shoot Mkhathswa because he was a leading activist in Soshanguve who had organised school boycotts and other anti-government actions. Loots had told them the instruction came from Smit, then a brigadier heading the Pretoria security branch.

Acting on a tip from an informer that Mkhathswa would fly to Durban, Hechter and Van Vuuren went there intending to kill him at the airport.

Van Vuuren was to fire the shot, but they were unable to get a clear line of sight — a former narcotics detective had then summoned them to his office and told them to stuff enough Mandruxa down Mkhathswa’s throat to kill him. Tablets should be scattered to make it look as though he was a dealer and had committed suicide.

Hechter said he objected vehemently to the plan because it displayed Smit’s lack of understanding of operational limitations, and a blazing row had ensued. Smit had transferred him to the section which chose new security police recruits. Van Vuuren had been made Smit’s driver, a job which also entailed doing gardening at his house.

Asked whether he would oppose amnesty for the two, Mkhathswa said Continued on Page 2
Cash crisis threatens the courts

Omar's budget plea

CLIVE SAVER
POLITICAL CORRESPONDENT

Justice Minister Dullah Omar today warned he had too little money to run the criminal justice system - and he is to ask the Treasury for more.

The justice system got only one percent of the national Budget, leaving him unable to appoint additional prosecutors, he said.

"For our society, too little money has been set aside for our criminal justice system," he told an African National Congress media briefing.

Not all the money in the justice budget went to courts and prosecutors, because it acted as a conduit for funding other organisations such as the Truth Commission and the Human Rights Commission.

Mr. Omar and Safety and Security Minister Sidney Mufamadi are to approach the Treasury jointly for an increase in funding.

Mr. Omar said he understood the Government was committed to reducing its R30-billion deficit.

But unless spending on the criminal justice system increased in the next year, the Reconstruction and Development Pro-
grame would be imperilled. "I am happy to see the president and Cabinet recognise that, but I would like to see it translated into spending," he said.

Johnny de Lange, head of the ANCYL study group on justice, said the possibility was being investigated of setting up a dedicated fund to allow the system to respond quickly to problems.

The justice ministry and parliamentary justice committees have processed six anti-crime bills this year, including measures to combat money-laundering and to allow confiscation of the proceeds of crime.

Further anti-crime legislation is in the pipeline for next year. Also under way is rationalisation of the Justice Department, to be completed by the end of next year.

Part of this process involves decentralisation of management of magistrates' courts, with control devolved from Pretoria to "clusters" of 40 courts, which will each be under a chief magistrate.

Mr. Omar pointed out the transformation of the face of the courts, with black chief magistrates now serving in Port Elizabeth, Durban, Johannesburg, Bloemfontein and Ventilia.
Cleric shakes hands with man who tried to kill him

The last time Roman Catholic priest
Smangaliso Mkhathshwa saw former
security police captain Jacques
Hechter, the policeman had hate in his
eyes and was pointing a firearm at his
forehead.

But at the amnesty hearings, where
Captain Hechter and four colleagues are
seeking immunity from prosecution for
more than 40 murders, bombings and
assassinations, the former arch-rivals
looked into each other's eyes again after
nearly a decade - and this time they shook
hands

"For me it was a very strange feeling,", Father Mkhathshwa, now Deputy Minister
of Education, told the amnesty committee
yesterday

In dramatic scenes which the architects
of the Truth Commission's founding act
must have been hoping would materialise
during unfolding testimony, perpetrators
and victims of gross human rights abuses
came face to face and candidly acknowled-
ged their respective deeds and suffering.

Captain Hechter and former security
police colleague Paul Jansen van Vuuren
told of their attempt to assassinate Father
Mkhathshwa using a silenced rifle specially
manufactured for the job.

They refused to carry out an order to
make a second attempt on his life by forc-
ing him to take an overdose of Mandrax.

The two also testified they had made a
powerful bomb in a coffee tin and thrown it
through the window of the Bophutha-
tswana home of Jerry Thabedi, then Cosatu
organiser and now Speaker of the North-
West provincial legislature.

Father Mkhathshwa, who was a parish
priest at Soshanguve, outside Pretoria, at
the time of the assassination attempt, and
Mr Thabedi both responded from the wit-
ess stand to the policemen's testimony.

Father Mkhathshwa said he had not been
aware of the attempt on his life outside
Durban airport, when he had been saved
by a woman in his party walking between
him and Warrant Officer Van Vuuren,
who was aiming the rifle from inside a
minibus with tinted windows.

"I heard this information practically for
the first time today when I read their affi-
davit", he told the amnesty committee.

"My God and my ancestors are very pow-
erful indeed", he added.

It had also been because of the support
of his community that he had escaped
death at the hands of the security police,
Father Mkhathshwa said.

"Last week when I came into this hall
and saw these five gentlemen for the first
time and when Hechter stood up and
stretched out his hand, I had ambivalent
feelings and was sceptical", he said.

The last time he had seen Captain
Hechter, the policeman, who appeared to
have hated him "with a passion", had been
pointing a gun at his forehead after forcing
his way in by breaking down doors.

"That was my first response. But as a
Christian and because of the policy of the
government of national unity which places
emphasis on reconciliation, immediately
my second feeling was, 'Put out your hand
and shake hands' - and so I did with all five
(amnesty applicants).

"For me it was a very strange feeling."
Jay again, police told after first failure

assassination of priest

Special rioters ordered for

to an arsenal of free access

Officer tells
Security police torturers confess to killing activists

By Robert Brand

Security policemen, acting on orders "from the top", tortured to death at least five anti-apartheid activists in what was described before the Truth and Reconciliation Commission as "a war without rules" during the late 1980s.

Two activists were electrocuted with a portable generator while a third, himself about to die, sang Nkosikoe Sibelelile Afrika, former members of the Northern Transvaal security branch sang in Johannesburg yesterday.

Jacques Hechter, then a captain, said the order to eliminate "the worst activist elements in the ANC" was given to him personally by Brigadier Johan Viktor, then second in command of the security police's counter-insurgency branch. Viktor is now retired.

Hechter, former Warrant Officer Paul van Vuuren and three other former security policemen are applying for amnesty for at least 40 murders.

Testimony yesterday centered on the torture of Jackson Maake, Andrew Makupe and Harold Sefola in 1987, who, the applicants claim, were ANC members.

Hechter claimed to be suffering from memory loss, but he admitted that he had given the order to kill as he was the "hit squad's" commanding officer.

Van Vuuren said Maake was taken to a deserted field at Pretoria, north of Pretoria, where he was tortured with electric shocks until he named Makupe as a fellow cell member.

The shocks were administered by Van Vuuren and Sergeant Joe Mamasela, while Hechter took notes and asked questions.

Makupe was "picked up" in Mamelodi, taken to the field and given the same treatment until he named Sefola as their leader.

Sefola was kidnapped from Witsbank. He started talking after "about five to 10" shocks and after Mamasela had stuck a knife up his nose, Van Vuuren said.

To force further disclosures, from Sefola, they administered a shock to Maake "for about six to eight seconds" after which his "body went stiff and his eyes closed", Van Vuuren said.

While Sefola sang Nkosikoe, they electrocuted Makupe. Sefola was electrocuted too.

The bodies were blown to pieces by a landmine on a deserted road in Bophuthatswana.

Van Vuuren said he could recall at least two other activists he had personally tortured to death.

report picture

Pola/6/75
De Kock case: Windparks opened to the West of Johannesburg

By Ann Horns

The apartheid era in the Western Cape

The name De Kock is synonymous with the apartheid era in the Western Cape. The name is associated with the violence and repression that characterized the period. The name is also associated with the De Kock case, a landmark case in South African history.

The De Kock case was a legal challenge to the apartheid government's policy of separating the races. The case was brought by a group of black South Africans who were fighting for their right to vote.

The case was heard in the High Court of South Africa in 1984. The court ruled in favor of the De Kock group, declaring that the government's policy of separation was unconstitutional.

The decision was seen as a major victory for the anti-apartheid movement. It was also seen as a significant blow to the apartheid government, which had been in power for more than two decades.

The De Kock case is remembered as a symbol of the struggle against apartheid. It is a reminder of the sacrifice and courage of those who fought for freedom and justice in South Africa.
The above section of the document discusses the assassination attempts on the minister. The text is partially obscured and difficult to read. The first sentence suggests that the minister faced persecutors.

By Claire Kettown

(21) Southern 50/10/96

Priest faces his persecutors
ANC men 'shocked to death'

By Mzimasi Ngudile

The Truth and Reconciliation Commission heard yesterday how junior policemen, on their own and without specific instructions, had tortured three African National Congress activists with electric shocks until they died.

In their amnesty applications in Johannesburg, they said only Captain Jacques Hechter was a senior policeman when he and Warrant-Officer Paul van Vuuren decided to kill three ANC activists in 1987.

Electric shocks

Van Vuuren said he and Hechter were implementing Brigadier Johann Victor's and Brigadier Jack Cronje's orders under the state of emergency when they killed Mr Andrew Makupe, Mr Jackson Maake and Mr Harold Sefola with electric shocks near Pretoria in 1987.

Van Vuuren said they had interrogated the three, after Captain Fhp Loto had warned them to be careful with Maake, whom he suspected to be a double agent. Van Vuuren was directly accountable to Hechter who in turn was accountable to Loto.

However, Van Vuuren said it was Hechter and himself who had decided to kill the activists to protect police informers and to carry out a general instruction to eliminate ANC activists.

Hechter, who claimed he had lost his memory, said he agreed and accepted everything Van Vuuren told the commission. "If the decision had been made, it would have been mine and not his. I would have given the instruction that they be killed."

Through her lawyer, Mr Brian Curnn Mrs Elizabeth Maake said her son had never left the country for military training. This contradicted Van Vuuren's testimony that Maake was a police informer who had returned home after receiving three months' training in Botswana.

"Maake's mother says her son never left the country and had never been absent from home for three months. She says Maake was a Standard 8 pupil attending school," Curnn said in cross-examination.

"He was an informer of the security branch. We took him to the Botswana border and organised him a car and a driver's licence when he came back. We had a file on him which was destroyed with all other files," Van Vuuren said.

Van Vuuren, who yesterday positively identified Maake in a photograph supplied by Curnn, said he, Hechter and former Vaalplas operative Joe Mamasele interrogated Maake to force him to talk.

They used a 220-volt portable generator to apply electric shocks to him for at least an hour.

"He told us about Mr Andrew Makupe, an ANC activist in Mamelodi," Van Vuuren said adding that he, Hechter, Mamasele, constables Hendrik Bokaba and Dan Sitlhala immediately went to Mamelodi to fetch Makupe.

They left the two in a hut overnight with their hands and feet tied. "We tortured Makupe the same way. He told us if we decided which targets should be attacked."

Leading terrorist

"I learnt from his file at police headquarters that Sefola was an ANC activist and a leading terrorist."

"Thereafter, Mamasele, Hechter and I went to fetch Sefola in Witbank. Mamasele, who posed as an ANC terrorist, came back with Sefola and we drove back to Pienaarsrivier."

"Mamasele pushed a knife into Sefola's nose to force him to talk. He was a very strong man who believed strongly in what he was doing. He said the ANC would govern one day and I did not believe it then."
Alexandria residents recall deaths of loved ones during six-day war.
not to go because he "couldn't see clearly and he couldn't run."

Mosaka was buried at a mass funeral for 17 youths who had been gunned down by the security forces, Mohlole said. On February 17, Martha Smale's husband Jerry was shot dead by members of the SADF on his way back from work.

Nkosana Mngadi was shot in the leg by SAP members in camouflage clothing who opened fire on a bakkie in which he and three others were travelling.

Mngadi's leg was amputated, his friend Whitey Masego was killed, and the driver of the vehicle was shot in the foot.

And Daisy Mashugo was shot four times in the arm when she went outside her house, fearing for the lives of her children.

The following day, February 18, Dorah Mkhele lost her son, Jabulani, who had been on his way to work. He was shot in the head by an SAP member, Mkhele said.

Obed Bapela, who is now a member of the Gauteng legislature, told the commission, "approximately 40 lives were lost in Alex at the time (of the 'six-day war')."

"The Alexandra hearings continue today."
Omar backs Phosa on amnesty

Cape Town - Justice Minister2. Dullah Omar said yesterday he agreed with the "general approach" of Mqabanga Premier Mathews Phosa on amnesty for members of the ANC.

Phosa said last week there was no need for those involved in the 1983 Church Street bombing in Pretoria to apply for amnesty because it was an act of war.

Truth Commission chairman Desmond Tutu said afterwards there was no point in having a Truth and Reconciliation Commission if one side believed it could grant itself amnesty.

Omar told a media briefing that Phosa had said the ANC had been engaged in a just struggle for liberation. This was something that no one could change. The premier had also said apartheid, like Nazism, had been a crime against humanity.

Omar said it had to be recognised that there was a morality and a "general ethic in the total situation."

However, Phosa had made it clear that his statement did not exclude the need for people to apply for amnesty.

The advice the ANC had given its members was that they should cooperate with the commission and, where necessary, apply for amnesty.

The ANC would support their applications, Omar said. - Sapa
Police say man belonged to political committee

Squad

hit squad (252)

continued on page 19b

the time on the front of the television monitor that had not been replaced in July 2000

Continued on page 2b

Squad

hit squad (252)

continued on page 19b

the time on the front of the television monitor that had not been replaced in July 2000

Continued on page 2b
Ribeiros ‘shot by Angolans flown in by SADF’

JOHN YELD
ON THE TRUTH COMMISSION

Johannesburg – Pretoria doctor and anti-apartheid activist Fabian Ribeiro and his wife Florence were shot dead by two Angolans flown from Namibia by the South African Defence Force’s special forces unit, the Truth Commission heard today.

Former security policeman and Vlakplaas commander Jack Cronje told the commission’s amnesty committee that the operation was probably managed by the secretive organisation Trewits.

This was a joint security forces initiative known by its Afrikaans acronym for Counter Insurgency Target Identification Centre, which drew up priority lists of people to assassinate in and outside South Africa.

Brigadier Cronje said that the SADF’s head of special forces at the time, Joop Joubert, and the then police commissioner, Johann Coetzee, had tried to cover up the investigation into the Ribeiro killings in Mamelodi in 1986.

He said he had been contacted by Charl Naudé of the SADF’s special forces and asked for the security police docket on the Ribeiros.

He was told by Commandant Naude that Dr Ribeiro had been identified as a possible “target”.

When he asked why he wanted the security police’s file, Commandant Naude replied that he wanted to verify information as he had to put in a report to General Joubert.

“I knew as soon as he used the word ‘target’ that it was a Trewits operation,” Brigadier Cronje said.

No mention had been made of Mrs Ribeiro.

Brigadier Cronje also said that he had instructed one of his officers, Jacques Hechter, to make the file available.

Captain Hechter had later told him that the SADF’s special forces, through Commandant Naude and one of his men, Noel Robey, had asked him (Captain Hechter) to help them plan the elimination of Dr Ribeiro.

“Captain Hechter kept me informed of their plans. I was aware of the operation and because I assumed it was a Trewits operation, I didn’t interfere. Afterwards I learned from Captain Hechter that two black Angolans who had been flown in by the special forces from somewhere in South West (Namibia) had shot Dr and Mrs Ribeiro,” Brigadier Cronje said.

He said he had then learned that Brigadier (later General) Basie Smit of the detective branch had established that Noel Robey had picked up the two Angolans after the operation, using a LandRover that was registered in his (Robey’s) name but which belonged to the SADF.
SAFETY-MISDIRECTION RIBBONS
ASSASSINS FLOWN IN BY SPECIAL FORCES
Omar tables legislation in effort to speed up criminal trials

BY PATRICK BULGER
Parliamentary Correspondent

Cape Town — New measures to speed up and simplify criminal trials are being proposed in legislation tabled in Parliament by Justice Minister Dullah Omar.

The Criminal Procedure Amendment Bill is one of six anti-crime bills to emerge from Parliament during this session.

The bill details several measures to speed up South Africa's clogged criminal justice system. A magistrate who decides a trial is being unreasonably held up may order the trial proceed. Magistrates may also take steps to prevent "aimless, protracted and irrelevant cross-examination" by asking the examiner to disclose the relevancy of a line of questioning.

There is also a proposal to make better use of the admission of guilt system.

Another measure also provides that all confessions be admitted only where they have been attested to by a magistrate.
Angolans hired to kill Ribeiros

By Miguel Rebole

8/10/96
'I tortured about 40 activists'

By Claire Keeton
Feature Writer

Paul van Vuuren tortured so many people when he worked for the Northern Transvaal security branch between 1983 and 1989 that he can't remember them all.

"It is difficult to give an exact number, possibly about forty cases," he told the amnesty committee of the Truth and Reconciliation Commission in Johannesburg this week.

But Van Vuuren remembers that he tortured about at least five men to death, including Harold Sefola, Andrew Makupe, and Jackson Maake.

The former warrant officer didn't act on his own. He usually executed illegal operations with his former captives, Jacques Hechter and notorious askari, Joe Mamasa.

Police informants

They were based in the corner of a top floor office above the old police museum in Pretoria. Most of the 200 security policemen on that floor were "handlers" of police informants.

Every morning Hechter, Van Vuuren and Mamasa held meetings with their commanding officer Captain Philip (Flip) Loots. Loots would write down important information in his diary to discuss with those higher up the chain of command.

Hechter, Van Vuuren, and three other former security policemen have applied to the TRC for amnesty for at least 40 murders. Loots is not one of the five, but he is attending the commission hearings in Johannesburg.

The former policemen sit next to each other in the hearings, looking more like assassins than murderers in their conservative suits, although they still have characteristic police moustaches.

Van Vuuren said his team concentrated on ways to combat the African National Congress and "Black Power". If their testimony to the TRC's amnesty committee over the past week is anything to go by, the torture and murder of influential activists was routine.

The former security policemen said in their amnesty applications that they were following orders from their superiors — former Brigadiers Johan Viktor, Jack Crouse, and Basie Smit — to neutralise the liberation movements at any cost.

Viktor, now a retired general, was then second in command of the security police's counter-insurgency branch. Hechtet said Viktor personally gave him orders to "eliminate" the worst activists "at the ANC."

Van Vuuren said "It was not lawful to kill, but it was a means to an end." However, he admitted under cross-examination by his victims' lawyer that he was not above the law.

But he defended his position, saying "As the total onslaught became more and more serious, we were under instruction from the top to do everything in our power to eliminate activists, even if we had to kill them."

National security

Van Vuuren emphasised that his actions were never repudiated and he was never taken to court for the crimes he had committed in the name of national security.

"We were tasked to carry out clandestine operations. At the time I was proud of what I did. If the National Party was still in power, none of this would have come out," Van Vuuren said.

It seems that his team operated as a tight unit and worked together closely, plotting assassinations, creating bombs and hunting down activists.

Hechter claimed he suffered from a temporary memory loss which had affected his ability to remember the atrocities he committed. But he said "I support Van Vuuren's testimony completely. I believe in him personally and he has never given me any reason to doubt him."

Hechter is willing to accept Van Vuuren's word that he took part in the murders of Maake, Makupe, and Sefola, though he cannot remember them. He remembers the guinea fowl and farm gate near the scene of the triple murders but not the "terrible deed."

It became clear during Van Vuuren's cross-examination that the decision to kill the activists was taken during their interrogation and not ordered directly by any higher authority prior to their abduction.

Hechter accepted responsibility. "It would not have happened had I not made the decision to kill them. Van Vuuren might have thought it was appropriate."

Mamasa's mother Elizabeth Jackson said Maake's mother Elizabeth Jackson said "What I want is for them to show me the place where they killed my son."

The trust the unit had in one another was highlighted by their suspension of Smit, an outside appointee. "He came from a different unit and we did not entirely trust him," said Van Vuuren.

He gave as an example of how the Northern Transvaal branch closed ranks to protect themselves when he told the commission that they could not let the Eastern Transvaal branch know they had murdered Sefola. Makupe and Maake, even though Sefola was under their surveillance.

Van Vuuren said they did not want the Witbank security police to know but they had acted outside their region because they thought it was necessary.

He claimed that Maake was a police informer and in 1987, they suspected he had turned double agent for the ANC. The police team took him to a deserted field and tortured him with electric shocks until he was forced to confess.

Following this the policemen picked up Makupe, a member of Maake's ANC cell, led by Harold Sefola.

Makupe was tortured the same way, with wires attached to his body and electric current supplied from a portable generator.

Last wish

Mamasa led a team to kidnap Sefola and he stuck a knife up his nose to make him talk, in addition to electric shocks.

The hit squad killed Makupe first and Sefola requested to sing "Nkoselile" in Afrika as a last wish.

While he was singing, the policemen killed Makupe and electrocuted Sefola. All three bodies were placed on top of a hillside on a deserted road near North West and blown to pieces.

"I don't forgive them," said Makupe's mother Elizabeth Jackson: "What I want is for them to show me the place where they killed my son."
Amnesty won't free de Cock, says world body

Borning as long sentence halted

This will warm others to own up or face trial

Amnesty opposes de Cock, says world body
National survey reveals sharp racial contrast in views on commission

Those who confess should be brought to trial

Traffic police told

Be brought to trial

Religious convictions should be brought to trial

All 6% of respondents

An overall figure shows that only 8% of respondents

not to help

() Happy birthday
SADF man derailed Ribeiro probe, commission is told

Stephen Laufer

A SUCCESSFUL intervention by the second-most senior SADF officer, Lt Gen Ian Gleeson, led to a 1986 police cover-up of the killing of Mamelodi doctor Fabian Ribeiro and his wife Florence by SADF special forces, the truth commission heard yesterday.

Later, counsel for several victims said the commission's amnesty committee would be asked to subpoena former state president PW Botha to establish what he had known of the murders as head of the state security council at the time.

The request for a police cover-up was made in a meeting between Gleeson, special forces chief Maj Gen Joep Joubert and SAP commissioner Johan Kootzoe. It came a day after Joubert asked Gleeson to sabotage then Brig Gen Manuel's investigation into the double murder, retired SAP brigadier Jack Cronje said. A former northern Transvaal security police and Vlakplaas 'commander, Cronje is applying for amnesty in connection with the Ribeiro and other killings.

Gleeson was defence force chief of staff at the time and de facto number two to Gen Janie Geldenhuys.

Joubert's request to sabotage Smuts' investigation came at a meeting attended by Col Joe Verster, at one time head of the Civil Co-operation Bureau (CCB); Cplt Charl Naudé, also understood to have been a senior CCB officer; and Capt Jacques Hechter, who, with Cronje, is applying for amnesty. Joubert also once headed the CCB.

Smuts — who was in charge of a team of northern Transvaal detectives investigating the murders — had established that a Land Rover seen at the Ribeiro home at the time of the killings belonged to the defence force. The vehicle had been registered in the name of and driven by Noël Robey. Joubert told the Harms commission Robey had been a CCB agent at the time.

Gleeson's intervention had been successful, Cronje said, because the investigation had been taken from Smuts and given to Brig Danique van Wyk. In 1987, a preparatory investigation led to charges against Robey being dropped due to lack of evidence.

Cronje said his involvement began when he was contacted by Naudé, who told him Fabian Ribeiro had been "identified as a possible target" and the SADF wanted access to SAP information on him. "The moment he mentioned the word target, I knew that Trevis was meant. Trevis was the top-secret organisation in which the police, military and intelligence services co-ordinated and promised state hit lists. Cronje has said it reported to the state security council.

He had seconded Hechter to help plan the operation against Ribeiro,

Continued on Page 2

Ribeiro

Continued from Page 1

Cronje said as a result, he knew that the SADF's special forces had flown two black Angolans to Pretoria. They had killed the Ribeiros while under Robey's command.

Ribeiro had been a leading activist recruiting young men for military training by the ANC and he had given medical assistance to anti-apartheid activists. Cronje said he did not know who had given the order to kill Ribeiro.

No further testimony was given in the matter after truth commissioners established that the former SADF officers named had not been informed in advance that they were to be implicated. The hearing will resume when they have been contacted.

Earlier, the amnesty committee was told by the relatives of three men electrocuted by Hochtler and WO Paul van Vuuren that they opposed the granting of amnesty.

"The people who had the pain should be the ones to forgive, not the government," said Lizzie Sefola, the widow of ANC activist Harold Sefola. He died enacting Nkosu Sizwele of Afrika. "These people never came to ask us forgiveness, the government is doing it on their behalf. If a person is to be forgiven, they must first understand how we feel."
Bomb ‘specially made to fit under minister’s car’

JOHN YELD
ON THE TRUTH COMMISSION

Johannesburg – A bomb manufactured
by the Defence Force’s special forces
unit was attached under the car of
KwaNdebele cabinet minister Piet
Ntuli by the Pretoria security police
“hit squad” in 1986, the Truth
Commission heard here today.

The bomb was detonated and killed Mr
Ntuli as he drove away from an evening
meeting at the home of the then chief
minister of KwaNdebele.

Former Vlakplaas commander Jack
Cronje, one of five former security police
men seeking amnesty from the commission
for 40 murders, bombings and assassina-
tions, told the amnesty committee he
and two colleagues planted the bomb.

Brigadier Cronje testified that Mr Ntuli,
the KwaNdebele minister of Home Affairs,
was the leader of the Mbhoko political
movement which supported the KwaNdebele
government’s efforts to gain independence.

The move to independence was fiercely
resisted by the KwaNdebele people and
Mbhoko was involved in various mur-
ders, incitement, arson, serious assaults,
imimidation, theft, illegal possession of
weapons and consumer boycotts in its
efforts to force people to support the home-
land government.

In the subsequent Parsons Commission
of Inquiry into violence in KwaNdebele,
the Mbhoko were described as a right-
wing vigilante group.

But Brigadier Cronje said he had been
“convinced in his heart” that Mr Ntuli had
been a double agent and that while pret-
tending to be a supporter of KwaNdebele
independence and of the South African
apartheid government, he had been work-
ing for the African National Congress.

This was partly because the activities of
Mbhoko helped the policy of the ANC
which was to destabilise KwaNdebele.

Brigadier Cronje said Mr Ntuli’s activi-
ties had been discussed on various occa-
sions by the Joint Information Centre – a
combined intelligence organisation of the
South African security forces.

He had recommended several times that
Mr Ntuli be detained under security legis-
lation but this had been vetoed by then

South African Minister of Constitutional
Affairs, Chris Heuning.

This was because detaining Mr Ntuli,
oftentimes a strong supporter of the South
African government, would have made
South Africa the laughing stock of the
world, Brigadier Cronje said.

He could no longer remember exactly
where the final decision to murder Mr
Ntuli was taken, but it could have been by
the security forces’ secret organisation
Trewits (an Afrikaans acronym for the
Counter Revolutionary Target Identifica-
tion Centre) and confirmed by the State
Security Council or directly by the council.

Brigadier Cronje said a specially manu-
factured bomb was obtained from Joe Ver-
ster of the Defence Force’s special forces
unit, which later became the Civilian Co-
operation Bureau (CCB).

“Special preparations were made,
including how the bomb should be con-
structed so that it would fit under a Toyota
Cressida,” Brigadier Cronje said.

He, Jacques Hechter (another of the five
applying for amnesty) and Jaap van
Jaarsveld collected the bomb and drove to
KwaNdebele.

After waiting the whole day for an
opportunity to place it under Mr Ntuli’s
car, they drove into the ministerial com-
pound that night while Mr Ntuli was at a
meeting.

“Hechter climbed under Ntuli’s Cressid-
da and attached the bomb. While he was
busy, the minister of police came out of the
chief minister’s house. I walked across to
greet him and we had a conversation.

“After the bomb had been planted, we
drove back to the open veld,” Brigadier
Cronje said.

The timing mechanism of the bomb was
set so that it would detonate while Mr Ntuli
was driving on a deserted section of the
road he normally used.

The bomb exploded as planned and Mr
Ntuli was killed.

Brigadier Cronje said although he had
been accused by the KwaNdebele govern-
mment of murdering Mr Ntuli, he had never been
questioned by General Schutte, chief of the
police detective unit, who was investigat-
ing the case.

Brigadier Cronje said he had also not
been called to testify at the inquest.
No Way out for De Kock

Cold-blooded killer given two life sentences and 212 years, told he does not qualify for parole of full amnesty
PUBLIC SECTOR-GOV'T. JUSTICE

1996

Nov. - Dec.
It's no surprise that Judge Ismail Mahomed has been appointed SA's first black Chief Justice. It is not only a politically-correct appointment, Judge Mahomed is eminently qualified for the job.

The FM argued that if Judge Mahomed (64) was appointed, the controversy surrounding the nomination process should not detract from the achievement: he was the right man at the right time.

The selection of judges should be divorced from politics, but it has proved impossible for the appointment of SA's first post-apartheid Chief Justice to be an apolitical one. Not because the President has the casting vote, but because a country torn apart by crime cannot afford to turn down a qualified candidate whose appointment symbolises a break with an old, despised order that was upheld by the courts and the law.

Judge Mahomed told the Judicial Services Commission (JSC) he had been persuaded to accept nomination as his appointment might signal that the judiciary was changing.

Responding to his appointment, Judge Mahomed said restoring the law's legitimacy for all South Africans was the most urgent challenge for the judiciary.

"I hope I will be able to contribute to the urgent need to salvage the image of the law so that it in fact is, and is properly perceived to be, a friend and protector of the people instead of an instrument of racial, gender or political oppression."

The only other candidate, Senior Appellate Division judge Hennie van Heerden, downplayed the role of the Chief Justice at his public interview: he would be involved in no more than 40 out of 200 appeals a year and outside his chairmanship of the JSC, "there is nothing really much he can do."

He may be right but reports suggest only one member of the JSC voted for him—the current Chief Justice, Michael Corbett, who refuses to comment.

President Nelson Mandela's public backing for Judge Mahomed at the outset resulted in most appellate judges rallying behind Judge Van Heerden. The National Association for Democratic Lawyers backed Judge Mahomed. Members from each side called on the opposing candidate to step down. Both judges told the JSC that they considered the way the process had unfolded as unfortunate.

But in the end, it was cut and dried. Judge Mahomed was ahead on points after the public interviews. The President made the appointment after consulting Cabinet and the JSC and personally interviewing both candidates. The Cabinet discussion was not controversial and the appointment was in line with the JSC's recommendation.

Judge Mahomed's appointment is not without irony. He became SA's first black senior counsel in 1974 but refused a judicial post until 1991, saying he could not enforce laws that were against his conscience.

Judge Van Heerden is likely to be offered the post of Deputy Chief Justice and has pledged Judge Mahomed "every possible assistance."

Among those who have welcomed Judge Mahomed's appointment are the Johannesburg Bar Council and the National Party who said he was "an outstanding jurist with the ability, credibility and record on the bench to make a great success of the job."

On January 1 1997 Judge Mahomed will give up the deputy presidency of the Constitutional Court, where he enjoyed "the best two years of my life. It is likely that he will have to vacate his position as Chief Justice of Namibia."
poisoned, blown up

Brigadier stuns amnesty hearing with account of how a police and military hit squad lured activists to their deaths

They thought they were going to Botswana for military training by the ANC. But the 10 young Mamelodi activists were being led to their execution by a combined security police and military hit squad.

The story of the Nietverdendal 10 was told to a stunned Truth and Reconciliation Commission amnesty hearing yesterday by one of the executioners, Brigadier Jack Cronje, former commander of the Northern Transvaal security branch.

Cronje, together with four of his former colleagues, is applying for amnesty for his role in this and other apartheid-era crimes including at least 40 murders.

A deathly silence descended as attorney Brian Currim read out the names and ages to Cronje, who claimed he did not know the identities of his victims: Abraham Makulane (17), Samuel Masela (16), Sipho Sibanyoni (15), Jeremia Nthuli (17), Thembelwa Phiri (22), Jeremia Mngqulu (16), Morris Nkabude (19), Mathews Lerutla (15), Steven Makena (18) and Elliot Sathohe (20).

The 10 youths, who were described at the hearing as politically active "comrades" but only two of whom had ever been detained for political offences, were killed in 1986 in an elaborate trap set by Special Forces' Commandant Charl Naude, Cronje said.

Special Forces, a component of the South African Army which included the covert Civil Co-operation Bureau, was accused by Cronje of involvement in the murder of Mamelodi activist Fasein Ribane and his wife Florence.

Undercover security policeman Joe Mamasela, pretending to be a top member of Umkhonto we Sizwe, infiltrated "a group of young activists in Mamelodi.

Cronje said when the youths asked him to help them to get to Botswana for military training, he reported this to Cronje.

A meeting was held with Naude at a Special Forces base, where the operation was planned.

The occupants (of the minibus) were taken out one by one. They were quite drunk. They were held down and injected with something by the members of Special Forces. Then they were loaded back into the minibus.

Cronje said he did not know what the injected substance was, but assumed it was meant to kill them to eliminate any possibility that one or more could survive the subsequent ordeal.

"The minibus was pushed down an embankment into a wall and was then loaded with explosives and blown up."

It was meant to look as if the youths had been entering the country with a bomb, crashed their vehicle and blown themselves up, he said.

Cronje said Major-General Johan Vlok, of the security police counter-insurgency unit, had telephoned him after the operation to congratulate him

The incident was investigated by the Bophuthatswana police, but the investigation proved inconclusive and the identities of the victims could not be established.

Cronje said they had no option but to murder the youths to prevent them from returning to the country as highly trained terrorists.

They could not be prosecuted without exposing Mamasela as an undercover operative, he said.

The hearing continues today. Relatives of the victims are expected to testify.

More reports
ANC man who went to his death singing

SOUTH AFRICA 13

1995 - 1971

ANC man who went to his death singing

Stellenbosch
Batswana lining up to seek redress from TRC

By BENISON MAHELE

...the night of horror will not end...
Truth trickle becomes a

The truth commission's Alex Boraine said the confessions would start. Last week, the perpetrators began to tell their stories. In the latest in our guest writer series, poet Antjie Krog listens to the different voices.

For six months the Truth Commission has listened to the voices of victims. The first narrative, focused and clear, cut into the country. It cut through the language penetration—penetrating even the most frigid earhole of stone. And it continues. Somewhere, in some dusty suburban hall, the tale keeps on being played. Because she is sitting behind a microphone, dressed in beret or top-deck and her Sunday best, authenticity and integrity are sustained. Everybody recognizes her. But when her face distorts behind her rough hand, we know nobody knows her.

So we have never known it. Yet something was amiss. We pricked up our ears. Waiting for the other. The Counter. The Perpetrator. More and more we wanted the second narrative. And it had better be good. It had better be powerful. It had better bring acute personal detail, tears and bewilderment.

There can be no story without the balance of the antagonist. The ear and the heart simply cannot hold head above a one-way flood. The victims' hearings became less reported, less read, fewer hearings were scheduled. Why would one want the truth if the truth has turned its back? Why would one confess before commissioners with as little power as oneself?

Now and then, the muffled sound of a perpetrator in a court interdict or press release was heard. At the political submissions, no politician rose to the occasion. No single personal emotive moment was presented. When FW de Klerk said, 'I stand here before you today'.—he was not standing, he was sitting.

Last week the second narrative broke loose—unfocused, splintered in intention and grades of desperation. It was white. And it was male. The human rights hearings had a definite starting point. The unforgettably vocal Ntombi Calata in East London. The uncontrollable muscle in the jaw of Brian Mitchell, who was involved in the Trust Fund Massacre, was for me the beginning of the perpetrator narrative.

When Judge Arthur Wilson asked him, 'Would you say you suffered a lot?' the only answer Mitchell could muster was the frankly quivering jaw muscle. Three main voices were heard last Monday: the army generals, the police generals and Eugene de Kock. I phoned the army headquarters. 'May I please interview General Georg Meiring?'

'About what?'

'About his submission, Monday. The general speaks to no one. He stands by his submission. He has nothing more to say.'

"But I want to know why Meiring is not presenting the submission of the old SAP?"

'I'm told to get lost in the ons-en-rog steeds baas-al-dinka-jyue-so-nue tone.'

Monday morning the military squad marches in for Operation Shut-up and Deny. [Not to be confused with Operation Stratkom, Velkom and Komkom, Operation Skapa, Operation Paul and Pukadhe, Pebble and Forecaun.] And one has actually forgotten how they look, the clipped speech, the shifty eyes, the arrogant circumnavigation of questions.

When General Deon Mortimer opened his mouth, a chill ran down my spine. I had forgotten the worst of South African accent and the unfrightening tone. The relish with which he pronounced the words "ban" and "banning", the blatant use of the word "terrorists", the cold-blooded smugness and excessiveness of the statistics. "Mozambique 23 May 1983. Operation Skerwe took place, using 12 Impalas and two Mirage F1 Azs, to attack known ANC facilities in the Matola suburb of Maputo in retaliation for the car bomb detonation outside Air Force Headquarters, Pretoria. On 30 May two ANC houses and a headquarters were attacked."

No press conference, no interview.

And it was thus, more than anything else, that changed the tone of the commission. Boraine learned so far forward that only his head and neck were visible above the table when he slashed their submission to their face.

The Rev. Khoza Ngqopo stammered in anger. "You roll off these statistics, as if it's nothing. People, human beings died there. People whose families we've been listening to for the past six months."

The commission seemed to say before we are through with you, you will regard a statistic as human.

That same day in Johannesburg, former police general Johann van der Merwe walked in. He looked surprisingly well and confident. Such was not the case last year when he came to Parliament to make a submission to the Justice Committee on the Truth and Reconciliation Act. Without his uniform and cap he seemed shrunken. Collapsed he sat, his skin colour an unhealthy yellow. He blinked his eyes continuously and sometimes his mouth nipped like that of an old man.

Before the Justice Committee, his case was put by an English-speaking advocate from KwaZulu-Natal. Flash-suitled and golden-ringed, the advocate made it clear that this was not the type of case he normally took, but.

The advocate told the committee, "On the plane the general and I talked about the submission, and after a long, long time, he said, barely audibly, 'I started my career with so much idealism, so many dreams. I've put it all in. I've had, but because of the politicians I sit today wrapped in shame. I am not only old. I am also disgraced because of politics.'"

He might not have said much at the amnesty hearing, but he identified with his underlings—something no powerful person from the previous regime had done yet. He also spelled out the difference between politician and soldier. The one makes the decision, the other carries it out. The better you carry it out, the better a soldier you are.

Come Monday night, come Prima Dona.

Shot one men on the beach. Some naked, some swimming, some playing in the sand. Only De Kock brooding among them.
flood

m+q 1-7/10/96

The perpetrator narrative: Ex-policemen Jack Cronje and Jacques Hechter applied for amnesty

PHOTOGRAPHS: BRIDGUE DAVIDS
dressed from head to toe... his clothes like a shell. The man who refused in court to cede any death to someone else. Jealously... held vigil
not that a dot of his atrocities get lost. Shot two... the confession of Jacques Pauw. Bhekisile Mlangeni was killed by rigged earphones
originally meant for... Coetzee, who identified the package and asked Pauw to warn Mlangeni. Which Pauw did not do.
Like Coetzee, the man who made him famous, Pauw also preferred to confess publicly and dramatically. He chose to let the obvious
moment for confession pass by — the moment after he had interviewed the distraught and weeping Sepati Mlangeni. The moment
he was alone with her.

Why was this the obvious moment? Pauw, then, would have stepped out of his own safe framework, out of the story as dictated
by him, out of the powerful realm of media and history. Pauw would have been at the mercy of Sepati Mlangeni — as her husband was
at his — to forgive or condemn. It would have shown Pauw vulnerable — as vulnerable as millions of black people were under a racist
government.

Or are things simpler than that? People perhaps find it easier to ask forgiveness from Archbishop Desmond Tutu or the whole television-watching South Africa than from an ordinary black woman in her house... But then, too, the fear of rejection may be worse than the guilt.

Unexpected overtones accompanied the second narrative this week at the book launch of *Reconciliation Through Truth* by Kader Asmal. Louise Asmal and Ronald Suresh Roberts.

The book states very precisely... and the truth is that apartheid was a form of genocide and a crime against humanity. You, Kader, I, Sam... oh, I see you have not invited the mass... with which you are not on a good footing to the stage — people like Sydney and Essop

After which Asmal nervously laughs and says: "They were late." But it was obvious from the well-formulated speech that the days of visiting Betsie Verwoerd and drinking tea with Afrikaner tannies are over.

The days of bending backwards from the coccygeal region to accommodate, to get teeth in tolerance until the filling fly, is over. Reconciliation will only be possible if the whites say apartheid was evil and we were responsible for it. Resisting it was justified — even if excesses occurred within this framework.

Mbeki said that if this acknowledgement is not forthcoming, reconciliation is no longer on the agenda.

Although this political line is tenuous, it also keeps the acknowledgement within the black and white realm and gives no guidance on how the individual could move forward.

The human rights violations hearings have forced the truth commission to formulate the same issue differently — a way which takes it out of the colour-code, making it user-friendly to all South Africans as a future guideline.

The human rights of black people were violated by whites, but also by blacks instigated by whites. So the truth commission was forced to say. South Africa's shameful apartheid past has made people lose their humanity. It dehumanised people to such an extent that they treated fellow human beings worse than animals. And this must change forever.

Both lines try to drive the change.

While the debate flourishes around ANC amnesty... some vibrations stir the Waters of the Wilderness. As the Crocodile flounders, he bares his last reining teeth. His last line of defence is his secretary, Mrs. Hartman. "Mr. Botha is deeply religious," she tells a journalist. "He knows his Bible. He will speak when the time is right."

She also said: "Mr. Botha walks around with a big smile on his face. He says he expected it all to happen. After all, people said bad things about Hitler too afterwards."

Poet Angie Krog has won the Herzig Prize and the CNA Award for her poetry. She reports on the truth commission for SABC radio.
Amnesty

Amnesty could fail if its requirement of willingness to go to extremes to stop committing the crime is not met. The special forces soldier might be motivated to go to extremes to stop committing the crime if the soldier believes that the crime is justified or if the soldier feels that the crime is necessary to protect the country. However, if the soldier believe that the crime is unjustified, then the soldier might not be willing to go to extremes to stop committing the crime.

The special forces soldier could be motivated by a desire to protect the country, to serve their country, or to prevent harm to others. If the soldier believes that the crime is justified, then the soldier might be willing to go to extremes to stop committing the crime. However, if the soldier believes that the crime is unjustified, then the soldier might not be willing to go to extremes to stop committing the crime.

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ANC slammed for amnesty call

CAPE TOWN — The NP has accused the ANC of "muddled thinking with a twisted agenda" for suggesting that its members need not apply for amnesty for crimes performed in the fight against apartheid.

NP justice spokesman Sheila Camerer was responding to Mpumalanga premier Mathews Phosa’s statement that ANC members to have to apply for amnesty would be like Moses leading the Israelites out of Egypt.

She said the ANC had rejected the notion of collective amnesty when the Freedom Front requested it during the process of negotiating the truth commission legislation.

Camerer called on the ANC to make a statement of support for the truth commission’s approach to amnesty.

She said the ANC should be mindful of Constitutional Court Judge Richard Goldstone’s comment this week that there could be no collective guilt for criminal acts.

Individuals who had committed criminal acts, for whatever political cause, had to face the consequences, Camerer said. The morality of the political cause might be relevant in the decision to grant amnesty, but it did not apply to whether applications should be made.

In response, ANC sources said Phosa was voicing a frustration within the party about the position of MK cadres compared with that of former members of the SADF.

Former SADF members who had engaged in cross-border raids would not be liable for their criminal acts as these would be considered legal in terms of the law at the time, but members of MK would be liable for conviction for comparable acts.
TRC seeks meeting with killer Askari Mamaseela

TONY YOUNG-HUSBAND

Staff Reporter

Truth Commission investigators are to request an urgent meeting with former Vlakfontein Askari Joe Mamaseela after revelations by former colleagues of his involvement in murder and torture.

Mr Mamaseela is under the protection of Transvaal Attorney-General Jan D'Olivera, who intends to use him as his chief State witness in criminal trials against former security force operatives.

Earlier this year, the TRC agreed not to subpoena Mr Mamaseela to testify before it after discussions with Mr D'Olivera, who felt this might jeopardise the State's case.

However, testimony at the amnesty application by five of Mr Mamaseela's Vlakfontein colleagues in Johannesburg last week had been "so brutal" that the TRC had to reconsider its position, sources said.

Dumisa Ntsebeza, the commission's head of investigations, said that rather than reneging on the earlier agreement and subpoenaing Mr Mamaseela, the TRC would request an urgent private meeting.

"I hope that during our discussions I can persuade him to make a statement to us which can then be entered in to the record as evidence," said Mr Ntsebeza.

He said the TRC couldn't want "forever" for Mr D'Olivera to bring his case to court.

"We would look very stupid if we sat around not questioning him (Mamaseela) in the light of all he knows," he said.

Mr Mamaseela and amnesty applicants Captain Jacques Hechter and Warrant Officer Paul van Vuuren operated as a security police hit squad in the Northern Transvaal during the mid-1980s - a period they referred to as "war without rules".

Warrant Officer Van Vuuren and Captain Hechter and colleagues Brigadier Jack Cronje, Colonel Roelof Venter and Captain Wouter Mentz appeared before the TRC's amnesty committee in Johannesburg last week in connection with more than 40 murders.

Warrant Officer Van Vuuren and Brigadier Cronje told how they and Mr Mamaseela were involved in the torture and electrocution of three alleged ANC activists, how they blew up nine KwaNdebele youths near the Botswana border, and their participation in the attempted assassination of ANC activist Jerry Thubel.

Warrant Officer Van Vuuren said high-profile or particularly effective activists had usually been eliminated. Their detention in terms of security legislation would have given momentum to the freedom struggle.

"The security police and the country could not afford to have a Nelson Mandela," he said.
Truth Commission 'wants to enslave Afrikaner'.

Johannesburg - The Truth and Reconciliation Commission is trying to pronounce the Afrikaner guilty before the rest of the world and to enslave its future generations, the Conservative Party has said.

Reacting to an African National Congress statement that it would resist an amnesty application by the killers of SA Communist Party leader Chris Hani, Conservative Party leader Ferdi Hartzenberg said the ANC was showing contempt for the amnesty process.

Mr Hartzenberg said the obvious lack of equal justice within the TRC was evident by it doing everything to have people like former President P W Botha appear before the commission. The ANC, on the other hand, said its own people did not have to appear before the TRC - Sapa.
Recovering the

Hi숭업, helped, ANC

by blowing up Ntuli

CHAPTER

Hi숭업, helped, ANC

by blowing up Ntuli

Impeached, former ANC

"The government has gone to call the churl.

Nzimande after forensic

investigation of the various

reports that the ANC was

involved in state capture.

The ANC has issued a statement

confirming that the former

finance minister, Pravin
ger, has been suspended.

ANC leaders have denied

involvement in the ANC

leadership scandal.

ANC members have been

criticized for their role in

the scandal.

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Stick to core values

THE DEBATE about restoring capital punishment is the result of the escalation in crime and violence. However, this debate should be seen within the context of recent history.

The last execution in South Africa took place in November 1989. The ANC was elected as governing party in 1994 on a programme favouring the abolition of the death penalty. Interpreting the interim constitution, the Constitutional Court in 1995 found the death penalty to be in violation of various provisions of the constitution. Some judges found it violated the right to life, others regarded it as an infringement of the right to dignity. The president of the court concentrated on one section which outlawed cruel and inhuman punishment.

Restoring the death penalty would mean the final constitution would have to be amended. It would necessitate a political about-turn by the ANC, and would mean the Constitutional Court was unequivocally overruled.

The interim constitution has seen South Africa enter into constitutionalism, a state in which the constitution is the supreme law. Such a principle does not take root overnight, and should be cultivated with care. The authority of the constitution, the Constitutional Court and of the principle of constitutionalism will suffer a severe setback if the first controversy of the Constitutional Court is overturned.

BRINGING back the death penalty would undermine constitutionalism in South Africa, argues FRANS WILJEN of the Centre for Human Rights, University of Pretoria.

The death penalty is the extreme of human punishment. Those arguing for its restoration carry the burden of arguing its reintroduction. The argument must show that the death sentence is a more effective deterrent than other forms of punishment - something that cannot be done, because of inconclusive scientific evidence. Retentionists must show that any penological aim other than retribution will be served. In short, they must show that reinstituting the death sentence will make a difference to the problem of crime. They should convince us that the real problems of insufficient policing, overburdened prosecution services and early releases from prison will be rectified by having capital punishment in place. They should convince us that reintroducing the death sentence is of greater importance than the underlying socio-economic causes of crime.

If they fail, and my view is that they inevitably must, the true nature of the call for restoration is revealed. It is a slogan intended to score political points. It is a dishonest attempt to deflect attention from the real causes underlying the rise in crime. It is an attempt to appease people by invoking the basest of human emotions - revenge.

It may be true that the majority will, at present, express this emotion if called upon in a referendum to express a view on the death penalty. Rather than exploiting these feelings for political gain, government has a responsibility.

People react emotionally and moods change. Should the constitution be amended each time a strong surge of emotion overcomes society? Surely it is preferable to have core values as constants which will serve as guidelines in our society. In a constitutional state these values are found in the constitution.

By its very nature a constitution in a pluralistic society will protect those who do not represent a majority. The majority may, for instance, not want Afrikaners as an official language, or may not want the equality clause to provide for non-discrimination against gays and lesbians, or may think that foreigners should not qualify for fundamental rights in South Africa, or may favour juvenile whipping. Does that mean that a referendum should be held about all these issues and the popular will should be followed?

An end to legal cruelty

SOUTH AFRICA is now a constitutional state. The constitution, as interpreted by the Constitutional Court, is supreme. Even if a majority of "the people" wanted to reintroduce cruel and inhuman punishment, they could not have it. Democracy, or populism, is limited by constitutionalism.

The abolition of the death sentence was based mainly on the prohibition against such punishment, not on the right to life alone. Retentionists, if they wanted to change the constitution, would have to construct an exception to allow for the institution of cruel and inhuman treatment, wherever the state felt it was "needed".

Another point on which the death sentence was abolished was the right to equal justice. Retentionists would have to bring to the house of law a form of execution. They would have to say to the judge of law, "Here is a man, a victim whom we love, whom we must punish."

BRINGING back the death penalty would infringe various hard-won rights, including those of victims, argues Unisa law professor H J VAN ROOYEN.

is precisely why the criminal law swings into operation and the criminal deserves punishment.

But if "the people" say "Gouge out the eye of the assailant who gauged out an eye; let the rapist who raped, be raped himself", the constitution says "No, only proportionate surrogate punishments may be imposed".

I, for one, am proud of that.
"amnesty" for Walusz, Derby-Lewis

Dilemma for TRC

By DESMOND BLOW

A FIERCE confrontation between the ANC and the TRC is in the offing if the killers of South Africa's most charismatic leader Chris Hani are released.

The ANC has already indicated that although it respected any decision on amnesty by the TRC, it would resist the application for amnesty by former Conservative Party MP Clive Derby-Lewis and Janus Walusz - who shot dead the SA Communist Party secretary general at his Dawn Park home in Boksburg in 1993.

The ANC contends that the two men do not qualify for amnesty in terms of the Promotion of Unity and Reconciliation Act because they were motivated by factors contrary to the peace process then underway and the killing was not associated with any political organisation.

By nature, a human rights lawyer disagrees - and says that if the two killers satisfy Section 20 of the Promotion of Unity and Reconciliation Act, then the TRC will be forced to grant them amnesty.

The interpretation of Section 20 by an amnesty committee - consisting of three judges and two TRC commissioners - as to whether they should be freed will be final.

Whatever decision is made - either to free the two killers or to refuse amnesty - it could cause great political conflict.

However, instead of reconciliation the Hani matter could lead to political conflict. Reacting to the ANC statement CP leader Bernd Hartzenberg accused the ANC of showing contempt for the amnesty process, and said there was an obvious lack of equal justice within the TRC.

The ANC and a majority of the public will be angry if the TRC releases the two killers from prison, while the right-wing is expected to condemn the TRC for being one-sided if they do not.

As Derby-Lewis was a CP member of parliament and Walusz was a member of the AWB, their testimony could also cause a huge political upheaval when they disclose why they wanted Hani dead.

"If their "full disclosure" does not take the matter much further, and they are still released from prison, there is bound to be an uproar."

However, as Archbishop Desmond Tutu explained to City Press, a fortnight ago, the Truth Commis...
People's will gets death sentence

S IS CLEAR from the title of my book, the thrust of my work is to make out a case for the right of the populace to determine the content of the laws of the country — in particular the contents of the Constitution.

One has to, of course, proceed from the premise that we are a representative democracy.

Therefore, there is a sense in which we are required to defer our right to decide some issues ourselves to those we have elected.

However, where the will of the people is manifestly ignored by our elected representatives, there arises a crisis of democracy in what way can our representatives still be said to speak and decide on our behalf?

In order to make out a case for the will of the people regarding the death penalty to be reflected in the Constitution, it is also necessary to show that arguments against the death penalty are not axiomatic.

If they are axiomatic, the will of the populace is irrelevant.

Insisting on the will of the people to prevail in such a case would be like trying to solve a mathematical problem by popular consent.

Therefore, it is crucial to examine the arguments against the death penalty.

These are:
- That it is uncevisued,
- That many Western countries have abolished it,
- That the death penalty tends to victimise the poor and blacks,
- That people who face capital charges cannot afford experienced counsel,
- That there is always the possibility of error;
- That there is always an element of caprice in handing down the death penalty;

SEVERAL surveys have shown that the majority want the death penalty reinstated. MANDLA SELEOAONE, a researcher with the Human Sciences Research Council, Centre for Constitutional Analysis, makes a case for the peoples' will in his book The Death Penalty — Let The People Decide.

That the death penalty serves no deterrent purpose.

An examination of the above arguments leads very quickly and easily to the conclusion that they are in no sense axiomatic.

The civilisation argument is in fact a non-argument. It comes down to labelling, directed at embarrassing into silence those who might take up the cudgels for the death penalty. In the face of this non-argument, one merely has to maintain a steadfast unwillingness to be bullied.

The argument that many Western countries have abolished capital punishment is both illogical and insensitive to the connection between law and material conditions prevailing in any country at any given historical moment.

One can accept the fact that a number of Western countries have abolished it, but should we abolish the death penalty? Our appeal to the West has not shifted the debate a morsel.

It is true that most people who commit capital offences cannot afford the fees for experienced counsel. Usually indigent people facing capital charges are provided with pro deo defence, which may or may not be very experienced. But then experience is relative. Therefore it is non-sequitur to argue from the experience of the defence to the abolition of the death penalty.

Whereas it is true that there is a possibility of error and that, therefore, a person may be wrongly sentenced to death, it is also true that, in respect of some cases, there are simply no prospects of error.

Barend Struydom is a case in point, and there must be many other cases like that.

The question inevitably arises, therefore, why should those who are clearly guilty benefit from our fear to punish those who may be innocent? Why is it impossible to so arrange our penal system that it will give maximum protection to those in respect of whom there is doubt, while punishing those in respect of whom there is no doubt?

The inclination to victimise blacks and the poor, and the element of caprice are difficult problems.

But in both South Africa and the USA, a substantial bulk of those who are calling for the death penalty are black and poor people. The reason is that they are exposed to violent crimes more than whites and affluent people, whose residential areas receive better policing.

If one is confronted by such a dilemma, the consideration arises whether it is better to err on the side of democracy (as reflected by the demands of the people) or on the side of 'non democracy' (as reflected by the williness to ignore the wishes of the majority).

Regarding the deterrence argument, although there may be no empirical evidence to support the claim that capital punishment deters criminals, there is also no empirical evidence to support the claim that it does not.

Further, if it were accepted that it does not, why should we single out capital punishment? In other words, if a particular type of punishment is abandoned because it does not live up to its claims, why should we not also abandon imprisonment, since it may be argued that it too does not deter? Why should we not also interpret reformation as a penal theory, since it does not live up to its claims?

The right to life is another feature of this debate which merits some consideration. The claim is that the right to life is an absolute right and that it cannot, therefore, be forfeited, even by murderers. This claim, apart from all its other defects, can be dismissed simply by investigating the conceptual frame within which it is made.

Abolitionists hang their arguments on the social contract. Some of the most outstanding among them still recognise Hobbes as the best exponent of the natural right to life. And Hobbes based his views on the natural right to life on the social compact. Within that conceptual frame, Hobbes posited a mutual duty to refrain from injuring one another, in other words, my right not to be deprived of my life is conditional on my respecting the right of others not to be deprived of theirs. If I fail in this obligation, I thereby forfeit my right to life.

Therefore, if the argument of the abolitionists is premised on the social contract, it is simply impossible to make out a case for rights which are unconditional.

Even if their argument is not based on the social contract, it is still impossible to make out a case of absolute rights, for why must any citizen respect such rights? On what basis can it be argued that other citizens ought to respect such rights?

Arriving as I do at the conclusion that there is nothing axiomatic about arguments against the death penalty, it seems to me that a case can be made for the right of the population to influence the content of our Constitution. We elected the Constitutional Assembly because we were informed that, to be legitimate, the Constitution should be written by people who have our mandate. On what basis, then, can they ignore the will of the people where it (people's will) is clear?

Recently there have been a number of surveys which suggest that South Africans want the death penalty to be brought back.

Whatever the case that might possibly be made for ignoring popular sentiments, the risks have to be weighed up very carefully. The day might well come when South Africans are impelled to adapt Jean Marais's rhetorical question with reference to the betrayal of the working people in France after the 1789 Revolution, and ask themselves: "What will we have gained, to have destroyed the aristocracy of racial oppression by whites to replace it by that of the criminals?"
PRO DEMOCRACY... Mandla Selecape holds up the book in which he argues that the criteria for abolishing the death penalty are fallacious, and that the people should therefore be allowed to decide on the matter.
The inquest into the shooting death of 12-year-oldComboon, a black boy, was reopened by the police after new evidence surfaced. The new investigations revealed that the police had responded to a false报警, leading to the tragic outcome. The inquest found that the police had fired on the boy in self-defense, but new evidence suggests that the police had been targeted by a group of armed men. The police are now facing criminal charges for the shooting.

The inquest jury ruled that the police had acted in self-defense, but new evidence suggests that the police had been targeted by a group of armed men. The police are now facing criminal charges for the shooting.

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Premier Phosa and Justice Minister on amnesty procedures.

Archbishop says he is unhappy about the stand taken by

Come

clean or I quit, Tutu tells ANC

SADRU LIBRARY
UNIVERSITY OF CAPE TOWN
Emphatic calls for iron-fist approach

Survey respondents overwhelmingly in favour of bringing back the death penalty, better pay and training for police, and stiffer bail conditions

BY GRAHAM REES

New demands for an iron-fist approach to crime and criminals have emerged from a survey conducted jointly by The Star and one of the country's biggest financial institutions, Nedcor.

The results of the survey, released today, show that Greater Johannesburg residents across racial, social and economic sectors want the Government to pump far more of the national budget into fighting crime - for greatly improving police pay, conditions and training; ensuring greater police visibility; building more high-security prisons, and making troops available to help the police.

The survey again showed massive public support for the reintroduction of the death penalty - something that has been flatly rejected by the Government.

About 7,000 people responded to the questionnaire, which was published in The Star last month and also circulated on Nedcor's Internet Web site.

Of the respondents, 89.9% voted in favour of capital punishment with 78.8% indicating "strong" support for its reintroduction.

More than 83% said they wanted substantial tightening of bail conditions.

Most respondents favoured improving police salaries and training - 77.2% "strongly agreed" to this while another 21.2% simply "agreed".

The majority supported introducing visible police and troops on the streets - 76.5% "strongly agreed" and 21.1% "agreed" (a total of 97.6%).

Punishing police corruption severely and dismissal from the service was demanded by 97.9% of respondents.

Even though 78.6% agreed to the Government permitting private security officers to make arrests, there was a fair amount of resistance to this approach (20.3% against it).

Others involved in the crime survey were the Post Office, which provided a Freepost service for replies; Nedbank, Permanent Bank and People's Bank throughout; and SABC Radio, which will be broadcasting the findings.

The results of the survey will be forwarded to Parliament for the attention of the relevant cabinet ministers, all of whom were aware that the survey was being carried out.

Off with their hands, NP provincial congress is told

The hands of criminals should be chopped off, the National Party's Gauteng congress heard in Johannesburg on Saturday.

Speaking in support of a motion calling for stronger action against crime, Benoni delegate Salsam Abraham said more than the return of the death penalty was required to deter criminals.

"We demand further action, like chopping off the hands of criminals," he said.

NP MP Sheila Camerer expressed reservations about the idea. However, Abraham's proposal was an indication of the frustration people felt about the high crime level, Camerer said.

Delegates sharply criticized the Government for ignoring surveys showing that SA's majority wanted the return of the death penalty.

These included more than 70% of ANC supporters. Anneliese van Wyk from Pretoria called for crime to be criminalized.

The congress unanimously endorsed a proposal that signatures be collected for a petition of no confidence in Gauteng Premier Tokyo Sexwale and Safety and Security MEC Jessie Duarte - Sapa
Coetzee positive on amnesty

THE AMNESTY APPLICATION for the former Vilakazi police commander and detective captain Mr Dirk Coetzee by the Mxenge family, who plan to pursue an application by the Mxenge family, who plan to pursue an application.

McNally charges a few months ago rejected a plea bargain to try to get a lighter sentence. He was facing charges of murder, attempted murder, and assault with a deadly weapon.

The amnesty application was submitted by the Mxenge family, who plan to pursue an application.

McNally's case has been postponed several times due to legal issues, and he remains in custody pending the outcome of the application.

S-ref: Mr Dirk Coetzee

1978, the man who would not believe the truth.

Coetzee said he feared that McNally had not been brought into the new South Africa's reconciliation process and remained part of the old, reformed, apartheid, I don't have enough adjectives to describe it system.

He suggested a committee be formed to oversee the work of McNally and his Gauteng counterpart Dr Jan D'Oliveira, as they were presently the sole custodians of evidence and information that was of national importance but which they did not necessarily know how to use to the country's best advantage. An example of this was McNally's prosecution of former defence minister General Magnus Malan which developed into a "fiasco," said Coetzee.

Regarding his Vilakazi successor Eugene de Kock, who was sentenced last week to more than 500 years' imprisonment, Coetzee said he "was a selective victim of the truth".

He has no vision of the future. He cannot see one day into the future," said Coetzee, who fled the country in 1989 to seek the protection of the ANC in exile after helping lift the lid on the police's hit-squad.

Had Coetzee approached the truth commission instead of waiting to be painted into a corner, and co-operated by revealing everything much earlier, then he thought there would have been a much more positive outcome for him, said Coetzee.

It is believed De Kock is planning to appeal for amnesty soon.

Mxenge case just one of many to be uncovered

ROGER FRIEDMAN

FORMER security police captain Dirk Coetzee has spent the past few days showing his lawyer and a television crew around Vilakazi outside Pretoria, pointing out areas relating to the assassination of ANC lawyer Griffiths Mxenge, which he witnessed.

Fifteen years ago this month, during his time with the SADF's special forces, Coetzee said, he led a group that abducted Mxenge and took him to an old cycling track outside Durban where they killed him brutally.

One of his closest friends was Nqobile Nqobile, David Tshikalse, Joe Mamatsu and the late Brian Nequilina abducted Mxenge and took him to an old cycling track outside Durban where they killed him brutally.

They stole his valuable clothing and his car.

The discovery of his body near Piet Retief on Coetzee's instructions.

The twisted remains were one of the exhibits he showed his lawyer and the television crew. "Tomorrow, they will be visiting the cycling track, the house where Mxenge lived, and the bar where he met Mamatsu after the deed was done," he added.

The Mxenge case is, however, just one of many Coetzee will shed light on in the course of his amnesty application this month. Others include:

- The murder of Aziz Petit and ANC cadre Selby Mavuso in October 1981 near Komatipoort. Mavuso was abducted in Maspo, given poison, and then shot dead.
- Conspiracy to murder ANC member Mr Musiek Naidoo in Mamathe, Swaziland, in 1980. Naidoo was not at home, but Patrick Naidoo and Patrick Mbatha died as a result of the bomb.
- The murder of Aziz Moema in Nelspruit in 1983. Moema was an Athi who was suspected of having links with the ANC. Coetzee will say he authorized the murder which was carried out by Captain Koot Venter.
- The murder of Nzimande inside the Eastern Cape in 1981 and seriously injured in detention. Coetzee will say that as soon as Nzimande's injuries were diagnosed another Steve Biko was loaded into a car and killed.
- The kidnap of activist Mr Joe Pillay, with intention to murder. The murder was only prevented by the public outcry which followed his disappear-
- Conspiracy to murder Mandla Nhlabathi in 1978. The victim was a school pupil.
- Conspiracy to murder Mkhulu's in 1978. The victim was a school pupil.
- Conspiracy to murder Mandla Nhlabathi in 1978. The victim was a school pupil.
Desmond Tutu has threatened to resign as chairman of the Truth and Reconciliation Commission if members of the African National Congress refuse to apply for amnesty.

"The ANC should explain to us what their position is. They are not in a position to decide which deeds constitute gross human violations and which don't. That is our decision," Archbishop Tutu said in a television interview last night.

"If parties are able to grant themselves amnesty, what is the point of having a Truth Commission?"

Archbishop Tutu said today that his comments were in response to statements by Mpumalanga Premier Mathews Phosa, who had said ANC leaders should not have to apply for amnesty for legitimate military actions carried out in accordance with ANC policy.

Archbishop Tutu said there was "no crisis yet" because the ANC had not yet taken an official stand. He said President Mandela had indicated that while some ANC leaders agreed with Mr Phosa, the issue had yet to be discussed by the National Executive Committee. He said the Act setting up the TRC had no provision for "making the moral distinctions which Premier Phosa is seeking to draw."

Archbishop Tutu also reacted strongly to claims by National Party leader F W de Klerk and Western Cape Premier Hernus Kriel that the commission had been hijacked by the ANC. "De Klerk and Kriel ought to show a great deal more humility and contrition. If I were them I'd probably shut up. They know we have always asserted our even-handedness," he said.
Debate over decision to adjourn amnesty applications

Stephen Laufer

THE decision to adjourn amnesty applications by five former Vlakplas and northern Transvaal security policemen involved in up to 40 murders to February 24 next year has added complexity to the debate around the truth commission’s request for an extension of the amnesty cutoff date.

The postponement last Friday after eight days of testimony leaves prospective amnesty applicants without the legal certainties which a final decision on the five could have provided.

Legal experts believe that facing the original cutoff date of December 15 without the precedent and greater certainties of amnesty committee decisions, will increase the pressure on prospective applicants. Uncertainty as to the committee’s interpretation of the provisions in the Truth Commission Act will increase their inclination to play safe and apply for amnesty before December 15.

Moving the cutoff date — as proposed by the commission to parliament — might have the opposite effect, it was felt.

A later cutoff date of March 15 would allow potential candidates to postpone applying for amnesty in the hope of a clearer legal framework after more decisions — including those in the cases of Trust Feeds killer Brian Mitchell, former Vlakplas commander Dirk Coetzee, and the northern Transvaal five.

Coetzee’s application will be heard in Durban from tomorrow.
Generals' no displeases Government

By Patrick Bulger
Parliamentary Correspondent

Cape Town — The Government was "extremely displeased" with the refusal of apartheid-era military generals to provide specific information on past deeds to the Truth and Reconciliation Commission, Deputy Defence Minister Ronnie Kasrils said yesterday.

Kasrils, a former Umkhonto weSizwe intelligence chief, said the generals' submission was "absolutely unrepentant", a view shared by Defence Minister Joe Modise, who is recovering from illness.

He said the submission provided "an insight into an arrogance and unrepentant frame of mind that is not a happy thing for this country."

Tutu receives a 'warm response' from PW

By Robert Brand

Durban — Former state president PW Botha is said to have responded "warmly" to a proposal for a private meeting with Archbishop Desmond Tutu in his role as chairman of the Truth and Reconciliation Commission.

"It was a warm and positive response," said Tutu yesterday about the letter which the TRC has received from Botha saying he was prepared to discuss evidence heard by the commission implicating him in apartheid-era human rights violations.

Tutu is in Durban for the amnesty hearing of former Vaalplas commander Dirk Coetzee which starts today.

He said he would travel to Wilderness on the Cape south coast, Botha's retirement home, for the meeting. A date is being arranged by Tutu and Botha's secretaries.

Botha was previously opposed to the commission. He refused to co-operate with the National Party in drawing up a submission to the commission in August.

The commission resented strong calls to subpoena Botha after testimony at hearings implicated the former state president in apartheid-era atrocities such as the 1988 Khosovo House bombing in Johannesburg.

Tutu said last week the commission should have regard for Botha's age — he is 80 — and his former position. It was decided that he would seek a private meeting with Botha as a first step.
Tuju advises FW and Kriel to 'shut up'
Govt ‘displeased’ with generals’ attitude to probe

POLITICAL STAFF

THE government was "extremely displeased" with the refusal by apartheid-era military generals to provide specific information on past deeds to the Truth and Reconciliation Commission (TRC), Deputy Defence Minister Mr Ronnie Kasrils said.

But Kasrils could not say yesterday whether he would approach the TRC for amnesty.

Speaking at a parliamentary briefing, he said the generals’ submission was "absolutely unpertinent."

Kasrils, a former uMkhonto weSizwe intelligence chief, said the generals' submission provided "an insight into an arro-gance and unpertinent frame of mind that is not a happy thing for this country." He intimated that there were attempts to have the generals make a new submission.

On his own role in the struggle, Kasrils said: "I also have a problem because I am a disciplined member of the ANC. The ANC has a collective approach and is still considering this issue."

He hoped Archbishop Desmond Tutu would reconsider his threat to resign from his post as TRC chairman if the ANC refused to apply for amnesty. "We would not like to see him step down."

The deputy minister was confident he would be able to justify his past actions if he did go before the TRC. "I have no problem, I would be fully ready to justify the actions of uMkhonto weSizwe."

Pressure on TRC to subpoena Mamasela

DURBAN - The Truth and Reconciliation Commission is to subpoena self-confessed murderer and former security policeman Joe Mamasela to give evidence at an in-camera inquiry, commission deputy chairman Dr Alex Boraine said yesterday.

Mamasela was implicated in gross human rights abuses when five former security policemen appeared before the commission's amnesty committee in Johannesburg last week.

In one case, Mamasela allegedly lured 10 Mamelodi youths to their deaths after posing as an African National Congress cadre. The youths were drugged and blown up by special forces operatives near the Botswana border after Mamasela said he was taking them for military training.

Boraine said yesterday there was growing pressure on the commission to subpoena Mamasela and that the commission had decided last week to subpoena him in terms of Section 29 of the Promotion of National Unity and Reconciliation Act, which provides for members of the commission's investigative unit to question Mamasela at an in-camera hearing. — Sapa
Tutu repeats his threat to quit TRC

Archbishop gets tough over party’s attitude towards applying for amnesty

By Mzimasi Ngudle, and Claire Keeton

Truth and Reconciliation Commission chairman Archbishop Desmond Tutu yesterday reiterated his threat to resign if the African National Congress adopted Mpho Msimane’s position on amnesty for ANC members.

Tutu confirmed his threat on the eve of the amnesty hearing of the former commander of the notorious Vlakplaas interrogation unit, Dirk Coetzee, and his two former henchmen, Almond Nofomela and David Tsukudzela.

Last week Phosa said ANC members had no reason to apply for amnesty since they had fought for liberation, unless they had committed excesses outside of ANC policy.

"Tutu said he had already met President Nelson Mandela twice about this "problem" but he would like a meeting with ‘Mpho’ Phosa, and Justice Minister Mr Dullah Omar, to discuss the issue.

In limbo

He said his position was “in limbo” pending the outcome of an ANC meeting last week to adopt a clear position.

The ANC national working committee met in Johannesburg last week to discuss this and other issues.

Meanwhile, Tutu suggested that former state president FW de Klerk and former law and order minister Mr Henk Kriel would “do better to be slightly more penitent and more humble, or even better, to shut up.”

Tutu also said the commission was in danger of becoming “a witch-hunt, targeting perpetrators only on one side of the apartheid conflict.”

The TRC was in “limbo” while waiting for the ANC to decide whether its members involved in “justifiable acts of war” should apply for amnesty.

He also repeated his earlier threat to resign if the ANC should decide to support Phosa’s view that its members were involved in the “just war” and had no need to apply for amnesty.”
Archbishop gets tough over party's attitude to TRC

Tutu Warns ANC
ANC will co-operate with commission to the fullest extent

Department of Justice and Constitutional Affairs

The Department of Justice and Constitutional Affairs, in accordance with the South African Human Rights Commission (SAHRC), has determined that the ANC will co-operate fully with the commission to determine whether or not the ANC is in breach of the Constitution.
Amnesty International has no plans to stop the campaign. The group's work is crucial to ensuring that the past is not forgotten.

My soul won't rest until those responsible for the killings of 69 farm workers are brought to justice.
Chief ordered Wakefield Hill

NEWS
Coetzee carried
007-type arsenal

DURBAN: A directive described Vlakplaas' functions as being to track and arrest terrorists, but its operatives did anything but legitimate police work, the security police unit's former commander, Captain Dirk Coetzee, said at his amnesty appeal hearing. ROGER FRIEDMAN reports.

CAPTAIN Dirk Coetzee, the first commander of the security police hit-squad based at Vlakplaas farm outside Pretoria, drove around with an arsenal in his car boot that would have made James Bond proud.

Coetzee told the Truth and Reconciliation Commission's amnesty committee yesterday that Vlakplaas operatives usually carried only official police firearms. However, he used to do his rounds with a case of explosives, a crate of Russian-made grenades, a pair of Russian-made pistols, an AK-47, a silenced 9mm machine gun and a 007-type 9mm machine pistol mounted in a briefcase.

Although he did not drive a Jaguar sports coupé, his car had designer number plates - DJC (his initials) 036 (his age) T (Transvaal) - falsified by the obliging folk who ran the police printing press.

"Did you believe, in apartheid at the time," asked Coetzee's counsel, Mr Rudolf Jansen.

"Yes, I did, " said Coetzee "Unfortunately".

"Did you think that you were operating above the law at the time?" asked Coetzee. "Absolutely.

Coetzee, commander of Vlakplaas between August 1980 and December 1981, is appealing for amnesty for more than 20 crimes - including murder and terrorism - which he says he ordered or executed.

Two of his former agents, Almond Nofomela and David Thokolane, are appealing for amnesty for some of the same crimes, including the murder of ANC lawyer Mr Griffiths Membe. Membe's brother, Mr Mhlwati Membe, is opposing the amnesty application.

Earlier this year, he unsuccessfully challenged the commission's amnesty process in the Constitutional Court.

Meire, who is facing trial, is in the front row of the old Alhambra Theatre auditorium yesterday as Coetzee described the planning of his brother's murder and the attempts to disguise the involvement of the police.

Coetzee, in tweed jacket and bright tie, set the scene for his application with personal details. His childhood in Pretoria, his staunch Afrikaner parents, his membership of the Voortrekker Youth movement, his spell with the post office, early police training, officers' course, membership of the security police.

As a teenager he cheered when Dr H F Verwoerd walked out of the Commonwealth and parted when South Africa became a republic in 1960. He matricualted in 1963, volunteered for national service in 1966 and joined the police in 1970.

In 1973, he assisted Rhodesian police getting rid of freedom fighters that were killed in that war. He joined the security police in 1976 and was transferred to the security police's C1 unit based at Vlakplaas.

The problem in the country at the time, Coetzee said yesterday, was that neither the Criminal Procedure Act nor the Terrorism Act was "sufficient" to counter the aspirations of the liberation movements.

Jansen "What did Vlakplaas do?"
Coetzee "I was only executing orders as far as dirty tricks were concerned, which involved stealing cars, murdering people, harassing people. Anything but legitimate police work as indicated in the directive."

The directive, outlining the unit's function as being to track and arrest terrorists, apparently was sent by second-in-command of the security police Brigadier Jan du Preez to Coetzee's C1 unit head Colonel Willem Schoon in September 1981.

Jansen "How many people were arrested?"
Coetzee "I'm sorry, the figures are so insignificant it happened on the Western Transvaal border when Captain Koos Vermeulen picked up a hitch-hiker who turned out to be an ANC cadre."

Vlakplaas' activities were not audited and its untrained operatives only used their pocket-books to fill in the petrol used for their cars. They never recorded written instructions and were not required to keep diaries. However, there was a rigid command structure, Coetzee said.

"Each morning at 7.30, you'd report to your section head. And at Sam the section heads reported to the officer commanding (the security police), General Johan Coetzee."

It was a predecessor of Coetzee, Brigadier Ferdi Zietsman, whom Coetzee credited yesterday with coming up with the notion of "eleventh commandment". Don't get caught. The Vlakplaas crew lived by this maxim, "although if you didn't get caught in the end it was never a major problem."

Coetzee was the first commander of Vlakplaas which, before his arrival, had been used as a hideout for turned ANC cadres (askaris). At that stage, most Vlakplaas askaris were not members of the police, but were paid R200 a month as informers.

By July 1981 the askaris had been made official policemen, entitling them to allowances, benefits and official documents. Coetzee said he arranged documents, food, a fridge, a generator and other comforts for them.

"Meanwhile, he pulled in seven white policemen and divided his unit into four teams of two white policemen and four or five askaris. "We'd operate countrywide on request and sometimes as a full team when requested."

The security police evoloved their own language or code to convey more sensitive orders or requests.

"In Mr Membe's case I was asked to make a plan with him, which clearly indicated to me I must kill him."

"If a person was being discussed and it was a problem area you'd get that nod and wink."

Two more retired senior security police officers, Major-General Nick van Rensburg and Brigadier Willem Schoon, have been subpoenaed to appear before the TRC, Sapa reports.
Developing a Human Rights Culture in SA

GEORGE ELSTE

Experiences some of the
When he recalled his experiences at the hands of the security forces, Father Smangaliso Mkhathwha last week expressed a wish to say more when he testified during the Truth and Reconciliation Commission’s amnesty hearings in Johannesburg.

He could not, because two security policemen who applied for amnesty at the hearing were only involved in two of the many attempts on his life.

A lawyer for Captain Jacques Hechter and Warrant Officer Paul van Vuuren, Advocate Fonse de Plessis, said security intelligence and not his clients were involved in other attempts on Mkhathwa’s life.

Mkhathwa’s desire to say more about his brushes with the security police was also spurred on by the feeling that Hechter and Van Vuuren made selective confessions to evade criminal liability.

This feeling was echoed by the speaker of the North West provincial legislature, Mr Jerry Thibezi, who also narrowly escaped death when Van Vuuren and Hechter bombed his Mabopane home in 1987.

**Past crimes**

In his testimony to the TRC, Thibezi said that amnesty should not be granted if perpetrators failed to fully disclose their past crimes.

Mkhathwa and Thibezi’s musings beg the question whether amnesty applicants were speaking the whole truth or simply tailored their evidence to get amnesty.

1. Understanding the suspicion that they were not disclosing the full facts as required by the TRC Act was their failure in some cases to name the people who gave them specific orders to kill.

2. Hechter went even further and claimed that he suffered from loss of memory, largely confirming Van Vuuren’s testimony.

3. In their testimony, these two — as well as Brigadier Jack Cronjé, Captain Wouter Mentz and Colonel Roelf Venter — echoed a general instruction to eliminate African National Congress activists.

**Directly Implicated**

They said Trevists, a counter-insurgency unit formed by the State Security Council to eliminate activists, identified targets.

Except for former state president PW Botha, former police ministers Louis le Grange and Arduan Vlok, and some top military and police generals directly implicated in specific human rights abuses, the evidence led did not identify the composition of the forums which decided who ought to be eliminated.

The five who applied for amnesty in

Father Smangaliso Mkhathwa ... he feels security police made selective confessions to evade criminal liability.

Johannesburg claimed that former South African Defence Force special forces, police and the national intelligence agency — all represented in Trevists — decided who must live or die.

Missung in numerous instances was the identity of the people who gave the orders “The instruction must have come from Trevists,” said Cronjé in some of the bland statements repeated during the hearings.

With almost all intelligence files destroyed, the TRC relies considerably on oral evidence and assertions made by amnesty applicants.

The TRC’s amnesty committee has heard two categories of amnesty applications so far.

The first category includes former security policemen serving jail sentences, who have proclaimed a change of heart and asked the amnesty committee to spare them their prison terms. Colonel Eugene de Kock is in this category.

The second category consists of former security policemen who were either under threat of criminal prosecution (like the five whose amnesty applications were heard in Johannesburg) or those implicated in other human rights abuses who made a last-minute approach to the amnesty committee.

Examples are Cronjé, Mentz and Venter.

Captain Jacques Hechter ... he admitted his involvement in an attempt on Father Smangaliso Mkhathwa’s life.

Along with Hechter and Van Vuuren, who applied for amnesty at a stage when the state was going to proceed with their criminal prosecutions.

The five decided to apply for amnesty just when their former colleagues and alleged co-perpetrators were ready to testify against them in a pending criminal trial.

**Vlakplas operatives**

Captains Dirk Coetzee and former Vlakplaas operatives David Tshikalanga and Almond Nofomela, whose amnesty applications are being heard this week, also fall into the second category.

On Monday amnesty committee chairman Mr Hassan Mboi said that 80 percent of the 3 322 applications received were from prisoners, and that 600 Pan Africanist Congress and 300 ANC members in jail also intended to apply for amnesty.

Thus leaves one to conclude that if there were no convictions or threats of criminal or civil prosecution, the truth would never come out. And full disclosure of past atrocities would become well-nigh impossible.

Thus would be a heavy blow to reconciliation in South Africa, which is the TRC’s basic objective. No wonder Mkhathwa is still waiting for more answers.
Amnesty bid opposed

By Michael Nagle

November 12, 1981

Griffiths' Moxege's sister breaks down during TRC hearing
How we went about wiping out the ANC - Coetzee

'рю 000 for every corpse brought back'

ARGUS CORRESPONDENT

Durban - Former hit squad leader Dirk Coetzee has described in chilling detail how apartheid police units conducted a carefully planned dirty tricks campaign to wipe out ANC and other activists.

In evidence that sounded like the plot of a well-written spy novel, Captain Coetzee told the amnesty committee of the Truth Commission about the operations of his Vlakplaas and other security branch units, which were responsible for a series of brutal murders.

It was standard practice, he said, for hit squad members to receive "kopgeld" for murders committed.

This referred to the R2 000 paid to hit squad members for "every corpse they brought back", he said.

Meanwhile, he said his Vlakplaas unit had never been paid for any of their killings.

Security branch officers also had access to highly-sophisticated and dangerous weapons, manufactured largely in Russia and Eastern European countries, said Coetzee.

In his car boot, Captain Coetzee had generally carried Russian hand grenades, AK-47 rifles and bombs prepared by police headquarters, he said.

He also carried a briefcase, fitted with a 9mm pistol and a silencer.

Police had never kept official records of the weapons, but used them so the ANC could be implicated in crimes committed with them, he said.

So help me God: Dirk Coetzee takes the oath before his testimony to the Truth Commission

Captain Coetzee said the security branch was a small clique which operated like a little family and was closely linked with high-ranking SAPS officers.

He said security branch members adopted an "11th commandment" which was "Don't get caught."

"We had to prepare our missions in such a way that if the CID was forced to investigate, they wouldn't conduct anything but a routine investigation," said Captain Coetzee.

Coetzee continues with his evidence today.

He will be followed by former hit squad members David Tshikhalange and Almond Nofemela, who are also applying for amnesty.
Coeteez, was asked to kill Griffiths Menage.
prompts applause at hearing

Killing of IFP members - People at -

rules for amnesty -

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T.G. 1997

KwaZulu-Natal
ANC under fire in amnesty row

Wyndham Hartley (BD 7/11/96 267)

CAPE TOWN — The ANC was playing "intolerable" war justification games with regard to applying for amnesty in the same way as with order military generals, the DP said yesterday.

DP human rights spokesman Dene Smuts also lashed out at Deputy Defence Minister Ronnie Kasrils for criticising former SANDF generals, while himself refusing to apply for amnesty by "hiding behind" the ANC's collective approach.

She described Kasrils' position as intolerable, saying: "If the ANC can play war justification games, the old regime can do the same."

Smuts charged that the ANC's position on amnesty was a direct contradiction of the Promotion of National Unity and Reconciliation Act which it voted for in Parliament.

"There is no collective approach in the Act and there are no categories providing for acts that fell within organisational policy or outside it. There is nothing the ANC can say to Archbishop Tutu at any meeting which changes that fact."

"It is not for the ANC to decide, even in consultation with the truth commission, who should apply for amnesty or where it is applicable. It applies wherever someone was guilty of an offence. The ANC is trying to package the past to suit its propaganda," Smuts said.

She said truth commission chairman Desmond Tutu's defence of the law and the independence of the commission was "magnificent", but the same could not be said of the behaviour of the governing party.

Her criticism follows weeks of wrangling over the ANC's apparent insistence that it would not apply for amnesty for what it considered legitimate acts of war. The bombing of the Mago's Bar on Durban's beachfront fell into this category as a legitimate military target, she said. Tutu has threatened to resign as chairman of the commission if the ANC continues to grant itself amnesty.
Claims of Superior Cause Refuted

Suppositive Everybody

De Klerk Urges TRC to...
No shiny new Merc for Burton

MELANIE GOSLING

SHE was offered the car of her choice — free — for up to R200,000, but turned it down as unnecessary spending of taxpayers' money.

Ms Mary Burton, human rights campaigner, former president of the Black Sash and a commissioner of the Truth and Reconciliation Commission, has not leaps on the gravy train.

While R3 million of taxpayers' money went on buying cars for the TRC's 18 commissioners, Burton took not a cent of the R200,000 car allowance each commissioner was eligible for.

Instead she chose to continue driving her own modest Toyota Conquest.

Asked why she had turned it down, Burton replied: "I already had a car. There really didn't seem any point in buying a new one."

So while other TRC commissioners drive around in their shining new Mercedes-Benzes, BMWs and four-wheel-drive Pajeros, Burton buzzes around in her Toyota.

The high salaries the TRC commissioners earn — R29,733 a month — also worry Burton. "It has been my concern, and the concern of some of the other commissioners, that the salaries we're paid are very high. We discussed it, but were told we couldn't do anything about it as the salaries were laid down."

So Burton decided to give a quarter of her after-tax salary to the Black Sash whose advisory offices help many people with things like disability grants, pensions and child maintenance.

But the woman who stands out like a beacon of integrity in a sea of government over-spending, is modest about her actions. She was reluctant to be photographed, and said: "I really don't want to appear holier-than-thou."

See Page 6
Coetzee's apology offer rejected

DURBAN: The mother of slain Eastern Cape student activist Szwe Kondile has rejected any attempt at reconciliation with former Vlakplaas commander Captain Dirk Coetzee, who has applied for amnesty for his part in Kondile's murder.

In some of the most gruesome testimony yet heard by the TRC's amnesty committee, Coetzee said Kondile's corpse was reduced to ashes after he was "brained" on a pyre of wood and tyres for seven hours. "The buttocks and upper parts of the legs had to be turned frequently to ensure they were reduced to ashes. We were drinking and having a braai next to the fire."

Coetzee said the decision to kill Kondile was taken after the Fort Hare University student suffered brain damage while in detention at Jeffreys Bay police station in the Eastern Cape in 1981.

Major-General Hic van Rensburg, then a high-ranking officer in the security branch, had told him (Coetzee) "a plan would have to be made for Kondile."

"He told me a doctor had said Kondile had blood on the brain and if they wanted to avoid a Steve Biko case, they would have to do something."

Coetzee first told of his involvement in Kondile's death to journalist Jacques Pauw and later to the 1990 Harms Commission of Inquiry into hit-squad activity.

In retelling his story to the amnesty committee yesterday Coetzee was required to make a full disclosure about the circumstances of Kondile's murder and to prove the killing was politically motivated.

Coetzee said he had recently returned to the murder site with members of a Japanese television crew who later took Kondile's mother there to pay her last respects to her son.

"I hope to meet her one day and look her in the eye and say a pathetic sorry," he said. Coetzee received an almost immediate response from the Kondile family's legal representative, Mr Imran Moosa, who was at the hearing.

Moosa said Kondile's mother believed a meeting with her was an honour which Coetzee did not deserve.

"She says if you really have remorse you would not have applied for amnesty and would stand trial," Moosa said. — Sapa

Hain seeks probe into robbery 'frame-up'

BARBARA STREEK
POLITICAL WRITER

ANTI/APARTHEID campaigner Mr Peter Hain, now a British MP, is to ask the Truth and Reconciliation Commission to investigate the role of the South African security services in his trial in London in 1976 for bank theft.

Hain, the head of the campaign to stop the 1969/70 Springbok rugby tour and the 1970 South African cricket tour of Britain, is convinced he was framed by the former Bureau for State Security (Boss).

Hain arrives in Cape Town this morning after being invited by the ANC to participate in a parliamentary workshop for ANC whip.

He will also use his visit to ask the TRC to examine his case in the light of new evidence which he revealed in his latest book, 'Sing The Beloved Country: The Struggle for the New South Africa,' which was released in Britain this week.

Hain said: 'I lived with the tyranny of apartheid of 40 years as a child growing up in South Africa, when my parents were mercilessly harassed and banned and jailed for their anti-apartheid activities, and later in exile, where the security services tried first to kill me with a letter bomb, and then tried to set me up for a crime I did not commit."

In 1972, Hain was sent a letter bomb, allegedly by Boss, but this was defused by a British bomb squad. He was arrested in 1975 and charged with the theft of £490 from Barclays Bank in West London. He was subsequently tried at London's Old Bailey in 1976 and acquitted.
Anglican prelate Desmond Tutu has made headlines twice in the past week by threatening to resign as chairman of the Truth & Reconciliation Commission (TRC). His threats have been prompted by concern that the ruling ANC believes it does not have to apply for amnesty for its actions during the armed struggle against white minority rule, even where they resulted in the death and maiming of civilians.

Tutu's view is that his position — and, by implication, that of the TRC — is superfluous if the ANC thinks it can grant itself amnesty. His logic is impeccable. One of the primary reasons for establishing the TRC under his chairmanship was to create an institution, led by a man of unassailable moral credentials, to grant amnesty to the perpetrators of politically motivated offences in return for full disclosure.

Mpumalanga premier Mathews Phosa — who is a member of the ANC's national executive and head of its legal department — has played a prominent role in articulating the view that the ANC need not apply for amnesty of the vast majority of its armed actions.

As long as these "acts of war" were carried out on the instructions of the ANC leaders, ANC combatants need not seek amnesty for them, Phosa argues.

He compares the killing and wounding of civilians in ANC attacks, including the 1983 and 1985 car bomb attacks in Pretoria and Durban, with the bombing of Dresden by the Allies during World War II.

The comparison is revealing. Phosa, like many ANC leaders, equates SA's apartheid with Nazism and the ANC's struggle against it with the resistance movement in occupied Europe. The implications of the "just war" theory are twofold: that ANC actions are, in nearly all cases, exonerated in advance and that only those who fought in defence of minority rule need apply for amnesty.

But as President Nelson Mandela has acknowledged, Phosa is not alone. His sentiments are widely held within the ANC. Mandela may even have understated the position they perceive the ANC's formal submission to the TRC.

The situation is more complex than Phosa and his like-minded ANC comrades, including prolix Water Affairs Minister Kader Asmal, seem to think.

As Tutu has pointed out, the enabling law of the TRC, the Promotion of National Reconciliation & Unity Act, does not exonerate human rights abuses because they were committed for a "just cause." Amnesty has to be applied for by both sides to the conflict and earned by truthful disclosure.

Phosa's argument that ANC combatants need not apply for amnesty if they were carrying out orders is redolent with irony. It emulates the defence used by Nazi functionaries accused of complicity in war crimes after the collapse of Hitler's Third Reich.

There is another important consideration: the ANC's oft repeated boast that it represents a superior morality. To quote the words of its immediate past president, Oliver Tambo: "We in the ANC have for nearly 70 years respected humanitarian principles in our struggle." Tambo's declaration is linked to the ANC's 1980 commitment to uphold the 1949 Geneva Conventions and the 1977 Additional Protocol.

Read together with the ANC's Code of Conduct, these declarations underline an important point: the ANC's undertaking to treat noncombatants humanely and to eschew, in the words of Article 3 of the Geneva Conventions, "murder of all kinds, mutilation, cruel treatment and torture."

Measured against its own high standards, the ANC's lapses — the murderous bomb attacks during rush hours or on crowded trains, the silence during brutal extradition executions by comrades of alleged collaborators and the shocking treatment of ANC cadres in detention camps in Angola — mean that it cannot indulge in moral complacency.

The security forces under the old, flamented regime carry an awesome burden of guilt and a proportionate need to seek amnesty through public acknowledgment of, and contrition for, past cruelty. The ANC, however, is not guiltless. It, too, must exhibit moral humility. It is too clever and insufferably smug to state that — in Phosa's words — "it is a miracle that the ANC broke so few eggs to make such a large omelette for SA."
The amnesty squabble

The definition of human rights violations is being debated again. These deliberations could result in several surprises as the Truth Commission continues its work. Sharon Chetty explains why...

"When saying sorry, you will always win Those Nats who do not apply for amnesty should then be prosecuted."

Lodge suggested that, for example, a high-profile leader like Ronnie Kasrils could make a difference if he went to the TRC and said that certain acts were committed in the context of a just war. That would make it easier for other ANC and MK people to apply for amnesty, he said.

"People are forgetting what the TRC is about - it is not about weighing moral blame, but is a political device to look at the past, give amnesty and to aid in the political transition."

Jody Kollapen, national director of Lawyers for Human Rights, said that while the differences between the actions of members of the liberation movements and those of the security forces can be distinguished when looked at from a moral perspective, the law does not make a distinction between the two.

He said it must also be remembered that the granting of amnesty was done at the request of the individual - if someone chooses not to apply for amnesty, then they are open to prosecution.

Kollapen pointed out that while the TRC would exist for a limited time only, the serving of justice could take much longer.

"If the state is in possession of evidence that points to misdemeanours, then it has the obligation to prosecute," he said, adding that former security force members would not be immune from prosecution even if they avoided the TRC.

The TRC process has been absolutely critical. While old wounds have been opened and there has been an attempt at healing them, he added, it is vital that the situation is handled correctly.

It is also important that the TRC looks at every case brought before it, he said; "There have been enough political compromises already. It is important that the law take its course."
TRC in key talks on PW and ANC amnesty today

Meeting with ex-president heads agenda

ANDREA WEISS
Staff Reporter

The Truth Commission chairman Desmond Tutu convened a special meeting of the commission in Cape Town today to discuss how to approach former president PW Botha who is to meet commissioners soon.

The commission will also discuss the reluctance of certain African National Congress members to apply for amnesty.

Archbishop Tutu has threatened to resign as chairman if the ANC chooses to grant itself general amnesty.

He was reacting to a statement by Nongqawuse Premier Mathews Phosa that ANC members would not apply for amnesty for incidents such as the Pretoria Church Street bomb which it regarded as acts of war.

Archbishop Tutu said the primary purpose of today’s meeting was to “discuss our approach” to discussions with Mr Botha later this month.

Archbishop Tutu has agreed to meet a high-powered ANC delegation at Johannesburg International Airport on Sunday before he leaves for a week-long visit to the United States.

The delegation will consist of Mr Phosa, ANC deputy secretary general Cheryl Carolus, Justice Minister Dullah Omar, Mineral and Energy Affairs Minister Pentell Maduna and ANC spokesman Ronnie Mamoepa.

Although the meeting has been billed as covering “matters of mutual interest” it is expected that amnesty will dominate the agenda.

Meanwhile, Safety and Security Secretary Azhar Cachalia has reminded members of the security forces of the previous government and former liberation movement that the deadline for applying for amnesty is December 15.

He said those who failed to apply faced “the full force of the law”.

Observers believe this underlines that ANC members will be treated in the same way as others when it comes to amnesty.

See page 5...
Short-circuiting ‘common under PW’

Wyndham Hartley

CAPE TOWN — Executive decisions without reference to the Cabinet and the state security council were common during PW Botha’s presidency, NP leader FW De Klerk said yesterday. Asked during a news briefing whether bypassing the Cabinet was common, as the truth commission was told regarding the bombing of Khotso House, De Klerk said executive decisions took one of three forms.

The first was where the decision was taken by a minister alone who felt it fell within his line function powers.

The second was where Cabinet ministers would consult informally with some of their colleagues.

The third was for a minister to table an issue formally when he wanted the collective responsibility of the Cabinet applied to the decision. It would then be discussed at Cabinet meetings and recorded in the minutes.

Former police commissioner Johan van der Merwe told the truth commission that Botha ordered then law and order minister Adnaan Vlok to have Khotso House bombed because it was operating as the ANC’s headquarters.

De Klerk said that during his presidency he encouraged ministers to bring issues formally to Cabinet or to Cabinet committees. Referring to recent testimony before the truth commission, De Klerk said he had no reason in the past not to believe it when allegations of state abuses were denied. There were never good reasons to believe crimes were not seriously investigated and he did not have reason to believe atrocities were officially authorised.

However, convicted murderer Eugene de Kock had been arrested under NP rule and other policemen prosecuted.

De Klerk said that the NP’s second, voluntary submission to the truth commission was being completed and should be handed to the commission before the end of the year. He praised the stand taken by commission chairman Desmond Tutu in speaking up to the “ANC strategy to get its own way with the commission.” He was quite happy with the way the commission operated so long as it was even handed.
Police warned not to miss amnesty deadline

Stephané Bothma

PRETORIA — Serving and past police officers — many of whom are implicated in some of the 500 "third force" dossiers under investigation by Transvaal attorney-general Jan D'Oliveira — were warned yesterday that like Eugene de Kock, they would face the "full force of the law" if they missed the deadline for amnesty applications.

In a strongly worded statement, safety and security secretary Azhar Cachalia issued a similar warning to members of the liberation movements guilty of human rights violations during the anti-apartheid struggle, that time was running out for them to seek amnesty.

The closing date for amnesty applications to the Truth and Reconciliation Commission is January 14. To date, no freedom fighters have submitted applications and various ANC officials have indicated there is no need for them to do so.

However, truth commission chairman Archbishop Desmond Tutu will meet the ANC on Sunday to discuss the matter.

Perpetrators of human rights abuses on both sides could face prosecution unless granted amnesty.

Cachalia's statement, which lauded D'Oliveira's special investigating team for its successful prosecution of De Kock, was issued just days after 12 police officers inquest案件 were handed to D'Oliveira by the national police commissioner George Fivaz.

The dossiers implicate high-ranking ANC officials in incidents such as the Pretoria church street bombing, several land mine explosions in the North West Transvaal which killed and maimed civilians, the Silvertown bank siege and the Ellis Park bombing.

In addition to the 12 new dossiers handed over for further investigation with a view to prosecution last Friday, about 500 dossiers relating to alleged third force activities are in various stages of investigation by D'Oliveira's special task team.

Their three-year probe has uncovered evidence relating to the arming of the IFP before the attempted coup to topple Transkei military leader Bantu Holomisa and the murder of numerous activists.
Coetzee tells of secret lab where Pillay was drugged

Farouk Chothia

DURBAN — Military intelligence had a secret bunker in Pretoria where ANC members were interrogated and drugged and government meetings with Unitas leader Jonas Savimbi were held, former Vlakplaas commander Dirk Coetzee told the truth commission’s amnesty committee yesterday.

Coetzee made the disclosure during his amnesty application in connection with the 1981 abduction of ANC-aligned teacher Joe Pillay from Swaziland. Coetzee said that Pillay, who had been blindfolded at the time, might be interested to know that he had been taken to a “very special and very impressive place.” It was an observatory in Klapperkop Fort near Pretoria, where there was an underground bunker, four VIP houses and an ultra-luxurious conference room.

Coetzee said Maj. Col. Andy Taylor of the Natal security branch had interrogated Pillay. Steyn brought an army doctor who administered “truth serum” to Pillay.

“Pillay was kept in a state of semi-consciousness, where he just could not gain control over his thoughts.”

When it emerged Pillay was not, as thought, a senior member of the ANC’s Natal machinery, he was smuggled back to Swaziland.

Coetzee said a helicopter and a convoy of limousines arrived at the observatory while he was there. Steyn told him that it was Savimbi.

Coetzee is seeking amnesty in connection with 29 cases of human rights violations.

Coetzee said he had a braai and drank alcohol while junior officers burnt Steven Komile’s body on a pyre nearKomatiport in 1981. Komile had earlier been poisoned with “knockout drops” and shot in the head with a silenced Makarov pistol.

Reports from Cape Town that an ANC delegation, including Mpuamalanga premier Mathews Phosa and Justice Minister Dullah Omar, is to meet truth commission chairman Desmond Tutu on Sunday. Tutu has threatened to resign if the ANC decides it can grant itself a general amnesty.
TRC crisis averted at 11th hour

ANDREA WEISS
STAFF REPORTER

A looming crisis over the possible resignation of Truth and Reconciliation Commission chairman Desmond Tutu, which could have dealt a death knell to the TRC, has been averted at a high-level meeting in Cape Town.

Archbishop Tutu threatened to resign from the TRC if the African National Congress side-stepped amnesty hearings. His threat followed remarks by Mpuulanga premier Mathews Phosa, indicating that ANC members would not be applying for amnesty for certain acts such as the Pretoria Church Street bombing.

TRC commissioners emerged from a special meeting yesterday saying that all channels would be exhausted before this line of action was considered.

Deputy chairman Alex Boraine said the view of the other commissioners was that this was a last resort, while Archbishop Tutu stressed that the ANC's position had not yet been made clear to the commission.

Dr Boraine said, "The majority of us would say that there are a number of steps one has to go through before we reach the position of last resort. Personally, I think we are quite a long way from that."

Archbishop Tutu, accompanied by two or three other commissioners, is due to meet a delegation of the ANC led by deputy secretary-general Cheryl Carolus at Johannes burg airport tomorrow. Archbishop Tutu has undertaken to report back to the commission on this meeting after his return from the United States.

The Sunday meeting was initiated by the ANC to discuss "our apparent differ- ences", Archbishop Tutu said.

"The position is that the ANC has not got a position as of now. We have not heard from them what their position is. Let's stop speculating," he said.

On the December 14 deadline for amnesty applications, Dr Boraine said the TRC might approach Parliament next year to request that retrospective legislation be passed to extend the date.

He renewed a call to people considering applying for amnesty "not to hesitate" and to apply before the deadline.

He said the commission would rather act within "the spirit of the legislation", which was that as many people as possible should be given the opportunity to get amnesty.

Dr Boraine said there had been an increased flow of amnesty applications, including some from ANC members in prison, which he was making "huge demands on our infrastructure."

He urged all parties to apply for amnesty or face the consequences, which could include prosecutions.

Also discussed at yesterday's TRC meeting was how the body would approach former president PW Botha.

The decision was that the TRC would not be confrontational, but rather seek Mr Botha's co-operation.

A meeting between Mr Botha and Archbishop Tutu is likely to take place towards the end of November.

National Party secretary-general Roelf Meyer has also indicated that he wishes to appear before the TRC again to provide more information from the NP's perspective. Mr Meyer's offer comes as the TRC prepares to meet Mr Botha to persuade him to "co-operate" following disclosures that he may have been directly involved in ordering actions that might have transgressed human rights.

Tutu praises media's role, page 3
‘Amnesty too good for them’

By CHRISS HLONGWA

LIKE MEN condemned to eternal damnation, the three killers seemed unable to say anything to elicit sympathy from the families of their victims.

At the amnesty hearings at the Durban Christian Centre on Thursday, Charity Kondile, the mother of student activist Siizwe Kondile who was murdered by former Vlakplaas commander Dirk Coetze, and his henchmen, could not hide her amazement at the lengths to which Coetze would go in trying to win her heart as he applied for amnesty.

“You heard him say what a wonderful person I was?” she exclaimed.

Coetze had earlier said he wished to be able to look Siizwe’s mother “in the eye” and ask for forgiveness.

It was not that long after that plea for forgiveness that the family lawyer, Imam Moosa, made it clear Charity wanted “to be known such an honour you do not deserve. If you are that remorseful you should stand trial.”

That summed up the mood of the families of Kondile and those of the slain human rights lawyer Griffiths Mxenge, and that of the crowd at the hearing, no amnesty for any of the three killers – Dirk Coetze, Almond Nofomela and David “Spyker” Tshikalanga.

The son of Griffiths Mxenge, Mbaa, who was 15 years old at the time, sat with his eyes glued on Tshikalanga as he listened to him describe how he stabbed his father in the chest, how the knife stuck, and how he jumped away when Mxenge pulled it out and attacked him as he desperately fought for his life.

The stabblings created 40 wounds on Mxenge’s body – they cut his stomach open and slit his throat so much that his head was almost cut off the body.

Painting his background, Coetze (51) said he grew up in a conservative Afrankan home in Pretoria and had no contact with “black Afrankers of my age.”

He said the gruesome crimes he later committed were due to his belief that he was fighting “to prevent an (ANC) onslaught from succeeding.”

As one of his recruits for the death squad he built up as Vlakplaas commander, he picked David Tshikalanga, a gardener at his house who had become “like one of the family.” He said that in killing Mxenge, he was only following instructions from his superiors, Brigadier Van der Hoven and Captain Andy Taylor.

He had been told it was difficult to build up a case against Mxenge, who had been defending ANC cadres in court and receiving funds from the then banned organisation.

He had to be eliminated because he was on the payroll to simulate a “black on black” robbery.

Mxenge’s killers, Joe Mamase, Nofomela and Tshikalanga, were each given a R1,000 bonus in “appreciation for the killing.”

People who were a thorn in the flesh of the police, such as activists whom the police could not bring to court, were to be eliminated,” he said.

After describing the details of Mxenge’s murder, Nofomela said he had realised he was fighting on the side of whites because the things they did were done “only to blacks.”

The 40-year-old Tshikalanga frequently pleaded failing memory in his account of the incident.

Reminded that in the Harms Commission he had denied taking part in the murder, he said he didn’t remember denying that.

It was pointed out to him by Judge Bernard Ngoepe that there were “too many ‘I don’t remember’”.

The amnesty committee also heard how Eastern Cape activist Siizwe Kondile was killed in 1981 after he suffered brain damage during interrogation and the security police did not want “a second Biko incident”.

“He was abducted and given ‘knock-out drops’ which resulted in his falling into a deep coma. A policeman shot him in the head with a Makarov pistol and his body was placed on a pyre of wood, doused with petrol and set alight.

“It takes seven hours for a body to burn, and during this time we were drinking and having a braai,” said Coetze.

Siizwe’s mother later said the story of her son’s murder had been published many times in newspapers but listening to his killers speak was different. “But I did not want to break down.”

The next phase of the hearings will be arguments by counsel of the applicants and the family and only after all the cases have been dealt with will the committee decide whether the murderers get amnesty or not. The decision is expected to be made early next year.

Swanieville massacre in the spotlight

STORIES OF human rights violations involving township residents, vigilante groups, police and security forces will be the focus of the Truth and Reconciliation Commission’s hearings at the Bona Lesedi Nursing College, Leratong Hospital, in Kagiso.

The hearings, from tomorrow to Thursday, will be chaired by Dr Fazel Randera, accompanied by Professor Piet Meiring and Joyce Serekwe.

Townships to be covered include Mohlakeng, Khutsong, Kagiso, Carletonville, Bekkersdal, Randfontein and Krugersdorp.

From the majority of cases in Khutsong, Carletonville, it seems that any kind of gathering that had to do with political protest, night vigils or mass funerals of police victims constituted grave danger for the people concerned during the darkest days of apartheid.

Stories of residents being assaulted, stabbed, harassed and some being killed by alleged comrades who had become undisciplined and unpopular in the township and were known as the “Gaddafis” abound in testimonies. This group was said to be an ally of the African National Congress.

Another group of vigilantes known as the “Zim Zims” is alleged to have been on the payroll of the South African Police. This group was notorious for abducting youths and other residents to dam known as Sgumini, where they were heavily assaulted, hacked with pangas and shot. Some survived the ordeal, others did not.

The massacre of people at the Swanieville squatter camp in Kagiso, near Krugersdorp, in 1991 will also come under the spotlight. A group of hostel dwellers, later to be Inkatha members, under police escort attacked the squatter camp and left a trail of destruction and death. The attack led to ongoing violence in the area where it was later alleged to be a fight among the Xhosa and the Zulu.
Black security cop says he would prefer jail sentence to amnesty bid

By Elias Maluleke

FORMER security branch policeman and Vlakplaas hit-squad operative Mamasela has refused to apply for amnesty and has challenged the Truth and Reconciliation Commission to go ahead with its threat to subpoena him. He also challenged the judiciary and the police to charge him, saying he was ready to go to jail, rather than seek a pardon.

He indicated he would co-operate with the commission if he was asked to come forward to testify about police hit-squads. The commission has indicated he will be subpoenaed after his name was mentioned by policemen seeking amnesty.

"I have nothing to hide because I am already co-operating with the attorney general in his investigation of police dirty tricks," the 46-year-old Mamasela said, asking for his picture not to be taken.

The only black "inner circle" member of the police and military hit squads, he served under all the commanders of the Vlakplaas base and the security branch headquarters in Pretoria from 1978 to 1993. He left the force with a golden handshake of more than R450,000.

Mamasela, who has confessed to taking part in the murder of Kwazulu Natal human rights lawyer Griffiths Mxenge, turned against the ANC after his cousin was allegedly tortured and burnt on a stake by the ANC in Botswana.

He was the first to expose how police bait:

● Abducted and killed the Pecco Three — Qaqawule Godolzani, Sipho Hlase and Champaon Galela — in 1985;
● Abducted and killed two ANC activists and Mamelodi businessmen Andrew Makope and Harold Sefofa in 1987;
● Tortured and killed police informer Jackson Malake in 1987;
● Murdered nine ANC youths in the former Kwaadbele homeland in 1988;
● Murdered Vlakplaas operative Brian Ngubu in 1990;
● Killed and maimed ANC youths in Duduzha by giving them booby-trapped land mines to attack the homes of councillors and policemen.

Mamasela told the Sunday Times on Friday that other activities included the murder of activists who were buried in shallow graves or dismembered in shafts. He had also been given insecticide-laced UDF and Cosas T-shirt to give to activists.

Mamasela, whose disclosures led to the conviction of Eugene de Kock, said applying for amnesty was out of the question. "I did nothing wrong that can force me to apply for amnesty, instead it was the ANC and the NP who used and abused me like a dog feeding on its puppies.

"I am not like Dirk Coetzee, the so-called 'angel' who killed to maintain the status quo of the apartheid government and redeemed himself when the chips were down by joining the ANC. I was forced to do the things I did," Mamasela said.

He said he was ready to go to prison if he was prosecuted for his deeds.

"I have nothing to lose because my life ended when I started living a life of lies," the ANC and the system have destroyed me and my family who did not know what I was doing," he said.

His former commander, Captain Jacques Hechter, and colleague Paul van Vuuren confirmed Mamasela knew more than he had so far exposed.

"Most of the operations could not have been successful without his involvement. Mamasela was a star and dedicated operative," Hechter said.
Chief Justice Michael Corbett brought dignity to the judiciary, writes CARMEL RICKARD

The closing chapter of a cautiously liberal rule

(222) ST 10/11/96

Judge Corbett's judicial record on free speech, much criticised by editors and academics, contrasts oddly with his views on the subject off the Bench.

"There were no hocustices in his court and he adopted a "refined", understated approach, very subdued.

In a conversation with Mr Justice Piet Nienaber of the Appeal Court, also published in Quest for Justice, Judge Corbett says he saw his first function as a presiding judge to "maintain the order and dignity of the court". He adds one has consciously to be aware of the need to curb oneself during debate with counsel, as "a talkative judge is a bit of a menace.

H E HAS been a strong leader and the Appeal Court Bench looks very different from when he first took office. Then there was an over-representation of judges from the Transvaal and Free State, many of them conservative adherents of the Roman Catholic Church, and interest in political and legal views within the whole legal establishment is far better reflected.

He also put an immediate stop to his predecessor's controversial practice of repeatedly selecting a small group of Appeal Court judges to hear the most contentious cases.

However, one notable omission has been the appointment of the Appeal Court during his time is Justice John Dafouz, now on the Constitutional Court, and formerly on the Natal Supreme Court.

The difference in the public profiles of Judge Corbett and his successor, Justice Mahomed, were reflected during two recent radio quizzes.

The first asked who was Michael Corbett? Was he the head singer of Mango Grove, the goal-keeper of Orlando Pirates, the deputy minister of transport, or the chief justice of South Africa? The first three got it wrong, the fourth got it right, but only through a process of elimination.

Last weekend the SABC's Africa Service asked its studio panel in London who Ismail Mahomed was. This time the correct answer took only a split second.

Those who put Mahomed as Ismail Dafouz said this contrast will displease neither judge
ANC, Tutu ‘resolve’ amnesty dispute

BY ROBERT BRAND

The ANC and the Truth and Reconciliation Commission have, on the face of it, resolved their differences, with the ANC undertaking yesterday to encourage its members to apply for amnesty “in appropriate cases”.

After a two-hour meeting between an ANC delegation and TRC chairman Desmond Tutu, ANC secretary-general Cheryl Carolus reiterated the organisation’s commitment to the TRC process and said the ANC was not above the law which established the commission. But Carolus remained vague about whether its members responsible for armed actions in the course of the struggle against apartheid would apply for amnesty.

The meeting followed a threat by Tutu to resign as chairman unless the ANC undertook to subject its members to the amnesty legislation.

The threat was sparked by the views of senior ANC leaders, including Mpumalanga Premier Mathews Phosa, that ANC members responsible for “acts of war” such as the Church Street bombing in Pretoria need not apply for amnesty.

After yesterday’s meeting, both Tutu and Carolus said “misconceptions” about the ANC position towards the TRC had been cleared up. But the ANC had not changed its position, Carolus said. “Nothing which the ANC has said was meant to unduly influence the work of the commission or to undermine it,” Carolus said.

“Nothing we said was meant to convey the impression that the ANC would grant itself amnesty,” Carolus said.

She said the party would encourage its members “in those categories of people who have to apply for amnesty” to do so. These would include ANC members in prison or liable for criminal prosecution as a result of deeds committed in the course of the armed struggle.

“Where it is agreed that there have been gross violations of human rights or transgressions as defined by the (TRC) legislation, we will apply for amnesty.”

She would not be drawn on specific incidents, saying the ANC would take a close look at the “legalities” involved before recommending to its members to apply for amnesty in “appropriate cases”.

Tutu said the meeting had served to “change the perception that the ANC were granting themselves amnesty.”

This perception, he said, would have undermined the integrity of the commission if it had gone unchallenged.

He said the parties had also agreed that moral differences between the armed struggle and the state’s response to it did not apply to the amnesty procedure.

Happy conclusion ... Cheryl Carolus and Archbishop Tutu share a light moment at yesterday’s meeting.
misunderstandings.

ANC, TRC Clear up
m Satisfied: Tun

JOHANNESBURG: The meeting yesterday between Arch
Truth Commission crisis averted in talks with ANC

I think we are satisfied, says Tutu

Johannesburg – Desmond Tutu says a crisis threatening the Truth and Reconciliation Commission has been averted after the African National Congress denied claiming the right to absolve itself of human rights abuses.

Archbishop Tutu, who threatened last week to quit as chairman of the commission, held nearly three hours of talks with ANC deputy secretary-general Cheryl Carolus and other ANC leaders yesterday to clear the air.

"The perception was that you (the ANC) were granting yourselves amnesty," Archbishop Tutu said afterwards at a joint news conference with Ms Carolus.

"We were very, very concerned about that. If it had gone unchallenged, it would have impugned the integrity of the commission and given the impression that it was being manipulated by the ANC," he said.

He had threatened to resign after several senior ANC members appeared to signal that the movement felt it had committed no abuses for which it should seek amnesty.

Ms Carolus told the news conference that the ANC believed that the anti-apartheid struggle had been a just war, but it accepted that some members needed to go through the legal process of seeking amnesty.

She said this had always been the party's position, but misinterpretations had arisen.

Archbishop Tutu said the meeting had eased the commission's fears "I think we are satisfied."

President Mandela gave the commission a mandate to form as full a picture as possible of abuses committed during the apartheid years.

Archbishop Tutu hopes this commission, which has heard harrowing testimony from victims of police torture and from some of the torturers, will help to heal the wounds of the past. - Reuters
ANC to seek amnesty for members

Stephanie Bothma

A NUMBER of ANC members would apply for amnesty for human rights violations, the organisation said yesterday shortly before meeting truth commission chairman Archbishop Desmond Tutu.

This follows a public row between Tutu and ANC legal department head Mathews Phosa, who said ANC members did not apply for amnesty because they had been fighting an evil regime. Tutu threatened to resign if the ANC endorsed this view, saying there would be no need for a truth commission if one side in the conflict absolved itself.

The ANC said yesterday that it accepted responsibility for actions committed during the struggle against apartheid, and had set up a subcommittee some time ago to assist members applying for amnesty. Many individual members had already applied for amnesty, the ANC said.

However, apartheid was a crime against humanity, the party said: "Neither the organisation as a liberation movement nor any of its members were ever involved in any crime against humanity. On the contrary, the ANC was involved in a just and heroic struggle. However, during the course of that struggle violations of human rights did occur, these must be acknowledged."

The organisation said that many of its members had paid the highest price for their participation in the struggle.

Those subjected to arrest and imprisonment by "apartheid courts" and who had served their sentences did not have to apply for amnesty.

People who had received immunity in terms of the Indemnity Act and Further Indemnity Act and those who had been pardoned also did not have to apply for amnesty.

Stephen Laufer reports that hundreds of late-minute applications to the truth commission's amnesty committee by former ministers, senior security force officers, and ANC and PAC guerrillas look set to prevent the body from completing its work on time.

The five-person committee will set for a maximum of 125 days next year, despite a case load expected to include more than 1,300 PAC and ANC applications, and dozens of complex amnesty requests from at least one former NP minister and scores of former senior police and defence force officers.

Single applications can require several days of hearings.

The committee, headed by Judge Hassan Mall, had decided to hear evidence for two weeks out of each month from December next year, commission co-chairman Mdu Lembede confirmed last week.

The rest of the time would be spent considering judgment on the applications, including those dealt with entirely in writing, and in preparing for hearings.

The committee's mandate ended with the rest of the commission's in December 1997, commission lawyer Robin Brink said.

Cases involving senior security

Amnesty

"Continued from Page 1"

...force officers could be expected to "last a considerable amount of time."

Van Heerden's view was confirmed last month when applications by five former security branch officers who served at Vlakplas and in the northern Transvaal had been adjourned to February after 10 days of hearings in Johannesburg.

During their testimony, the applicants sued several senior police and army officers, as well as former law and order ministers Adriaan Vlok and Louis van der Merwe.

Vlok has said that he intends to apply for amnesty in connection with the bombing of Robben House, as has former SAP commissioner Johan van der Merwe.

Lawyers acting in the area of amnesty have said several other generals and senior officers can be expected to seek for amnesty before the December 14 cut-off date laid down by law. Many of them fear that continuing investigations by the Transvaal attorney-general's office — successful in the prosecution of Eugene de Kock — could open them up to prosecution.

The amnesty backlog is being exacerbated by a huge number of applications from prisoners.

Of the almost 2,000 of these applications, several hundred had been decided administratively because the applicants could not show any political motive for their acts and were trying to use the truth commission as a court of appeal, Brink said. Each application had to be dealt with individually because the applicant could be entitled to amnesty.

A major source of inefficiency is understood to be the absence of a dedicated senior administrator at the Supreme Court registrar...
Pillay exception to Vlakplaas rule

Joe’s innocence was not enough to save him from a brutal death

I’m 100 percent sure the next instruction would have been to get rid of him

Made mistakes

They only let him live because Coetzee’s men made mistakes which positively linked Pillay’s disappearance to South Africa and his supporters raised an international outcry.

“If the askaris (turned ANC guerrillas) were not caught and Pillay was not known, I’m 100 percent sure the next instruction would have been to get rid of him. It was a point of no return,” said Coetzee.

But the outcry put the security police under pressure at a time when their strategy was to blame such disappearances – for example, Kondile’s abduction and death – on the African National Congress.

As a result, the security police, assisted by the Forensic Affairs Department, acted quickly to do damage control and decided to release Pillay in exchange for the release of their men imprisoned in Swaziland.

The four men captured by the Swazi police were known askaris, and were based at Vlakplaas.

Coetzee was Vlakplaas commander from 1980 to 1981 until he and his men in Swaziland to identify ANC targets for elimination.

Coetzee has applied to the TRC for amnesty for five murders and many other offences. He testified last week about Pillay’s abductions and the vicious murders of Mxenge and Kondile.

Coetzee said he was told about Pillay’s abduction when he was in Pretoria and claimed the askaris were acting outside their orders. He and they were an ill-disciplined group, drinking a lot and smoking dagga.

In response, amnesty committee chairman Judge Hassam Mall asked Coetzee if he had relied on information from ruffians to identify and kill people. Coetzee admitted he had, however, he defended the way Vlakplaas chose their targets.

The amnesty hearings have revealed the lack of control over Vlakplaas agents and senior security policemen, and the ease with which they could conduct deadly operations. Coetzee and others, like former Pretoria-based security policeman Jacques Hechter, had practically unlimited access to explosives and weapons. An explosives expert, Hechter would drive around town with a boot full of materials to make bombs.

Apart from standard police-issue weapons, security policemen would be given weapons commonly used by the liberation movements like AK-47s and Makarov pistols.

Coetzee even testified how he had access to a James-Bond style weapon, a gun disguised as a briefcase which South Africa received as a gift from an American. He said the gun would fire when the briefcase was held under the arm and the empty cartridges would be collected inside it.

Not only arms and ammunition but also poison and drugs were freely available to police agents to disable or kill their targets. The TRC has heard how poison was used to kill student activist Siphambo Mthembu and the way it was used to paralyse Kondile.

Coetzee described their smuggling methods in his accounts of Pillay’s abduction and Kondile’s murder. Mxenge’s killing was made to look like a veldt robbery, with hot water poured over the body to give the impression of a crime.

In Pillay’s case he was captured from Swaziland in February 1981 and taken to a secret underground military bunker near Pretoria, where he was severely assaulted and suffocated, much of the time while shackled.

“He kept denying involvement in the ANC and the (National security police) decided to hang an army doctor with a drip. This was a so-called truth serum which the doctor controlled,” Coetzee said, adding that, he did not give his interrogators any information following the political deal saving Pillay’s life, he was secretively swapped for the askaris.

Fought back

If he had not fought back when he was captured – causing Jeffrey Bonito to drop his South African passport – and if a colleague had not seen the askaris in Mzanze, Pillay would probably not be alive today.

But Kondile paid the full price of seeking justice, a life sentence in prison for murder.

On November 1981 near Komatspoort, Kondile was arrested by Port Elizabeth security police and viciously assaulted in detention.

The police, fearing he would die in detention – like Steve Biko – falsified his release near Bloomfontein and abduct ed him. He was poisoned on the banks of the Komatspoort River, shot in the head five times and burnt to ashes on a fire while his captors had a party.
Johannesburg – The Reparation and Rehabilitation Committee (RRC) of the Truth and Reconciliation Commission has announced that it will make a proposal to the Government on how to deal with victims of human rights violations who require urgent interim relief (UIR).

At a news conference yesterday RRC chairwoman Hlengiwe Mkhize said she would propose that a structure be established to collect the names from regional RRCs of candidates for interim reparation, and to assist the RRC to ratify its recommendations to the president if necessary.

The structure would also enable the TRC to directly refer urgent cases to a UIR Desk in the Office of the President. Ms Mkhize said UIR concerns the type of victims for whom the two-year period allocated to the RRC to submit its final proposal to government could be “fatal or irreversibly damaging.”

Examples of the types of victims eligible for UIR were those “whose emotional quality of life has been, and continues to be, severely affected as a result of the violation”, and orphans who had “inadequate material support to meet their immediate emotional needs”.

Urgent medical or material interventions would be considered for victims who were “terminally ill and/or frail and will not survive beyond the life of the TRC”, Ms Mkhize said.

In addition, educational assistance would be available for victims and victims’ dependants whose high school or tertiary studies had been interrupted as a result of the violation, and whose future prospects for education would be jeopardized unless the TRC urgently intervened. RRC member Mapula Ramashala said the committee had yet to cost its proposal for UIR. She said the RRC was limited to policy formulation, “but we will also recommend business plans.”
**PROBE INTO KILLING OF GUGULETU SEVEN**

**City cops subpoenaed**

by TRC 8/11/96 (252)

SPECIALIST: Director Leonard Knipe is one of the most powerful policemen in this province. He has headed the Peninsula Murder and Robbery Unit, playing a major role in solving tricky murder investigations and heading the task force established to solve the Station Strangler killings. He now heads the Violent Crimes Unit and is responsible for probing gang activities.

CONFLICT: Retired not-squad brigadier Dolf Odendaal was rechristened Major Conflict because he was often at the centre of townships conflict in the 80s. He grabbed the headlines when he took on Dr Allan Boesak and mourners at the funeral of ANC member Mr. Ashley Kneel in a tug-of-war over the ANC flag. He was injured by a grenade at a funeral in 1985.

THE KILLING of seven men outside a hostel in Guguletu in 1986 has led to nine policemen being summoned before the TRC.

**ROGER FRIEDMAN** reports.

Some of the best known names in the Western Cape Police, including ex-police minister, retired superintendent John Sterenberg and ex-detective and ex-squad leader Leonard Knipe have been subpoenaed to appear at a public hearing of the Truth and Reconciliation Commission.

Knipe and Sterenberg — and seven other policemen and former policemen, including former riot-squad leader Brigadier Dolf Odendaal — are to appear before the commission's Human Rights Violations Committee on 28 November 28 to give evidence and answer questions about the so-called Guguletu Seven massacre, in which seven young men died in March 1986.

Evidence led at Inquests into the killing of the seven outside a tavern hostel in Guguletu found that the police had acted in self-defence in line with their duty to combat terrorism.

Magistrate Mr G Hoffman, who made his initial findings on sworn affidavits only, was impressed by three witness accounts from hostel dwellers claiming that one of the seven was shot dead while trying to give himself up and another was "finished off" while lying wounded on the ground after being shot. He found there had been no act or omission which amounted to an offence.

The seven who lost their lives were:


Appearing as a witness before the commission in May, Miya's mother, Mrs Emelie Miya, said: "These Boers must be put here in front of the commission, so everyone can see them. They are with their families. They are happy. Our families are incomplete."

The nine Western Cape policemen are the first witnesses in the country to be subpoenaed to appear before the Human Rights Violations Committee.

**FAST TRACK: Senior Superintendent John Sterenberg has become a household name as he appears regularly on television to comment on crime. He worked at the Woodstock police station, with the anti-riot squad and with the video unit. He is a police diver and trained in hostage negotiations. He recently skipped several ranks from corporal when he was appointed as head of the provincial public relations department.**

PICTURE: BENNY GOOL.

**Cape Times**

Mar with hands-in-air shot — witness

7 die in battle with police

Jesus as police wash away blood

*From Page 2.*
City policemen subpoenaed

He was not involved in the shooting that day, but arrived at the scene 20 minutes later, he said. Among the things he could tell the commission was why he ordered that the blood be washed from the streets - after the police had finished video-taping and photographing the scene. He was already on record as saying he gave the order because dogs were lapping the blood. He would have been more than happy to appear before the commission had they asked, in fact, he said, he would have felt honoured.

"It just isn't surprising that I have not been afforded this opportunity to be interviewed by an investigator first," Knipe said, adding that some of the participants in the Guguletu Seven shooting had not been subpoenaed. Stellenberg was not in the country yesterday. Apparently his subpoena was served on his wife.

Acting chairperson of the commission, Mr Dumisa Ntshebez, said the Section 29 (of the Promotion of National Unity and Reconciliation Act) subpoenas, allowed for people to be questioned in camera or at a public hearing.

Ntshebez, who also heads the commission's investigative unit, said investigators were confident they had sufficient "valuable information" to close their inquiry.

The Guguletu Seven event hearing, at which the nine policemen, family members of the deceased, and other witnesses will appear, will represent the culmination of the investigation.

Commissioner Mr Denzel Potgieter, who is the convener of the Guguletu Seven hearing, said the subpoenas were issued to save time, as waiting people to give evidence was a waste of time if they failed to turn up and then had to be subpoenaed.

"All we have done is use the formal way of getting them to attend. We have to ensure we have them all here. We have to let them know we need to approach us and tell us they have nothing to say and we would be willing to discuss their testimony or lack of testimony," Potgieter said.

According to the commission, subpoenas have been issued to Stellenberg, Knipe, Odendal, Senior Superintendent John Johannes George Christoffel Klyn, Superintendent William Rudolf Liebenberg, Inspector K Botha, Inspector A Grobbelaar and Inspector Bertram Cowalski.
Men out-put in 1986 won being TRC ports.

CHRIS BATEMAN tells how the former government pursued Cape Times after its reports:

- We report eyewitness accounts of Guguletu car-bombs.
- Police inquest: Guguletu car-bombs.
- Police murder: Guguletu car-bombs.
- Police murder: Guguletu car-bombs.
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HEALTH workers, particularly nurses, doctors and psychologists, will soon know whether a special truth and reconciliation structure is to be established to probe human rights abuses in the medical profession.

The Truth and Reconciliation Commission announced yesterday it would be holding a consultative workshop on November 23, at which it was hoped consensus could be reached on how the health care sector should examine the role it played, or failed to play, in the human rights abuses of the past.

The workshop will be convened by TRC commissioner Dr Wendy Orr, deputy chairperson of the Commission's Reparations and Rehabilitation Committee.

A successful outcome would assist the TRC in making recommendations on institutional, educational and other measures which could be implemented to prevent human rights violations. — Health Writer
Nine Western Cape policemen and former policemen have been served subpoenas to testify at a special Truth and Reconciliation Commission hearing.

They include the region's chief police liaison officer, John Sterrenberg, the head of the violent crimes unit, Leonard Krupe, and Mitchell's Plain station commander John Kieyn.

They will be required to give evidence at a public hearing on the role they played in the death of seven suspected African National Congress members who were shot by police on March 3, 1986 in Guguletu.

The seven were Zandaile Zenith Myofo, Zola Alfred Swelani, Manilla Simon Mxmbwa, Godfrey Jabulani Miya, Themba Mhifi, Zabonke John Konile and Christopher Pest.

Two inquiries cleared the police of blame and they were also absolved during the trial of journalist Tony Weaver, who was charged under the Police Act after the event.

The hearing into the events surrounding the death of the Guguletu Seven will take up the last two days of the three-day hearings on human rights violations in the Peninsula to be held in the Truth Commission offices from November 26.

The other policemen subpoenaed are William Rudolf Liebenberg, retired riot squad colonel Cornelius "Dolf" Odendal and inspectors K Botha, A Grobbelaar, L Coetzee and Bertram Oswald Mogge.

The nine men are due to testify on November 28.

See page 6
Cabinet may look at date changes

Police men subpoenaed over Guilden shooting

[Text is unclear due to image quality]
AGASSI COMMISSION

Blast in mine
Fatal grenade
Survivor tells of

TRC to look into amnesty
claim
Minister to face truth commission probe

Wyndham Hartley

CAPE TOWN — The truth commission would investigate allegations that Correctional Services Minister Sopo Mzimela had abused his ministerial powers to coerce IFP-aligned prisoners not to apply for amnesty, acting commission chairman Dumus Ntsebeza said yesterday.

However, Mzimela’s spokesman, Bert Slabbert, said the minister would take legal advice after he had studied reports and broadcasts which carried the allegations.

Slabbert said the minister had said in a Durban weekly newspaper claiming that he and IFP secretary-general Zola Nombela visited IFP-supporting convicts at Westville prison to persuade them not to apply for amnesty was absolutely untrue.

ANC correctional services spokesman and ambassador designate to Holland Carl Niehaus said on the strength of the report he had written to the truth commission on Monday, asking it to investigate.

Ntsebeza, who also heads the commission’s investigation unit, said the allegations would “be investigated by my unit as a top priority.”

Regardless of any request for an investigation it was obvious that the commission would be expected to establish whether the allegations were true, he said.
Violence victims ‘must now look to civil courts’

Farouk Chothia 30 November 1996

DURBAN — THE KwaZulu-Natal attorney-general’s office had declined to prosecute in a third hit squad-related case, deepening tensions between the office and the investigation task unit.

Attorney-general Tim McNally confirmed yesterday that his office had declined to prosecute KwaZulu-Natal legislature secretary Robert Mzimela, former KwaZulu Police commissioner Lt-Gen Roy Durning and former KwaZulu chief minister’s department secretary Stan Armstrong on charges of defeating the ends of justice and/or possession of illegal arms.

Task unit civilian board chairman Howard Varney said in reaction there was now little prospect of organised political violence being “stopped through the administration of justice”.

Victims would have to proceed with civil cases, he said.

McNally recently failed to secure a successful prosecution against former Defence Minister Magnus Malan. He thereafter declined to prosecute KwaZulu-Natal social welfare MEC Gideon Zulu and former KwaZulu deputy police commissioner Sipho Mathe, who were alleged to be involved in hit squad activities.

Varney said the unit had wanted Mzimela, Durning and Armstrong prosecuted in connection with the discovery of illegal arms — consisting of a light machine gun, a spare barrel and ammunition — in the KwaZulu legislature assembly building in September 1993, when violence was escalating.

Varney said Durning had admitted to the unit that he ordered an investigation into the discovery of the cache but stopped it on the instructions of Armstrong, whom he regarded as his superior.

Durning claimed that Armstrong informed him that the cache was under the “control” of Mzimela. During then asked the investigating officer to hand over the weapons to Armstrong, according to Varney.

Varney said the unit suspected that the machine gun was among weapons former Vlakplaas commander Eugene de Kock had supplied to IFP functionaries, and it might have been used in the KwaZulu-Natal conflict.

He said the unit believed that Durning should be prosecuted because his decision to heed Armstrong’s instruction was unlawful and disgraceful. No one, including the president, had the authority to stop a bona fide investigation.

McNally said there was no evidence to prove Durning had obstructed the course of justice. He had set in motion an investigation, and his explanation “must be accepted.”

No link had been established that Mzimela used the light machine gun for alleged hit squad activity, McNally said.

Sapa reports McNally also said the murder trial of former Vlakplaas commander Dirk Coetzee and four others would be postponed to April 15 next year to allow for a ruling on amnesty.
 Charge Sexwale, Du Preez, urges lawyer

Cape Town - A lawyer for the families of Clive Derby-Lewis and Janusz Walus - convicted for the assassination of Chris Hani - has asked the Truth and Reconciliation Commission to press criminal charges against Gauteng Premier Tokyo Sexwale and television producer Max du Preez for remarks they made about the granting of amnesty to the two men.

The families argue that the remarks were calculated to influence the TRC's ruling on the two men's amnesty applications.

In a letter faxed to the commission's Cape Town offices yesterday, attorney Jan Lubbe quoted Du Preez saying it would not be in the interests of reconciliation if the two prisoners were granted amnesty. Lubbe said Du Preez had repeated these comments during a televised debate involving commission chairman Archbishop Desmond Tutu on November 5.

It is an offence to improperly influence the commission.

If the TRC accedes to the families' requests for legal redress, Sexwale and Du Preez could be fined or jailed for up to two years if convicted - Sapa.
‘Courts aren’t for us’
— black prosecutors

By ROCKY MOFOENA

MANY black prosecutors are joining the private sector because of alleged racial discrimination in Gauteng’s magistrates’ courts.

The prosecutors allege that whites are being given priority when it came to filling senior positions.

However, the senior prosecutor for Johannesburg, Adv Brink Ferreira, has told City Press that the allegations “were completely unfounded.”

Black prosecutors also said that they were “never given fraud cases to handle.”

They also complained of always being dumped in maintenance and traffic courts, which “denied them a chance to gain wider experience.”

“I have been working in the maintenance court for four years, and whenever I apply for an alternative post I am told there isn’t one.”

“But the whites I started out with are now at regional level, although I have better qualifications than them,” said one black prosecutor.

The black prosecutors allege that whites are also given the option to choose where they want to work, while blacks are not offered a similar choice.

These claims are included in a memorandum which has been sent to Justice Minister Dullah Omar, and was leaked to City Press this week.

It is claimed that black prosecutors are encouraged to apply for posts in the townships “to work with their communities.”

They also allege that new employees are forced to join the Prosecutors’ Staff Association (PSA).

Similar complaints were made by black prosecutors at Benoni, Kempton Park and Pretoria magistrates’ courts.

Ferreira said his office had not received official complaints and said it was committed to non-racialism and non-sexism — as outlined in the Constitution.

He said “good performance was the sole criterion for promotion.”
Bill meets need to change prosecutions – Omar

Pretoria – Justice Minister Dullah Omar has asked for comment on the controversial National Prosecuting Authority Bill 1997, which he hopes to introduce in parliament next year.

The bill, if passed, will have a significant bearing on police investigations, as well as prosecutions in the courts.

"Concerns have been voiced about the need to transform South Africa's prosecution services, especially in the light of some recent criminal trials," Mr Omar said.

He said the bill provided for a single national prosecuting authority under the control of a national director of public prosecutions, the appointment of a director of public prosecutions for each provincial division of the High Court (Supreme Court) and the appointment of deputy-directors of public prosecutions.

"The president would appoint the national director and directors of public prosecutions, while the Minister of Justice would appoint all deputy-directors.

Mr Omar said the national director must, with the Minister of Justice, determine a prosecution policy that would be followed throughout the country.

"The directors may give written directions to the national or provincial commissioners of police or to any other person investigating or prosecuting a criminal matter." – Sapa
Focus on rights of disabled

AN international legal conference on the rights of the disabled — especially children — is to be held at Parliament and hosted by the Community Law Centre and University of the Western Cape. Spokeswoman Ms Susan de Villiers said the conference, to be held today and tomorrow is the first of its kind in South Africa and would be a forum for discussion of legal and other measures necessary to ensure that the requirements of the constitution, in terms of the disabled, were met. De Villiers said the conference coincided with the drafting of policy, by the Deputy President's office, on this issue. Speakers are to include experts on disabilities and issues affecting disabled children.
Former police chief testifies before TRC

'I will give the whole truth'

JOHN YELD ON THE TRUTH COMMISSION

Former police commissioner Johann Coetsee promised to answer truthfully any questions put to him by the Truth Commission during a closed inquiry at the commission's Cape Town offices.

General Coetsee, who testified yesterday, was the fifth former top policeman to appear before the commission in response to subpoenas issued in terms of Section 29 of its founding Act. In recent weeks General Coetsee has been implicated by former security policemen in gross human rights violations.

Former security police head and later police commissioner Johan van der Merwe alleged General Coetsee had approved an operation to booby-trap handgrenades which resulted in the deaths and mutilation of several African National Congress guerrillas in Gauteng in the mid-1980s.

In a two-sentence statement to journalists during a brief photo session at the lunch break yesterday, General Coetsee said he had given evidence in court throughout his professional career as a policeman.

"I've never been accused of lying and I intend giving the whole truth to this commission," he said.

"This is what they expect of me and what they will get from me."

The inquiry was conducted by Dumisa Ntsebeza, head of the commission's investigative unit, and Mary Burton. They were assisted by several staff members, including the national director of the investigative unit, Glenn Goosen.

Two more policemen, Willem Schoon, a brigadier, and Nico van Rensburg, a general, have been subpoenaed to appear today and tomorrow to answer questions.
General’s evidence on massacre ‘callous, cold’

EAST LONDON: Retired Ciskei police commissioner General Johan Viktor was described as “callous and cold” by members of a Truth and Reconciliation Commission panel hearing evidence on the 1992 Bisho massacre yesterday.

In a series of tense exchanges between Viktor and the commissioners, the policeman was sharply criticised for his testimony on the role of the Ciskei police on September 7, 1992, the day 28 ANC marchers were shot dead by Ciskei troops near Bisho stadium.

Viktor, a police veteran of nearly 45 years, is better known as the man who in 1979 turned Vikopolis farm outside Pretoria into a training base for askari — turned umkhonto weSizwe cadres.

He told the commission he had decided to set up the base for MK guerrillas who had lost interest in the struggle, so that he could make use of their knowledge of training camps and the whereabouts of other guerrillas.

His involvement in Vikopolis was repeatedly raised by commissioners as they subjected him to lengthy and aggressive questioning on the Bisho massacre.

During a particularly tense exchange with commissioner Ms Pumla Gobodo-Madikizela, he told her: “I am not a racist, I am as black as you are.”

Gobodo-Madikizela replied: “I find your patronising attitude a bit irritating.”

Commissioner Dr Mapule Ramashala invited Viktor to send a public message to the victims of the massacre.

Viktor said his message would be: “Once you choose your leaders see that they act responsibly.”

He was referring to the ANC march that immediately preceded the massacre and the decision taken by march leaders to charge through a hole in the security cordon, after which troops on the other side opened fire.

“I find your patronising attitude a bit irritating.”

— Commissioner
Ms Pumla Gobodo-Madikizela

Commissioner Mr Bongani Finca said Viktor’s statement was one of the most outrageous he had heard on the commission.

This was echoed by Ramashala, who said Viktor’s reply was disconcerting and showed no compassion for the massacre victims.

Gobodo-Madikizela said his testimony demonstrated callousness and coldness and “shows the type of people the South African government chose to head important departments.”

Viktor told the commission he had been seconded to Ciskei as police commissioner after being brought out of retirement by then South African police commissioner General Johan van der Merwe.

His job in the former homeland had been to enforce existing laws, not to oppress Ciskeians, he said.

“Party politics was beneath my dignity. I was a professional policeman.”

Ciskei police arrangements for the September 7 march had been left to two subordinates, Superintendent Raymond Simms, then head of the Riot Unit, and Brigadier Vusile Ngoabo, then deputy head of the Ciskei police, he said.

Ngoabo and Simms had been in overall command of the 70 policemen deployed as the first line of defence against the marchers.

Viktor said he was on the scene only to lend moral support to his men.

All shots fired that day had come from Ciskei Defence Force soldiers. Not a single shot had been fired by his men, he said.

“I am satisfied that my men did their duty that day. I am not running away from responsibility. I will take what is coming to me.”

Commissioner Denzil Potgieter said a CDF internal inquiry into the shootings had found that the police had not been properly deployed to act against the marchers.

Viktor disagreed, saying: “Whatever my CDF colleagues may say now, we were up front where we were expecting the problems.”

He said he felt sorry for the many innocent people who died in the massacre but blamed the march leaders for not adhering to the conditions laid down for the march by a Zweltsha magistrate.
Amnesty queue grows

Concern that prosecuting perpetrators of human rights abuses would adversely affect amnesty applications at the TRC has proved unfounded. If anything, the reverse has happened. Claire Keeton explains...

Phillip Mazuzu, the only survivor of a police trap in KwaThema, wants to see justice done.

PIC VELI NHLAPO

The Amnesty Committee of the Truth and Reconciliation Commission (TRC) is gaining momentum towards the end of its first year, with applications flooding the offices ahead of the cut-off date for applications on December 14.

Perpetrators, particularly those under threat of prosecution, are not waiting until next year to see if the Cabinet supports the TRC's recommendation to extend the cut-off date for applications to March 1997.

Nor are they holding back their applications to see if the Cabinet will extend the period for which amnesty may be granted from December 1993 to May 1994.

Instead, many of those responsible for torture and murder are coming forward before it is too late. Former security policemen are under pressure of exposure at the TRC by their former colleagues and from the offices of the attorneys general (AGs).

At the same time, the shocking details of abuse revealed by applicants in public hearings is stirring up opposition to amnesty for these killers.

"I have a complaint against all the men who gave us booby-trapped handgrenades. I want to see them jailed," said Phillip Mazuzu, the only survivor of a police trap in KwaThema which killed many of his friends on June 25 1985.

Mazuzu said he felt "very bitter and powerless" when he watched the former security policemen responsible for his friends' deaths testify before the TRC in Johannesburg recently.

"I don't think they are genuinely sorry. I think they are dangerous and they are still hiding things," he said. "It's not fair. They are only made to tell the truth and not tortured like I was."

Electric shocks

A 20-year-old high school student at the time, Mazuzu was detained for about 20 months and then charged with 24 counts of public violence. He was convicted on one charge of arson and served four years in prison.

Now Mazuzu, whose hearing was damaged by electric shocks and who has shrapnel in his arm from the grenade explosion, wants to see justice done.

In fact, the courts have not been slow to act while the TRC has been sitting, and two groups of former police officers have been charged with murder by the Transvaal and Natal AGs (Jan D'Oliveira and Tim McNally).

A widespread concern that these prosecutions would deter perpetrators from applying for amnesty has proved unfounded. On the contrary, some 100 of these applications are being pursued by the TRC.

"This has contributed to the kind of application we have received recently," said commission lawyer Denzil Potgieter.

Potgieter cautioned, there has "not been the same movement on the side of the military" as from the ranks of the old South African police.

The head of the TRC's investigative unit, Commissioner Dumisa Ntsebeza, said they need time to investigate the contents of applications before the amnesty committee makes its findings.

The process of serving Section 29 subpoenas on those implicated in human rights abuse is already up and running, with the TRC having recently summoned several high-ranking former policemen.

Following the initiative of the national office, regional offices have followed suit, with Cape Town sending out subpoenas practically every day.

Potgieter said the process seemed to be "working well" but he could not expand on this since the subpoenas formed part of ongoing investigations.

Ntsebeza issued a stern warning to applicants to make a full disclosure and not be opportunistic by limiting their applications to known offences and waiting to see what comes out of the hearings.

"People who come to us to apply for amnesty by way of testing the waters only do themselves a great disservice. They must make sure they hand in a full disclosure without tailoring the evidence to suit their own ends or it will jeopardise their application," said Ntsebeza.

They have one opportunity, and one opportunity only, to apply for amnesty.

He said that there was close cooperation between the TRC and the offices of the AGs, and that they would "not allow our offices to be unscrupulously manipulated."

Commissioner Fazel Randera said: "It appeared as if the alleged perpetrators were playing the commission offices off against the offices of the AGs, particularly their Pretoria office."

He said the TRC set up "nodal points" between themselves, the AGs and various state departments such as the police and defence. Despite this, Randera said, "at some points the TRC process will result in clashes between ourselves and the AGs."

One aim in mind

Ntsebeza said the TRC and AGs had "one aim in mind, to expose the truth." "We have to link truth to reconciliation and obviously they have to link truth to criminal justice," he said.

He said it would be impossible to prosecute all perpetrators, and the amnesty agreement was one part of the price negotiated paid for peace in South Africa.

But even the AGs have to compromise justice by using and protecting state witnesses in their trials who may be guilty of horrifying crimes, for example former Vlakplaas agent Joe Machoela.

Ntsebeza said: "I'm not insensitive to the plaintive cries of victims. But the commission is a creature of statute and our hands are tied by our mandate and the four corners of the law."
Survivors tell truth about 'war' in
KwaZulu
Senior NP leaders lashed by truth body

EAST LONDON - Senior NP leaders, including Rosel Meyer and Hermus Kriel, came in for withering criticism from the truth commission at its second Bisho massacre hearing yesterday.

Also at the hearing, Ciskei's former head of visible policing Brig Vuulis Ngobo said Ciskei Defence Force troops who opened fire on marchers had been deployed in contravention of an agreement putting the police in charge of crowd control.

Ciskei soldiers trying to prevent ANC demonstrators from making for central Bisho on September 7, 1993, killed 29 and wounded 200. Meyer said the Goldstone commission had attributed liability by noting the CDP's failure to close a gap in the Bishop stadium fence and its recommendation that Deputy Defence Minister Ronnie Kasrils be censured for his role in leading demonstrators through the fence.

Meyer said the NP submission was designed to set the record straight after ANC secretary-general Cyril Ramaphosa had blamed the NP government for the massacre at the previous truth commission hearing on the matter. The party had not been called last time but had asked to make its submission yesterday.

There had been no need for the Bisho march as the Codesa agreement on homeland reincorporation had remained intact despite the collapse of the constitutional talks at the time of the massacre. All sides had known that it was only a matter of time before Ciskei was reincorporated into SA, Kriel said.

Kriel was in the NP delegation because he had been SA law and order minister at the time and was in Bisho on the day of the massacre. Other delegation member, Senator Ray Radue, had been the King William's Town MP at the time and had also been in the SA Bishop embassy's operations room during the massacre.

Commenting on the NP's submission, truth commissioner Bongani Finca said he had "expected more". Meyer had said "not an iota of responsibility accrued to the NP government" although many regional leaders, including Grahamstown Anglican Bishop

Continued on Page 2

Truth body

Continued from Page 1

David Russell, had asked the SA government at the time not to support the dictatorship of Brng Oupa Gqozo.

Finca said he was concerned about "how reconciliation can be achieved if the country continues to hear the same denials, to experience the same selective choosing of facts, the same propaganda we got under apartheid."

Commissioner Mapule Rampahla indicated there was discontent at the imbalance between generous severance packages paid to public servants, including police officers, and the little money available to compensate victims. Meyer said he was grateful for the issue had been raised. He said he would ensure that the NP's response formed part of the further party submission to the commission due early next year.

Kriel said he had spent the day of the massacre engaged in "a sort of shuttle diplomacy" in an attempt to prevent bloodshed.

He had been joined by his deputy, Gert Myburgh and deputy SA defence minister Wynand Breytenbach in the Bisho embassy.

He had not known the Ciskei police commissioner had seconded Lt Col Jan Viktor, Kriel said. When commissioner Denzel Potgieter read a press statement signed by Kriel in which he had announced Viktor's appointment, Kriel said: "There were many Viktoras in the police — it was a common name like Van der Merwe."

Now a farmer in the Free State, Viktor told the commission he had ceded operational control on the day of the massacre to Ngobo.

Asked what he had to say to the victims, Viktor said they "should choose their leaders more carefully". SABC TV reported that Viktor told the commission he did not have "any compassion" for the victims.

"Your demonstration of coldness, callousness, and insensitivity shows the kind of leaders SA chose for its departments and homelands," commissioner Pumla Gobodo-Madikizela told Viktor. After his testimony, Viktor refused to comment on whether he would apply for amnesty for his role as founding commander of the SAP's Vlakplaas killer unit, and in connection with human rights violations to which other amnesty applicants had linked him. "This is the day and that is another day," he said.
Special constables ‘helped Inkatha’

Pietermaritzburg – Two former special constables who served with Riot Unit 8 here said they took part in attacks on United Democratic Front supporters during a “Seven Day War” which ravaged the Edendale Valley in March 1990.

Elandskop Inkatha Freedom Party leader and now a member of the provincial council, David Ntombela, was also said to have had a major part in the events, the Truth and Reconciliation Commission hearing was told.

The two constables, Nkosikho Shabangu and Philemon Madlala, who are serving a jail sentence for murder of an alleged African National Congress supporter, told of other incidents of killing and destruction by special constables aiding Inkatha.

Mr Madlala said he could identify Riot Unit members to whom he referred because they were seated in the hall. Mr Madlala said special constables were instructed to launch “counter-attacks” with Inkatha against the UDF (the underground wing of the ANC during apartheid) and to shoot UDF members dead.

Mr Shabangu said that during the “Seven Day War” period he drove 25 special constables from Elandskop to KwaShange. On the way they met Mr Ntombela, who ordered the special constables to alight. He drove the van further. In KwaShange he heard gunshots. Special constables were looting homes. The stolen property was loaded on to the Isuzu he was driving and was later taken to Mr Ntombela’s house, as they stole cattle.

When the Riot Unit arrived in the area, Mr Ntombela told them “not to interfere.”

Truth sitting disrupted as crowd demands entry

Maritzburg – A large crowd demanding access to the Truth and Reconciliation Commission hearings in the city hall here today caused a brief adjournment of the proceedings.

About 300 people demanding entry to the packed city hall protested noisily. Officials said they would try to set up speakers outside the hall.

During the hearing, Inkatha Freedom Party Midlands leader, David Ntombela is to give Inkatha’s version of the events which led to the so-called seven-day war in the Midlands in 1990. At least 80 people died and thousands were displaced in the conflict between Inkatha and members of the United Democratic Front.

Senior policemen are also expected to testify.

In Pretoria, influential Afrikaner leaders, including Conservative Party chief Ferdi Hartzenberg, have formed a committee to help Afrikaners who want to apply for amnesty to the commission.

The Committee for Amnesty for Afrikaners was established earlier this month by leaders of cultural organisations, political parties, agricultural organisations and conservative trade unions.

IFP to tell TRC tale of ‘seven-day war’

Pietermaritzburg – The controversial Inkatha Freedom Party leader in the KwaZulu-Natal Midlands, David Ntombela, is scheduled to testify before the Truth Commission here today.

Mr Ntombela is among several witnesses called to give evidence on the March 1990 “seven-day war” in the Midlands, in which at least 80 died and thousands were displaced.

Mr Ntombela will be the first IFP official to present Inkatha’s version of events, which led to one of the bloodiest battles in KwaZulu-Natal’s recent history. Police director Daan Meyer, who was a colonel with the police riot unit here at the time, will also testify today. – Sapa
Afrikaners form body for amnesty applicants

BY ROBERT BRAND

A group of influential Afrikaner leaders, including Conservative Party chief Dr Ferdi Hartzenberg, have formed a committee to assist Afrikaners who want to apply for amnesty from the Truth and Reconciliation Commission.

The Committee for Amnesty for Afrikaners was established at a secret meeting earlier this month attended by leaders of cultural organisations, political parties, agricultural organisations and conservative trade unions.

The meeting was attended by, among others, Hartzenberg, former police commissioners Johan van der Merwe and Mike Geldenhuys, Freedom Front leader Constand Viljoen, Iron and Steel Union chief Len van Niekerk, Dr Theo de Jager of the Foundation for Equality before the Law, and Blokkes de Beer of the Vereniging van Oranjewerkers.

The committee intends to provide financial and legal assistance for Afrikaners who want to apply for amnesty and is seeking a meeting with President Mandela to request a postponement of the cut-off date for amnesty from December 6 1993 to May 10 1994.

TRC deputy chairman Dr Alex Boranie welcomed the move yesterday.

"I applaud the decision of a group of people ready and willing to assist Afrikaners in applying for amnesty. I would hope very much that this decision will not be confined to only one group, but that other constituencies will follow suit," he said.

The commission has consistently maintained that if it is to succeed in its mandate, it is absolutely necessary not only for victims/survivors to come before the commission, but for perpetrators as well," he said.

The CP has thus far opposed the commission. In a statement yesterday, Hartzenberg called for the TRC to be disbanded, saying its credibility had been destroyed.

CP spokesman Pieter Aucamp told The Star last night it was still party policy that a blanket amnesty should be extended to all political offenders, but individual members who wanted to apply for amnesty would have the party's support.

De Jager said "many" people - including former national servicemen and policemen - had approached the foundation for advice on the amnesty procedure.

"It is clear that there is a lot of uncertainty and confusion about the commission and amnesty.

"We will give them advice and legal assistance and we will also co-ordinate the process," he said.

De Jager, Van der Merwe, De Beer and Viljoen were appointed to the committee.

De Jager said the meeting had wanted Hartzenberg to serve on the committee, but he had declined although it had his full support.

The committee can be contacted at the offices of the Foundation for Equality before the Law, telephone (012) 344-0727.
Gozo pleads for forgiveness as truth commission begins
COMMISSIONERS ‘NOT IMPARTIAL’

IFP supporters refuse to testify before TRC

MARITZBURG: IFP supporters implicated in the Seven Day War refused to testify before the TRC here, saying its members were not impartial.

A POTENTIAL clash between IFP and ANC supporters was averted yesterday after IFP leader and MPL Mr David Ntombela refused to testify at the TRC hearing here.

Hundreds of people flocked to the city hall to hear testimony by the IFP leader who has been repeatedly implicated in the brutal “Seven Day War” which ravaged the Bekende Valley in March 1990.

Earlier, a security official had sprayed teargas at an impatient crowd that had tried to force its way into the already packed hall.

Police lined the hallway as Ntombela and his attorney, Mr Petrus Coetzee, took the stand.

The commissioners asked the jeering crowd to quieten down and allow the attorney to read a statement on behalf of Ntombela and another IFP stalwart implicated in the events, Mr Phillip Zondi.

In their statement, Ntombela and Zondi said they felt they would not receive a “fair hearing” before the TRC as constituted. They asked for the commissioners to be relieved of their positions.

The statement referred to an article quoting TRC media spokesman, Mr Mdsi Lembele, apparently referring to Ntombela as a “well known warlord.”

It said that one of the commissioners, Mr Ilan Lax, was an ANC member during the Seven Day War and was “a political opponent of (Ntombela) and the IFP.”

When Ntombela left the stage, hundreds of supporters streamed out of the city hall and raced to the parliament building.

ANC supporters thronged around the building and it was rumoured that the IFP would rally reinforcements if Ntombela were not allowed to leave. The crowd dispersed after being addressed by ANC MPL, Mr Sifiso Nkabinde.

Earlier, a former Maritzburg Riot Squad member, Wilhan Nsik, told the TRC he had assaulted an 18-year-old, presumably because he beat two ANC supporters.

The DCU had opened a case with the IFP, sold them guns and allowed the IFP to approve of special constables before they were employed.

Harrington was unable to say if senior officers had sanctioned their actions, but said they were not recommended.

Director Iste Meyer, who looked over command of the DRCU, denied that police had only acted against the UDF — Own Correspondent.
Face to Face...
Talks continue as truckers stand firm on demands

IFP leaderModled at hearing
to apologize for

I have nothing
Seeking the truth ... former state president P W Botha and TRC chairman Archbishop Desmond Tutu after their meeting in George, during which Botha said he was not guilty of any offence for which he should either apologise or seek amnesty.
Apartheid-era state president PW Botha has indicated a willingness to assist the Truth and Reconciliation Commission in its continuing probe into human-rights abuses, but said yesterday that he had nothing to apologize for and would not seek amnesty.

In two hours of talks with TRC chairman Archbishop Desmond Tutu, Botha denied ordering the 1988 bombing of Khotso House, then headquarters of the SA Council of Churches.

He said allegations by the then national police commissioner, Johan van der Merwe, implicating him in the attack were untested and unsubstantiated hearsay.

"I am, in any event, advised that the damage to property caused by the Khotso House incident does not constitute a gross violation of human rights and consequently falls outside the scope of the jurisdiction of the commission."

Botha said he was not guilty of any offence for which he should either apologize or seek amnesty.

"I therefore have no intention of doing this. I have nothing to hide."

As a Christian and an Afrikaaner, he could not, and never had, associated himself with "blatant murder," he said.

The talks were held at the home of Botha's eldest daughter, Elana Maritz, in George.

Tutu asked for the one-to-one meeting with testimony by former senior policemen, in court and before the commission, that Botha had ordered a string of political atrocities during his presidency in the 1980s.

Tutu said later that Botha had received him with warmth and friendliness and treated him to rooibos tea and sausage rolls in the "voorhuis" (parlour).

He described the meeting as a breakthrough, saying it signalled a softening in Botha's stance on the commission.

In a statement presented to Tutu, Botha said he was willing to co-operate with the commission and suggested the body compile a comprehensive list of matters on which it needed his comments.

Former police chief Johan van der Merwe has told the commission that Botha had authorized the Khotso House bombing. Van der Merwe said he believed Botha might also have been behind the murder of several anti-apartheid activists killed by booby-trapped grenades.

Tutu said the commission's investigative unit and research department should be asked to draw up a list of questions for submission to Botha. "We will be assessing the responses we will be getting from him that will determine which way we go," he said.

He defended the commission's "softly-softly" approach to the former state president, saying the body was obliged to follow the route which had the greatest potential for providing the truth.

During the meeting, Botha said he was willing to do all in his power to persuade former cabinet colleagues to co-operate with the commission.

However, he warned Tutu not to limit the commission's investigations to the actions of "functionaries of the previous government, but to also probe the gross violations of human rights committed by ANC members.

"The activities of the commission should also not be permitted to develop into a persecution," he said.

Botha added that, as head of a legally elected and internationally recognized government, he accepted full political responsibility for his government's policies as well as the reforms it had introduced.

But he could not be expected to take responsibility for those individuals who had exceeded the limits of their authority during the apartheid conflict.

"I stand, however, without any qualification behind all the thousands of members of the security forces who, in the lawful execution of their duties, bravely fought the revolutionary onslaught of Soviet imperialism," he said.

He asked for the south-western expansion of the December 14 line for amnesty applications.

Reverse campaign
Truth commission tacks on education

Colleen Lowe Morna

A storm of protest by right-wing parties, the Truth and Reconciliation Commission (TRC) will hold its first hearings on socio-economic rights violations under apartheid next week.

Praising the decision by the TRC sub-committee on human rights to hold hearings on the past denial of universal education on November 25, former National Literacy Co-operation (NLC) director Kumi Ndoo said this would mark the first investigation by the TRC into systematic, as opposed to individual, human rights abuses.

In its letter to TRC chair Desmond Tutu requesting the hearings, the NLC stated that “justifiably, up to now, the TRC needed to focus on the physical abuses and atrocities of the past. We now write to you to make an appeal for the TRC to examine the systematic under-development of the human potential of our nation.”

In a sharp response to a letter sent out to all political parties, ministers and provincial premiers by the NLC, the National Party’s education representative, Remer Schumann, accused the NLC of “playing political games”.

Freedom Front leader General Conrad Viljoen said he was “astonished” that the NLC “put so much hatred into one letter supposed to canvass support for this national goal”.

He questioned if, in the presentation before the TRC, the NLC would also “ask the truth about misuse of education for revolutionary purposes? Do you remember the cry revolution before education?”

In a 19-page response to the NLC’s letter, the Herstigte Nasionale Party said it “demanded that under the Verwoerd government there was a gross and planned violation of educational rights”.

But in a strongly worded letter of support for the initiative, Minister of Public Works Jeff Radebe said his “personal history of the Bantu education system in Kwa Maskwana all those years back indicated very clearly how state policy was indeed designed to produce limited literacy in the context of voluntary education”.

According to Ndoo, who is now executive director of the National NGO Coalition, 15-million South Africans are illiterate to varying degrees. One of the most heart-wrenching projects the NLC had carried out, he said, was a book called Dear President in which newly literate South Africans described to President Nelson Mandela the agony of illiteracy.

By having illiteracy declared “a gross violation of human rights”, the NLC hopes to raise support for its work. At present, only 2% of the education budget goes towards Adult Basic Education.
Seven day war probed

Chilling details of police complicity in the gruesome seven day war in rural KwaZulu-Natal have emerged at the TRC, once again refuting the black-on-black violence myth. Claire Keeton explains why ...

The arrival of IFP induna David Ntombeala at the Truth Commission's Maritzburg hearing this week caused an uproar

But he is not the only one speaking out about the damage he did and the horrors of his police duty. "I will never forget what I have seen in my police career and my part in the events in the war against the ANC," he said.

Harrington said there could be members in the hall whom he had injured. "Maybe it was you I assaulted and dropped by the side of the road without looking back. I would like to say that I am sorry."
Human rights abuses disclosed to TRC in secret

More generals to seek amnesty

NEW S

February 24, 1996

The Associated Press

SAN FRANCISCO (AP) - Civil rights groups backing the Truth
and Reconciliation Commission (TRC) say the commission has
heard testimony from 200 military officers about abuses they say
were committed by the apartheid regime.

The groups say the testimony was given in secret, and
the TRC has promised to keep the proceedings confidential.

The TRC is investigating human rights abuses during the
apartheid era. It is expected to release a report in 1999.

The groups say the testimony includes information about
murders, torture, disappearances and other abuses.

The TRC is expected to begin hearings in October.

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100,000 people.

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100,000 people.
'Nothing to hide': PW tells Tutu he was not involved in murder

Former state president PW Botha has denied any involvement in the 1988 bombing of Khotso House and has told Truth Commission chairperson Desmond Tutu he is not guilty of any deed for which he should apologise or seek amnesty.

During a friendly two-hour meeting at the George home of his eldest daughter, Elenzha Maritz, yesterday morning Mr Botha told Archbishop Tutu that, in any event, he had been advised the bombing was not a gross human rights violation, as defined in the Truth Commission’s founding Act. Mr Botha said he had no intention of applying for amnesty and had “nothing to hide”.

As a Christian and an Afrikaner, he could not, he told, have associated himself with “blatant murder”, he said.

Archbishop Tutu confirmed at a later press conference in Cape Town that Mr Botha had not made any confessions or “dramatic revelations”.

In spite of Mr Botha’s denial of any wrongdoing, Archbishop Tutu said he “felt good” about their meeting and that there was “a very great possibility of arriving at substantial truth”.

This was because Mr Botha, who had previously told President Mandela he would have nothing to do with the commission, had agreed to their meeting and to co-operate in future.

Also, Mr Botha had agreed to do all in his power to persuade his former cabinet colleagues to also co-operate with the commission.

“We believe the meeting was a very considerable plus for the commission,” said Archbishop Tutu. “Firstly, in view of his opinions on the commission and its establishment, his agreement to see me was a breakthrough for us. Secondly, we did not expect that he would come to the meeting saying that the policies and actions of his government had been wrong.”

“Given our expectations, we are encouraged by his willingness to continue to interact with us and to urge his former cabinet colleagues to do likewise.”

Archbishop Tutu said Mr Botha had indicated he could not be expected to react to ad hoc allegations, and had asked the commission to prepare a comprehensive list of questions.

“His has indicated that he is ready to make available all his documentation and to hold further meetings of this kind should they prove necessary.”

Mr Botha told Archbishop Tutu that a manuscript on his life had been compiled from all available information by a “respected, independent researcher” appointed by the government of FW de Klerk. “I am prepared to make this manuscript available to you or anybody who wishes to publish it as written.”

All his official records and documentation had been lodged for safekeeping with the Institute for Contemporary History in Bloemfontein, and were made available to the researcher for more than two years.

Mr Botha said he was “deeply concerned about the fierce and unforgiving assault which is being launched against the Afrikaner and his language at all levels of society.”

He warned the archbishop not to limit the commission’s investigations to the actions of previous government functionaries, and said it should also probe abuses by African National Congress members “The activities of the commission should also not be permitted to develop into a persecution and a series of Nuremberg-type trials,” said Mr Botha.

Archbishop Tutu said Mr Botha had also suggested a six-month extension for the amnesty application cut-off date on December 15 — something the commission had itself asked for. The government had not yet responded to his (Archbishop Tutu’s) request to address the Cabinet on the issue of an extension.
‘Need’ tips scales

Stephané Bothma

PRETORIA — White male state attorneys are in line for promotion but they were considered for 30 vacancies in the justice department, but the pressing need for affirmative action tipped the scales against them, the Transvaal Supreme Court heard yesterday.

Wam Tengove SC, representing Justice Minister Dullah Omar in a matter in which 16 white male state attorneys are questioning the constitutionality of the justice department’s affirmative action programme, told the court that Omar was under a constitutional injunction to promote broader representivity in his department.

The attorneys applied for senior vacant posts last year, but claimed because of discrimination they had not even been called before a selection panel. Less experienced women and people of colour had been appointed.

“The department did in fact consider all the applications received, but the need for wider representivity was stronger. The department had to put a thumb on the scale in favour of affirmative-action appointments,” Tengove argued.

Omar denied agreeing to implementation of a quota system of two or three affirmative-action appointments for every one other appointment. Tengove said the department last year was in a position where many vacancies had to be filled urgently.

“But the minister was faced with a dilemma. In terms of the constitution and the Public Service Act he was obliged to pursue and promote a greater representivity within his department, and this could be done only by taking the race and gender of applicants into account.”

However, the directives of the Public Service Commission on the other hand obliged the minister to ignore race and gender.

“Minister Omar found himself between the devil and the deep blue sea,” Tengove told the court. Omar turned to Public Service Minister Zola Skweyiya for “help,” the court heard.

Skweyiya then issued a special directive stating that affirmative-action candidates would be preferred and that other candidates would not be considered, which directive Omar followed “exactly as requested,” the court heard.

“Whether the directive is valid or not, as far as the justice department is concerned, it acted at all times as it was obliged to do under the constitution and the directive,” Tengove said.

Jeremy Gauntlett SC, representing Skweyiya, told the court there was no need for the matter to be brought to court and structures existed where the issues could have been dealt with.

The matter continues.

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Mandela regrets PW’s TRC stance

By ELIAS MNYANDU

Durban - President Nelson Mandela said yesterday he regretted the "uncompromising stance" of former president PW Botha.

Mandela also urged Botha to go before the Truth and Reconciliation Commission to explain crimes committed during his term of office.

"It is regrettably he has made a statement of that nature," Mandela said.

"His duty is to go to the TRC and give his own version of what happened," said Mandela.

The president went on to say that, as things stood, the evidence seemed to point to former president Botha having knowledge "about some of the gross violations which we are complaining about".

Botha said, after two hours of talks with Truth Commission chairman Archbishop Desmond Tutu on Thursday, that he had nothing to apologise for or seek amnesty for.

"I am not guilty of any deed for which I should apologise or ask for amnesty. I therefore have no intention of doing this," the 80-year-old ex-president said.

In a statement after talks with Tutu, who set out to seek Botha's cooperation in uncovering the past.

Mandela said Botha was an old man, no longer well, who might expect to be honoured as a former statesman.

Red tape stymies fight against crime

By CRAIG URQUHART

The Johannesburg CBD's safety lung - a core community policing project to stamp out crime in the city - is in danger of collapsing as red tape prevents its full implementation and morale among policemen on the streets shows signs of reaching new lows.

The concept, which should have been up and running this month, has now been delayed until February and all the current role-players agree that without its full implementation, it simply cannot work.

Still, police claim they have gained the upper hand in their fight against crime, and official figures show that crime is, indeed, down in the city centre. Whether these statistics indicate a long-term downward trend or an expected reaction to Operation Urban Strike remains to be seen, but problems in the police force remain deep-rooted.

"We are gradually implementing the safety lung but it is very difficult to assess its successes so far because of the role Urban Strike has played," said Gauteng safety and security deputy director for policy Sylvester Rakoza.

He said Urban Strike, which has seen an extra 1,000 policemen deployed in Gauteng, would gradually be phased out over the next few months and the Safety and Security Department was currently working on contingency plans to replace the extra personnel.

PW's stance

But he added: "When he makes a statement which is regarded by the majority of the country as being provocative, and which might lead to the conclusion that he has no interest in the lives of hundreds of people who died as a result of gross human rights violations, people may not appreciate whatever service he may have given us.

Former police chief Johan van der Merwe said in an amnesty application last month he had been instructed to blow up the headquarters of the South African Council of Churches "harbouring" anti-apartheid groups in 1988. He said the instruction had come from then law and order minister Adriaan Vlok, who told him the order had come directly from Botha.

Botha, in a document handed to Tutu, suggested that the TRC provide him, as minister of defence, with a document detailing all those aspects of which they required comment. Alex Boraine, deputy chairman of the TRC, said the Khotso House-bombing would obviously be one of them. "We have already handed over his response to our investigative unit and research department, which will draw up a full list of issues we would like his response to.

Botha suggested to Tutu that they communicate directly with each other, rather than by means of press releases. "Reuter.
By CRAIG DOONAN

A PROMINENT Inkatha member's refusal to testify before the Truth and Reconciliation Commission has threatened to wreck a peace pact brokered in some of the KwaZulu Natal Midlands's most dangerous areas.

"Only God knows what will happen to the peace process now," IFP leader David Ntombela said after police were forced to protect him from angry ANC supporters outside a truth commission hearing in Maritzburg on Wednesday.

Ntombela — who, with ANC Midlands leader Sifiso Nkabende, has been calling for peace and unity in their visits to flashpoints in the Midlands — refused to testify about the "seven-day war", in which 30 people were killed in and around Maritzburg townships in 1990.

Witnesses, including policemen, had earlier linked Ntombela to the fighting.

On Wednesday the Maritzburg city hall was packed to capacity in anticipation of his evidence. Ntombela finally appeared on stage with several IFP colleagues.

But the crowd inside and outside the hall was in a state of chaos when his lawyer, Petrus Coetzee, said Ntombela would not be testifying because he objected to the way the commission had been constituted.

Coetzee said that one of the truth commission's members, Ilan Lax, had been an ANC member during 1990 and "was actively involved in bringing ANC members who became embroiled in the so-called seven-day war. Mr Ntombela regards Mr Lax not as an independent person presiding over this inquiry but as a political opponent of himself and the IFP."

Ntombela also took exception to having been referred to as a "well-known warlord" by the truth commission's media spokesman, Mina Lomba, in a statement announcing the Maritzburg hearing.

Ntombela left the hall to heckling from the crowd, which spilled into the streets shouting obscenities and "kill him."

Policemen with rifles at the ready escorted Ntombela into the Maritzburg parliamentary complex, where he has an office. Angry youths surrounded the premises, demanding that Ntombela come out and "tell his story."

Ntombela was escorted away by police.

He later slammed the truth commission for "dug up graves of the past. They are digging up all the things which we forgot by the people."

He said he was uncertain whether the peace initiative he and Nkabende had embarked on could now be pursued following the outburst.

"Everyone saw the ANC completely failed to control their followers. My body is full of swelling because they said I must be killed. Only God knows what will happen to the peace process now," he said.

He couldn't say whether he would continue joint meetings with Nkabende.

Nkabende, who, after frantic intervention managed to quell the crowd on Wednesday, was later overheard telling an ANC colleague "This almost messed up everything."

He said he was afraid the conflict "might not send a wrong signal to the people on the ground. They might think that all the hard work me and Baba Ntombela started is coming to an end."

"But with the commitment from the ANC and hopefully from the IFP, I think we may survive this week's blow.

The head of the truth commission in KwaZulu Natal, Richard Lyster, said Ntombela would be invited back to give his version of the seven-day war "but if he doesn't come, we'll have no alternative but to subpoena him."
White men take on Omar in war of experience versus colour

By MARLENE BURGER

AFFIRMATIVE action was in the dock in the Transvaal Supreme Court this week. Arguing for it was counsel for the Justice Minister, Dullah Omar. Opposed was counsel for a senior white male employee of the Justice Department and his trade union.

The case, the first affirmative action law case in South Africa, has for the past year held 30 senior posts in state attorneys' offices nationwide to ransom.

Brought a year ago by a senior assistant state attorney, Panze Swanpoep, and the 100 000-member Public Servants Association, the case's outcome will have far-reaching implications for all white male public servants seeking advancement.

It will also serve as an embryonic test of the power of the Constitution to override legislation designed to protect public servants from discrimination on the grounds of race or gender.

The case accuses Omar and the Public Service Minister, Zola Skweyiya, of unlawfully reserving vacant posts for affirmative action appointments, and of doing so without first negotiating with the trade union.

Swanpoep, who has 13 years of experience as a state attorney and was earmarked for promotion, is one of 15 white males who applied for the posts, advertised last November, but were never even called before the selection panel.

Appointments were offered instead to less-experienced women and people of colour, none of whom have so far been able to start work. The appointments were frozen when the court granted the Public Servants Association an interdict in February to halt the process pending the outcome of its lawsuit.

One of those who was offered a post as a deputy state attorney is Gaiya Behardien, who had a total of five years' experience. None of her white male colleagues, all senior assistant state attorneys for between eight and 10 years, were overlooked for the post.

The dispute was sparked by a decision taken on October 27 last year that vacant posts in the Justice Department would be reserved on a ratio of two to one for affirmative action appointments, and that all posts which fell vacant this year would be filled according to that quota.

However, legal arguments presented before Justice Buddy Swart this week show that the case has ramifications far beyond the filling of the 30 posts, in Pretoria, Johannesburg, Cape Town, Port Elizabeth and East London.

At the heart of the dispute is the legal interpretation of Section 212 of the Constitution, and the measure of protection of individual rights offered by Section 8.

Section 212 prescribes the promotion of an efficient public administration which is "broadly representative" of the South African community.

Omar's counsel, Win Trengove SC, argued that this requirement made it incumbent on the minister to ensure that appointments reflect the racial and gender make-up of the population and that, in terms of a special dispensation granted by Skweyiya, the minister was perfectly entitled to implement his affirmative action policy.

Trengove's argument stands in sharp contrast to Section 11 of the Public Service Act, promulgated by President Nelson Mandela shortly after taking office, which states that "no person who qualifies for appointment or promotion should be favored or prejudiced in filling government posts.

According to Gert Grobler SC, who is acting for the association, Omar and Skweyiya began ignoring the legal provisions governing appointments from July last year and "jumped the gun" by obtaining dispensation to implement an affirmative action plan without consulting the union.

"In a state of transition, where the majority in power for the first time is pressing for the immediate realisation of these ideals for which they have fought so long, a culture of abusive power might easily be created, but the state must be resisted with all the guarantees offered by the Constitution," Grobler told the court.

The Public Service Act clearly states that only the qualifications, efficiency and suitability of candidates should be taken into account for public service posts. But Trengove argued that this supports Omar's action, since "suitability" of candidates extends beyond such factors as experience and qualifications when seen against the constitutional demand for a "fully representative" public service.

He told the court white male public servants had been considered for the vacant posts, but the urgent need for broader representation had weighed more heavily than their prospects of advancement.

Judgment in the case is not expected until early next year, the lawyer said.
Ban 'biased' officials, IFP urges Truth Commission

BY JUSTICE MALALA

The Inkatha Freedom Party has called on the Truth and Reconciliation Commission to withdraw commissioners who presided over stormy hearings in Pietermaritzburg last week, accusing them of displaying bias.

The party also expelled national council member Thomas Shabalala for his involvement in a march in Durban earlier this year, protesting against the government's ban on carrying traditional weapons in public.

In a resolution taken by its national council at the weekend, the party said a letter of protest would be written to the commission. The resolution follows statements by IFP leader Mangosuthu Buthelezi last Thursday that the TRC was not the correct forum to foster peace and reconciliation.

The Pietermaritzburg hearings last week, focusing on the Seven-Day War in the region in the early 1990s, were marked by high emotion.

The council, however, also resolved that it still supports "all genuine and sincere efforts to bring about peace and reconciliation between all political parties and communities in KwaZulu-Natal".

It also resolved to promote a conference where all stakeholders in education in the province and nationally could discuss the protection and future promotion of education which had "suffered disastrous effects of the ANC's armed struggle policy".

It vowed to organise a workshop next year to "promote a new philosophy based on the shared effort of all stakeholders."
Tutu decree to TRC: watch what you say

Commissioners on the carpet following complaints about their conduct at Pietermaritzburg and Bisho hearings

BY ROBERT BRAND

Archbishop Desmond Tutu has sharply rebuked members of his Truth and Reconciliation Commission, ordering them to stop saying things during public hearings which could undermine the commission’s effort to appear even-handed.

In a strongly-worded statement after a meeting of the commission’s human rights violations committee yesterday, Tutu, the commission’s chairperson, said he had “issued a decree” to members to “cease from making statements which could be construed as revealing a particular bias.”

Tutu warned that further complaints about the committee had been “based on their questioning of witnesses during hearings in the Eastern Cape and KwaZulu Natal last week.

The Inkatha Freedom Party, led by Mangosothu Buthelezi and Richard Lyster, was also invited to resign for what the party termed their “biased” handling of the KwaZulu Natal hearing, where IPP MPL David Ntombela was summoned to explain his part in political violence around Pietermaritzburg.

And in the Eastern Cape, commissioners Sipho Makgatho and Mphakathi Ramashikane and committee member Pumla Qoboza-Madikizela came under fire for “humiliating” and “trying to force apologies” out of witnesses giving evidence on the Bisho massacre.

The National Party secretary-general Roelf Meyer, former Ciskei leader Oupa Gqozo and former Ciskei police chief Johan Viktor were among those who felt the wrath of the commissioners’ tortures.

Gqozo was made to stand up and apologise four times to victims of the Bisho massacre, while commissioners openly questioned Meyer’s submission that the NP could not have prevented the deaths.

Viktor refused to apologise to victims of the massacre and blamed the tragedy on their leaders. Ramashikane then called him “callous” and slammed his “disregard for the suffering of the victims.”

Commissioners Dzenzisana Potgieter and Dumisa Ntsebeza have in the past also been criticised for appearing to favour one version of events over another.

Lyster, Finsa, Qoboza-Madikizela, Ntsebeza and Potgieter were present at yesterday’s meeting where the criticism was discussed.

Tutu, who takes a “very strong stand” that the commission should maintain an appearance of independence and even-handedness, although he did not single out specific hearings or individual commissioners, made it clear that he was referring to the Bisho and Pietermaritzburg events.

“Have we been concerned at some statements which have occurred in recent times.”

“I issued an almost presidential decree to commissioners and committee members that they must desist from making statements that seem to indicate that they had already made a finding.”

“IT is quite essential that we should demonstrate clearly that the commission is even-handed and independent,” he said.

MORE REPORTS
Health sectors to be represented on TRC committee

Cape Town – The Truth and Reconciliation Commission has started the ball rolling towards the development of a human rights culture in the medical profession.

TRC commissioner Dr Wendy Orr said yesterday that "things are so bad (in the health sector) at the moment ... any (organised) body will be an improvement".

Orr was referring to a soon-to-be established dual-function steering committee which will be made up of representatives from various health sectors.

The committee is to assist the TRC by collecting submissions from the various health-care sectors, and also to act as a reference group for TRC researchers.

Its other function will be to start a long-term process to encourage groups, organisations, and the Government to initiate and continue research and transformation in the area of health and human rights.

The TRC hopes the committee will continue to operate beyond the life of the commission, pursuing human-rights issues outside of the TRC mandate.

A task team, to make arrangements for the election of the steering committee in January, was elected at the weekend at a TRC-organised workshop.

The team consists of Orr; Dr Lesley London, of the NGO sector; Rachel Prinsloo, a psychologist from the Psychologists Society of South Africa; Gavin Demster from the Medical Association of South Africa; Linda Bali from the Progressive Primary Health Care Network; Donald Skinner, a psychologist from the NGO sector; and Thembeke Gwagwa from the Democratic Nursing Association of South Africa.

Orr told The Star a body was desperately needed to monitor the actions of health professionals and to discipline transgressors.

Points discussed at the workshop related to health professionals who may be granted amnesty, have been referred to the TRC's legal working group.
Tutu wants leaders to seek amnesty

Stephen Laumer

ARCHBISHOP Desmond Tutu is to ask leaders of political parties for a meeting at which he will urge them to take advantage of the truth commission's amnesty process.

Tutu said in Johannesburg yesterday he hoped a meeting with senior politicians from all parties could take place within the next few days, but certainly before the cut-off date for amnesty applications on December 14.

The commission had received passionate pleas from politicians to leave SA with a relatively clean slate once its work was done, and he wanted them to assist by taking a lead in the amnesty process. The commission had received 5700 amnesty applications, and was currently fielding about 100 telephone calls, faxes and letters a day inquiring about application procedures.

"Although the figures are mind-boggling, our view is that reconciliation as a primary purpose of the process would be enhanced if top level members were to come forward," Tutu said.

Tutu said he was not satisfied that enough leaders had applied. Government had not responded to the commission's request for the application cut-off date to be moved to end-March. "Therefore we believe the status quo remains." On the commission's request for the cut-off date regarding acts for which amnesty could be granted to be moved to May 10 1994, he said he was "waiting for the time I might be asked to address the cabinet", as discussed with President Nelson Mandela.

Asked whether he felt the amnesty committee could deal with the flood of applications it was facing, Tutu said the group was "facing a serious problem" despite attempts to improve the flow of paperwork by increasing the number of staff members. It was possible that the five amnesty committee members would split into two groups to hear applications and deal with others administratively at the same time.

Observers said the commission could be forced to ask Parliament to extend the amnesty committee's life beyond the end of next year. The alternative would be a general amnesty.

Tutu said the human rights violations committee would reduce the number of public hearings in favour of obtaining more statements from victims. He warned against complacency among perpetrators. While it had been claimed that incidents like the Khotso House bombing did not involve gross human rights violations, perpetrators and those who gave the orders should...

Continued on Page 2

Tutu

Continued from Page 1

consider the possibility of attempted murder and other criminal charges. Equally, military personnel were under a misconception if they thought that following legitimate orders would safeguard them from prosecution. Only amnesty would provide indemnity.

Responding to public criticism of the way in which former Ciskei military ruler Oupa Gqozo and former Ciskei police chief Jan Venter had been criticised by commissioners at last week's Bisho hearings, Tutu said he had told commissioners and committee members they should desist from statements that made it appear the commission had made its findings.

Picture: Page 3
Omar meets magistrates in missing docks trial

Probe on M'Plain court corruption
‘Justice for all’ is aim of new legal service

Advice on contentious matters available around the clock

BY LARA SMITH

Bringing the justice system closer to the people is one of the key elements behind the launch of a new round-the-clock phone-in legal advice service established under the auspices of the country’s 9000 practising attorneys.

For as little as R5 a month, the new “Legal 2” system will give subscribers 24-hour access to legal information and advice and 30 minutes of free consultation with a practising attorney.

The service covers all legal matters related to marriage and divorce, retrenchment and dismissals, wills and insolventcies; insurance claims and disputes; business, crime; vehicle-related criminal, civil and insurance matters; and constitutional law.

The toll-free telephone lines will be manned by law graduates qualified to give legal advice to subscribers. Should the matter not be resolved over the telephone, subscribers will either be advised on the correct procedure to follow, or be referred to an attorney for a free 30-minute consultation. The subscriber will have to pay for any further legal assistance thereafter, such as instituting or defending an action, or court appearances.

Legal 2 (for legal information) is a Section 21 company founded by the four provincial law societies, the South African Consumer Council, the Black Lawyers Association and the National Association of Democratic Lawyers.

Justice Minister Dullah Omar said yesterday he considered the initiative to be one of the most important yet undertaken in SA to make the law accessible to the public. “Access to justice is a key criterion for democracy,” he said.

Many people, especially those in disadvantaged communities, did not have any access to justice, either because there were no legal services, or because they could not afford to pay exorbitant legal fees, he said. This led to many people taking the law into their own hands, an option that usually ended in violence, he added.

“It is time to reverse this culture of violence to one where people use the recognised mechanisms available to them,” he said.

The telephone service will be provided by the Automobile Association, whose legal department already has a similar service up and running, equipped with the necessary electronic equipment.
The new constitution provided for the Human Rights Commission to be independent of the government, but in practice this has not been the case. The commission has been削弱ed and undermined by various political pressures. The commission was established to protect and promote human rights, but it has struggled to operate effectively due to lack of resources and political interference.

In the early years of its existence, the commission faced numerous challenges. It was often criticized for its lack of transparency and for not being able to investigate and address human rights violations effectively. The commission was also criticized for its close ties with the government, which critics argued undermined its ability to operate independently.

Despite these challenges, the commission continued to work towards protecting and promoting human rights. It has issued numerous reports and recommendations, and has worked to raise awareness about human rights issues in South Africa. However, it has been clear that the commission needs more resources and political support in order to operate effectively.

In recent years, there have been calls for the commission to be restructured and strengthened. Some have argued that it needs more powers and resources in order to be able to investigate and address human rights violations effectively. Others have called for it to be more transparent and accountable to the public.

Ultimately, the commission's effectiveness will depend on its ability to operate independently and to receive the support it needs from the government and the public. It remains an important institution in South Africa, and its work is crucial in ensuring that human rights are protected and promoted in the country.
We have a duty to build a human rights culture

POLITICAL WRITER

THE Human Rights Commission (HRC) was not just concerned about human rights violations, chairperson Dr Barney Pityana said yesterday. It also undertook programmes to raise public awareness on human rights, he said at a press briefing.

The commission received four to five complaints a day and about 300 complaints were being investigated. It was obliged to receive complaints of violations of human rights, investigate them and resolve them.

If necessary, the commission could initiate either in its own name or in the complainants' to bring those who violated human rights before the law.

Pityana said the HRC had a duty “to build a culture of human rights in South Africa”.

This was being done through education and training programmes, public awareness programmes and informing people of their rights.

The HRC also advised people on their rights, monitored legislation to see that it complied with the bill of rights, advised state organs on how to promote human rights and monitored government departments on the observance of human rights.

The commission, which met for the first time in October and opened offices in April this year, had seven full-time and four part-time commissioners.

It had established five committees for policy and planning, liaison with non-government organisations, monitoring of government and Parliament, international co-ordination including South Africa's international obligations under human rights treaties and liaison with bodies such as the UN Commission on Human Rights and the African Commission on Human Rights, and legal and constitutional affairs, including monitoring the Constitutional Court.

The commission had hoped to have offices in all the provinces but budget constraints restricted it to offices only in Johannesburg and Cape Town.

“This is a matter of grave concern to us. It affects our ability to be close to people,” Pityana said.

The HRC hoped to report on its inquiry into persons in April and was also planning probes into agricultural workers, mental institutions and homeless children.

* Human rights education will be introduced into the school syllabus from the beginning of 1998.

The training of teachers, the syllabus and the preparation of teaching material were being discussed with the Department of Education, Pityana said yesterday.

“It will not necessarily be an exam subject.”
Help not co-ordinated

If you are black, disabled and pregnant, which institution or government department do you go to if you have a problem?

The answer to this question had become a standing joke in the South African Human Rights Commission (HRC), one of its 11 commissioners, Ms Rhoda Kadale, said yesterday. "Where do you go to?" she asked.

HRC chairperson Dr Barney Pityana said yesterday that there were 16 different government-funded agencies involved in human rights tasks but this was "not co-ordinated in any way".

He added that his commission believed it should take primary responsibility for co-ordinating human rights activities and programmes and would base all statutory bodies as well as human rights programmes in all state organs at all levels." — Political Writer

16 commissions on human rights

BARRY STREEK
POLITICAL WRITER

THE government is now funding 16 different commissions and institutions with specific human rights jurisdiction or tasks, according to the Human Rights Commission (HRC).

They include:

• Constitutional bodies, such as the HRC itself, the Commission on Gender Equality, the Public Protector and the Commission for the Protection and Promotion of the Rights of Cultural, Religious and Linguistic Communities.

• Transitional bodies, such as the Truth and Reconciliation Commission, the Land Restitution Commission and the Independent Broadcasting Authority.

• Department-specific institutions such as the Independent Complaints Directorate for Police Services, the Independent Inspectorate for Correctional Services, the Inspector-General for Intelligence, the Commission for Conciliation, Mediation and Arbitration (CCMA) and Nedlac.

• Generic commissions, such as the Office on the Status of Women in the Deputy President's Office, the Youth Commission, the Pan South African Language Board (Pansalb) and the proposed Disability Board (there is already a disability desk in the Deputy President's Office).

In a recent paper, the HRC chairperson, Dr Barney Pityana, also identified two other government-funded institutions involved in human rights tasks — the Auditor-General and the Electoral Commission.
Threat to overtake McNally

JOHANNESBURG: Justice Minister, Mr. Dallas Omari, has threatened to refuse to prosecute Hit-Squad cases that annoy Omar.

REFUSAL TO PROSECUTE HIT-SQUAD CASES ANNOYS OMAR.
Government needs to meet core

...
Man executed in front of bus driver and 13 children

Women tell of trauma of sons' deaths and funerals

Mothers recall guilty shootings
Man ‘executed’ in front of bus driver and 13 children

New evidence suggesting police forged a document and submitted it to the official inquest on the “Guguletu Seven” has emerged during the Truth Commission investigation into the shootings in 1988.

At the time, police claimed they shot the seven young men, all allegedly ANC guerrillas on their way to a mission to attack a police bus. In self-defense after a handgrenade was thrown at them.

But this version was contradicted by witnesses who testified at a hearing of the commission's human rights violations committee yesterday that several of the guerrillas were “executed” by police.

They testified that at least one of the seven was shot in the head and another was shot in the chest. They said the driver of the bus for disabled schoolchildren and his 13 passengers were killed in the attack.

Rudolph Lourens, of Mitchell's Flat, told the committee yesterday he had seen bodies lying on the ground.

Another witness, a passenger on the bus, said he had seen bodies lying on the ground. He said police had thrown handgrenades into the bus.

This year, Truth Commission investigators showed a statement, signed by a policeman, and submitted to the inquest on the Seven. It was to the effect that he had positively identified some of the men in the photographs as those who had robbed him.

“Here is my photographic, not at all,” the policeman told the committee. He showed how he had gotten the photograph, and the photographer had given him a copy of the photograph.

This sent the witnesses to the inquest of the Seven, dairy worker General Skaba, told the committee he had watched from his room in a hostel overlooking the scene of the confrontation.

Police ‘lawlessness’ in W Cape of mid-eighties

There was a “general air of lawlessness” about the police in the Western Cape in the mid-1980s, and, by 1986, the brutal methods of the Koevoet unit in Namibia were being applied in township areas.

This was evidence to the Truth Commission's human rights violations committee yesterday by fikile pakalisa, a former Koevoet member and a former Cape Times reporter, who was unsuccessful in prosecuting the Police Act for his reports on the police shootings in the “Guguletu Seven” on March 1986.

Mr. Weaver told the committee he had learned about Koevoet while he was a newspaper correspon
dent in Namibia in the early 1980s. The interrogation techniques used by the unit, which served as a training ground for police officers, included torture, beatings and rape, he said.

New Koevoet recruits were “bloodyed” by killing Swaps guerrillas in battles or by executing prisoners with guns in front of fellow officers and their commanders, Mr. Weaver said.

The “execution” – and he said he used the word deliberately – of at least three and possibly four of the “Guguletu Seven” bore all the hallmarks of Koevoet-type operations.

The inquest had been a whitewash but much of the truth had come out during his trial.
Top cops storm out of hearing into Guguletu 7

JOSEPH ABANES AND JOHN YELD

Two senior policemen walked out of the Truth Commission hearing in Cape Town today after an angry woman threw a shoe at them.

The drama happened while harrowing police video footage was shown of the scene of the 1986 shooting of seven alleged African National Congress guerrillas known as the Guguletu Seven.

The video at the commission’s special event hearing caused family members of the dead to break down in tears.

The mother of one of the seven threw her shoe at the nine policemen subpoenaed to appear before the commission today, hitting Leonard Knipe, head of the police Violent Crimes Unit, on the head. The shoe also hit police director Johan Kleyn, station commander of Mitchell’s Plain police station. Director Knipe and Director Kleyn then left the room.

After the outburst, the commission adjourned and several relatives of the Guguletu Seven were helped out of the room by commission staff.

After a five minute adjournment, Director Knipe and Director Kleyn sat in a press room watching the proceedings on a television monitor.

The footage showed the bodies of the seven after they were shot by the police outside a hostel in Guguletu on March 3, 1986.

From the video it seemed as if most of the suspects had been shot in the head and face and all seemed to have been armed.

One was on his back with his arms outstretched. A revolver was on his chest.

Another was lying on his stomach with an AK-47 rifle sticking out at his shoulder while another was shown with a hand grenade between his legs.

Close-up shots showed clearly the bullet wounds in their faces and heads and...
Sent on December 14, 2018

Before the current conflict, the relationship between the two nations was peaceful, with frequent diplomatic and economic exchanges. The recent developments, however, have escalated tensions and resulted in military confrontations.

The current situation is complex, with both nations blaming each other for initiating the conflict. The International Community has called for a peaceful resolution, emphasizing the need for dialogue and understanding.

As the situation continues to evolve, it is crucial for all parties to engage in constructive negotiations to prevent further escalation and promote regional stability.

Photo of a document
Vaktablads network in W Cape exposed

A CAR thumbnail to Eugenius Seven Kilving
Commission calls sergeant

Policeman: "We were used

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O 20/11/92
Witnesses get death threats

By Russel Moloto

The Truth and Reconciliation Commission is to investigate death threats against some of the witnesses who yesterday related how their relatives were brutally killed during the political violence that engulfed Tembisa on the East Rand in 1993.

Miss Phumzile Ntimbane told TRC commissioners that she had received a telephone call from an anonymous caller warning her that if she gave testimony about the killing of her brother Vusi, who was a member of the African National Congress' military wing Umkhonto we Sizwe, she would be killed.

Commissioner Mr Hugh Lewin warned that threats would not be tolerated and anyone found responsible would be dealt with severely.

"The TRC was set up unanimously by Parliament, which represents all the people of South Africa. We function independently and we will not allow ourselves to be intimidated.

"We are going to make sure that this kind of incident does not happen again. Those responsible will be dealt with severely," Lewin said.

Ntimbane said her brother was killed by a Mr Eli Khumalo, apparently in retaliation for an attack on his (Khumalo's) house.

"Earlier that day Samuel Mhlane, who was a member of the self-defence unit in the township, was shot dead by Lucky Khumalo, the younger brother of Eli Khumalo. Vusi went to guard his body.

"I overheard police in a Casspir talking with Eli Khumalo in Afrikaans and Eli later stated that he was going to kill Vusi. Vusi was killed later that evening as he returned home," Ntimbane said.

Lewin assured her that the commission had an investigative unit and that the matter would be thoroughly looked into.

Another witness, Mrs Pauline Mogale, related how she and her three young children had survived an attack on a minibus taxi in which more than 12 passengers were hacked, shot and burnt beyond recognition by a group of hostel dwellers at Vusumzi Hostel near a BP garage.

"I was with my husband and child in a taxi. As the taxi was approaching the BP garage, we saw a group of about 100 men and we started to scream, begging the driver not to stop.

"But the driver stopped, grabbed his money, opened the door and ran away. The taxi came under heavy gunfire and I hid under the seat," Mogale said.

However, she managed to grab her child and also pulled another man out of the taxi and ran away. As she looked back, she saw the taxi in flames.

"My husband and others were burnt beyond recognition.

At the mortuary I saw human intestines and a heart. Every time I pass that place I remember the attack. The mark where the taxi was burnt is still there, even today," Mogale said.
TRC: black police fear for lives

Talks plea to Fivaz

ARGUS CORRESPONDENT

Pretoria – Senior black police officials, including former security policemen, are unwilling to appear before the Truth and Reconciliation Commission because they fear for their lives.

In a letter sent to national Police Commissioner George Fivaz, a group of senior black officials said they feared being killed by white former colleagues if they told the TRC about past atrocities under apartheid.

They also feared being ostracized by their communities if they went public with their past deeds.

The letter says that although white security police managed “processes” in pursuit of apartheid, the field operatives in many instances were black police.

The black officials requested an urgent meeting with Commissioner Fivaz to clear up these issues.

A previous meeting dealing with the TRC and amnesty issues had been ineffective, as many black officers who might have an interest in the matter were not informed about the meetings.

The black officials say the police internal process “excludes black people as a target group who might also require assistance from the SAPS.”

The previous meeting on November 17 had been marred by the “visible absence of the SAPS top management” and Commissioner Fivaz’s absence was cause for concern, they said.

The officials asked Commissioner Fivaz to make a public announcement about new steps concerning black officers.

They feared “reprisals by communities in the event of black members speaking out.”

Commissioner Fivaz’s spokesman, Joseph Ngobeni, said “Police officials are free to report their concerns or fears to the TRC, as the issue of amnesty is dealt with by the TRC.”

Commenting on the request for a meeting with Commissioner Fivaz, he said “The SAPS does not do things according to race and colour any more.”

“Legal advisers have not members wanting to apply for amnesty and workshops are currently being held in all the provinces to further spread information at ground level.”

Director Ngobeni said proper channels existed within the police through which black officers could have their fears addressed.

See page 5
Policeman admits statement on action contained falsehoods.
Fivaz to meet black police who fear for lives over TRC

Pretoria – Police commissioner George Fivaz has said he intends to meet black police members who fear white reprimand if they testify before the Truth and Reconciliation Commission.

Mr Fivaz will also contact commission chairman Desmond Tutu to discuss how to deal with the matter.

"Utilising secure channels and mechanisms... which would neutralise the obstacles to them approaching the TRC should be a priority," he said in a statement.

Mr Fivaz confirmed reports that he had received a letter on behalf of concerned black SAPS members.

"This letter follows my recent public appeal to all serving SAPS members – irrespective of race – with knowledge of human rights abuses to approach the TRC.

"Naturally nothing should be allowed to stand in the way of any such official who wishes to approach the TRC."

Mr Fivaz said the claims should be viewed seriously, and the matter should be dealt with without compromising personal relations in the police service.

He said proposals to this end had been made and were now being investigated.

"I now intend inviting the concerned black police officials to a meeting with me as soon as possible."

Senior black police officials, including former security policemen, reportedly expressed fears of being killed by their white former colleagues if they appeared before the commission.

Sapa
Malan Trial: why the state failed
Serious errors by the prosecution included its failure to maximise the evidence available to it, its exclusion of crucial elements of the conspiracy from its presentation, its failure to present documentary evidence coherently and systematically, its failure to call key witnesses, and its failure to raise key aspects of the case.

The authors contend that the court did not play a sufficiently pro-active role. Although South Africa has a system in which the opposing parties are adversaries in court, the role of a criminal court is not one of a mere referee, as in a civil court.

The court was alert enough to see that the prosecution had fallen short in key aspects and it was highly critical of the prosecution. Nevertheless, the court failed to apply its own mind to these matters and failed to intervene where the interests of justice required it.

The court also failed to pay sufficient attention to evidential detail and to critically analyse the documents in relation to the oral evidence. This shortcoming led the court to draw certain conclusions which were highly improbable.

The authors say that, among other findings, Judge Hugo stated that while the military had carried out deceptions in the course of its work, officers would be recommended that there was sufficient evidence to prove murder and conspiracy by members of the military and Inkatha beyond a reasonable doubt.

It was accordingly recommended that criminal cases be brought against the 20 accused.

It was suggested that although there was a case against Chief Buthelezi and members of the SABC based on inference and by reference in the documents, their prosecution ought to be considered at a later stage after further evidence had come to light.

Nonetheless, the part played by Chief Buthelezi and the SABC in Operation Marion was central to the charge of conspiracy. Despite their necessary implication in the conspiracy, the Attorney-General excluded Chief Buthelezi and the SABC from his description of the conspiracy.

In his presentation to the court, Mr McNally ascribed innocent roles to Chief Buthelezi and the SABC members, even though he acknowledged they had played key roles in Operation Marion. From this moment on, the case began to crumble.

Documents that the “offensive” capacity requested and supplied was intended in its primary attacking meaning. The authenticity of the documents was not challenged.

Mr Varney and Mr Sarku say references in the documents clearly illustrate the unlawful intention behind Operation Marion. Proving the unlawful intention should have been elementary. But the Attorney-General tied the cut-off date of the conspiracy charge to the incorporation of many of the trainees into the KwaZulu Police in June 1989. This was notwithstanding the fact that many of the most incriminating documents were produced after this date.

The failure of the prosecution to present a thorough analysis of the documents permitted them to be seen separately from the oral evidence. Only two passages in the documents appeared to be favourable to the defence version. One contained a reference to the offensive capacity and the other a reference to Chief Buthelezi’s intentions. The State failed to place these passages in context.
TRC staff struggles to cope with flood of amnesty-seekers

Johannesburg – The Truth and Reconciliation Commission’s amnesty committee has been overwhelmed by amnesty applications and its staff cannot cope, said chairman Desmond Tutu.

The archbishop told a media briefing in Johannesburg yesterday that a task group headed by commission deputy chairman Alex Boraine was investigating the problem and would propose solutions.

"We have already resolved to supplement the (amnesty committee’s) staff with three senior appointments," Archbishop Tutu said.

These would be an executive secretary, an additional leader of evidence and an extra secretary.

The committee had so far received about 3,500 amnesty applications and more were expected as the December 15 cut-off date approached. So far hearings have been held for 47 applicants.

About 800 applications have been referred back to the applicants because they did not disclose a political motive for their crimes.

About 100 have been referred back for more particulars, about 200 because the acts fall beyond the cut-off date of December 6 1993 and about 500 because the acts fall outside the ambit of the Promotion of National Reconciliation Act.

Archbishop Tutu said the commission was still waiting for the Cabinet to set a date for a discussion with the commission on a proposal that the cut-off date for amnesty be extended to May 10 1994.

Archbishop Tutu encouraged security force members to apply for amnesty.

The Promotion of National Reconciliation Act specifically envisaged amnesty for members of the security forces for bona fide actions carried out in the course and scope of their duties and under authority, he added.

"People who do not apply for amnesty do so at their own peril." – Sapa
ABERRANT COMMISSIONERS CALLED TO ORDER

Truth & Reconciliation Commission chairman Desmond Tutu has ordered his commissioners to desist from making statements which contradict the commission's oft-repeated commitment to even-handedness. His exhortation — described by the prelate as "almost a presidential decree" — comes after complaints about the demeanour and utterances of commissioners at hearings in East London and Pietermaritzburg.

Tutu's intervention is welcome, unfortunately it may be too late. The commission is already perceived by a substantial segment of public opinion as politically partisan. It is widely, though not universally, seen as proANC or, more disparagingly, as an extension of the ANC.

Former President P W Botha has described it as a "witch-hunt" against Afrikaners. While there may be debate about whether it is anti-Afrikaner or proANC, his view cannot be dismissed as the paranoia of a disgruntled politician. His perceptions of bias are echoed across a wide political spectrum, stretching from Constand Viljoen's Freedom Front through Mangosuthu Buthelezi's Inkatha to Tony Leon's Democratic Party.

Judging from televised footage and reports of the hearings at East London — where the commission heard evidence from the National Party and General Johan Victor on the Bisho massacre of September 1992 — the commissioners behaved, at times, like commissars. They gave the impression that their purpose was not to discover the truth but to hector witnesses into confirming their version of the truth or, failing that, to admonish them for failing to do so.

Thus after NP secretary-general Roelf Meyer submitted a carefully considered and well-researched document on the Bisho massacre, he was chastised by commissioner Bongani Finca for regurgitating "the same denials, the same selective choosing of facts, the same propaganda we heard under apartheid."

Meyer, while not exonerating the Ciskei government for the massacre which ensued when its soldiers opened fire on ANC protesters, laid a portion of the blame for the tragedy on the "irresponsible and reckless" ANC leaders who led the march, including Deputy Defence Minister Ronnie Kasrils. He quoted from the Goldstone Commission's report on the bloodbath in support of his conclusion.

Finca, however, apparently wanted Meyer to cry Mea culpa. His critical attitude was, judging from media reports, singularly absent when Kasrils and former ANC secretary-general Cyril Ramaphosa testified during an earlier session on the events of that tragic day.

Victor, who served as Ciskei police commissioner at the time of the killings, was attacked by commissioners Pumla Gobodo-Madikizela and Mapule Ramashala for being without remorse and accused of cold-hearted callousness. He had been asked whether he had a message for the relatives of the 28 marchers who were killed on that day. He replied "Once you choose your leaders, see that they act responsibly."

At a separate hearing in Pietermaritzburg, Inkatha leader David Ntombela was heckled by the largely proANC crowd when he refused to testify because of his belief that he would not get a fair hearing.

He charged that one of the commissioners, Ilan Lax, had been involved on the ANC's side during the "seven-day war" in 1990 outside Pietermaritzburg between ANC and Inkatha cadres. The purpose of the hearing was to establish "the truth" about the war Ntombela objected, too, to being described as a "well-known warlord" by commission media spokesman Mdu Lembede.

A statement was read on his behalf by his lawyer, a move which incensed the crowd that Ntombela had to be escorted from the hall by armed police. Ntombela, who has been working with his ANC counterpart in the Natal Midlands, Sifiso Nkabinde, to restore peace in the region, remarked afterward "Only God knows what will happen to the peace process now."

These events do not inspire confidence that the commission is involved in a dispassionate search for truth, particularly in the context of earlier reports of commissioners switching off microphones when witnesses told of torture and brutality in ANC detention camps during the armed struggle. Commissioners who give vent to their prejudices are mining SA in the murky past, not liberating us from it.
State agrees to pay for legal expenses

Kevin O'Grady

APPROVAL has been granted for members of the SA National Defence Force and former members of the non-statutory forces, the SA Defence Force and the SA Police to obtain legal representation at state expense if they choose, or are subpoenaed, to appear before the truth commission.

A SANDF spokesman Col John Rolt said yesterday the approval stemmed from a successful application to the Transvaal Supreme Court earlier this year by former SANDF chief Gen Jannie Geldenhuys in which he asked that government be forced to make a decision on the matter.

Rolt said that in terms of the court decision, there were three categories of people affected by government's decision to approve state-paid legal representation. These were people employed by the state in the SANDF, the SAP or other state departments before April 27 1994, members of liberation movements.

Continued on Page 2

Expenses

Continued from Page 1

ments before the same date, and private individuals.

Those in the first category, who were employed by the state, were entitled to legal representation by the state in terms of provisions in the State Attorney's Act, Rolt said.

Those in the other categories could be represented by the state attorney if, in his opinion, to do so was in the interests of the state, or they could have legal representation appointed on their behalf by the commission in terms of the Promotion of National Unity and Reconciliation Act.

Rolt said the state attorney had prescribed fees and certain limitations on the legal representation, but details of these could not be obtained yesterday.

Commission spokesman John Allen said he was unable to comment on the development until the commission received final details from government.
BY NORMAN CHANDLER
Defence Correspondent

The South African National Defence Force has decided to pay the costs of any of its members who are subpoenaed to appear before the Truth and Reconciliation Commission. This follows a decision handed down by the Transvaal Supreme Court in Pretoria last week after an urgent application was brought by a former chief of the South African Defence Force, General Janne Geldenhuys, to force the Government to take a decision on the issue.

In terms of the court ruling, the court order applies to people who were employed by the SADF, the South African Police or other state departments before April 27, 1994. People who were members of liberation movements before that date or private individuals can also be represented by the state attorney if it is in the interests of the state.

The TRC is also empowered to appoint legal representatives.
Amnesty deadline turns up the heat

OWN CORRESPONDENT

JOHANNESBURG: With the deadline for applications only 12 days away, the Truth and Reconciliation Commission is seeking an urgent meeting with leaders of political parties to urge them and their followers to apply for amnesty.

The meeting is expected to take place this week.

The commission is concerned that political leaders and their supporters do not fully understand the implications of their failing to apply for amnesty, for what they may consider to have been legitimate actions.

Perpetrators of human rights violations have until December 14 to hand in amnesty applications.

With the exception of former Minister of Law and Order Mr. Adrian Vlok and former police commissioner General Johan van der Merwe, no top political, military or police leaders have applied.

At media briefings last week, TRC chairman Archbishop Desmond Tutu and his deputy, Dr. Alex Boraine, emphasised that former security force members should apply for amnesty even for actions carried out in the line of duty.

Tutu said the Promotion of National Unity and Reconciliation Act specifically envisaged amnesty for members of the security forces for actions carried out in the course of their duties and under authority.

"People who do not apply for amnesty do so at their own peril," he said. "If they are in doubt about whether they can be charged, it is obviously safer for them to apply."

Boraine specifically called on Inkatha Freedom Party leader Chief Mangosuthu Buthelezi to encourage his followers to apply.

The TRC has not received any applications from IFP members.

It has asked President Nelson Mandela to consider postponing the deadline to March 14.

Tutu said the commission was also waiting for the cabinet to set a date for a discussion of a proposal that the cut-off date for amnesty be extended from December 6, 1993, to May 10, 1994.
‘Don’t apply for amnesty at your peril’

TRC concerned that political leaders and their followers do not understand the implications as deadline nears.

By Robert Brand

With the deadline for amnesty applications only 12 days away, the Truth and Reconciliation Commission is seeking an urgent meeting with leaders of political parties to urge them and their followers to apply.

The meeting is expected to take place this week. The commission is concerned that political leaders and their followers do not fully understand the implications of not applying for amnesty for what they may perceive to have been legitimate actions.

Perpetrators of human rights violations have until December 14 to hand in amnesty applications. With the exception of former law and order minister Adriaan Vlok and former police commissioner Johan van der Merwe, no top political, military or police leaders have applied yet.

Last week, TRC chairman Archbishop Desmond Tutu and his deputy, Dr Alex Boraine, stressed that former security force members should apply for amnesty, even for actions carried out in the line of duty – an issue, they said, about which there was still much confusion.

Tutu said the Promotion of National Unity and Reconciliation Act specifically envisaged amnesty for members of the security forces for bona fide actions carried out in the course and scope of their duties and under authority.

“People who do not apply for amnesty do so at their peril,” he said. “If they are in doubt as to whether they can be charged or sued, it is obviously safer for them to apply and we urge them to do so.”

Boraine specifically called on Inkatha Freedom Party leader Mangosuthu Buthelezi to encourage his followers to apply for amnesty.

The commission has so far not received any amnesty applications from IFP members.

The commission has asked President Mandela to consider an extension of the application deadline by three months, to March 14 next year. However, a postponement of the deadline would require an amendment to the amnesty legislation, which could be affected only when Parliament resumes in February.

Tutu said the commission was also waiting for the Cabinet to set a date for a discussion on a proposal that the cut-off date for amnesty be extended to May 10 1994. Currently, only acts committed between March 1, 1960 and December 6, 1993 qualify for amnesty.
Mamasela lifts lid on more police violations

OWN CORRESPONDENT 26-1

JOHANNESBURG: Former Vlakplaa policeman and self-confessed killer Joe Mamasela has given the Truth and Reconciliation Commission new details about gross violations of human rights by the police.

Members of the commission's investigative unit and commissioners questioned Mamasela for two days in camera, the commission's national director of investigations, Mr Glen Goosen, said yesterday.

"Mamasela made a sworn statement about more than 25 gross human rights violations involving both himself and others. Some of these have not previous been admitted publicly."

"Under oath, he further expanded on his activities prior to his recruitment to the security police, the method of such recruitment and operations conducted by operatives of Vlakplaa, where he was based until 1985," Goosen said.

Goosen said Mamasela had volunteered to provide information and pledged to continue assisting the commission.

Present at the discussions were commissioners Mr Dumisa Ntsebeza and Mr Denzil Potgieter and senior members of the investigative unit.

Mamasela has admitted his role in the killing of Durban attorney Griffiths Mxenge and a number of other operations, including the murder of 18 Mamelodi activists after "recruiting" them, ostensibly for training abroad.

Some of them were drugged and blown up in a minibus near the Botswana border, and others were shot in a house in KwaNdebele.
Mamasea cooperates with TRC

NATIONAL NEWS

9494 [9/4/1994]
Majority of applications for pardon from those in jail
Seven categories qualify to be heard by the commission

In terms of the Promotion of National Unity and Reconciliation Act, the amnesty committee "shall grant amnesty" for acts, omissions or offences "associated with a political objective committed in the course of the conflicts of the past".

There are seven broad categories of people who may apply for amnesty for any act or omission which constitutes an offence and which was "advised, planned, directed, commanded, ordered or committed within or outside the Republic of South Africa" between March 1, 1960, and December 6, 1993:

1. Members or supporters of a "publicly known political organisation or liberation movement" who acted on behalf of or in support of the organisation or movement in furtherance of a political struggle waged against the state or another political organisation or liberation movement in conflict with their own.

2. Employees of the state or the security forces who acted in the course and scope of their duties and on express or implied authority against a publicly known political organisation or liberation movement engaged in a political struggle against the state, or against members or supporters of such an organisation or movement. The act committed must have been committed with the bona fide objective of countering or resisting the struggle.

3. Employees of the state or security forces who acted in the course and scope of their duties and with authority against a homeland government or security force or employees of a homeland government who acted against the South African state.

4. Employees or members of a political organisation or liberation movement who acted in the course and scope of their duties and on express or implied authority against the state, a homeland government, or against members of other political organisations or liberation movements in conflict with their own.

5. People involved in a coup d'etat or an attempted coup d'etat against a homeland government.

6. People from the above categories who on reasonable grounds believed they were acting in the course and scope of their duty and on express or implied authority.

7. People who associated themselves with such an act.

Amnesty will be granted if the application is correctly filed, if the act is found to have a political objective, and if the committee is satisfied that the applicant has been truthful.

If the act for which amnesty is sought is a gross violation of human rights — murder, attempted murder, assault, severe ill-treatment, rape, kidnapping or torture—a hearing will be held. If not — for instance in the case of illegal weapons charges or bombing of an empty building — an applicant could be granted amnesty without holding a hearing.

If the act does not relate to a political objective or falls outside the declared period, the committee may refuse amnesty without holding a hearing.
Floodgates open on amnesty pleas

By Kieron Chang

Up to 100 people are phoning the TRC offices daily, says Boraine.
The granting of amnesty to former security policeman Brian Mitchell is not an automatic precedent for other political killers, who will still have to satisfy six strict criteria before they are allowed to walk free, writes CARMEL RICKARD

**The truth may not be enough to set them free**

WHEN Brian Mitchell, then still a long-term prisoner, asked for amnesty before an audience including many of his victims, it was not an easy decision. It was also the Truth and Reconciliation Commission at its best.

The commission and its component committees must ensure that the truth they seek is absolute. Mitchell, a former police officer, planned an attack on United Democratic Front activists at the Trust Foods settlement in 1988, hoping that the Inkatha Freedom Party would be strengthened as a result.

His plan went awry when the long queue was hit and women and children at a prayer vigil were mown down.

Mitchell’s evidence at the TRC has no doubt as to his truth. His emotional plea for forgiveness, and the community’s response that they would support his amnesty application if he agreed to work for reconciliation, gave clear premises of reconciliation.

But repentance and forgiveness are not the criteria by which the amnesty committee makes its decisions. In fact, Archbishop Desmond Tutu, who heads the commission, recently emphasized that the law does not require amnesty applicants to express remorse

"Indeed, you are able to tell an amnesty committee that you are guilty of what you did, albeit that it constitutes an offence under law," he said.

Instead of remorse, the amnesty committee looks at whether the applicant has made any attempts to work for reconciliation, or the clearly laid standards laid down in the law.

First, the applicant must be willing to use amnesty in a way acceptable to you and your constituency.

Two of those applications came from members of the National Union of Mineworkers, who committed a string of murders and other crimes allegedly to further their political aims. Their applications were refused, mainly on the ground that the NSP, which committed only four police officers, did not fit the definition of a ‘publicly known political organisation’ The committee therefore did not even get through the door to be considered for amnesty.

They made another attempt to be included in the definition by saying they were supporters of the Numbers movement as a whole but the amnesty committee rejected that, ruling that the law requires the person being given amnesty to have supported a "definite and identifiable political organisation or liberation movement and not a mere trend or school of thought."

This shows the committee looks closely at the nature of the political organisation which applies and supports the claim by holding up recent views, as the two NSP members did, will not be enough to gain amnesty.

Mitchell clearly belonged to the former government security forces and so passed the first test which the NSP movement failed. Through the local joint management committee, he had also applied for amnesty in government documents alleging a total of 180 cases. He believed in his duty to account for what was presented to him, but the UdF-ANC threat is in its area, and devised the plan to attack a PDF home in some.

When the amnesty committee worked through their list of criteria, they concluded that Mitchell had not made an attempt to work for reconciliation, or the clearly laid standards laid down in the law.

First, on the question whether the act was "associated with a political objective", the amnesty committee must consider six factors: the motive in committing the act, the context in which it was carried out, the gravity of the act, its objective and whether it was carried out with the approval of the organisation it belonged to or against private individuals, whether it was carried out with the approval of the organisation supported by the person seeking amnesty, and whether there is evidence of a "propagandistic" nature in the act and its aim.

A crop of decisions, released this week, throws new light on how the amnesty committee is interpreting the law.

Clive Derby-Lewis

JUSTICE ON DEMAND...ANC and SA Communist Party sympathizers march through Johannesburg after the assassination of Chris Hani in April 1993

BRIAN MITCHELL

Brian Mitchell’s application for amnesty was rejected by the Truth and Reconciliation Commission. Mitchell, a former South African police officer, was convicted of conspiracy to commit murder and sentenced to 18 months in prison.

Clive Derby-Lewis

Janusz Walus

There are three main reasons for the rejection of the applicants' amnesty applications:

1. Lack of remorse: The applicants failed to express genuine remorse for their actions.

2. Lack of evidence: The applicants did not provide sufficient evidence to support their claims.

3. Political motive: The applicants were associated with political organisations that were involved in violent political activity.

Just as important is the rejection of applicants who were involved in violent political activity.

Perhap...
Malan, Van der Merwe at odds over need for amnesty

The TDP puts the old defence and SA police forces over amnesty applications

Van der Merwe said the TDP would not seek amnesty for former police commissioner, Gen Kat Leibbrandt, and of former SA Police Commissioner's SA forces personnel should take their amnesty cases to the courts.

Former SA Police Commissioner's SA forces personnel should take their amnesty cases to the courts.

But former defence minister, Gen Occasion Geldenhuys, and of former SA DFMO, Gen Jamie Geldenhuys, and of former army Minister, Gen Dumke Geldenhuys, would not seek amnesty and that the amnesty would apply for amnesty.

Amnesty had to be viewed differently as a legal concept, he said. amnesty had to be viewed differently as a legal concept, he said.

The truth commission for amnesty, for former members of the security and intelligence agencies, had been involved in the amnesty. The former members of the security and intelligence agencies had been involved in the amnesty. The former members of the security and intelligence agencies had been involved in the amnesty. The former members of the security and intelligence agencies had been involved in the amnesty.

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If in doubt apply for amnesty, Tutu urges

**BY ROBERT BRAND**

With only five days left for people to apply for amnesty, Truth and Reconciliation Commission chairman Archbishop Desmond Tutu has appealed to political leaders to stop confusing their followers about the amnesty process.

"We urge (individuals) to realise that people who do not apply for amnesty may be criminally charged or be liable for civil damages if they are in doubt it is better to be safe and to apply," he said.

The deadline for amnesty applications is midnight on Saturday. The commission has asked the Cabinet to extend the deadline, but no decision has been taken yet. Presidential spokesman Parks Mankahana said yesterday that consideration was still being given to allowing Tutu to address the Cabinet on why he wanted it extended to March 14 1997.

Tutu also wants the cut-off for offences for which amnesty may be granted shifted from December 6 1993 to May 10 1994, the day President Mandela was inaugurated.

Tutu's appeal yesterday to political leaders to stop confusing their followers came after public announcements by former defence minister Magnus Malan, former president FW de Klerk and former SADF chief Constand Viljoen that they would not apply for amnesty.

Malan advised soldiers who had served under him to rather take their chances in court. He also said he regarded all military acts authorised by him as legitimate in the course of a battle against the ANC and communism.

This was bad advice, Tutu said. Individuals should apply for amnesty if they had done anything which might result in a prosecution or a civil action.

"The moral quality of the act is irrelevant for the purposes of the Amnesty Committee. To apply for amnesty is not necessarily to admit you have done something wrong. There is no requirement in the law that applicants should express remorse," he said.

Referring to Botha's statement recently that he would not have to apply for amnesty for the bombing of Khotso House, Tutu said it was not a "gross violation of human rights". Tutu said this could influence individuals to their detriment.

"Amnesty is not only for those who have committed gross violations of human rights. Misconceptions on this issue can be gravely prejudicial to individuals."

"(Botha's statement) could lead people who were involved in bombings of buildings where there was no loss of life to assume that they need not apply for amnesty."

Yet the bombing of a building is certainly something that can be the subject of criminal charges," former police commissioner Johan van der Merwe told the TRC.

He said the law specifically made provision for acts carried out by security force members or members of liberation movements.

"We cannot force anyone to apply for amnesty, the process is voluntary. However, we believe our leaders will be squandering an opportunity for putting the past behind them if they do not participate," Tutu said.
Killer Pardoned
Prosecution or recognition are just frameworks for the process.

Ultimately, the people do the healing.
Apla top brass, Tutu in amnesty talks

JOSEPH ABANES
ON THE TRUTH COMMISSION

Officers of the high command of the former Azanian People's Liberation Army (Apla) are to meet Truth Commission chairman Desmond Tutu today to discuss the amnesty process.

The delegation will be led by Dan Mofokeng, now a brigadier in the SA National Defence Force.

Pan Africanist Congress justice spokesman Khalaphile Sizani said other issues to be discussed included legal representation for amnesty applicants and the cut-off date for amnesty applications.

He said Apla, former military wing of the PAC, wanted to explain problems with getting former cadres to apply for amnesty and recording all the facts about their activities.

"A number of our campaigns were carried out by people using different names as a precaution to avoid being caught, and it is now difficult to locate them.

"We need to speak to the commission about these problems, as we want to affirm that we are part of the truth and reconciliation process and that we will get our members to apply for amnesty," Mr Sizani said.

The PAC agreed with the proposal by the TRC to extend the amnesty cut-off date and the deadline for submission of amnesty applications, which expires at midnight on Saturday.

President Mandela has agreed to hear a final plea on Friday for an extension of the December 15 deadline for amnesty applications, reports Reuter.

Presidential spokesman Parks Mankahlana said today that Mr Mandela would meet a representative of the TRC, Justice Minister Dullah Omar and Freedom Front leader Constand Viljoen.

"The president is still not persuaded that he should extend the deadline, but it is his prerogative to make up his mind even on Friday," he said.
Mitchell vows to serve community he wrecked

PAC slams ‘unjust’ amnesty for killer

ARGUS CORRESPONDENT AND SAPA

Durban – Former police captain Brian Mitchell spoke out today as he walked free after being granted amnesty for his role in the Trust Feud massacre.

Mitchell, the first member of the former security forces to be granted amnesty for apartheid crimes, had served four years of a 30-year sentence for murder and attempted murder.

He called on other serving and former members of the security forces who had committed crimes to apply for amnesty and “become part of the reconciliation process.”

And he vowed to play a constructive role in rebuilding the Trust Feud community, where 11 people died in an attack in 1988 near New Hanover in KwaZulu Natal.

But the Pan Africanist Congress today attacked the Truth Commission decision to grant amnesty to Mitchell, calling it “disturbing” and unjust.

In an interview after he left Pietermaritzburg prison with former wife Karen last night, Mitchell described his amnesty as the “greatest Christmas gift imaginable.”

He added he had made immediate plans for the future and would spend a few weeks on vacation with his family before deciding on his future.

Mitchell wanted to continue theological studies, his attorney, Eugene Nysschen, said today. While in jail, Mitchell joined the Rhema Church. He said during his amnesty hearing that he wanted to be an evangelist.

Meanwhile, PAC deputy president Motsoko Pheko said in Johannesburg that hundreds of former members of the PAC’s armed wing, the Azanian People’s Liberation Army, were rotting in South African prisons for their armed anti-apartheid activities while the perpetrators of apartheid were granted amnesty.

“It is ludicrous and unjust that it is now the people against whom this crime (apartheid) was committed who are imprisoned, and its perpetrators are enjoying freedom and the fruits of their crimes against humanity.”

Staff sentences had been imposed on former Apfa fighters.

“This is naked injustice for these victims of apartheid crime,” Mr Pheko said.

The Truth and Reconciliation Commission’s amnesty committee yesterday said it was satisfied Mitchell’s crimes were committed with a political objective and in the course of his police duties.

The committee also took into account that the four special constables who had carried out the killings at Mitchell’s command had already been freed under earlier amnesty legislation.
Truth Commission explains why it freed Brian Mitchell

clearing"
Killer Brian Mitchell granted amnesty

Stephen Laufer

TRUST Feeds killer Brian Mitchell yesterday became the first security force operative to receive amnesty from the truth commission in a decision announced five days before the amnesty application cut-off date.

Mitchell left Maritzburg prison yesterday after serving just more than five years of his 30-year sentence for the killing of 11 people in the KwaZulu-Natal hamlet of Trust Feeds in December 1988. His original death sentence had been commuted by state president F.W. de Klerk three days before the 1994 election.

Announced as pressure mounts on participants in the apartheid conflict to take a decision on whether to apply for amnesty, the Mitchell pardon is being seen as a signal from the commission to potential applicants that they stand a good chance of being pardoned.

The decision is likely to swell the flood of perpetrators of apartheid-era crimes understood to be coming forward to the commission. They include former SA Police members, some SA Defence Force special forces and Civil Co-operation Bureau soldiers and members of the liberation forces.

The African National Congress (ANC) in the meantime said it accepted the amnesty decision. Mitchell's submission vindicated the organisation's long-held view that there was no such thing as black-on-black violence, but that the apartheid security network had been largely responsible for the KwaZulu-Natal carnage.

The national ANC said it hoped the truth commission's final report would find that Mitchell and others had committed crimes against humanity. It called for concrete reparations to the victims of gross human rights violations.

Safety and Security Secretary Azhar Cachalia said the decision would allay the fears of many that they might fail the truth commission's proportionality test, as the committee had interpreted it broadly. The test requires that actions should be proportional to the role of their victims on the other side of the apartheid divide if perpetrators are to qualify for pardon.

The commission found that Mitchell had been a member of the KwaZulu-Natal Midlands joint management committee and his offences had been part of the counter-revolutionary onslaught against the ANC and the United Democratic Front.

In planning and carrying out the Trust Feeds attack by a group of special constables with leading Inkatha members, including Midlands leader David Nthombela, Mitchell had acted without personal motive, the committee found. They were satisfied that he had made full disclosure of all the relevant facts as required by the act, and that his offences had been associated with a political motive.

Mitchell's lawyer, Eugene Natzon, told Reuters that the former policeman was calling on past security force members who might have been involved in human rights violations to apply for amnesty and become part of the reconciliation process because it was the country's future.

Cachalia said he was concerned that there had not yet been enough applications from former members of the liberation movements because their failure to seek amnesty could negatively affect relations between the SA Police Services and communities. Arrests of former Umkhonto we Sizwe and

An amnesty

Continued from Page 1

Apla members who had failed to apply for amnesty could reverse the hard work put into improving police-community relations since 1994.

There should be no doubt that the police would arrest perpetrators, whether from security forces or liberation movements, Cachalia said. Those trying to hedge their bets or taking a narrow, legalistic view of their past activities should be aware that dockets would be pursued.

Jacqui Pije reports that the Police and Prisons Civil Rights Union has urged its members who could be implicated or have information on third force activities to make submissions to the truth commission before Saturday's amnesty cut-off date.

Sapa reports that a police officer is to appear in the Worcester Regional Court today on charges of murder after intervention by the truth commission.

He is Insp Michael Phillip Luff and his appearance follows a complaint to the commission at its Worcester hearings on June 24 by the parents of William Dyas, who was allegedly shot dead by Luff on November 2, 1985.

An inquest was held in the Worcester Regional Court between March 1986 and January 1987 into the deaths of Dyas and Thamsanga Cebeku van Staden in Zwelethweni township on the same day, the commission said yesterday. The inquest found Luff, then a constable, of Worcester police was responsible for the death of William Dyas and the case was referred to the then attorney-general, Neil Rossouw, who decided not to prosecute.
SA ‘in a strong position to protect human rights’

Kevin O’Grady

SA was in a much better position than most countries to ensure its citizens’ human rights were protected because it had a history in which the deprivation of human rights was used as a tool of oppression, constitutional expert advocate Zac Yacoob said yesterday.

Speaking at an International Human Rights Day commemoration organised by the greater Johannesburg council, Yacoob said local government had a vital role to play in making people aware of their rights and in protecting those rights.

Yacoob said there was “an interesting imperialism” evident when it came to international human rights norms “that implies that these norms originated in the US or the UK or Canada and that we in Africa are uncivilised and need to import these rights”.

“Nothing could be further from the truth. All these various laws amount to nothing more than lip service. In this country we want to be different. Here we’re not going to pay mere lip service to these norms,” he said.

Despite the “bizarre” reason given by minorities during constitutional negotiations for wanting a Bill of Rights included in the constitution — that minorities’ rights should be protected — “human rights should be important and concrete for the majority, not just the minority”.

Because local government was an integral part of government, and the tier closest to the people, it had “a duty to ensure implementation of the constitution, including the Bill of Rights which must be seen as part of the package of democracy”, Yacoob said.

Local government was in a better position to do this than international organisations, the Constitutional Court, national government or the Human Rights Commission, he said. In terms of the constitution, local government was “obliged to take legislative and other measures” to ensure certain rights, such as the right to housing, were met.

Also speaking at the commemoration, Gauteng safety and security MEC Jesse Duarte said the Bill of Rights in the new constitution was not meant to protect criminals.

Sapa reports that she said it provided police with the opportunity to entrench the concept of visible and proactive policing. The way to solve the crime problem in the country was by recruiting more police and educating them on the concept of human rights.

Government had a duty, she said, to enforce and protect the Bill of Rights.

She said people should not be under the impression that government was providing housing, health and education as a favour, but should regard it as government’s duty as set out in the Bill of Rights.

In her International Human Rights Day address, Welfare and Population Development Minister Geraldine Fraser-Moleketi said almost all rights had financial implications and the extent to which they could be realised often depended on availability of resources.

Most South Africans were still poor, with very little or no basic education or access to basic services and facilities.
'CUT-OFF DATE MUST BE EXTENDED'

Apla cadres want amnesty

ATTACKS ON white-owned farms by Apla cadres will be discussed when former operatives testify to the Truth and Reconciliation Commission. ROGER FRIEDMAN reports.

TBE Azanian People's Liberation Army (Apla) will expose its soul to the Truth and Reconciliation Commission in an effort to assist its cadres to derive maximum benefit from the amnesty process and in the interests of reconciliation — in spite of its having been engaged in a just war.

This was the gist of the Apla leadership's message to the media yesterday, after a meeting with commission chairperson Archbishop Tutu, commissioner Mr Dumisa Ntebeza and legal adviser Mr Zuko Mapoma.

The meeting evidently spent some time discussing amnesty applications must be in by Saturday, although Apla would like the cut-off date extended — and the fact that the Promotion of National Unity Act (which established the commission) drew no distinction between human rights violations committed by those defending apartheid and those opposing it.

"It is not easy to say to one who believed in the justice of the cause that he or she must go and confess and say 'I have done something wrong'," said Director of Operations, Brigadier Happy Mphahlele.

Nonetheless, he said, Apla expected at least 600 cadres to apply for amnesty, and the high command wished to make a separate submission to the commission, too.

"It is obvious that the Truth and Reconciliation Commission expects full disclosure and that is what we intend to give them."

Mphahlele said the disclosures would cover such issues as attacks on white-owned farms, the war being taken into white areas, and the work of the so-called Repossession Unit which conducted robberies to finance operations. Apla is the armed wing of the Pan Africanist Congress, its high command continues to function, though members have been absorbed into the South African National Defence Force.

The Apla Commander, Brigadier Dan Mofokeng, said extending the amnesty application cut-off date was one of the organisation's major concerns.

Members were distributed throughout the country, and those in prison were experiencing problems in processing application forms and obtaining legal representation.

Apla would also like the commission's period of reference, which begins in 1960, to be extended to include the present December 1993 cut-off to May 1994. Several Apla operations were conducted in those intervening months and extending the date would open the amnesty door to the cadres who carried them out, he said.

Apla veteran and Pogo (Apla's predecessor) founder member Mr Gasson Ndloroy felt the meeting had clarified many issues around the amnesty process. There were many cadres who wanted to know "the exact meaning of amnesty, the meaning of truth and for how long the amnesty holds", he said.

"I am sure that after the concepts have been explained as they were explained this morning by the Archbishop, things will be much better. Applications will be trickling in."

Tutu told a later, separate press conference that the commission fully supported Apla's position on extending the cut-off dates. Concerning the period of reference, he said it made sense to extend it as the Human Rights Commission's mandate started in April 1994, not in January.

President Nelson Mandela has requested a meeting tomorrow with the commission, and although he did not wish to speculate on the outcome, Tutu said he would invite Mandela to clarify his position on the deadline issue.

General Constans Viljoen of the Freedom Front, a supporter of extending the dates, had also been invited to the meeting. Although the President could not change the law single-handedly, his stance was influential, Tutu said.

It could be beneficial if the PAC was invited, he added.
600 Apla cadres may apply for amnesty

Linda Ensor

CAPE TOWN — The Azanian People's Liberation Army (Apla) had formed "repossession units" during the armed struggle to commit robberies so that it could be self-reliant, operations director Lethapa Mphahlele said yesterday.

After a meeting between Apla commanders and truth commission officials to discuss amnesty, Mphahlele said that Apla wanted to decriminalise its activities and that the robberies had not been for personal enrichment.

About 600 Apla cadres, including all the top leaders, are expected to apply for amnesty tomorrow, joining hundreds of amnesty applications which have been flooding truth commission offices ahead of Saturday's deadline. A truth commission spokesman said yesterday that 3,750 applications had been received at the amnesty committee's offices by Tuesday afternoon.

Nomavondo Mathiane reports that in response to Mphahlele's admission that Apla turned to armed robbery to raise funds, Pan Africanist Congress (PAC) national executive committee member Morolo Mphahlele said he was aware of this. Although the military had reported to the political leadership, it had not gone into detail on what was going on on the ground, he said.

The matter should be seen in the context of what was going on in South Africa at the time — that they were operating in a completely "immoral and illegal" situation. The Apla commanders met the commission officials to appeal for an extension to both the deadline for applications and the December 1994 cut-off period for the amnesty process.

The commanders said they would apply for amnesty individually as most of Apla's activities had been sanctioned by its leaders. Lethapa Mphahlele said he had submitted his application.

"The leadership has to take responsibility for the mistakes of their subordinates," Apla commander Brig Daniel Mofokeng said. He said Apla would also make a formal submission as an organisation on its activities.

Continued on Page 2

Amnesty

Continued from Page 1

Apla's approach to the commission came as a prelude to Friday's meeting between President Nelson Mandela, commission representatives and Freedom Front leader Constand Viljoen to discuss amending the dates in the amnesty process. Archbishop Desmond Tutu said he would like the PAC to attend the meeting and it was still possible that this might occur.

The commission wanted the cut-off date for amnesty extended from December 1993 to May 10, 1994 and the deadline date for applications from December 14 to March next year so that more people could be included in the reconciliation process.

Mofokeng said the Apla delegation had come to the commission to get clarification about the amnesty process which was a source of fear and anxiety among its members.

It had, he said, not been easy to convince cadres who believed in the justice of their cause that they should confess as if they had done something wrong. Sapa reports that amnesty committee administrator Mandisa Dukumbuza said the ANC, which had earlier handed in about 300 applications on behalf of ANC members, had promised another batch on Friday.

Many people had called saying they wanted to apply but were unable to meet the deadline. Their names were entered in commission records and their formal applications would be accepted after the midnight deadline.

The commission's Cape Town, Johannesburg and Durban offices would be open until midnight on Saturday.

Comment: Page 1
Top ANC men want amnesty

By Wagheid Misbach and Pamela Dube

Four senior African National Congress (ANC) Ministers are among the people whose names will be among the 60 applications the ANC will submit for amnesty today in addition to the 300 already before the Truth and Reconciliation Commission.

ANC leaders who have applied for amnesty include Defence Minister Mr Joe Modise and his deputy Mr Ronne Kasolds, Safety and Security Minister Sydney Mufamadi and Broadcasting and Telecommunications Minister Jay Naidoo.

Mufamadi and Naidoo's lawyer Mr Tefo Ramalepe told yesterday there applications related to a 1990 incident in which a man carrying out surveillance of Congress of SA Trade Unions headquarters in Johannesburg was apprehended by Cosatu office-bearers.

On Tuesday the high command of the Pan Africanist Congress military arm, the Azanian People's Liberation Army, announced that about 600 of its cadres would apply for amnesty.

Of the 300 ANC applicants, 100 were submitted on behalf of former Umkhonto we Sizwe cadres currently serving prison sentences.

TRC deputy chairman Dr Alex Borane said in Cape Town yesterday that amnesty applications now stood at close to 4,000, with more expected today and tomorrow.

Meanwhile the TRC yesterday granted amnesty to seven people, including former Conservative Party MP Mr Koos "Bomb" Botha. It refused amnesty to nine others, including Kwane Sebe, son of the late former South African leader Chief Lénox Sebe.

Amnesty was granted to:
- Roland Petrus, Machesi Thulo and Pasca Mpondo for their role in killing three members of the notorious Three Million Gang in Kroonstad in 1991 and 1992. The amnesty committee found that the three had acted with a political motive - Botha was pardoned for his bombing of a Pretoria school in 1991 and Cosatu House in Pretoria in 1992.

Those refused amnesty include:
- ANC Youth League member Motho Tshhuludu for killing Hendrik Grobbelaar in Kroonstad in 1992. The amnesty committee found that the killing was not politically motivated.
- Two members of the National Sozialist Partisane (National Socialist Party) Cornelius van Wyk and Jean du Plessis. Van Wyk is serving a life sentence for three murders and Du Plessis 12 years for crimes including robbery, the theft of weapons from the SA Defence Force and illegal possession of firearms. The committee found that the NSF was not a political organisation (it had only four members).
- Sebe, currently serving a 12-year sentence for bombing a house and a bottle store in 1989 belonging to two members of the Sebe regime.
- Four brothers, Adriaan, Willem, Geleen and Dowid van Straaten, who were convicted of the murder of two black security guards in 1991, and
- Thamsanqua David Jackson, who is serving 12-years for the murder of a policeman in 1993.
Black lawyers made temporary judges

Mungo Soggot

The latest batch of temporary judges appointed to the Transvaal Bench includes two leading lights from the Black Lawyers Association, one of whom has seven years' experience at the Bar.

Johannesburg advocates say the appointment of Vincent Maleka and Ismail Semenya, who started at the Bar in 1989 and 1986 respectively, confirmed that experience was no longer the main criterion used to determine the make-up of the Bench, as the government strives to transform the predominantly white, male institution.

The division's acting judges are selected by Frittie Eloff, who is viewed as a politically astute judge president anxious to help transform the Bench. In the past only senior counsel were appointed acting judges, which usually meant a career of at least 20 years at the Bar.

The other appointments are Nazir Cassim, a labour law specialist who has practised for 11 years, and Jenny Woodward, who began her career in 1983. The only senior counsel is Winn Trengove, one of the country's most eminent advocates who handles most of the African National Congress's important briefs.

The appointment of advocates with relatively little experience has privately unserved both black and white practitioners, although none would comment publicly. Some said they would decline an invitation to become an acting judge without at least 10 years behind them.

But chairman of the Board of Trustees of the Black Lawyers Association, George Mahuleke, said the appointments were a "tremendous step in the right direction." Eloff has to be congratulated.

He said it was "a fallacy that experience is the only criterion" and that a candidate's "potential" was equally important. In other countries, lawyers fresh from university made excellent judges, he said.

Mahuleke said it was understandable that some in the profession would complain about the appointment of "everyone wants to protect their turf... but they are being shortsighted and too self-centred.

Mahuleke said the government and the profession needed a co-ordinated effort to train new judges. He also called for a re-evaluation of the policy of appointing judges for life — a policy which perpetuated the old order.

He said the Judicial Services Commission, which handles the appointment of permanent judges, was treading a "good path" in its efforts to transform the Bench.

Hugh Corder, professor of Public Law at the University of Cape Town, said the amount of experience required for judicial office depended entirely on the individual.

He said Professor Dennis Davis, currently an acting judge in Cape Town, had probably had less than 10 years' experience at the Bar but had been an excellent choice. "On the other hand, a senior advocate who has conducted a narrowly circumscribed practice at the Bar for 20 years may be flummoxed by a range of cases once he is on the Bench."

But the idea that a graduate straight out of university could be a successful judge in the current South African legal system was "without foundation," he said.

President Nelson Mandela on Wednesday conferred the Order for Meritorious Service (Gold) on outgoing Chief Justice Michael Corbett at a Cape Town banquet held in his honour. Sapa reported that Mandela hailed Corbett, who will be succeeded by Deputy Constitutional Court President Ismail Mahomed, as a champion of truth and an excellent scholar.

He said he became better acquainted with Corbett, who has been chief justice since 1989, in the run-up to his inauguration as president and had since noted his valuable contribution to the framing of the interim constitution and the new Constitution, as well as his role as chairman of the Judicial Service Commission.

Referring to the many judges present, Mandela joked he was never happy in the presence of judges as the "prospect of spending another 27 years on some island is frightening".
Three cabinet ministers seek amnesty from TRC

THREE cabinet ministers are among the people whose amnesty applications will be handed to the Truth and Reconciliation Commission today, hours ahead of the deadline at midnight tomorrow.

It was announced yesterday that Safety and Security Minister Mr Sydney Mufamadi and Posts Minister Mr Jay Nadoop would seek amnesty for the kidnapping of a policeman detailed to spy on Cosatu House in 1990.

Nadoop, who was Cosatu's secretary-general at the time, and Mufamadi, who was his deputy, have appealed against their conviction on the kidnapping charge.

The African National Congress also confirmed that it would hand in amnesty applications by Defence Minister Mr Joe Modise, former commander of the ANC's military wing Umkhonto we Sizwe (MK), and Deputy Defence Minister Mr Ronnie Kasrils.

It was reported earlier that former Law and Order Minister Mr Adriaan Vlok had become the first apartheid-era minister to seek amnesty. He said he did not know of any other National Party politicians who would be applying.

Truth Commission deputy chairman Dr Alex Boraine said it was the commission's policy to release applicants' names only once dates had been set for public hearings, but some of the applications related to very significant events.

Boraine and Freedom Front leader Constand Viljoen are to meet President Nelson Mandela at the Union Buildings this morning to discuss proposals for an extension of the amnesty cut-off date.

The commission, supported by the FP, has asked that the cut-off date for amnesty offences be extended from December 6, 1993, to May 10, 1994, and that the deadline for applications be extended to March 14 next year.

Boraine said he had been in touch with the President's office to suggest that the Pan Africanist Congress, which also wants an extension, also be invited to the meeting.

Mandela will address a press conference immediately afterwards.

The commission continued to urge the Inkatha Freedom Party to encourage its leaders and members to make use of the commission.

"We will go on doing this as long as we are alive. If the IFP does not make use of that they only have themselves to blame," Boraine said.

The PAC is expected to hand in about 600 applications before tomorrow's deadline, including the entire high command of its military wing, the Azanian People's Liberation Army.

The ANC said yesterday that Truth Commission records showed 300 applications had already been submitted by ANC members around the country.

Of these, 100 had been submitted on behalf of people serving prison sentences.

Party headquarters had received another 60 applications and more were expected. These would also be handed to the commission today.

Applicants included former MK members who were based at home and abroad, MK field and camp commanders, members of the ANC's former security and intelligence department, and ex-prisoners.

The government has formally agreed to extend the life of the Truth and Reconciliation Commission by six months to December 13 next year, Dr Alex Boraine said yesterday.

He said the extension had been granted verbally by President Mandela some time ago. A letter confirming this, from Justice Minister Mr Dullah Omar, had arrived this week.

"So we are now definitely kosher," he said. —Sapa
R1,2bn boost for justice system

OWN CORRESPONDENT

PRETORIA: Altogether R1.2 billion will be spent to beef up the criminal justice system over the next few years, Safety and Security secretary Mr Azhar Cachalia announced yesterday.

Speaking on behalf of the National Crime Prevention Strategy (NCPS), Cachalia said the money would be used to clear key blockages in departments such as Safety and Security, Justice and Correctional Services.

The money for the NCPS programmes will come from RDP funds as well as the budgets of the Ministries of Safety and Security, Justice, Welfare, Defence, Correctional Services and Intelligence.

Cachalia listed the achievements of the NCPS as the establishment of a unit to co-ordinate interdepartmental NCPS programmes, each department involved had assigned senior staff members to serve as full-time managers of their NCPS programmes.

The NCPS has identified 12 programmes dealing with blockages in the system as priorities. Work has already started, or will start shortly, on the following:

- R168.2 million has been allocated for an integrated information management system for the entire criminal justice system, which should improve and integrate information from the police to the prosecutor to the prisons and social welfare.
- A R120m project for facilities for youth offenders is being led by the Welfare Department.
- A R5.9m project to train officers to be more professional at crime scenes.

The other priority projects are accelerated internal training for magistrates, state advocates, state prosecutors and interpreters.

Money will also go towards improving court management, upgrading the infrastructure of the Department of Justice and a victim support programme.

Programmes will also be run on the training and rehabilitation of offenders and training police to handle cases more effectively.
4,000 Amnesties Already in As Deadline Nears

Crucial Talks Today with Mandela on Extension

Nearly 4,000 people have now applied for amnesty from the Truth and Reconciliation Commission ahead of tomorrow's deadline, and many of the latest applications are from people who are not in jail.

This was announced yesterday by commission deputy chairman Alex Boraine, who is meeting President Mandela today to discuss the commission's request to extend the deadline for amnesty applications by three months.

Dr. Boraine also announced that the commission had prepared a list of questions for former president PW Botha, who has so far refused to testify or to seek amnesty. But Mr. Botha told chairman Desmond Tutu at a meeting in George recently that he would cooperate fully with the commission.

Dr. Boraine said yesterday he hoped Mr. Botha would change his mind, because he had been directly responsible for, and at the head of, a system that had brought about gross injustices.

He said that the former president not only owed South Africa an apology, but that it would be in the interest of reconciliation if he applied for amnesty. Moreover, if Mr. Botha and others did not seek amnesty, they would expose themselves to possible criminal prosecution and civil claims.

The commission's sole intention was the destruction of the Afrikaner was not only untrue but extremely destructive.

Dr. Hartzenberg, who apparently had prior knowledge of yesterday's announcement that rightwingers Jean du Plessis and Cornelius van Wyk were being denied amnesty for the theft of defense force weapons, said that the wording of the decision had no benefit to Afrikaners applying for amnesty.

But Dr. Boraine said the fact that amnesty was given to former Conservative Party MP Koos Botha and to several members of the Boerekommando, at the same time it was denied to Du Plessis and Van Wyk, gave the lie to Dr. Hartzenberg's claim.

The fact that the commission had granted amnesty to a number of Afrikaners and members of the CP made Dr. Hartzenberg look rather foolish, said Mr. Boraine.

He believed that announcement by former law and order minister Adriaan Vlok that he had applied for amnesty was "a very good move" and he hoped it would encourage other political leaders of his party to follow suit.

The number of amnesty applications had rocketed over the past week, Dr. Boraine said. The commission's information desk was open 24 hours a day, and tomorrow its Cape Town office would be open until midnight. If someone phoned tomorrow, he or she could still meet the deadline.

He also disclosed that the Government had formally agreed to extend the term of the commission by six months to December 15 next year, and that the commission would have a further three months from that date to write its report.

Ex-MP Pardoned for Bombings Urges Rightwingers to Come Clean

Johannesburg - Another chapter closed in the colourful political career of maverick former Conservative Party MP Koos Botha when the Truth and Reconciliation Commission pardoned him for a series of bombings in the early 1980s.

Mr. Botha - who was kicked out of the CP after the bombings for advocating negotiations, went into business with Gauteng Premier Tokyo Sexwale's brother and now runs a secretarial college with mainly black students - said he was "very relieved" at being granted amnesty.

He would try his best to steer clear of politics in future "except for issues in my local community like litter on the pavements and so on" and called on other rightwingers who had committed political crimes to come clean.

"The time has arrived for us to admit the things we have done wrong so that we can move forward," Mr. Botha said.

Mr. Botha was expelled from the CP in 1992 after clashing with its leader, Andries Treurnicht, over the party's refusal to engage in negotiations.

Soon after this Mr. Botha was arrested and charged with the bombings of Hillview Primary School in Pretoria, post office in Vereeniging, Krugersdorp and Cosatu House in Pretoria. No one was injured in the bombings, which were carried out in 1980 and 1991 before he had changed his mind about negotiations.

At the time, he said, he believed the Afrikaner nation was under siege and Dr. Treurnicht's militant statements had driven him to take drastic action.

The Hillview school building, which was not in use at the time, was chosen as a target because it had been earmarked as a school for the children of returning African National Congress exiles.

Mr. Botha was charged in 1996 with sabotage and terrorism, but not convicted. The hearing was adjourned in the Supreme Court pending his amnesty application.

After leaving Parliament in 1994, Mr. Botha launched a low-cost housing development company with Mathabatha Sexwale. The company is still functioning, although Mr. Sexwale is no longer a partner.

Mr. Botha has also converted a disused jail in Marabastad, the predominantly black business district of Pretoria, into a secretarial training college mainly for black students.

"I think the time has come to clear our chests, put our shoulders to the plough and work for our country, because the country belongs to all of us," he said.

TRC Asked to Probe Police Over Missing Girl

Pretoria - The mother of one of the paedophile Gert van Rooyen's alleged victims says she has asked the Truth Commission to probe claims that police had not investigated the case thoroughly.

Kobie Wapenaar of Johannesburg contends that this amounts to a human rights violation. She declined to elaborate yesterday.

Her daughter Anne-Marie was one of five girls whose disappearance eight years ago was linked to Van Rooyen.

National Crime Investigation Services spokesman Reg Crewe said Mrs. Wapenaar's decision seemed strange so long after Anne-Marie disappeared.

"If she believes her daughter's rights were infringed, it would have been better to approach the Human Rights Commission. There are many other channels available both inside and outside the police," he said.
R1.2-billion to beef up criminal justice system

State strategy to ‘clear key blockages’

ARGUS CORRESPONDENT

Pretoria – Safety and Security Secretary Azhar Cachalia has announced that R1.2-billion will be spent on beefing up the criminal justice system over the next few years.

He said on behalf of the National Crime Prevention Strategy (NCPS) yesterday in Pretoria that the money would be used to clear key blockages in affected departments, including Safety and Security, Justice and Correctional Services.

The R1.2-billion allocated for the NCPS programmes by the government would come from Reconstruction and Development Programme funds, as well as from the budgets of the ministries of Safety and Security, Justice, Welfare, Defence, Correctional Services and Intelligence.

Extra funding would also be available to accelerate the implementation of the most important projects.

The money would be used, for instance, to provide places of safety for youth offenders and to replace outdated police equipment.

Mr Cachalia said “Since the establishment of the NCPS in May we have been activating the state machinery.

“We are satisfied that things are going at the right pace.”

Mr Cachalia said that each department involved had assigned senior staff members to serve as full-time managers of their respective NCPS programmes.

The NCPS had identified 12 programmes dealing with blockages in the system as top priorities. Work had already begun, or was due to begin, soon.

A total of R168.2-million has been allocated for an integrated information management system for the entire criminal justice system, which should improve and integrate information from the police to the prosecutor, to the prisons and to social welfare.

A further R211.5-million had been earmarked to revamp the entire police fingerprinting system with an automatic system.

A R20-million project for facilities for youth offenders was being led by the Department of Welfare.

Police proposed to spend R6.9-million to train officers to handle crime scenes more professionally.

The other projects included accelerated internal training for magistrates, state advocates, state prosecutors and interpreters, and meeting demands of the witness protection programmes.

Money would also be spent on the improvement of court management, the upgrading of the infrastructure of the Department of Justice and a victim-support programme.

Programmes would also be provided for the training and rehabilitation of offenders and an integrated security system for 18 priority prisons, as well as one to train police in handling cases.
EIGHT AMNESTIES GRANTED

Hartzenberg fuelling hatred — Boraine

EIGHT amnesties were granted this week — including that of killer policeman Brian Mitchell — and nine applications were turned down. ROGER FRIEDMAN reports.

Conservative Party leader Dr Ferdi Hartzenberg chose the same day that the Truth and Reconciliation Commission granted amnesties to four right-wing bombers, including a former Conservative Party MP, to lambaste the commission for alleged anti-Afrikaner bias.

A clearly incensed commission deputy chairperson Dr Alex Boraine reacted to Hartzenberg's allegation yesterday, accusing him of "fanning hatred and division" at a time when the country was trying to develop a climate of reconciliation and national unity.

Hartzenberg said the commission's sole intention was "the destruction of the Afrikaner". Boraine said Hartzenberg's comments "make him look rather foolish" given that the commission had just granted amnesties to the four bombers.

Eight amnesties were granted this week — including murdering policeman Brian Mitchell — and nine applications were turned down.

Five of the eight successful applicants were right-wingers Mitchell, former MP Mr Koos Botha, and three Boerokommando members. The other three were members of an ANC-aligned self-defence unit.

Boraine said the amnesty committee's decisions were based on evidence supplied at public hearings or in writing, and were strictly governed by the complex requirements of the Promotion of National Unity Act.

These requirements include that the applicant make a full disclosure, that the act for which amnesty is sought was carried out to achieve a political objective, and that the applicant was a member of a political party or organisation.

Amnesties granted


The amnesty committee found that the applicants acted with a political motive, were members of a political party, and that they acted against people they believed to be their political opponents. They were sentenced to lengthy terms of imprisonment.

Mr Jakobus Johannes Christoffel Botha's application was for explosions at Hillview School and Costatu House in Pretoria and at the Verwoerd memorial post offices in 1991/92. Botha faces criminal and civil proceedings, including charges of terrorism.

Mr Gerhard Peter Daniel Roux, Mr Cornelius Gabriel Volschenk and Mr Rowland Keith Robinson were members of the Boerekommando whose applications were for explosions at Maliver School in the Nylstroom district and Pedi School in the Volksrust district in 1991/92. They, too, face terrorism charges.

Amnesties refused

Moleo Joseph Tshukudu, also a member of the Kroonstad self-defence unit imprisoned for murder. The amnesty committee concluded that there was no political objective for his killing of Hendrik Grobbelaar in Maokeng township in 1992.

Cornelius Johannes van Wyk and Jean Preur du Plessis, members of an organisation called the National Socialist Partisans, serving prison sentences for murder and robbery, respectively. The amnesty committee found that their organisation comprised just four people, and was neither a publicly known organisation nor a liberation movement.

Kwane Sebe, son of former Ciskei leader Mr Lennox Sebe, was the commander of the Ciskei Police's Elite Unit before being jailed for 21 years for bombing the house of his former second-in-command and a bottle store.

The amnesty committee found that the bombings did not have a political objective but that Sebe, especially in the bombing of the bottle store, acted "out of malice, ill will or spite".

Brothers Adriaan, Willem, Gideon and Dawid van Straaten were convicted of the robbery and murder of a heavy-duty truck driver in 1991. The amnesty committee concluded that the brothers' actions were not associated with a political objective, but were purely criminal acts.

Police-killer Thamsangwa David Jackson, serving a 12-year prison term for the murder of Copa Peters Dithabe in Venterdorp in 1993, was found by the committee to have acted in self-defence and not with a political objective.
‘Significant’ revelations coming

ROGER FRIEDMAN

THE deputy chairperson of the Truth and Reconciliation Commission, Dr Alex Boraine, is “delighted” at the calibre of some of the recently received amnesty applications, saying they will expose “very significant events which could be considered a breakthrough for the commission and the country.”

Although he would not divulge names or specific events, Boraine did say the commission was not expecting an application from former state president PW Botha, who was recently named by his former police chief, General Johan van der Merwe, as having given the orders for the bombing of Khotso House.

Boraine said the commission had completed a comprehensive list of questions to put to Botha, which would be sent soon to his retirement home in Wilderness.

Although Botha stated at his meeting last month with commission head Archbishop Desmond Tutu that he felt he had nothing he need apologise for, Boraine said he believed Botha owed the country both an apology and an explanation.

Boraine warned Botha and other defiant apartheid era officials “If they do not seek amnesty then they leave themselves open to be charged in a court of law, both civilly and criminally. The choice is theirs.”

DELIGHTED: Dr Alex Boraine, TRC deputy chairperson

Bombings pardon for Koos Botha

Bombed

A chapter closed on the colourful political career of maverick former Conservative Party MP Mr Koos Botha when the Truth and Reconciliation Commission pardoned him yesterday for a series of bombings in the early 1990s.

Botha, who, after the bombings, was kicked out of the CP for advocating negornations, went into a low-cost housing business with Gauteng premier Mr Tokyo Sexwale’s brother and now runs a secretarial college with mainly black students, said he was “very relieved” at being granted amnesty.

He said he would try his best to steer clear of politics in future — “except for issues in my local community like litter on the pavements and so on” — and called on other right-wingers who had committed political crimes to come clean.

“The time has arrived for us to admit the things we have done wrong so that we can move forward,” Botha said hours after the announcement that he had received amnesty.

Koos Botha, known as “Kleinkoos” in his parliamentary days, was kicked out of the CP in 1992 after clashing with then CP leader Dr Andries Treurnicht over the party’s refusal to engage in negotiations.

He was given his nickname to distinguish him from another maverick Conservative, Koos van der Merwe, who was also kicked out of the CP for his relatively progressive politics and now owns the parliamentary benches for the Inkatha Freedom Party.

Soon after being drafted into the CP, Botha was arrested and charged with the bombing of Hillview Primary School in Pretoria, post offices in Verwoerdburg and Krugersdorp, and Costatt House in Pretoria. No one was injured in the bombings, which were committed in 1990 and 1991, before he had changed his mind about negotiations.

At the time, he said, he believed the Afrikaner nation was under siege and Treurnicht’s militarist statements had driven him to take drastic action.

The Hillview School building, which was not in use at the time, was chosen as a target because it had been earmarked as a school for the children of returning ANC exiles.

Botha was charged in 1993 with sabotage and terrorism, but never convicted. The case was postponed in the Pretoria Supreme Court pending his amnesty hearing.

Botha has converted a disused jail in Marabastad, the predominantly black business district of Pretoria, into a secretarial training college mainly for black students.
Three cabinet ministers seek amnesty from TRC

THREE cabinet ministers are among the people whose amnesty applications will be handed to the Truth and Reconciliation Commission today, hours ahead of the deadline at midnight tomorrow.

It was announced yesterday that Safety and Security Minister Mr Sydney Mufamadi and Posts Minister Mr Jay Naidoo would seek amnesty for the kidnapping of a policeman detailed to spy on Cosatu House in 1990.

"Naidoo, who was Cosatu’s secretary-general at the time, and Mufamadi, who was his deputy, have appealed against their conviction on the kidnapping charge.

The African National Congress also confirmed that it would hand in amnesty applications by Defence Minister Mr Joe Modise, former commander of the ANC’s military wing Umkhonto we Sizwe (MK), and Deputy Defence Minister Mr Ronnie Kasrils.

It was reported earlier that former Law and Order Minister Mr Adnaan Vlok had become the first apartheid-era minister to seek amnesty. He said he did not know of any other National Party politicians who would be applying.

TRUTH COMMISSION deputy chairman Dr Alex Boraine said it was the commission’s policy to release applicants’ names only once dates had been set for public hearings, but some of the applications related to very significant events.

Boraine and Freedom Front leader Constand Viljoen are to meet President Nelson Mandela at the Union Buildings this morning to discuss proposals for an extension of the amnesty cut-off dates.

The commission, supported by the FF, has asked that the cut-off date for amnesty offences be extended from December 6, 1993, to May 10, 1994, and that the deadline for applications be extended to March 14 next year.

Boraine said he had been in touch with the President’s office to suggest that the Pan-Africanist Congress, which also wants an extension, also be invited to the meeting.

Mandela will address a press conference immediately afterwards.

The commission continued to urge the Inkatha Freedom Party to encourage its leaders and members to make use of the commission.

"We will go on doing this as long as we are alive. If the IFP does not make use of that they only have themselves to blame," Boraine said.

The PAC is expected to hand in about 600 applications before tomorrow’s deadline, including the entire high command of its military wing, the Azanian People’s Liberation Army.

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Of these, 100 had been submitted on behalf of people serving prison sentences.

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He said the extension had been granted verbally by President Mandela some time ago. A letter confirming this, from Justice Minister Mr Dullah Omar, had arrived this week.

"So we are now definitely known," he said. — Sapa
R1.2bn boost for justice system

OWN CORRESPONDENT

PRETORIA: Altogether R1.2 billion will be spent to beef up the criminal justice system over the next few years, Safety and Security secretary Mr Azhar Cachalia announced yesterday.

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The NCPS has identified 12 programmes dealing with blockages in the system as priorities. Work has already started; or will start shortly, on the following:

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- R211.5m will be spent on a project to improve police fingerprinting with an automatic fingerprint identification system.
- A R20m project for facilities for youth offenders is being led by the Welfare Department.
- Police propose a R5.9m project to train officers to be more professional at crime scenes.

The other priority projects are accelerated internal training for magistrates, state advocates, state prosecutors and interpreters.

Money will also go towards improving court management, upgrading the infrastructure of the Department of Justice and a victim support programme.

Programmes will also be run on the training and rehabilitation of offenders and training police to handle cases more effectively.
One day after freeing killer policeman Brian Mitchell, the Truth and Reconciliation Commission announced it had granted amnesty to four right-wing bombers and three members of an ANC self-defence unit who had murdered political opponents.

The commission denied amnesty to nine people.

- Koos Botha, a former CP MP received amnesty for the bombing of Hillview School, Pretoria, on July 6, 1991.
- Cosatu House, Pretoria, on December 18, 1991, and the Verwoerdburg and Krugersdorp post offices on January 1, 1992. He was facing criminal and civil proceedings related to the acts, including a charge of terrorism under the Internal Security Act.

Since the explosions did not kill or injure anyone, a hearing was not required and the application was considered in chambers.

- Gerhard Peter Daniel Roux, Cornelius Gabriel Volschenk and Rowland Keith Robinson, all members of Boerekommando, received amnesty for the bombing of Melkkrans School in the Nylstroom district on January 2, 1992.
- The bombing of Perdeleap School in the Volksrust district on December 22, 1991. Their application was also dealt with in chambers.

- Roland Roy Petrus, Machabe Petrus Tsulo and Pasela Johannes Mpondo, members of an ANC self-defence unit in Mookeng, Kroonstad, received amnesty for the murder of George Ramasimong and Sebata Ntema in February 1992. They were serving long-term prison sentences.

- Ramasimong and Ntema were members of the Three Million Gang, which was at war with the ANC in Maokeng, and there was a perception that the police were aiding the gang. The applicants had a political objective because they thought they could bring an end to the violence by killing Ramasimong and Ntema, the committee found.

- Molefe Tshukudu, a member of an ANC self-defence unit, was denied amnesty for the murder of Hendrik Grobbelaar in Maokeng, Kroonstad, in 1992. Tshukudu is serving a 14-year sentence. The committee rejected Tshukudu's contention that he had killed Grobbelaar, a white man who lived in the township, because he believed he was a policeman who wanted to arrest him.

- Cornelius Johannes van Wyk and Jean Pienaar du Plessis, two University of Pretoria students with far-right-wing links, were denied amnesty. Van Wyk is serving three life sentences for the murder of a woman and two farmworkers during a botched attempt to steal firearms, while Du Plessis is serving a 12-year sentence for robbery, theft of weapons from the SADF and illegal firearms charges.

- The committee said the two did not belong to a "publicly known" political organisation as required by the amnesty law and they could not prove a political motive.

- Kwanse Sebe, former commander of the Ciskei police's Elite Unit, and son of former Ciskei storekeeper Lennox Sebe, was refused amnesty for the bombing of his second-in-command's house and a bottle store. The committee rejected Sebe's evidence that the bombings were committed as part of an intelligence operation. Sebe is serving a 21-year prison sentence.

- Four brothers, Adriaan, Willem, Gideon and Dawid van Straaten, who claimed to be AWB supporters, were denied amnesty for murdering two blacks during a robbery in 1989. The committee said the murders were purely criminal acts and they are serving long-term prison sentences.

- Thamisanqa Jackson was denied amnesty for the murder of a policeman, Oupa Dihale, in 1993. The committee found that Jackson had killed Dihale after Dihale had slapped him in the face. Jackson is serving a 12-year sentence.
Deadline for applications tomorrow. Mandela agrees to TRC mandate being extended by six months to December 1997.

Three in the Cabinet will seek amnesty.

Mandela in Pretoria today in a meeting under the title, "Ratifying TRC Code of Reference for Application for Amnesty." The meeting was attended by 15 members of the TRC, including the commission chairman, Justice Denis Goldberg, and the commissioners, including the chairperson, Dr. John Dlamini. The TRC will be extended by six months to December 1997.

Mandela, who was present, opened the meeting by saying that the TRC had done an excellent job in its work so far. He said that the commission had a mandate to investigate and report on human rights abuses during the apartheid era. He said that the TRC had done an excellent job in its work so far. He said that the commission had a mandate to investigate and report on human rights abuses during the apartheid era.

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R1,2-billion to speed up justice

OWN CORRESPONDENT

Safety and Security secretary Azizah Cachalia has announced that R1,2-billion would be spent on speeding up the South African criminal justice system over the next few years.

Speaking on behalf of the National Crime Prevention Strategy (NCPS), in Pretoria yesterday, Cachalia said that the money would be used to clear key blockages in affected departments, including those of Safety and Security, Justice, and Correctional Services.

The R1,2-billion allocated for the NCPS programmes by the Government will come from RDP revolving funds as well as the budgets of the ministries of Safety and Security, Justice, Welfare, Defence, Correctional Services and Intelligence.

Cachalia listed the achievements of the NCPS as the establishment of a unit to co-ordinate interdepartmental NCPS programmes.

He said that each department involved has assigned senior staff members to serve as full-time managers of their respective NCPS programmes.

Most of the R1,2-billion will go to projects which will focus on fixing the key blockages in the criminal justice system.

The NCPS has identified 12 programmes dealing with blockages in the system as top priorities.
Amnesty (252)

Migration to seek protection

Continued from previous page

was requested in 1996. The applicant was arrested and

Amnesty was requested in 1996.

and requested a copy of the document.

Truth commissions: pardons, CP, MP, turns down nine amnesty

Please
Plan for R1,2bn upgrading of justice system

Stephen Laufer

Business plans costing R1.2bn to improve the criminal justice system had been submitted to the state expenditure department by the National Crime Prevention Strategy coordinator Bernard Fanaroff and yesterday.

Twenty-two plans had been finalised last month and the relevant ministers and directors-general had approved them last week.

The crime prevention strategy co-ordinates efforts of the safety and security, justice, correctional services and welfare departments.

More than R300m would be spent on improving and integrating management information systems which would allow greater co-ordination between the SA Police Service, prosecutors and the correctional services and welfare departments. A basic system would be in place in 18 months.

Fanaroff said speedy processing of criminal cases through the system was the most effective deterrent to crime.

The system would allow quick access to criminal records and would be linked to an automated fingerprint information system. The process, costing more than R200m, would reduce turnaround time for identifying fingerprints from eight weeks to 48 hours.

State expenditure had approved R38m for upgrading secure care facilities for young offenders.

Eight other projects were expected to get the green light from the state expenditure department within weeks.

Fanaroff said these included measures to improve the infrastructure and management of courts, particularly in former homelands where many were without telephones and other basics, expansion of the witness protection programme, rehabilitation for offenders 65% of whom were illiterate and likely to return to crime if released without training, and upgrading prison security.

Business against Crime had helped departments identify resources and the private sector would assist departments in putting plans into place.
Applications for amnesty from the PAC and ANC are pouring in to the truth commission, and with a likely extension of the cut-off date for applications, the commission will also be able to apply, writes Eddie Koch.

Mandela ‘to open amnesty floodgate’

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Heldenberg bombarding Shell House now fall within cut-off

Extension of amnesty date welcomed

In this President Reagan stronger is linked by Consul Villamor Jr. and Alex Jordan in France
Mandela allows four more months for

applicatios and extends amnesty period

By Aminat Aminadu

(292) 877-1419

Amnesty
The NP, ANC, TRC and the truth

Unless parties take responsibility, reconciliation is a mirage

HAVE THE TWO MAJOR PARTIES REALLY TOLD THE FULL TRUTH TO THE TRC?
DEMOCRATIC PARTY LEADER TONY LEON TAKES A CRITICAL LOOK AT THEIR WORDS - AND DEEDS

The Democratic Party has observed the proceedings of the Truth and Reconciliation Commission with the same reactions as most South Africans.

We have felt the ache of sympathy for the victims of a violent struggle for political, social and economic liberation. And we have felt irritation, impatience and dismay with the political parties whose submissions were less than complete and, therefore, less than truthful.

Unless the parties take responsibility for the actions of their footsoldiers trained for so long to believe in their aims, the commission's goal of reconciliation will remain merely a mirage.

Reading the testimony submitted to the commission by the National Party, especially, raises unanswered questions which far outnumber those addressed and the justification and extenuation in the NP's testimony outweigh remorse and regret.

It is understood that the propaganda of the 70s and 80s, which brought us the "total strategy" to combat the "total onslaught", meant euphemism, doublespeak, assertions and even lies. Will it carry on now into the 90s? How can we avoid being "condemned to repeat the past" if we don't comprehend it? Does the NP still expect us to believe that the atrocities committed under the name of its regime were perpetrated by "rogue elements"? Isn't it becoming clear that the most well-known and ruthless of these elements - spawnd by the mindset of apartheid - were P W Botha and his generals?

Mr Botha and his political colleagues must accept responsibility for the activities of those they supervised. While apartheid certainly was not comparable with the Nazi regime in Germany, certain parallels are relevant. Albert Speer, who was a member of Hitler's cabinet, pleaded with his fellow defendants during the Nuremberg trials to "join him" in recognition of a universal law under which they, as part of Hitler's leadership, had to accept responsibility.

Whether they had individually collaborated in the crimes or not, in their capacity as leaders, they had to accept a common civil responsibility. Not to have done so would have been an affront to the honor of the people for the common triumph.

This comments are made by Mr De Klerk who, in my opinion, should bear the responsibility for the efforts that have been made to achieve reconciliation.

The key question is: Have the NP and ANC taken responsibility? If they have not, then they are misleading the public by claiming to have done so.

If the ANC say Magoo's Bar was a legitimate target, they give the NP the right to say Khotso House was, too

Accuser: DP leader Tony Leon, who questions the sincerity of NP and ANC admissions about the past.

by necklace. He went on to say, "If we want to deal with terrorism and other despicable acts, we need special powers. We can't fight that type of onslaught with legal niceties" The system created and consolidated in the TRC, said Mr de Klerk, would not make excuses for acting strongly and effectively against those bent on revolution, destabilisation and terror, and that is what we have heard in the party's testimony to the TRC.

Many people have tried to shift blame to the NP's Teflon. In 1992, Mr Jan van der Zee, the then chair of the National Party, was thrown out of Parliament for allegations that he had special powers. The same year, the then finance minister of the National Party, Mr W. Botha, was thrown out of Parliament for his role in the assassination of Mr. De Klerk. Mr. De Klerk responded by saying that the commission's goal of reconciliation would remain merely a mirage.

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Rude shock waiting for liars

TRC has begun to find out who was killed and who ordered the deaths

By Claire Keeton
Feature Writer

Security policemen are no longer protected from probing questions about past abuses by their rank or superiors, and secret state files are no longer hidden in locked steel vaults. The Truth and Reconciliation Commission (TRC) has changed all that.

Now both retired and serving policemen, from sergeants to generals, have had to answer to TRC investigators at in-camera inquiries, while State Security Council (SSC) files are open on the desks of commission researchers.

Across the country TRC investigators and researchers have uncovered new information on how the apartheid movement systematically perpetrated human rights abuses between 1960 and 1993. The head of investigations, Commissioner Dumisa Ntsebeza, said his unit had the capacity to discover the whole truth. “Amnesty applicants should not tailor evidence to suit their own ends; they may be rudely shocked by how they fail,” he warned.

The unit has begun to find out not only who was killed in political violence but who ordered their deaths, how they died and for what reasons.

Investigations director Glen Goosen said the unit was compiling this information to gain a “clearer insight” into the context of the human rights violations.

The unit – with less than 60 policemen, lawyers, violence monitors, foreign and other experts – has prioritised several areas during its first year. Apart from its own investigations, it has done the ground work with the research unit for many human rights, amnesty and event public hearings.

The cooption of testimony for the public hearings has been much of the investigators’ time. “The bulk of our work this year has been case-driven,” Goosen said.

TRC executive secretary Paul van Zyl said the cooption work was critical to making accurate and defensible findings. “Our credibility stands and falls on whether we have a thorough methodology and standards for making findings,” he said.

Another important area has been the Section 29 in-camera inquiries with subpoenaed individuals, many from the security forces. “We have identified people allegedly involved in violations and issued a number of notices in terms of Section 29 (of the Promotion of Truth and Reconciliation Act),” said Goosen.

“We have made significant progress and had major breakthroughs in a number of instances. We have gathered quite a lot of information not previously known or available.”

The national office has done inquires with senior policemen like General Krapies Engelbrecht and each regional office has conducted inquiries related to its own investigations.

Van Zyl said “The Section 29 inquiries have been astonishingly successful. Although some people have claimed up, others have walked in saying they were entirely innocent and left saying they would submit amnesty applications in the next few days.”

But the TRC has struggled to win the cooperation of members of the military. “Their obvious reluctance to cooperate is a problem and we will concentrate a lot of energy on this next year,” said Goosen.

He said there were “few notable exceptions” who have assisted with investigations, some of them would apply for amnesty.

The TRC is hoping that members of notorious military units like 32 Battalion will approach them with made information on violence like the 1990s train massacres.

In addition the investigations unit will be directly affected by the recent flood of amnesty applications. “The huge volumes of applications (now close to 4,000) will be a substantial portion of our work next year.”

Meanwhile the research unit, headed by Professor Charles Villa-Vicencio, is also working hard to document human rights violations and the context which gave rise to them. He said the unit has made “significant progress” this year, with 12 national themes to guide their research.

Van Zyl said the themes helped to provide an analytical framework against which to interpret primary information and to see how representative the data is. The TRC already has about four times more information than the Chile Truth Commission.

Villa-Vicencio said one of their priorities, on top of servicing public hearings, has been accessing primary documentation. Key documents such as SSC and Cabinet minutes have been released by major institutions like the State Archives, National Intelligence Agency, and the former South African Defence Force and South African Police.

“We have begun to work our way through a number of very sensitive, important documents, which have established a clearer picture in our own minds of the activities of the old South African regime than we had at the beginning of the year,” he said.

The unit does not make findings, but next year it will be under severe pressure to start defining the main lines and conclusions of the final report.

The research unit, like investigations and the committees, has been frustrated that the TRC’s data base has taken a long time to become operational. “We have had a limited ability to cross-check and analyse primary data,” Villa-Vicencio said.

But the database will be operating at full speed by the beginning of next year and assist the TRC’s units in identifying trends and perpetrators.

For example, it would be significant if a general was named in 50 cases in the Eastern Cape during a period when he was commanding officer and there were many disappearances.

TRC researcher Janet Cherry said the unit has seen patterns emerge such as torture on both sides of the struggle and vigilante involvement in human rights abuse.

Although crucial evidence has shown security force complicity in so-called “black-on-black” violence, Cherry said “We need someone in a senior position to say how they implemented their plans.”
Ex-servicemen ‘left out in cold over amnesty’

Members of former government and defence force accused of indifference and failing to provide clarity on issue

BY NONKANDE CHANDLE
Defence Correspondent

Military veterans have launched a blistering attack on the former government and on the former South African Defence Force, accusing them of letting ex-servicemen fend for themselves in regard to amnesty and possible criminal charges arising from their military service.

Lieutenant-General Raymond Holtzhausen, chairman of the Council of Military Veterans’ Organisations, an umbrella group representing various organisations, said “the cessation of hostilities in South Africa” had meant that members of the SADF had been “left out in the cold.”

He said this was in marked contrast to the attitude taken by the ANC and Pan Africanist Congress regarding amnesty applications being made by members of their armed wings, Umkhonto weSizwe (MK) and the Azanian People’s Liberation Army.

The SADF, MK, Apla and the homelands armies of the former Venda, Bophuthatswana, Transkei and Ciskei amalgamated in April 1994 to form the South African National Defence Force.

“The attitude of the former government and the former leadership of the SADF seems to be one of letting everyone fend for himself and may the devil have the last supper for breakfast.

“This attitude reflects a lack of proper concern for those former SADF members who rendered exemplary service to the state,” Holtzhausen said.

“The advice that the former chief of the SADF and minister of defence (General Magnus Malan) is implying, that all ex-servicemen should take their chances in a law court, discounts a very elementary question. Who will be footing the legal costs involved?

“Surely, the current department head (Joe Modise), who is himself applying for amnesty will not approve the payment of such legal costs from the state coffers. This part of the deal was never cut at Kempton Park.”

Ex-servicemen were concerned that the former leadership had not clarified the amnesty issue in regard to full-time or part-time soldiers “whose sense of duty gave the government of the day the necessary time to resolve the political issues, which was commonly put forward as a goal for the military.”

Malan said last week that soldiers who served under him while he was chief of the SADF should rather take their chances in court in regard to amnesty or possible criminal charges, as he regarded as legitimate all military acts authorised by him during the so-called “bush war” years, when South African soldiers fought in Angola and Namibia, and in the era of the former government’s total onslaught policy.

‘Who will be footing the legal costs?’
Jailbirds lead rush for amnesty

While a detailed breakdown of amnesty requests is not yet available, it seems the majority have come from those already behind bars, reports Eddie Koch

ALTHOUGH hundreds of guerrillas, policemen and some government ministers have made a late rush to the Truth and Reconciliation Commission, the great majority of requests for amnesty for human rights abuse have come from perpetrators who are already behind bars.

With boxes of amnesty applications still streaming into the commission's headquarters in Cape Town — including a new one from Transport Minister Mac Maharaj — officials say they are not yet able to provide a detailed breakdown of the types of people who applied for amnesty this year.

But initial indications are that up to 4,000 people, who think they committed human rights offences during the apartheid era have asked for indemnity from prosecution in return for confessing details of their actions.

By far the biggest number of these applications, possibly as many as 3,000, have come from convicts whose only way out seems to be back to jail.

"The trickle of applications from former security force members turned into a flood last week but appears to be slowing down since the deadline was extended," said one official.

No exact figures were available for the number of security force applications although by far the largest number came from members of the security police and those murdered and robbed by the army and the secret police.

Only a handful of applications had been received from military men — even though many of the police applicants insist their abuses included joint operations with the special forces of defence force.

It appears the small South African Defence Force (SADF) group that is cooperating with the commission comes mainly from within military intelligence. There are no indications that anyone from the Civilian Co-operation Bureau, the main political forces unit of the SADF responsible for dirty tricks, has yet applied.

Commission officials were not able to give a breakdown of the security force applications by rank and are not allowing by law to make the names of applicants public.

"It seems there is a mix of ranks with lower officers applying for individual deeds while more senior officers are applying for actions that involved implementing state policy," said one official.

The absence of military co-operation with the truth process stems primarily from the fact that the prosecution failed to prove that General Magnus Malan and his co-accused were responsible for the Kwa- Makhatha massacre in KwaZulu-Natal. There have also been no other criminal cases involving military personnel to prod these people into seeking amnesty.

This could change early next year when the families of people who were murdered lodge civil proceedings against the Malan group for damages they suffered.

The onus of proof in civil cases will not be as stringent and the families will be able to choose lawyers willing to make a more combative case against the military men. This could force some of the accused to seek amnesty as this will indemnify them from liability for such claims — and any admissions they make will have a dominant effect into the military's ranks.

The Mail & Guardian is also aware that scores of soldiers from 32 Battalion — 'the mercenaries' unit of the SADF — are talking to the truth commission about indemnity in return for details about train attacks and other civilian terror campaigns they are reported to have committed in the early 90s.

Amnesty applications are likely in the new year and will inevitably implicate senior military officers.

The African National Congress has so far submitted 150 applications, many from members of its guerrilla wing, and has indicated it will be processing less than another 100 forms early in the new year.

In a public sign of commitment to the truth process, at least five ANC ministers have applied for amnesty. These are Defence Minister Joe Modise, Deputy Defence Minister Ronnie Kasrils, Safety and Security Minister Sydney Mufamadi, Telecommunications Minister Jay Naidoo and Transport Minister Mac Maharaj.

Modise and Kasrils will be dealing with actions they participated in as senior officers in the command structure of Umkhonto weSizwe — and will probably include orders given to attack civilian targets during the struggle against apartheid. The application from Mufamadi will probably detail aspects of Operation Vula, including efforts to smuggle weapons into the country during the early 1980s.

Mufamadi and Naidoo have applied for a relatively minor incident relating to the abolition of a suspected police spy at the Congress of South African Trade Unions offices.

The only Cabinet minister from the old National Party government who has said in public that he will apply is former police minister Adrian Vlok.

Although the African National Congress indicated it would submit applications from the entire high command of its guerrilla wing, it handed in about 300 applications on Saturday and many of these will have to be reprocessed as they were not filled in correctly.

The Inkatha Freedom Party has not applied as a group although a handful of individuals have applied in their individual capacities.

Moves are also afoot to provide amnesty for warlords who participated in the KwaZulu-Natal civil war in the 1980s and early 1990s.

An official says there have been "quite a lot of" applications from the ANC's self-defence units. It is expected there will be a major increase in applications from this quarter since the period in terms of which people can qualify for amnesty has been extended to 10 May 1994.

Most self-defence unit members were involved in battles with Inkatha during the early part of 1994 before the April elections.
By Claire Keeton
Feature Writer

Reconciliation does not take second place to truth in South Africa’s unique Truth and Reconciliation Commission – and reconciliation is as difficult to achieve as discovering the truth.

The commission’s commitment to building unity in communities divided by apartheid violence is no less important to it than understanding the forces behind that conflict.

The very act of people coming before the TRC, both the victims and those seeking amnesty, has within it the seeds of reconciliation,” says TRC deputy chairman Dr Axe. Boronee “The telling of the truth holds the potential for reconciliation, however painful to both sides.”

Reconciliation is inevitably a painful process since it means reconciling two opposing parties, and the process of telling the truth while striving for reconciliation is emotional, even for the commissioners.

“All the Africans on the commission find the suffering, arising from assassinations and disappearances, so close to our hearts it is wrenching. We walk away and say ‘There, but for the grace of God, go I,’” says commissioner Dr Mapale Ramaphala.

Her colleague the Reverend Bongani Sitsa says reconciliation “is not claimed, it is earned”, and he has learnt to acknowledge all victims, from every side of the political struggle.

Pienaar says the Biko massacre public hearing in September highlighted a “moment of genuine reconciliation” when one suspect, Colonel responsible for ordering the final shooting, honestly pleaded for forgiveness for himself and his soldiers.

The victims began to cry because they embraced what he was saying, not because they were angry,” he said.

Massive public participation has been an outstanding feature of the TRC’s Eastern Cape hearings, with thousands turning up on East London, Port Elizabeth, Umtata and Bisho.

A public amnesty hearing in Phalabora also demonstrated the power of reconciliation, when both the perpetrators and the victim’s family asked for forgiveness and wanted the community to be reunited.

“That hearing was the best of all,” says amnesty committee member Judge Andrew Willes.

Amnesty applicants are not required to say they are sorry in their testimony, though many, including freed former security policeman Brian Mitchell, have done so.

“The majority of perpetrators are in fact sorry for the past and have a new vision,” amnesty committee member Advocate Christ de Jager says.

But many white South Africans, who allowed systemic human rights violations either directly or indirectly by their ignorance or lack of opposition, are unwilling to accept the liability of abuse exposed by the TRC.

They have gone into denial, claiming that Mitchell and other former policemen were simply “bandits” operating without authorization, despite convincing evidence to the contrary.

State repression

Moreover, the symbol of state repression in the 1980s, former president PW Botha, has told the TRC he has nothing for which to apologize.

The TRC has treated him with red gloves despite his insensitivity in the hope that he will reveal more information.

They have also taken a diplomatic approach with uncritical parties such as the late African National Congress, but this has yet to make a significant difference.

The IFP is regularly set against the commission, although we have gone down on our knees in meetings with IFP leader Mangosuthu Buthelezi,” says commissioner Mr Richard Lyster, based in Durban.

Another KwaZulu-Natal commissioner, Dr Khuzo Mngqosi, says it is a problem that no more than 10 percent of the victims in their region are IFP members.

He says they have progressed in bringing rival organizations, “which would never sit under the same roof,” together at TRC hearings.

Lyster says many people are afraid of coming to the commission as it is “like a death warrant” in particular areas, of KwaZulu-Natal.

Despite this the TRC has gone to areas all over the region to inform them about its work.

It is clear that all regions have communities torn apart by so-called black-on-black violence, and often the vigilante forces involved have not been dismantled and are tied to criminal activity.

“In every town we go to, the question of vigilante and orchestrated black-on-black violence arises, whether it is in the Three Million Gang in Kroonstad, the Toasters in Tembisa or the Mthokozane in Mantsho, which killed 100 people in the 1980s,” said commissioner Yvonne Sooka.

She has been shocked at the intensity of conflicts in the former Transvaal and neighbouring homelands, the largest TRC region falling under the Johannesburg office “No rural or urban area was immune and people lived in terror.”

Sooka says the TRC is working towards accountability as communities. Members of the Toasters, for example, have applied for amnesty following public hearings Ramaphala says such accountability should be prioritized for the safety of witnesses.

The Western Cape office has succeeded in doing follow-up work in communities after hearings in order to foster reconciliation.

Commissioner Glenda Wildheust says in Upington the TRC has brought together a former policeman and a family whose child he had shot and they had a united community service after the meeting.

For uncontrolled loss may make reconciliation a distant hope as with the mothers of seven Gugulettu boys shot by police, even given the remarkable generosity of spirit among victims.

Boronee says it would be wrong to demand that those who have been hurt must forgive, as it “would add another burden to their suffering.”

He says “Reconciliation is like a cheap, sentimental love song. It’s tough to say ‘I’m sorry’ or ‘I forgive”’.
ANC debates special amnesty

Ann Eveleth

The special amnesty mooted for KwaZulu-Natal may help African National Congress chairman Jacob Zuma's bid for the party's deputy presidency, but the idea is still highly controversial within ANC ranks.

ANC leaders say details of the proposal to grant a special amnesty to KwaZulu-Natal's warlords has not been discussed by either the party's national executive committee or its provincial structures.

Presidential spokesman Parks Mankahla said the idea had not yet been discussed with President Nelson Mandela, but added: "Zuma understands KwaZulu-Natal's problems better than anybody in the ANC, so I'm sure the president would listen to his proposal".

Other ANC leaders said a successful peace effort in KwaZulu-Natal would be the feather in Zuma's political cap and would bolster his chances of securing the ANC deputy presidency.

They said a proposal also on the table to split the party's deputy presidency from the national deputy presidency — both of which are currently held by Thabo Mbeki — would pave the way for Zuma to take the party's second post, but leave room for him to continue leading the province if Inkatha Freedom Party leader Mangosuthu Buthelezi decided to return after the demise of the government of national unity.

KwaZulu-Natal ANC deputy chairman S'Mba Ndebele said the amnesty proposal formed part of a "peace package" which the party's provincial conference earlier this month had resolved to offer the IFP.

He said the plan would still have to be negotiated with the IFP. The proposal under consideration would see the "disclosure" function of the truth commission revised in the case of KwaZulu-Natal — and probably the Gauteng townships affected by violence between the two parties — to mean "disclosure and dismantling of paramilitary structures and weapons", rather than disclosure of past crimes.

The IFP was this week non-commital on whether it would accept such a deal as bilateral talks between the two parties still had to take place. Party secretary general Ziba Jiyane said: "Any serious peace proposal must be supported."
HANI’S KILLERS IN SPOTLIGHT

Rightwing radicals are poised to emerge as the main beneficiaries of the Truth & Reconciliation Commission amnesty hearings, judging from the decision to free mass murderer Brian Mitchell

As a human rights lawyer put it, the release of Mitchell — who was originally sentenced to death 11 times for his role in the Trust Feed massacre of December 1988 — "opens the door quite wide.”

Wide enough for the assassins of former SA Communist Party secretary-general Chris Hani — Clive Derby-Lewis and Janus Walusz — to walk through to freedom, he reckons, after pondering the text of the Truth Commission’s statement on Mitchell’s successful amnesty application.

Judging from the statement, Mitchell is a free man today for two primary reasons: his "full disclosure" of the events

surrounding the massacre (in which an Inkatha household was mistakenly targeted), and his political objective, which was to counter the ANC’s advance through its front organisation, the United Democratic Front.

There is no prima facie reason Derby-Lewis, a former Conservative Party member of the old President’s Council, and Walusz, a Polish immigrant with a morbid fear of communism, cannot fulfill those requirements.

Lawyers acting for the two men, Harry Frensloo and Louisa van der Walt, are upbeat about their clients’ chances of being granted amnesty if they are, there will be anger in ANC ranks, since several ANC leaders, including President Nelson Mandela, earlier expressed strong opposition to clemency for Hani’s killers.

It is likely to match the dismay which greeted the release in 1992 of Barend "Wit Wolf" Strydom, who went on a shooting spree against black civilians in Pretoria in November 1988, and Robert McBride, the ANC man who detonated a car bomb which killed white civilians in Magoo’s Bar in Durban in mid-1986.

The chances of rightwingers benefiting from the amnesty process have been further increased by Mandela’s decision to extend the deadline for amnesty applications and the cut-off date beyond which amnesty will not be considered for politically motivated offences. The deadline has been extended from December 14, 1996 to May 10, 1997 and the cut-off date from December 6, 1993 to May 10, 1994 — Mandela’s inauguration as President

The main beneficiaries of Mandela’s decision — which he described as one of the toughest that he has had to make — will be members of the neo-fascist Afrikaner Weerstands beweging who were jailed for their role in the bombing spree which killed 20 people on the eve of the April 1994 election.

They can now apply for amnesty.

So, too, however, can two members of the PAC’s underground army, Apla, who were imprisoned for the attack on the Hesdelberg Tavern in Cape Town on December 31, 1993.

— Financial Mail, December 20, 1996
ANC debates special amnesty

Ann Eveleth

The special amnesty mooted for KwaZulu-Natal may help African National Congress chairman Jacob Zuma’s bid for the party’s deputy presidency, but the idea is still highly controversial within ANC ranks.

ANC leaders say details of the proposal to grant a special amnesty to KwaZulu-Natal’s warlords has not been discussed by either the party’s national executive committee or its provincial structures.

Presidential spokesman Parks Mankahla said the idea had not yet been discussed with President Nelson Mandela, but added, “Zuma understands KwaZulu-Natal’s problems better than anybody in the ANC, so I’m sure the president would listen to his proposal”.

Other ANC leaders said a successful peace effort in KwaZulu-Natal would be the feather in Zuma’s political cap and would bolster his chances of securing the ANC deputy presidency.

They said a proposal also on the table to split the party’s deputy presidency from the national deputy presidency — both of which are currently held by Thabo Mbeki — would pave the way for Zuma to take the party’s second post, but leave room for him to continue leading the province if Inkatha Freedom Party leader Mangosuthu Buthelezi decided to return after the demise of the government of national unity.

KwaZulu-Natal ANC deputy chairman Sbu Ndebele said the amnesty proposal formed part of a “peace package” which the party’s provincial conference earlier this month had resolved to offer the IFP.

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Three security police apply for amnesty

(032) M+G 20-31/12/96

Ann Evereth

THREE former KwaZulu-Natal security policemen have applied to the Truth and Reconciliation Commission (TRC) for amnesty, the commission’s chief investigator said this week.

TRC investigator Satchie Govender confirmed reports that former Durban security policemen Colonel Andy Taylor and Captain Tjaart Fourie — now with the TRC’s Witness Protection Unit — and Pietermaritzburg policeman Captain Jerry Brooks, have applied for amnesty. Govender would not comment on the content of the applications.

Taylor’s application is believed to be the first by a senior police officer from the province and follows his court appearance earlier this year on charges related to the 1981 assassination of Durban human rights lawyer Griffiths Mxenge. Taylor was also subpoenaed to appear before the TRC following human rights hearings surrounding the 1978 assassination of University of Natal academic Rick Turner.

Taylor’s attorney Christo Nel said Taylor’s application did not relate to either of these incidents. “He denied involvement in either of them and did not even know Turner,” said Nel. He said Taylor’s application covered involvement in “six or seven” other incidents including the death of askari [an insurgent-turned-collaborator] Neville “Goodwill” Sikhakhane and the “assault during interrogation” of other people including African National Congress MP and senior South African Communist Party member Raymond Suttner.

Nel said Taylor had applied for amnesty in respect of “a couple of incidents on which the TRC supplied information that he didn’t even remember as they date back to 1974.”

One incident included in his application involved the “recruitment, or what you might call abduction, of a person from Swaziland who was to become an askari,” said Nel.

Former Pietermaritzburg security policeman Brooks — now a member of the South African Police Service Crime Intelligence Service (CIS) — had also applied for amnesty in connection with this incident, said Nel who is also representing him.

Govender confirmed that TRC Witness Protection Unit member Captain Tjaart Fourie had applied for amnesty. The unit’s KwaZulu-Natal head Chris McAddam, however, denied that Fourie had resigned from the unit to make his application in the wake of Taylor’s application.

McAddam said he could not comment on whether Fourie had applied for amnesty, but said: “He is still a member of the unit.”
Week after week, from one faceless building to the other, the arteries of our past bleed their own peculiar rhythm, tone and image. One cannot get rid of it. Ever.


I simply sat. I lost my business and I am reduced to a poor white.

The small safe ball accommodates the electronic media. The translation is channelled to our tape recorders. We see Van Eck on the monitor. I write the news copy. I dictate the hard copy over the phone. I read: 'to never come masseter chairman comes never to see' 'catch in my own' 'my teeth throbs heavily' 'my breast ails up, speechless.'

I give the phone to a colleague and thrash among the cables and electronic equipment out on to the steep overlooks. Water跌。 I go for breath. Like two underwater swimmers, my eyes burst out to the horizon. The sun cuts at a slanting light blue edge of peace. I am drowning. My eyes close as I see a landscape of paradise and a language from paradise: maroon, maroon, tomorrow, I whisper. The air as dreamy as jas- min and longleaf: I sit down on the steps and everything tears out of me. Flesh and blood can in the end only endure so much. Each week we are stretched thinner and thinner over different patches of grass how many people can one crying, how many tours slow sorrow can one accommodate and how does one get all of the specific satisfactions of the pets? We stay and stay.

I wake up in an unfamiliar bed with blood on my frayed lips and the soundtracks screaming in my ears.

I am called. "They say the story is really powerful. Can we possibly send another soundtrack? Shall we send the one about the daughter coming towards them?" I sip my ice. "Send the one about whom her was just sitting and remembering to add that the newspapers of that day said that pieces of her son's hair and eyes were found as a tree near the backside."

My hair is falling out. My teeth are falling out. I have rashes. After the nausea deathly I enter my house like a stranger and barrel.

I sit around for days. Standing my youngest walks into a room and fitches. "Sorry, I'm not used to your being here."

No poet should come forth from this May my hard fall off I write this so sit around. Naturally and untarning without words if I write this, I explicit and betray if I do, I die. Suddenly my overweight grandmother's mictic comes to mind when to deeper, bake a cake. To bake a cake is a restorative process.

I snap into a bowl glazed pineapple, watermelon, gooseberries, pears, peaches, dates, walnuts. Big rod and green cherries, currents, sultanas 1 let it stand as a cool dark cupboard — a bowl full of glistering colour. I cut the cake and stand. I relish the velvet of 12 eggs, butter and sugar. I bake a fruit cake and eat small pieces of cake in the blindness blue Cape summer heat. And I drink up delicious lines of poem.
I am not made to report on the Truth and Reconciliation Commission," writes Antjie Krog.

**Overwhelming trauma of**

I can talk about nothing else. Yet I don’t talk about it all.

**Commission’s remarkable job**

Waiting for an answer: Relatives of Ahdam Timol, one of the earliest people to die in detention, at the truth commission.
New legislation aims to stamp out racism

Derogatory words and deeds to be outlawed formally, along with torture and military-style training

BY NORMAN CHANDLER
Pretoria Bureau

Racial discrimination is to be formally outlawed next year, along with torture as well as military-style training by organisations other than those sanctioned by Government.

The Department of Justice says it will be proposing to Parliament, when the next session opens in February, the adoption of the Convention on the Elimination of All Forms of Racial Discrimination Bill, along with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Bill.

This will constitute the first formal legislation in South African history aimed at demeaning behaviour against a person of another race group. While details of the proposed two bills have not been released, it is expected that the usage of derogatory words and deeds against people of any race will no longer be tolerated in law.

Parliament will also be asked to pass a matter of urgency the Judicial Matters Amendment Bill which will prohibit military-style training. The bill also includes provisions for an increase in the penalty jurisdiction rights of lower courts, such as magistrates’ and regional courts.

Previously, right-wing organisations like the Afrikaner Weerstandsbevegweg (AWB) and political parties such as the Inkatha Freedom Party have been able to hold military-style training camps at which their members were given instruction in weaponry and military discipline. Evidence of the existence of the camps has been “disclosed during recent court” trials involving right-wingers and former policemen such as Eugene de Kock, who was convicted recently on six charges of murder carried out while he was commander of the police’s Vaalplaas counter-insurgency unit.

The department has prioritised eight pieces of legislation for the 1997 parliamentary session.

First is the Magistrates’ Courts Amendment Bill which deals with committal to prison in respect of debt and a new simplified debt recovery procedure.

Reference to the death penalty of these courts specifically for the adjudication of divorce actions.

Court prosecutors are to come under the control of a Directorate of Public Prosecutors in terms of the National Prosecuting Authority Bill, while witnesses in sensitive court cases will be given formal protection in terms of the Witness Protection Programme Bill which also provides for the establishment of an Office for Witness Protection.

The protection scheme has been operating for some time but this will be the first move made towards formally legalising the process.

The department says it is also seeking the finalisation of 17 other proposed laws.

The payment of a non-taxable allowance to Constitutional Court judges and of an allowance to sitting Supreme Court judges who also act for the Constitutional Court forms the basis of the proposed Judges’ Remuneration and Conditions of Employment Amendment Bill.

It also covers increased benefits for judges who have served 20 years and the payment of a gratuity to the surviving spouse of a Constitutional Court judge.

Victims of crime will be able to obtain compensation for their losses in terms of a proposed Prevention of Crime Fund Bill, which Government announced earlier in the year would be investigated, while money-launderers are to be punished severely in terms of proposed legislation known as Money Laundering Project 104.

According to the department, the promulgation of new legislation will bring our statutory law into line with the demands of an ever-changing society and will provide a more accessible justice system.

“Change will make justice system more accessible to the people”
Viljoen makes ‘final’ appeal for new amnesty cutoff date

BY MONDULI MAKHANYA
Political Reporter

Freedom Front leader Constand Viljoen made a “final” appeal to President Mandela yesterday to extend the amnesty cutoff date and warned that failure to do this would result in “serious ramifications” for the reconciliation process.

The call comes just two weeks before the deadline for the submission of amnesty applications for deeds committed before December 6 1993. Despite numerous appeals by the Freedom Front and other parties for the date to be shifted to coincide with the May 10 1994 presidential inauguration, Mandela has remained adamantly opposed.

Viljoen said in Pretoria that if the cutoff date were extended, he and many other “ethnic Afrikaners” would seek amnesty for deeds committed in the run-up to the 1994 general election. He said they would reveal details of pre-election mobilisation by right-wing Afrikaners who wanted to seize a part of the country by force and turn it into an Afrikaner homeland.

“If the president sees his way open to reconsider the cutoff date, I will, before December 14 1996, submit my application on behalf of myself and my followers to the Truth Commission.

“In conjunction with the commission I will then as leader act in a way that would ensure that amnesty will be available for Afrikaners who may still be liable for prosecution or may have already been prosecuted and may therefore in terms of the provisions for amnesty have their sentences reviewed,” said Viljoen.

He said Afrikaners were disadvantaged by the present amnesty provisions as they excluded the period when the planned pre-election upsurge was supposed to take place. He said that if any more young Afrikaners continued to be charged and jailed, there would be “serious alienation of the Afrikaner community”.

“It will certainly affect the willingness of the Afrikaner people to stay in this country and it will influence the idea of secession. So far we have not emphasised the idea of secession. If it becomes necessary we will have to go for secession,” said Viljoen.

“I am not holding a pistol to their head. I have been committed in my own way to finding a solution to the country’s problems and that is what I am still trying to do,” he said.
TRC set sights on military intelligence

BY ADRIAN HADLAND

The Truth and Reconciliation Commission announced a new breakthrough yesterday in its bid to unravel the truth about apartheid atrocities, confirming that several military intelligence (MI) members had approached it to discuss amnesty.

At least two MI operatives who have contacted the commission are believed to have been involved in Trewwits, a secret state body which drew up priority lists of activists to be assassinated in the late 1980s and early 1990s. The existence of Trewwits was disclosed in October in evidence given to the commission by five former members of the Northern Transvaal security branch.

Commission deputy chairman Alex Boraine said the two MI operatives, who had been in touch with the commission for some weeks, had been debriefed by investigators this week. "We can't compel them to apply for amnesty but they did want our advice," Boraine said.

The commission's investigation unit has been desperate to uncover information on the activities of military intelligence, believing the secret unit was a key player in planning a wide range of abuses.

Earlier this year the unit obtained warrants to search two Western Cape military bases, hoping to find documents outlining the scope of MI activities in the 1980s and early 1990s.

Boraine said several MI operatives had approached the commission with information.

"It is a very small beginning but we are hoping that it will be the same as with the police, and that the trieke will turn into a flood," Boraine said, referring to the number of security branch members who testified in Johannesburg in October.

"We need information from every source to reach the truth," he said.

Meanwhile, commission chief Desmond Tutu said a joint meeting of all political leaders would be called soon by President Nelson Mandela to encourage members of all parties to apply for amnesty before the deadline expired on December 14.

Tutu has asked Mandela to allow him to address the Cabinet on the need to extend the date in the interests of national reconciliation, and there is a possibility that the deadline could be moved to May 10.

Tutu issued a plea to iniquity Freedom Party leader Margo-Buthelo to encourage his members to approach the commission.

"For goodness' sake, for the sake of your people, for the sake of the country, please expedite the amnesty and human rights violations process," he said.

Tutu said the commission would be taking on extra staff and had enlisted the help of non-governmental organisations and churches to process amnesty applications.

"The amnesty committee is overwhelmed with applications and its staff are unable to cope," he said.

Documents produced at a press conference yesterday indicated that about 3,500 amnesty applications had been received.

Many more were expected as the cut-off date approached.

"We need to point out to those considering whether they need to apply for amnesty that they need to recognise that if they do not, and they are named in our final report, there is nothing to stop attorneys-general from initiating prosecutions," he said.

CAREL LESSING reports that the Transvaal attorney-general's office is waiting for detectives to be assigned to investigate a growing number of dockets relating to politically motivated crimes committed by ANC officials and others during the apartheid era.

Deputy Attorney-General Paul Fick said yesterday an additional 18 dockets had been received, taking the total to 33 the number being assessed.

For the attorney-general to proceed, police officers needed to be appointed to investigate each allegation.

It is believed that further dockets concerning anti-apartheid activists could be referred to the attorney-general's office. No dockets have been referred to police yet.

National police commissioner George Fick had indicated that investigating officers might be appointed soon, Fick said.

Fick's spokesman, Director Joseph Ngobeni, said the assignment of detectives to the cases was being considered. It would take another six to 10 weeks to finalise whether detectives would be appointed.

Fick declined to name ANC officials implicated in the dockets. However, he did say that all the allegations which had been
Fick said he had assessed 13 dockets, including one relating to the 1983 Church Street, Pretoria, bombing.

"If it is decided that enough evidence exists to prosecute, all names will be made known," he said. "We hope there will be more clarity about this early next year."

The transfer of the dockets to Attorney-General Jan D'Oliveira earlier this month followed a request from his office for outstanding dockets on politically motivated apartheid-era crimes.

The request was made because D'Oliveira felt a perception existed that there was an irregular approach to investigating political crimes.