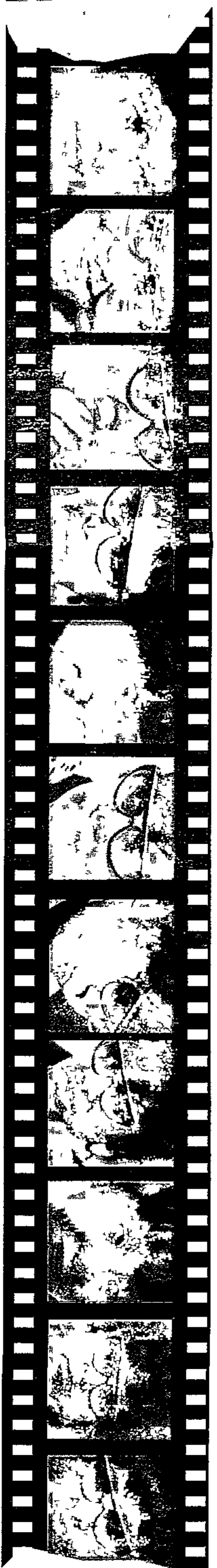


PUBLIC SECTOR-GOVT.-JUSTICE

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The Star's chief
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Debbie Yazbek



What we did was horrible, barbaric

Saw 4/12/97
(252)

Richardson tells of ghastly 'finishing off' of Stompie Seipei 'on Mami's orders'

BY ROBERT BRAND

"We waited there until Stompie's body was cold we told ourselves we were committing the perfect crime. We saw the car lights going past but we were not bothered by the glaring lights. No one could see us."

With these words, Jerry Richardson yesterday described the scene on the lonely hilltop in Noordgeest, Soweto, where Stompie Seipei was stabbed to death with one blade of a pair of garden shears on a January night in 1989.

In some of the most horrific testimony yet heard by the Truth and Reconciliation Commission, Richardson described how Stompie and three other youths were taken from the Soweto Methodist manse to

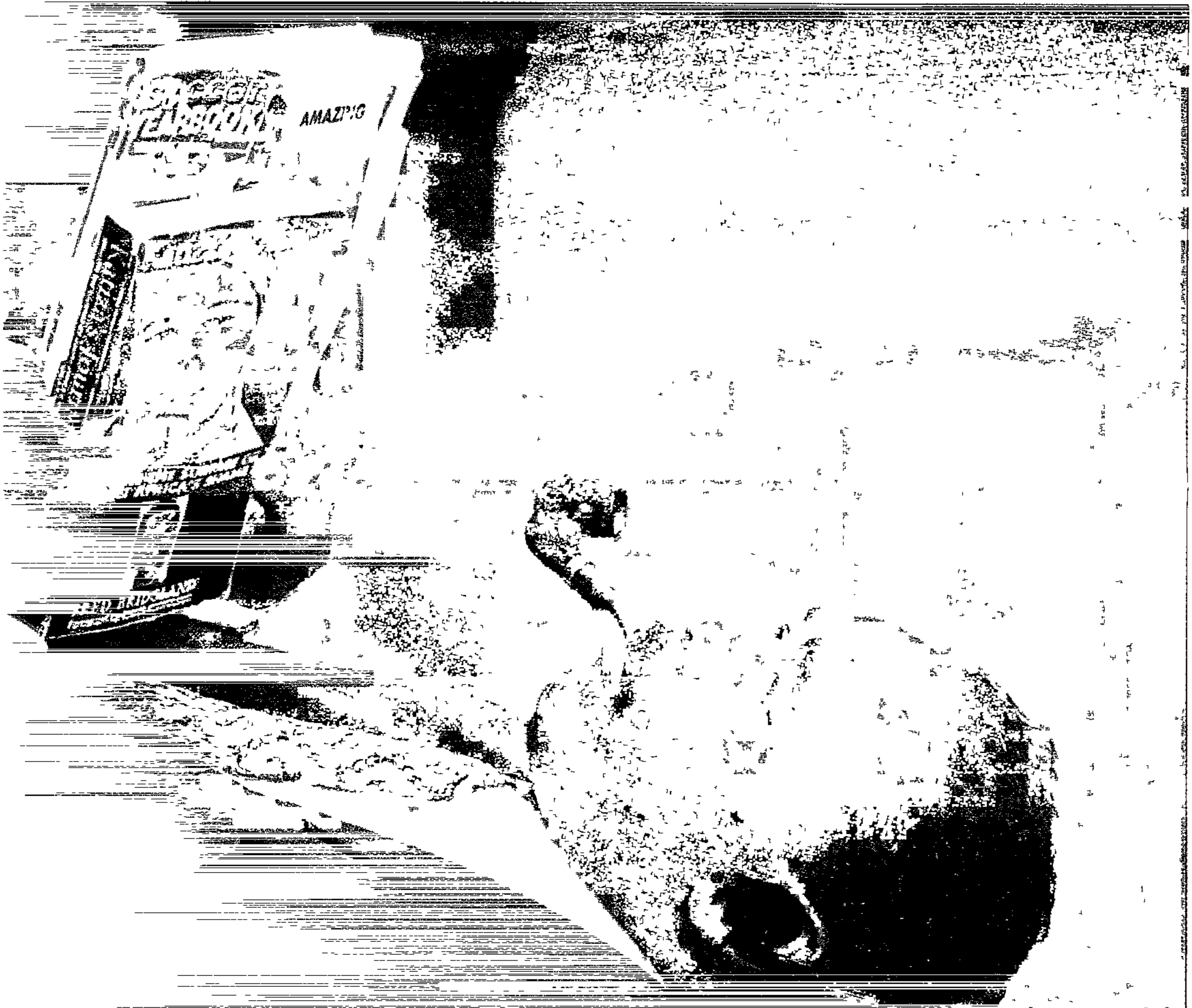
used to torture freedom fighters. I threw Stompie into the air and let him drop to the ground. I did this about seven times, more than seven times Mami was sitting watching us.

"He was tortured so severely I saw he would die. We kicked him like a football."

At this point, Stompie's mother Joyce, who had sat through seven days of testimony without showing much emotion, broke down in tears and she was escorted from the hall.

But Richardson warned there was worse to come. "The things that we did as the Mandela United Football Club were horrible. They were barbaric."

The assault went on for about two hours. Madikizela-Mandela did not remain a passive spectator. Richardson said she joined in with fists and a



D-Day for erstwhile 'mother of the nation'

BY ROBERT BRAND

Winnie Madikizela-Mandela is set to take the stand before the Truth and Reconciliation Commission today to attempt to rebut damaging allegations of complicity in murder, assault and kidnapping.

Madikizela-Mandela's testimony is expected to continue until tomorrow, TRC officials confirmed yesterday.

She is expected to face a barrage of cross-examination from legal teams representing the families of alleged victims of her Mandela United Football Club (MUFCL).

The central question, TRC investigators said, was whether Madikizela-Mandela could be held accountable for the "reign of terror" inflicted upon residents of Soweto by the MUFCL during the late 1980s.

"Responsibility is the thing we will hammer on," a member of the TRC's legal team said. "Everybody knew about these things, but she (Madikizela-Mandela) claims she knew nothing."

Madikizela-Mandela will be closely questioned about allegations of complicity in at least six murders and several cases of assault and kidnapping.

Among the unanswered questions are:

- Whether she was involved in the assault and murder of teenage activist Stompie Seipei
- Stompie was taken with three other youths from the Methodist manse in Soweto to Madikizela-Mandela's house

She was convicted of being an accessory to the kidnapping, but will be asked whether she participated or knew about the assault of the boy and his subsequent murder.

The indictment, assault and



WINNIE
DAY 8

Sono, told the commission Madikizela-Mandela was present when his son, badly assaulted, was brought to his home before he disappeared.

No one has been convicted in this case, but Madikizela-Mandela's former associate Jerry Richardson has applied for amnesty for the murder of Sono and Shabalala.

The killing of 13-year-old Pinkie Msomi during a fire bomb attack on the home of Dudu Chilli.

Chilli testified that her home was attacked by members of the MUFCL because her son had killed one of their members in self-defence.

The murder of Dr Abu-Baker Asvat. Allegations have been made that Madikizela-Mandela had a blazing row with Asvat hours before he was murdered because he refused to back up her claims that youths had been sexually assaulted by Methodist minister Paul Verlyn at the mission in Soweto.

The two convicted killers said she had offered them R20 000 for the murder and provided the murder weapon.

The murder of Kuki Zwane, a young girl accused of being

Richardson said he regretted selling out four guerrillas in Parys. He prayed for mercy and asked to be taken home.

That night, Stompie was so badly injured he could not eat. Richardson and two other football club members slept in the room with the youths.

The next morning Richardson went to Madikizela-Mandela "to report back."

"I told her Stompie was worse off than the other kids. He was in very bad shape. I

Richardson, the former coach of the Mandela United Football Club (MUFC), is serving a life sentence for the Stompie murder. He has applied for amnesty for this crime and three other murders.

The only question still unanswered in connection with Stompie's death is whether Madikizela-Mandela - whom Richardson referred to as "Mami" (mother) throughout his testimony - had a hand in it.

Richardson said Stompie and the three other youths - Thabiso Momo, Kenny Kgase and Pelo Mekgwe - were taken from the Methodist manse because of a complaint by Yoliswa Falati, who stayed at the mission, that the Rev (now Bishop) Verryn had molested them. The allegations have since been proved false.

"We did not force any of the youths to come with us. They came voluntarily. We were all free and happy inside the bus. We were singing our freedom songs and slogans," Richardson said.

Back at Madikizela-Mandela's house in Diepkloof Extension, the youths were taken to a shack at the back of the property. Madikizela-Mandela was called. Each of the youths was taken in hand by a member of the football club.

Kgase told Richardson that Verryn had made advances to him, the others would not admit it. In Stompie's pocket, his interrogators found a wrist-watch "which he could not account for."

Thus they said, proved he was an *impimpi* (informant), Madikizela-Mandela, Richardson said, was looking on while the scene unfolded.

"We started torturing the youths in the manner the Boers

Hearing draws mixed bunch

By ANSO THOM AND CECILIA RUSSELL

Politicians, ministers, ANC supporters, former MK cadres and even a wealthy socialite filled the TRC's aisles yesterday in the hope of witnessing Winnie Madikizela-Mandela's long-awaited response to allegations of murder, kidnapping, torture and assault.

A government delegation, which included Sports Minister Steve Tshwete, Deputy Defence Minister Ronnie Kasrils and Deputy Intelligence Minister Joe Nhlangahla, arrived at lunchtime. Helen Suzman, known worldwide during the apartheid era for her exposure of human rights abuses, was also present.

Mpumalanga Premier Mathews Phosa paid his second visit to the hearing this week and joined the Madikizela-Mandela entourage for morning tea.

Socialite and close friend of Madikizela-Mandela, Hazel Crane, arrived shortly after proceedings started. They both joined

Stompie Mami was present. They were prevented from carrying out the plan immediately, however, because of "many visitors" to the house - including Frank Chikane and Sister Bernard Neube, members of the crisis committee that was negotiating with Madikizela-Mandela for the release of the youths.

"Mami expressed concern that the crisis committee may find out about the presence of the youths in the yard," Richardson said.

Later that night, Richardson and a football club member known as "Slash" (Skhumbozo Mithali) decided to "carry out the instruction."

"I told Stompie I'll take him home. I had a pair of garden shears. We had to help Stompie along, he was very ill. We dragged him to Noordgestig."

"There, I slaughtered him like a goat. We made him lie on his back. I put the garden shears through his neck. Slash also had a blade of the garden shears. He also stabbed his neck."

Afterwards, Richardson said, they washed in a nearby stream and went back to Madikizela-Mandela's house, where they "screwed the garden shears together and hung them up in the garage."

"Mami did not kill Stompie. She did not stab Stompie. I killed Stompie in accordance with Mami's instructions. She never killed anyone, but instructed us to kill people."

Richardson also admitted killing Kuki Zwane, a young woman accused of being a police informer, in December 1988.

"My hands are full of blood today because I would be told this is an *impimpi*, kill the *impimpi*, and I would carry out the orders," he told the commission.

Richardson looks the part of an avuncular, pipe-smoking uncle, but admitted to chilling deeds.

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Education gets

R14-m boost

8 Nov 4 (12) 97

The French government has donated R14-million towards the transformation of the South African education system, the French embassy announced in Pretoria yesterday.

The donation followed the signing of a development assistance agreement between French Foreign Affairs Minister Hubert Vedrine and his South African counterpart Alfred Nzo on October 9.

French embassy spokesman Yves Lo-Pinto said in a statement the initiative followed President Nelson Mandela's request to French President Jacques Chirac during his recent visit to France.

The Department of Education and the French embassy had agreed on the following implementation programme:

- R11,5-million will go towards financing the training of new teachers in maths, science and technology.

- R750 000 will be dedicated to the training of managerial staff of the education ministries.

- R750 000 will support the National Business Initiatives and Equipment programme in Gauteng, Western Cape and KwaZulu Natal.

- R1-million will be allocated to bursaries for disadvantaged students currently studying French in South African universities. - Sapa

Winnie denies everything

Madikizela-Mandela faces her accusers today, and tells them it's 'lunacy' to say she had ordered Stompie Seipei's murder

By Cecilia Russell
and Anso Thom

Winnie Madikizela-Mandela today described as "judicious and lunacy" the allegation that she had ordered the murder of 14-year-old Stompie Seipei in December 1988.

She'd learnt about his death for the first time in the media, she told the Truth and Reconciliation Commission.

She also denied she'd seen any assaults in her house on young boys or that she had known Dr Abu-Baker Asvat's killers.

These are two of the allegations made during the past eight days of special TRC hearings at Mayfair, Johannesburg, into the activities of the Mandela United Football Club (MUFC).

"My recollection is that I met Katza Cebekhulu for the first time on December 29 and I was informed by Xoliswa Falati (her former friend) that there was a sick young boy who was in the manse in the care of Rev Paul Verryn and that this boy was claiming he had been sodomised," Madikizela-Mandela said.

"I think I had known Falati for a few months when she came to ask me for help," she said.

"She brought Katza to me. I look him to Dr Asvat because I wanted to check his state of mind and the allegations he was making.

"We did not need Dr Asvat's opinion for a fabricated lie," she said.

"Various youths came to seek refuge in my house. Originally, when I returned from Brandfort I found a state of chaos within the community. Others were fighting with each other. These were youth organisations. They were fighting against us. I brought them together to discuss this and that's how they came to stay at my house.

"I had a very close relationship with Dr Asvat. He was not only my doctor. He visited me in Brandfort and he was the only doctor who ran clinics there," she said.

A bouquet of flowers was delivered to the TISS centre in Mayfair today. Madikizela-Mandela did not look the witness standing in answer to allegations of assault, torture and murder.

Madikizela-Mandela, dressed in a blue suit with a green shirt, was accompanied by her daughter Zenani and a number of bodyguards when she arrived at the centre.

The guards were not taking any chances after yesterday's bomb threat and guarded her closely.

United Democratic Movement co-leader Bantu Holomisa arrived at the hearing, followed by cabinet ministers Steve Tshwete and Penuell Maduna.

Falati arrived bearing a placard reading "Human rights abuse is a universal crime. Winnie for prison."

Falati ignored questions posed by reporters, but silently



Swearing in... Winnie Madikizela-Mandela takes an oath at the TRC hearing in Mayfair this morning.

(2132) DEBBIE YAZBEK

Star 4/12/97

WHO IS ... HANIF VALLY?

The TRC's back-room fighter

M+G 5-11/12/07

(25a)

Ferial Hatfajee

Back-room boys become that way because they shy away from profiles like this one Hanif Vally (42) is foremost among them

The Truth and Reconciliation Commission's national legal officer doesn't want to be profiled "I'm not interested in that kind of thing," he says

But his bounteous frame has filled too many television screens here and abroad to be ignored. He has meticulously questioned Thabo Mbeki (during the commission's political party hearings) and the Bar Council (at legal sector hearings), and he led evidence at the special hearings into the Mandela United Football Club. All contracts entered into by the truth commission, all legal cases against it and all subpoenas issued by its investigators are vetted by Vally

"Tenacious", "tough" and "thorough" are some of the epithets thrown his way by those who have watched him in action. But they also add that he is "too sweet" and that he needs to go for the jugular sometimes"

The burly, bearded and bespectacled attorney did just that this week. Jerry Richardson, the Mandela United Football Club's former coach, buckled under his questioning; the four key leaders of the Mandela Crisis Committee were riled. Ironically, he spent 10 months in detention with some of the same people he cross-examined in the past fortnight's hearings. Much that was murky became a lot clearer under Vally's microscope

But the price of clarity is high. Working days that stretch long into the night, working weeks that melt into the weekend, and many hours spent preparing witnesses and investigating every allegation made

Mbeki, representing the African National Congress at the political party hearings earlier this year, got quite a grilling from Vally. And the legal grapevine says he gave the highest legal authorities in the land a private roasting for not being forthcoming enough during the hearings into the legal profession under apartheid

That didn't deter lawyers from praising this week.

The president of the Constitutional Court, Arthur Chaskalson, praised Vally's commit-



Hanif Vally: Led evidence at the special hearings into the Mandela United Football Club. PHOTOGRAPH: RUTH MOTAU

ment to human rights. It dated right back to the period when Vally was his student. He often got up in lecture halls and challenged his teacher then, and he didn't stop when he worked under Chaskalson as director of the Legal Resources Centre in Pretoria

"His work at the truth commission is an extension of what he's done all his life," said Chaskalson. Something of a people's lawyer, Vally served his articles at the firm of Priscilla Jama, who is now a member of Parliament.

Vally spent those days running the gauntlet of civic movement battles in the streets, or negotiating for the fledgling trade unions. Then it was on to a stint at the Delmas Treason Trial and other political trials. Chief Justice Ismail Mahomed

calls Vally a "conscientious lawyer with an attractive dose of idealism"

His work at the truth commission has been a run-in with realism. "Everything is a compromise," he says. "We're looking at a 30-year period in two years. Everyone's got a bone to pick. They ask, 'Why are you running for Winnie and not for PW?'"

Vally's political teeth were cut in the black consciousness tradition, and he served as president of the Black Students' Society in the Seventies. Never one for the politics of ethnicity, he disagreed with members of the Transvaal Indian Congress

It is ironic then that this long-time player in the politics of black consciousness should have been the frontline defender of the truth

Born: December 29 1955, in Fordsburg, Johannesburg, a stone's throw from John Vorster Square, where he was later detained

Also known as: "H"

Passions: Toy shops, ostensibly stocking up for daughter Tazmin, who is eight years old (and a primary passion)

Ambitions: None. Asked about his post-truth commission plans, he cites "unemployment" as a very real possibility, but a stint at the African Court on Human and Peoples Rights would be better

Hobbies: Fishing. Walks near Table Mountain. And, believe it or not, he's very happy having long discussions about the truth commission

commission when Ntsiki Biko, the widow of Steve Biko — the father of black consciousness — challenged the commission

"One can understand their anger — anger at their loss and the lack of punishment — but amnesty is a compromise. It's a foundation stone of our democracy that there will be no impunity and no Nuremberg trials," says Vally

But those close to him point out that he is no liberal. "They say he does not easily equate the human rights abuses of those who fought to overthrow apartheid and those who

worked in the shadows to keep it running. If anything, the truth commission has been Vally's lesson in diplomacy, strategy and reconciliation — though those instincts were first tested when he had to assist a police officer who had tortured him in detention with a pension application while serving at the Legal Resources Centre

The truth commission's back-room boys have honed the ways of truth-telling and their skills are in demand. The commission is being viewed as a model in Africa and beyond; some even suggest that Northern Ireland may want to use it as a draft.

One rule of thumb guides Vally's work: "People must be questioned boldly, but everyone must be treated impartially and fairly"

For commissioner Fazel Randera, Vally is "a gentle giant who has brought a wealth of legal and personal experience to the commission"



Seeking amnesty: Janusz Walus and Clive Derby-Lewis. PHOTOGRAPH: AP

Bizos takes on Gaye at Hani hearing

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MTC 5-11/12/97

Angella Johnson

They faced each other like gladiators in the truth commission arena, two battle-scarred adversaries in a fight to decide if the killers of Communist Party leader Chris Hani should be granted amnesty and walk free

The verbal sparring between civil rights advocate George Bizos and the formidable racist grand dame Gaye Derby-Lewis was pure theatre, played out in the huge indoor sports stadium at Vista University's Mamelodi campus this week

In his usual laid-back style Bizos, the Hani family lawyer, endeavored to break Derby-Lewis's testimony that she had not known of her husband's involvement in Hani's murder and that it was not part of a wider conspiracy

He rolled his eyes upwards, sighed audibly and on several occasions snapped at her for interrupting his questioning as he painstakingly hammered away at her testimony

She appeared equal to the cross-examination tactics, occasionally shouting at him in a belligerent high-pitched squeal and generally side-stepping many of his questions by either stating she did not understand, or could not recall

But on the first day of the hearing Derby-Lewis admitted she had lied "two or three" times to protect her husband during his trial "I prevaricated, in fact, I lied to protect my lover," she told the commission on Monday

Derby-Lewis said she had not been truthful when asked about how her husband had got a 19-name list

of people to be assassinated. She said the so-called hit list, which included Hani's name, had been compiled by her as a journalist for the purpose of obtaining interviews

She was clearly not intimidated by Bizos, who was admonished by chair Judge Hassen Mall for sarcastic comments during the cross-examination. When accused of involvement in the assassination plot, she held her ground, insisting she had not been told

Her husband — who was a Conservative Party MP — and Polish immigrant Janusz Walus were convicted in 1993 of gunning down Hani in the driveway of his Boksburg home.

Derby-Lewis, who is supporting her husband's amnesty application on the ground that the killing was politically motivated, also said she lied in handwritten statements made while being held under Section 29 of the Internal Security Act

They include the statement that "Clive and I had vague plans in the beginning that we should liquidate one or more leaders of the ANC" She claimed this statement had been made under pressure from two police officers. However, taped segments of her police questioning showed her relaxed and joking with the police

Police advocate Johan Brand later introduced evidence refuting her claim that she had been maltreated by a Captain Nic Deetlefs. He said the officer had been kind to his suspect and one occasion had told her "Darling, you must be strong"

She agreed, but insisted that was when he was playing good guy after

having interrogated her in an aggressive manner previously

Derby-Lewis, who wore no jewellery except a watch and her wedding ring, told the hearing she and her husband had minimal contact with the extreme Right

"I personally, and that is not for the record, thought they were crackpots and an embarrassment to the cause," she is recorded as saying during the police interview

"We did everything we did through the Conservative Party. There were times when we would go to a function and there would be AWBs [Afrikaner Weerstandsbeweging members] there and I just found them to be on the wrong track. Not that I have anything against militancy."

In a moment of drama during Tuesday's hearing, Mall halted the proceedings after receiving complaints that the prisons' authority planned to put Hani's killers in leg-irons before taking them back to jail.

Mall was forced to issue an apology after meeting briefly with representatives from the prison service

"I have been given an undertaking that nothing will be done in terms of chaining and handcuffing the detainees," assured Mall

The incident resulted in a rare media response from Hani's widow, Limpho, who is on the correctional services parliamentary committee. She denied having influenced the prison's decision to use shackles

"I heard about it for the first time today like everyone else," she said. "It makes no difference to me if they are handcuffed or not. It can't bring my husband back."

Winnie rewrites history

David Beresford

The former "mother of the nation" and the mother of the boy whose death led to her downfall embraced briefly as Thursday's Truth and Reconciliation Commission hearings drew to a close.

Winnie Madikizela-Mandela and Joyce Seipei hugged in a gesture of reconciliation before the delighted gaze of the commission's chair, Desmond Tutu, during a break from her gruelling day of testimony.

However, the day's proceedings proved an exercise in historical revisionism. A belligerent Madikizela-Mandela flatly denied all the allegations against her, labelling them as "ridiculous", "hallucinations", "judicious fabrications" and "lunacy".

She distanced herself from the activities of the Mandela United Football Club, claiming she had no knowledge of the goings-on in her backyard where members of the team lived.

Madikizela-Mandela claimed she had dissolved the football club when told to do so by Nelson Mandela in 1987, despite evidence that the club was still in existence at least as late as 1989. She said the first she had heard of a "disciplinary committee" run by the club was when the allegation was made at the hearings.

She dismissed the statement by the Mass Democratic Movement (MDM) — denouncing her over the kidnapping of four youths in 1988 — as the work of a "cabal", saying it was well-known that one of the leaders of the MDM, Murphy Morobe, was known as "Murphy Patel". She also branded two local journalists as agents of the secret police-disinformation unit Stratcom.

Madikizela-Mandela even denied the meaning of her famous comment in 1986 — that "to get their hand in hand with our boxes of matches and necklaces we shall liberate this country" — saying it was "a statement about the time under which we lived", not an exhorta-



Glued to the box: Who needs Ol' Simpson when you've got Madikizela-Mandela?

tion. She claimed she did not know of informers being killed by the "necklace" method.

And, in the face of quotes from an American TV interview in which she accused the Reverend Paul Verryn of sodomising African children, she said "I made no allegation against Paul Verryn". Tutu repeatedly intervened as if frustrated. Lawyers clashed with her, warning both sides he wanted proceedings conducted politely. And he threatened to bring criminal charges against two members of the African National Congress.

Women's League who, he said, had been seen intimidating Joyce Seipei in the women's toilet. Meanwhile, suspicions that Albertina Sisulu had covered up for Madikizela-Mandela in her evidence at the hearings — by denying the

responsibility for an entry on an appointment card at Dr Abu Baker Asvat's surgery, showing she was there on December 30 — were cleared up during yesterday's proceedings.

Sisulu had previously confirmed in a BBC interview that she had filled in the card. Counsel for the Asvat family, Norman Kades, SC, said that after examination of the card they were satisfied the hand-writing was not Sisulu's.

He said that, in view of Sisulu's age, it was perhaps understandable she had assumed the card, from Asvat's surgery, had been completed by her when she was shown it by the BBC.

**More questions than answers, PAGES 4 & 5
Who is Hanif Vally? PAGE 26**

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(252)

Disclosure the victim of dubious amnesty

The truth commission's granting of amnesty to ANC leaders has raised questions about the decisions. Political Correspondent Wynndham Hartley reports

LAST week the amnesty committee of the truth commission granted amnesty to 37 leading members of the African National Congress without demanding, as is its right, that they appear before a hearing of the commission to answer to the admissions they have made in their applications.

The trade-off in the amnesty process has always been the truth in return for immunity from civil and criminal prosecution. Hence those who committed gross violations in the defence of apartheid have had to bare their souls, demonstrate their torture techniques and describe in awful detail how they went about their business. So, too, with some members of the struggle against apartheid, who have had to testify about how they necklaced and murdered. If the amnesty is required for the commission of gross violations of human rights, a hearing and full disclosure of the crime has to take place.

In the event, of the amnesty committee deciding that the deeds for which amnesty is required do not constitute a gross violation of human rights then it may grant amnesty without holding public hearings. But the law still insists that — even in these less serious cases — under the requirements of section 20 (1) of the act, "full disclosure of all relevant facts" must take place.

Thus crimes injuria, incitement, torture, murder and combinations of these have one common denominator — full disclosure. The ANC amnesties make interesting reading, and appear to be in conflict with these full disclosure requirements. There can be little doubt that full disclosure, if it is interpreted as "who killed who, when and where" is not satisfied by the applications made by, among others, Deputy President Thabo Mbeki, Transport Minister

Mac Maharaj, Defence Minister Joe Modise, Mpumalanga premier Mathews Phosa and Deputy Intelligence Minister Joe Nhlanhla.

Section 20 (3) of the Promotion of National Unity and Reconciliation Act muddles the waters considerably. It suggests that, in relation to criteria for deciding amnesty, promoting the interests of a liberation movement in the struggle against the state is something that has to be taken into account. Thus, it appears, the amnesty committee has granted amnesty to ANC leaders in spite of their not having been able to say what the offence was or against whom it was directed.

Mbeki's application, for instance, is for no specific offences. Wally Serote and Peter Mokaba asked for amnesty should they be named in the testimony of others who apply for amnesty. The imple-

(252) BD 51a | 97

cation, according to legal experts, is that, should they be implicated in the future by someone else, they qualify to be indemnified from prosecution as an accessory. But the act does not specifically allow for this.

Modise's case is more problematic because he announced in 1996 that he intended to apply for amnesty for ordering, or at least being part of the chain of command in, the Pretoria Church Street bombing which killed more than 20 people. This was an act which the victims — those who survived — believe to be a gross violation of their human rights.

What is clear, however, is that a trained legal mind is needed to decide this case. A simple reading of the key clauses says that full disclosure is needed. But trying to relate various clauses with one another is more difficult. Putting

the whole package together is another matter. The drafters of the legislation did not make it clear to ordinary people what the law meant. No one in the amnesty committee is talking about the issue. But legal sources say the amnesties appear to be largely symbolic because if any hard evidence of human rights abuses emerges they will not cover the crime. Mbeki and the others can thus still be charged, because they did not make full disclosure, say the sources.

If this is the case, it makes the amnesty decisions highly contentious. The public has a right to know why the ANC leadership is being gifted a symbolic absolution from guilt. And if the amnesties are worthless because they do not specify any offence then why were they granted in the first place? There is another issue which

the ANC and its leaders, at least, should be worrying about. If there are skeletons in the closet and they emerge, it seems these highly generalised amnesties will not protect them from either criminal or civil prosecution. The issue does not arise in relation to political leaders of the old order because, with the exception of Adriaan Vlok, they have not applied for amnesty at all and any emerging incriminating evidence will definitely lead to prosecution. The real problem is the deafening silence from those who granted the amnesties. If the commission is to promote reconciliation fully then all South Africans should be allowed to understand how and why they were granted. If they are justified, and are limited in their extent, then the explanation should have been provided. Indeed, a gram of explanation could have taken the place of kilograms of uninformed complaint. The learned judges have much to learn about public relations.

99. VEWAY

Winnie rejects truth probe's 'lies, lunacy'

Stephen Laufer

WINNIE Madikizela-Mandela yesterday denied all allegations made against her during a nine-day truth commission hearing on the activities of her football club during the late 1980s.

Taking the witness stand after eight days of testimony by her former associates, police officers, a pathologist and political and community leaders of the time, she labelled accusations that she had ordered the deaths, torture and abduction of a number of young people, including 14-year old Stompie Seipei, as "lies, fabrications, lunacy, ludicrous" and "ridiculous".

Witnesses who had given evidence implicating her in gross human rights violations had suffered from "hallucinations", were "senile" and had simply "given their perceptions".

Madikizela-Mandela portrayed herself as the victim of intrigue and plots hatched by a range of organisations, from government security forces to her political party and allies at the time.

She said the timing of the hearing two weeks before the African National Congress (ANC) national conference had been "no accident", but an attempt to run her chances of election as the party's deputy president.

Commission deputy chairman Alex Boraine responded with an "emphatic denial". Madikizela-Mandela had asked for an open hearing, and it had been arranged as soon as possible.

In a closing statement, Madikizela-

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Mandela acknowledged that during 1988 and 1989 "things went horribly wrong". Her passion for the cause of the weak could have opened her to recklessness or led her to disregard the other view, and she wished to apologise. As her speech moved into an exposition of her attitude to foreign investment in SA, commission chairman Archbishop Desmond Tutu asked her to stop. He reminded her that she had promised to answer a number of questions, but "this sounds almost like a

campaign speech".

During a break in which Tutu asked the victims of human rights abuses allegedly perpetrated by her club to come forward, she grasped the opportunity to embrace Seipei's mother, Joyce, in front of the television cameras.

In earlier testimony, Madikizela-Mandela said she had never labelled anyone a police spy, nor ordered the deaths of informers. Although she con-

Continued on Page 2



Winnie Madikizela-Mandela hugs Joyce Seipei, mother of the murdered Stompie, at the truth commission hearing yesterday.

Picture RAYMOND PRESTON

Winnie

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Continued from Page 1

considered herself an Umkhonto we Sizwe soldier and had been prepared to die if necessary, she had never been prepared to kill.

She had trusted her associates, among them Jerry Richardson and Xoliswa Falati. Her confidence in Richardson had disappeared only when he admitted on Wednesday that he had been a police spy.

Madikizela-Mandela said the 1989 statement distancing the United Democratic Front (UDF) from her had been the work of "a cabal", and she twice referred to Murphy Morobe, who made the statement on behalf of the organisation, as "Murphy Patel". The ANC has for some time had to contend with allegations by Madikizela-Mandela and others that it is dominated by a group of members of Asian origin, referred to as "the cabal".

Questioning Madikizela-Mandela, commissioner Yasmin Sooka said she found her testimony "particularly painful", especially her attempts to discredit respected leaders of the anti-apartheid struggle. The leaders, in-

cluding ANC president Oliver Tambo, the imprisoned Nelson Mandela, Frank Chikane, Morobe and UDF leader Azhar Cachalia, had "sought to warn you of the character of the people around you".

Sooka, a human rights lawyer born in Cape Town, said she was prepared for Madikizela-Mandela to respond to her comments in the same manner she had during an earlier in-camera hearing when Madikizela-Mandela had said Sooka was not a South African.

Madikizela-Mandela said she had not been consulted before reports on the abduction and Seipei's death were sent to the ANC in Lusaka and to her then husband in prison. The "untested reports" had affected her family life to this day. She had not consulted the organisations close to her politically following the abduction of the four youths because "events overtook us".

The government had run operations against her in an effort to discredit the ANC. Initial reports about the abduction and assault of Seipei and three other young men had been the work of two journalists — one of whom was Nomavenda Mathane — "alleged to be associating with the police".

See Pages 4 and 11

TRUTH COMMISSION

Initial evidence seems to implicate Winnie, says Ntsebeza

Stephen Lauffer

INITIAL impressions of evidence to the truth commission on Winnie Madikizela-Mandela's football club had indicated an emerging pattern implicating her in gross human rights violations, commissioner Dumnisa Ntsebeza said yesterday as the final day of hearings got under way.

During questioning later, Ntsebeza — who heads the commission's investigative unit — said the report by a pathologist on murdered activist Stompie Seipei's wounds appeared to support evidence by Ketsiza Gebekulu that Madikizela-Mandela had stabbed the young activist.

Cebekulu told the commission last week he had seen Madikizela-Mandela stab Seipei twice, but evidence was also heard from club "coach" Jerry Richardson that he had killed Seipei.

He had taken the badly beaten young man out of Madikizela-Mandela's house and "slaughtered him like a goat" on her instruction. The pathologist said Seipei had been stabbed in the neck, and that his wounds were not consistent with his throat being slashed.

Ntsebeza's remarks came at the end of a day during which Madikizela-Mandela denied every allegation before the commission that she had participated in human rights violations. This is some of what she said.

On the assertion that she had masterminded the abduction of four youths from the Methodist manse in Soweto in an effort to frame pastor Paul Verryn by accusing him of sexually abusing them, Madikizela-Mandela said she hardly knew Verryn, had not ordered the young men brought to her house, did not know their age, and had no objections to sex between consenting adults

of the same gender. She had only later been informed of the accusations against Verryn and had been concerned about the welfare of any children in his care.

On the charges that she had initiated and participated in the assault on the four young men, including Seipei, at her house and that they had been forced to stay there, Madikizela-Mandela said she had not taken part in the assault. Although she was the head of the household, the youths living at the back of her property policed themselves and she had no idea of what went on there.

On the efforts of the Mandela Crisis Committee to have her release the abductees, Madikizela-Mandela said she had not received a visit from any crisis committee, only from community leaders who had not announced themselves as a committee. She had released the youths when requested by Dr Ntshato Motlana to do so. But she was

unable to explain why 10 days had passed between Motlana's first visit concerning the matter and the actual release.

On allegations that she had hired the killers of Soweto "people's doctor" Abu Bakir Asvat because he had examined the badly beaten Seipei and recommended immediate admission to hospital, Madikizela-Mandela said Asvat had been a close friend. She had seen his killers for the first time during the commission hearing.

On allegations that Gebekulu, who first made the allegations against Verryn, had been a police agent, Madikizela-Mandela said that if Safety and Security Minister Sydney Mufamadi had informed her of such suspicions at the time, she would have handled the whole issue differently.

On Richardson's allegation that she had ordered him to kill Seipei, Madikizela-Mandela said "That is ludicrous and the

worst form of innuendo." She had learned of his death from the media.

On allegations that she had ordered the death of Lolo Sono, one of her couriers suspected of informing on two Unkhonto we Sizwe guerrillas and allegedly last seen badly beaten in her company, Madikizela-Mandela said she had last seen him when she dropped him near the house of the two guerrillas. She had never seen him again, and never knew his friend Siboniso Shabalala, allegedly killed with Sono on her instructions.

On evidence that Kula Zwane and Thabo Dlamini had been killed and an attempt made on the life of Lerotohodi Ikanyeng on her instruction, Madikizela-Mandela said the commission was "surely not asking me to respond to Richardson's ludicrous testimony."

On allegation of wrongdoing by football club members, Madikizela-Mandela said she had no control over the men when they left her property. There had been no evidence "that boy such-and-such raped girl such-and-such. You are not suggesting for God's sake I should be held responsible for things they did once they left my premises."

On the allegation that she ordered the burning of activist Dudu Chili's house, during which a child died because Chili was harbouring youths who had fled the football club, Madikizela-Mandela said she had no respect for Chili and had no reason to order the burning of her house.

On the presence of cadres in her house, Madikizela-Mandela asked how that was possible. "My house was a police station."

On allegations that her daughter Ziphiso was involved in human rights abuses, Madikizela-Mandela said "That is another question for this gallery."

Allegation by Winnie a lie, say journalists

Business Day Reporter

BUSINESS DAY editor Jim Jones described allegations by Winnie Madikizela-Mandela that Business Day reporter Nomavonda Makhosini was in a "patent lie" with public as a "patent lie" and "inconsiderate" legal and other options.

Makhosini, who is a truth commission hearing yesterday, said the government had run "operations" against her to discredit the African National Congress.

Initial reports about the doings of the club and the alleged lie teenager Stompie Seipei and three other young men from the Methodist manse in Soweto.

Methodist manse in Soweto found the subsequent beating had "alligned to be as socially, with the police."

She learned Madikizela and former MP M. G. Quthala writer J. Handberg, Gubbula. Questioned by commission lawyer Hans Vally, she was unable to substantiate the allegations.

Hani's killers nearly plunged country into chaos — SACP

Stephane Bothma

PRETORIA — The killers of SA Communist Party (SACP) leader Chris Hani came extremely close to achieving their goal of plunging SA into complete chaos, SACP general secretary Jeremy Cronin said yesterday.

"They could not have chosen a better target. Hani was key to a peaceful negotiated settlement in the country," Cronin told the truth commissions amnesty committee.

He was called by the Hani family to testify in opposition to the amnesty applications of Janusz Walus and former Conservative Party (CP) MP Clive Derby-Lewis, who are serving life sentences for the murder.

Cronin told the committee that before Hani was gunned down outside his home on April 10 1993, four unsuccessful attempts had been made on his life — three times while still in exile and once in 1992.

"We still have not been able to establish who attempted to kill Hani in 1992," Cronin testified. The attempts while in national Party government security forces, he said.

He said he had no reason to doubt that the objective of Derby-Lewis and Walus in slaying Hani had been to bring about large-scale violence and death in the country which would have led to military and police intervention and eventually to a right-wing coup d'etat.

However, he said, after the 1990 unbanning of the African National Congress (ANC)-SACP alliance and after Hani stepped down as Unkhonto we Sizwe chief of staff, he was no longer a legitimate target.

Hani actively championed negotiations and during all his public addresses urged constituents to give peace a chance. Apart from being hugely saddened by his death, there was also a deep concern that those who wanted to derail negotiations would succeed.

Only the intervention of ANC and SACP leaders, who called on the nation to remain calm, avoided complete chaos and mayhem.

Meanwhile, CP leader Ferd Hartzenberg, in cross-examination by George Bizos for the Hani family, said that if approached, the CP would not

have given Derby-Lewis the go-ahead to kill Hani.

"But although the CP did not approve of the deed, we accept unconditionally that Derby-Lewis acted to further the cause. Derby-Lewis is not a murderer. He did not kill Hani for money, but purely for political reasons."

The committee also heard testimony yesterday from a neighbour of President Nelson Mandela who said she had spotted Walus outside the president's home in July 1992.

Theresa Beyers said she clearly saw Walus behind the wheel of a white bakke. The vehicle was parked across the road from Mandel's house in Houghton, but sped away when Beyers noticed it.

"The bakke was full of bullet holes and had no rear number plate. I had a good look at the driver and it was Walus," Beyers said.

She said she recognised him when his photograph was published in newspapers after the Hani killing.

Beyers had warned the press-ident's staff about the "suspicious vehicle" at the time. The hearing continues today.



Winnie Madikizela-Mandela waves to supporters as she arrives at the truth commission hearings yesterday.

Truth body prepares for Botha to boycott

Linda Ensor

Winnie Madikizela-Mandela waves to supporters as she arrives at the truth commission hearings yesterday.

Other commission members said in contempt of the commission these illegal acts. Barrard said he had been



Winnie Madikizela-Mandela waves to supporters as she arrives at the truth commission hearings yesterday.

Picture: TREVOR SIMON

Truth body prepares for Botha to boycott

Linda Ensor

CAPE TOWN — Contingency plans were made by the truth commission yesterday for the expected failure of former state president PW Botha to comply with a subpoena to appear at its hearing today on the activities of the state security council in the 1980s.

As council chairman, Botha exercised "enormous power and influence", commissioner Richard Lyster said at a commission hearing yesterday.

Commission chairman Archbishop Desmond Tutu held preparatory talks with Western Cape attorney-general Frank Kahn yesterday on a plan of action should Botha not appear as he has repeatedly indicated

Truth commission deputy chairman Alex Boraine has indicated he will fly down from Johannesburg to be on standby to act immediately should Botha fail to arrive.

However, Tutu said he continued to hope that Botha would appear and that contingency plans would not have to be implemented.

If found guilty of having act-

ed in contempt of the commission, Botha could be fined up to R20 000, or sentenced to two years in prison, or both.

Meanwhile, testifying before the commission, former National Intelligence Services (NIS) director-general Niel Barnard disclaimed any responsibility for security force actions undertaken on the basis of his department's intelligence-gathering.

He drew a sharp distinction between intelligence and execution, and denied the council, of which he was a member, authorised any illegal acts. He also denied involvement in illegal activities by NIS substructure Trewits and by the Co-ordinating Intelligence Committee, of which he was chairman and which was responsible for co-ordinating government's intelligence activities.

Lyster said the commission's problem was that it had received amnesty applications from senior security officials and had evidence that there was a well co-ordinated government strategy to eliminate political opponents. Some amnesty applicants claimed the council was involved in autho-

rising these illegal acts.

Other commission members pointed to the discrepancy between the view presented by political leaders that their instructions were misunderstood by those below and evidence of a regular pattern of abuse which belied the contention that it was committed only by "bad apples" in the forces.

At this point, Barnard attacked the commission for forming a judgment on his evidence and for accusing him of not being forthcoming, saying this was "wrong and unacceptable".

However, he conceded it was possible that policy enunciated at a political level was miscommunicated or misinterpreted by operatives on the ground.

The security forces sometimes went beyond their mandates in the execution of strategies and committed atrocities, but this could not be regarded as the norm, Barnard said. Both sides of the conflict had committed gruesome acts, but the actions of the security forces had to be placed in the context of a total onslaught.

He said he had opposed the proposed third force, which he

said was never established.

Barnard said he had been worried that activists were being murdered by the security forces though he lacked factual information. He had raised this on more than one occasion with the police commissioner and defence force head, asking them to investigate, which they said they would do.

In 1986 he had told Botha that there appeared to be problems with communications and that members of security forces were engaging in illegal actions. Botha said he was also very worried about this and would discuss it at executive level.

Barnard justified self-defence actions such as cross-border raids that were allowed in terms of international law. The NIS did not oppose these activities. He could not recall the state security council ever authorising an illegal cross border operation. The security forces never targeted innocent citizens, Barnard said.

He admitted that he was informed of the Seychelles coup plot in the 1980s by former mercenary Mike Hoare but denied the NIS authorised it.

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TRC chairperson Archbishop Desmond Tutu yesterday made an emotional plea to Ms Winnie Madikizela-Mandela to say "sorry"

His plea came after a statement she had made at the end of the TRC special hearings into human rights violations by her and the Mandela United Football Club

Tutu said "I just want to say we have had a very close relationship with the Mandelas. We live in the same street in what is sometimes called Beverly Hills. Our children went to the same schools in Swaziland. They call me uncle"

"Ms Madikizela-Mandela is godmother to one of our grandchildren, who was baptised on the Sunday of Madiba's (Nelson Mandela's) release. When I was bishop of Lesotho I used to visit Ms Madikizela-Mandela. I have immense admiration for her. There is no question at all that she was a tremendous stalwart of our struggle — an icon of liberation, who was banned, harassed, under surveillance, with her husband away serving a life sentence"

"She was bringing up two young girls. I will never forget her outstanding contribution to the struggle and her indomitable spirit. Everything was done to break that spirit. She was an incredible inspiration to many. She was a most apt representative of her husband"



THINGS WENT WRONG:

Desmond Tutu
CT 5/12/97
"I was deeply distressed after Mrs Sisulu's testimony. Now I am over the moon at what has happened to rehabilitate someone I hold in highest possible regard"

"We need to demonstrate that the new dispensation is qualitatively and morally different. We need to stand up to be counted for goodness, for truth, for compassion and not cower to the powerful"

"I acknowledge Ms Madikizela-Mandela's role in the history of our struggle. And yet one has to say that something went wrong, horribly, badly wrong"

"Something wrong such that many leaders had to be involved in seeking to deal with the particular problem"

"I don't know if we will ever know the whole details of what happened. Va-tu nanj love you Many, many"

"We struggled to establish a new, a different dispensation, characterized by a new morality, by integrity, truthfulness, accountability"

"Some of us were devastated at what was found during this hearing, devastated by the performance of some eminent leaders of the struggle, the moral turpitude that came from them was unexpected and shattering"

"I was deeply distressed after Mrs Sisulu's testimony. Now I am over the moon at what has happened to rehabilitate someone I hold in highest possible regard"

"We need to demonstrate that the new dispensation is qualitatively and morally different. We need to stand up to be counted for goodness, for truth, for compassion and not cower to the powerful"

"I acknowledge Ms Madikizela-Mandela's role in the history of our struggle. And yet one has to say that something went wrong, horribly, badly wrong"

"Something wrong such that many leaders had to be involved in seeking to deal with the particular problem"

AFTER TUTU'S HEART-RENDING PLEA

Winnie finally says it: 'I am sorry'



RECONCILIATION: Joyce Seipei (left), mother of murdered teenage activist Stompie Seipei, is hugged by Winnie Madikizela-Mandela at a TRC hearing in Johannesburg yesterday. Madikizela-Mandela was convicted on charges of kidnapping the young activist and others. PICTURE: AP

(252)
It is true things went horribly wrong...

"THANK you very much for your wonderful words, and that is the father I have always known in you. I will take this opportunity to say to the family of Dr Asvat how deeply sorry I am, and to say to Stompie's mother how deeply sorry I am."

It is true, things went horribly wrong for that part of those painful years when things went horribly wrong, and we were aware that there were factors that led to that, for that I am deeply sorry."

Earlier, after the hearing ended she made a statement in which she said "I have asked for an open hearing and perhaps I need to explain why"

"The reason was so that we could put to bed all the speculation, so that my accusers could come into the open, so that I can defend myself in the open. But most importantly, so that everybody can judge whether the accusations were based on fact or fiction. Unfortunately and predictably, the local media gave the people of this country skewed and slanted coverage, even of these proceedings"

"Beyond today, I hope that those who vilify me cannot claim ignorance. That would be a deliberate derogation of my rights to be. Unfortunately, I have a history no different from that of anyone of us. It was my conviction that the treatment of man by man must submit itself to fairness,

compassion and quest for justice

"I do not apologise for the challenge on mankind to be permanently alert, that ravages of greed do not erode our sense of right and wrong, and I will always endeavour to make sure that our policies are tempered by a consensus. I have often wondered why I seem to attract so much criticism"

"It was suggested my holding of public office will spell capital flight. Why would I be hostile to capital when alleviation of the plight of the poor, the ill, the destitute would need capital. It is important to our economy to grow"

"My political detractors have used means both fair and foul to undermine my circle, not only on matters that belong to the political domain, but also attacking the legal private life I thought was inviolable. It would not be proper for me to deal with these issues in a forum such as this"

"I regret the loss of life of all the cadres across the political formation. The loss of life of young white men who manned the borders of this country in innocent defence of the ideology of the past"

"Our future must reconcile the literature with the unformed, the healthy with the sick, the wealthy with the needy. The process of healing starts only when those who can, extend their hands to those ones" — Reuter

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think you should have been where you ought to be — the first lady of this country

"I speak as someone who loves you very deeply, who loves your family very deeply. I would have said to you 'Hold a public meeting and say there are things that went wrong, and I don't know why they went wrong'."

"There are people who want to embrace you. I still embrace you because I love you very deeply. There are many out there who wanted to do so if you were able to bring yourself to say something went wrong."

"I beg you, I beg you, I beg you, please. I have not made any particular findings on what has happened. I speak as someone who has lived in this community."

"You are a great person, but you don't know how your greatness would be enhanced if you would say 'sorry, things went wrong'." — Reuter

'She killed our children'

JOHANNESBURG. In an emotional outburst outside the TRC hearing yesterday Mrs Caroline Sono, mother of missing Soweto youth Mr Lolo Sono, screamed a demand for Ms Winnie Madikizela-Mandela to disclose his fate. "She's the woman who murdered our children. I will not rest until I find my son's remains I want Lolo"

Her husband, Nicodemus testified under oath he had last seen his son alive, in a badly beaten state, in Madikizela-Mandela's company, which she denied.

Mandela Club's former coach Jerry Richardson has confessed to killing Lolo on the instructions of Madikizela-Mandela. Lolo's body has yet to be found. — Sapa

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They are all liars, says Mummy

(252) ET 6/12/97

JOHANNESBURG: Testimonies by all witnesses linking the former 'Mother of the Nation' to murder and assault are lies, she says.

LRUTH and Reconciliation Commissioner Ms Yasmin Sooka yesterday described testimony by Ms Winnie Madikizela-Mandela as "particularly painful", especially her attempts to discredit leading figures of the anti-apartheid struggle who had tried to assist her.

Sooka was referring to efforts by leading members of the former Mass Democratic Movement to ensure that Madikizela-Mandela dissociated herself from members of her notorious Mandela United Football Club, who were linked to a series of violent crimes in Soweto during the late 1980s.

"If we believe your evidence, then everyone is lying," said Sooka.

Madikizela-Mandela replied "Yes, it's true most witnesses were lying. As far as I'm concerned, (Jerry) Richardson was lying. The two youths who claimed I ordered them to kill Dr (Abu-Baker) Asvat were lying (John) Morgan's ludicrous statements are a pack of lies I can go on and on."

The witnesses made various allegations against Madikizela-Mandela, including linking her to murders.

On Sooka's claim that Madikizela-Mandela was seeking to discredit members of the Mandela Crisis Committee who tried to assist her, she said "They drew up reports, sent them to Lusaka without my knowledge, they drew up reports to (Nelson Mandela in Victor Verster prison) without my knowledge."

Madikizela-Mandela said the reports were based on untested evidence "You are saying people wanted to assist me," she questioned.

"I'm an ordinary human being. They did things to me that are not acceptable."

Madikizela-Mandela described the apartheid era as a period of painful times, where things happened "to us in the frontline."

"I protected those children. My instinct was to protect those children when many people sat in their houses, while we fought a just war."

In earlier testimony, Madikizela-Mandela coloured her



Katiza Cebekulu (left), speaking about the alleged assault on Lolo Sono by Madikizela-Mandela, said: "She was beating him savagely. He tried to speak, but Madikizela-Mandela told him to shut-up, saying: 'This is a spy. I am taking this dog away. The movement will know what to do'."



Convicted murderer and Mandela United Football Club's former coach Jerry Richardson: "I want to alter my evidence. Mami (Madikizela-Mandela) was present when we were assaulting the boys ... We waited there until Stompie's body was cold ... we told ourselves we were committing the perfect crime ..."



Mr Thabiso Mono (left), a child activist when kidnapped by Madikizela-Mandela: "Mummy said I was not fit to be alive. She started beating us (including Stompie Seipei). Then the whole group joined. We did not fight. They were too many."



Xoliswa Falati (left), one of Madikizela-Mandela's former associates: "I went to prison for her, but she was so ungrateful. She dehumanises a person. She reduces a person to nothing. She regards herself as a demigod ... She has messed up our lives ... I was ordered to sing to drown the voices of those crying for mercy."

remarks with racist overtones, dismissing a leading figure of the Mandela Crisis Committee, Mr Murphy Morobe, as Murphy "Patel" saying he aligned himself with an (Indian) cabal.

In her closing statement on the ninth day of the TRC hearing, Madikizela-Mandela claimed that whenever an important African National Congress national conference was imminent the media would launch a campaign to discredit her.

She said the scheduling of the hearing was an unhappy coincidence in her mind, a reference to the forthcoming ANC national conference to be held in the North West Province this month.

TRC vice-chairperson Dr Alex Boraine denied the hear-

ings were timed to coincide with any political meeting.

"She asked for a public hearing, we didn't," said Boraine.

"This was the soonest we could arrange for public hearings."

Madikizela-Mandela said "I asked for an open hearing so we could put to bed all the fabrications. I wanted my accusers to come out into the open, so I could defend myself."

She accused the media of giving "lewd and slanted coverage" of the hearing.

TRC chairperson Archbishop Desmond Tutu said Madikizela-Mandela's statement sounded like a campaign speech — Sapa

Business as usual is not good enough

THE ROLE of South African business during apartheid was aired during Truth and Reconciliation hearings. **ANN BERNSTEIN** reports.

THE TRC hearings on business were a strange affair. Business was frequently put in the position of "when last did you beat your wife?"

Listening to many businesspeople, it was hard to understand who had actually voted for or funded the National Party for so many years, or why Helen Suzman was the lone representative of the Progressive Party from 1961-1974. And all this took place in a situation where some South Africans were put in position to question others about their role and complicity with, or opposition to, apartheid while many of the questioners could also be asked similar questions.

Many people tend to conceive of business as an entity somehow akin to a government political party — hierarchically organised, responsible for a common policy platform, accountable to an identifiable leadership. Yet business is something very different and this clarity is a key element in assessing its potential political and social contribution.

The term "business" is used very loosely in public discourse and often pejoratively. It in mean at least three things: all individuals who share the activity of producing goods and services for profit (which embraces the CEO of a multinational corporation and the owners of a corner grocery); organisations whose purpose it is to protect and promote the interests of business as they see them, a vaguely defined collectivity of "tycoons", owners and executives of the largest business

groups. Business is, first and foremost, a category of activity. As a sector it is highly individualistic, fragmented, constantly changing and operates within a strong (ruthless) competitive ethic. Leadership is generally diffused and has a very different meaning from, say, leadership within a political party or trade union.

It is important to note that in South Africa, as elsewhere, businesspeople and organisations are often not *ad idem* concerning what constitutes their own long- or short-term interests, interests themselves are not constant but change over time. Businesspeople are also not unanimous in the strategy or tactics required to protect and sustain those interests, neither is there always a common vision or commitment to the most desirable future. In discussing "capital and its interests", one needs to carefully clarify to which parts of business one is referring and whose definition of their interests is being put forward.

It is critically important for anyone trying to understand business and its role in apartheid South Africa to understand the realities and constraints. One is that corporations were created to perform an economic task. This does not, of course, absolve individuals within companies from moral choices or responsibilities. Some companies operate with a greater concern for ethics and values than others. Some companies consciously attempt to make profits in a way that directly benefits the society in which they operate, some do not. Different companies in apartheid South Africa — as they do today — behaved very differently. We need to look beyond the collective notion of "business" and see the diversity in how companies

define their mission, how they behaved under apartheid, how they are acting now.

The consequence of the essentially economic nature of entrepreneurial activity is that successful companies are adaptable and will find ways to make money under almost any political regime. This might be morally uncomfortable (and at times distasteful) but the ability of companies to adapt to almost any political regime is in fact a great strength. The durability of economic enterprise has resulted in one of democratic South Africa's greatest assets. We emerge after decades of authoritarian rule with a large, energetic and reasonably competitive business sector which puts us at a considerable advantage over many other societies.

How could the business sector continue to perform its essential economic functions and simultaneously contribute significantly to the process of political change?

(Of course, we were operating within certain assumptions about change — the validity of incremental versus revolutionary change and opposition to the view that "the end justifies the means". It is instructive that none of these large and important philosophical and strategic questions was raised at the TRC hearing.) The role of business in South Africa during apartheid was complex. In general, it can be said that, like businesses elsewhere, most companies accommodated themselves to prevailing politics and that it was only in the 1980s, when the direct and immediate interests of many corporations were affected, that some business leaders started to speak out against the government and act counter to core apartheid policies. Throughout the earlier period business (organisations and people) would, by and

large, indicate opposition to government policies as these affected the workplace and economic issues then get back to business.

And yet this political reality is only a part of the story. From the late 1970s SA companies funded and supported a remarkably large and diverse number of non-government organisations — community groups, large educational projects, health, welfare and other service organisations, research institutes, the Urban Foundation. The strength and diversity of South Africa's civil society — largely operating in direct opposition to apartheid and its ideas — is a product of three important forces: the spirit of thousands of individual South Africans, international resources and SA business support.

It is a fact that key components of the South African business sector have played an unusually large and active role "beyond the factory gate" when compared to business in almost any other society. Companies that did so were subject to considerable criticism in the business sector for going beyond traditional corporate activities as understood by "the business of business is business."

There are few people who give up everything (or anything at all) for their beliefs and ideas. Most people "go along to get along." I certainly don't support this attitude, merely record it as an unfortunate reality of human nature. Under apartheid most individuals went on with their education, went to soccer matches, professors taught, journalists wrote, clerics preached, people got married and had families. If the criterion now (for the TRC or any other critic) is "did you do ENOUGH to oppose apartheid?" — then very few South Africans would be blameless. Business in South Africa accommodated

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itself to the apartheid system. In doing so it provided jobs for millions of people, created infrastructure, unleashed democratising pressures (unintentionally) and sustained a base of economic activity that now provides a platform for economic growth. In addition, many companies supported and funded thousands of NGOs opposing apartheid or providing services in black communities. The support of important businesspeople for the work of the Urban Foundation — the country's largest NGO at the time — was a significant contribution to the fight against apartheid and important work was done in pioneering policy and project approaches to meeting the country's enormous development needs.

Like the vast majority of South Africans, businesspeople could have done much more to oppose the policies, ideas, philosophy and assumptions that comprised a cruel, destructive and terrible system of racial discrimination, oppression and denial of black South Africans' humanity. There were sins of omission and commission that need to be reflected on and their lessons learnt. It is insufficient to apologise profusely then go back to "business as usual" or establish a relationship with the new government as uncritical as with the last. The success of democracy and non-racism in South Africa will depend on all South Africans — particularly those with more power than others — working to build a different society. Business has a very important role to play. Let's focus on that.

Ann Bernstein is executive director of the Centre for Development and Enterprise. She was called as an independent expert witness to give evidence at the TRC hearings on business.

'NIS' TASK WAS TO GATHER INTELLIGENCE'

Spy chief denies assassination role

THE FORMER HEAD of the National Intelligence Service said yesterday that the NIS had gathered information but he could not ask what line function departments had done with it.

SOUTH AFRICA'S former spy chief Dr Niel Barnard yesterday denied knowledge of or involvement in clandestine operations to kill political opponents of the National Party government, inside the country or abroad.

Barnard was testifying on the first day of the Truth and Reconciliation Commission's second public inquiry into the activities of the former government's State Security Council (SSC).

He repeatedly stressed that the main function of the National Intelligence Service (NIS), which he headed between 1980 and 1992, had been to gather security-related intelligence.

He confirmed chairing a body known as the Co-ordinating Intelligence Committee (CIC), which, he said, had been set up in 1986 to co-ordinate the gathering of intelligence by the police and military.

He also confirmed that Trewits, an Afrikaans acronym for counter-revo-

lutionary target identification centre, had been a sub-committee of the CIC.

Former Viakpias commander Brigadier Jack Cronje has already told the TRC's amnesty committee that Trewits identified troublesome anti-apartheid activists, inside and outside South Africa, for elimination.

Its purpose — at monthly meetings attended by representatives of military intelligence, special forces, NIS and the security police — had been to draw up a priority list of activists who it was felt could not be dealt with by the normal processes of law.

However, Barnard, now director-general of the Western Cape provincial administration, denied yesterday that Trewits had ever been involved in the murder of activists.

"Trewits was established to co-

ordinate security intelligence and to establish an information data base. I am not going to say the information collected by Trewits led to the death of people.

"I could not ask the line function departments what they did with the information."

However, TRC lawyer Mr Chris Macadam told Barnard the former secretary of Trewits, Major Henri van der Westhuizen, had applied for amnesty for the murder of activists identified for elimination by the body.

Barnard also denied NIS or SSC involvement in the assassination plot to kill ANC activist Albie Sachs, now a Constitutional Court judge.

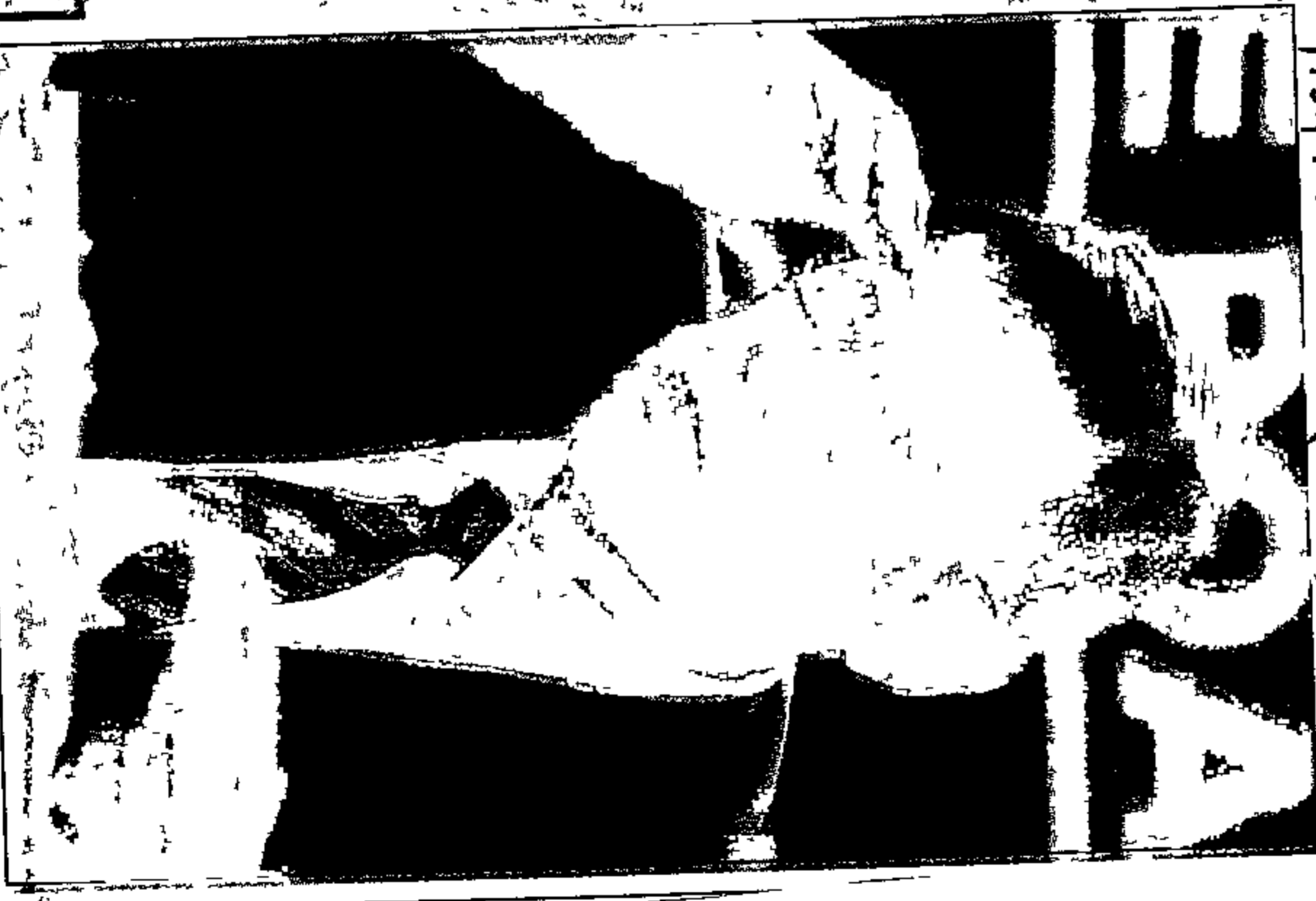
Barnard was also questioned about the 1985 security force raid into Lesotho in which a number of people were killed.

He was told that three policemen claimed that the CIC, specifically Barnard, had authorised the operation — Sapa



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'NOT INVOLVED IN KILLING': Ex-spy chief Niel Barnard

Stompie remembered for bravery, political maturity

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OWN CORRESPONDENT

JOHANNESBURG: Childhood friends of murdered activist Stompie Seipei huddled around a television in the Parys, Free State, township of Tumahole this week to watch the live broadcast of Jerry Richardson describing in detail how he killed him.

Seven friends, most of whom are now in the South African National Defence Force, did not wince as Richardson spoke of how he plunged a garden shear into Seipei's throat.

During a visit to the township this week, it became clear that childhood memories of Stompie are still fresh in their minds. Apart from his legendary bravery, his friends cannot forget, among other things, his enthusiasm for gambling.

"We used to play zwepe (spinning of a coin) and he was so good at it. Those are some of the interesting times we had," said one friend.

But Stompie had little time for childhood pleasures.

Before he left Tumahole for Johannesburg nearly 10 years ago, he ran a 1 500 strong army called the Under Fourteens which regularly engaged in street battles with the security forces. He was fondly called "the general" by his followers, was apparently very bright at school and wanted to

become a scientist or a lawyer.

At the age of 10, his name was already on people's lips because of his political activism. At 14, Stompie had lost count of how many cold nights he had spent behind bars because of his political involvement.

"Children are better than adults because they are not afraid. Adults run away when police come," was a favourite phrase of his, according to one of his friends.

His uncle, Mr James Seipei, remembers him as an energetic youth whose political maturity baffled many.

"He had an incredible brain. He could discuss sophisticated issues in spite of his tender age. But most importantly, he knew when to shut up because he believed the police were always on his tail because they believed he incited people to become involved in politics."

Stompie lived his brief but eventful life on his toes. After any political disturbance took place, he was the first to be picked up for questioning and tortured by the police.

Stompie's former classmate and a member of the Under Fourteens, Mr Modiko Loosboy, has fond memories of his leader.

"He possessed the most incredible brain for a person of his age. Everyone listened when he spoke. We adored him and followed his instructions because there was just no one else like him. He knew how to motivate us to face the challenges head-on," he said.

Loosboy believes that Stompie had developed a paralysing sense of fear of the police after being detained and tortured several times.

"The mere sight of a police officer would strike fear into his heart. Each

time anything happened in Parys, he was the first, if not the second, to be picked up. This is what led to rumours that he was a police spy. That was ridiculous," he says.

Loosboy believes that his comrade's death was a terrible loss to the struggle,

but more so to his family.

"Being as brilliant as he was, I am convinced that he would have gone on to become one of the great people who would have taken care of his suffering mother and siblings," he says.

But another former friend and follower, Mr Siphon Maduna, wants justice. Even though Richardson has been convicted for the murder, he says "We will be happy if someone can also pay for his death."

*'He believed
the police were
always on his
tail.' —
James Seipei*

Sisulu back, partially vindicated

JOHANNESBURG: Veteran activist Ms Albertina Sisulu, who was accused of being economical with the truth before the Truth and Reconciliation Commission this week, was partially vindicated at the forum yesterday.

Sisulu on Monday denied that her handwriting appeared on a patient's admission card for former Mandela United Football Club member Mr Katiza Cebekhulu.

Cebekhulu was taken to the

surgery of "people's doctor", Dr Abu-Baker Asvat (later killed), where Sisulu was a receptionist, on December 29, 1988, by Ms Winnie Madikizela-Mandela and her then friend, Ms Xoliswa Falati, to be examined for evidence that he had been sodomised.

In a BBC interview recently Sisulu had confirmed that the handwriting on the medical card was hers.

Coupled with other apparent contradictions in her testimony, said

commissioner Mr Dumisa Ntsebeza, Sisulu appeared to be doing her best to shield Madikizela-Mandela.

An emotional Sisulu said, even if she was shielding Madikizela-Mandela, she was not telling lies.

Counsel for the Asvat family, Mr Norman Kades, yesterday said, after examination of the card "It is quite clear the card with the name of Katiza Cebekhulu is not in the handwriting of Ms Albertina Sisulu" — Sapa

K

Hani: CP

'was not involved' (252) CT 5/12/97

PRETORIA. The assassination of SA Communist Party leader Mr Chris Hani was like an unwelcome Christmas present to the Conservative Party, CP leader Ferdi Hartzenberg said yesterday.

Asked whether the CP had approved of the killing, he gave the TRC an example. "My child gives me a Christmas present which I never liked. I do not return it, but express my appreciation for the good spirit in which it was given."

He was testifying in the amnesty application of former CP MP Clive Derby-Lewis and Polish immigrant Janusz Walus for the April 1993 slaying of Hani. The two men are serving life sentences.

Hartzenberg said the CP would not have given the go-ahead for such a deed had it been aware of it.

"But we accept that it was done in a certain spirit which the applicants thought would serve the cause of the CP."

Hartzenberg confirmed his 1993 statements that the CP was not in favour of violence as a means to achieving political ends.

This was the party's stance at the time of the murder. The CP was at the time, however, mobilising to defend itself against possible attacks.

In this process, militant statements were made by party leaders which could have been interpreted by members as a sanction for violent action.

A climate of violence prevailed at the time and about 3 700 murders were committed in 1992.

Hartzenberg said it was understandable that party members could have felt compelled to act.

The CP was not involved in the planning of the murder.

In other evidence, Ms Theresa Beyers told the commission how she saw Walus at President Nelson Mandela's home in Houghton, in 1992.

Beyers, a neighbour, said Walus had parked a white bakkie on a pavement across the street.

Walus earlier denied stopping at the house in July 1992. — Sapa

PW OFF THE HOOK

New summons after legal bungle

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JOHN YELD AND LINDSAY BARNES
ON THE TRUTH COMMISSION

Former state president P W Botha has won a two-week reprieve to rethink his refusal to attend the TRC hearings on the State Security Council - because the subpoena he was served with two weeks ago is invalid.

TRC investigators were today set to board the 2pm flight from Cape Town to George to serve Mr Botha with a fresh subpoena to appear before the commission on December 19.

Mr Botha's lawyer, Ernst Penzhorn, was expected to meet TRC chairman Desmond Tutu about 3pm today to provide the commission with written answers posed by the TRC to Mr Botha in February.

It was Western Cape Attorney-General Frank Kahn who discovered yesterday that the original document was legally defective.

At his Cape Town office today he pointed out to Archbishop Tutu that the subpoena listed the date and place of today's hearing but failed to stipulate the time.

The archbishop remarked, "For lawyers that is not just a minor technicality."

Mr Kahn said the error was not an uncommon one, but it made it impossible for him to proceed with the matter.

He warned Mr Botha that no one would be regarded as above the law. Mr Botha



Frank Kahn: 'Error makes it impossible to proceed'

would be treated like "any other person" should he disobey the subpoena.

If Mr Botha fails to appear on December 19, he faces the threat of a R20 000 fine or a two-year jail sentence. Commission deputy chairman Alex Boraine said Mr Botha's



LEON MOLLER

Desmond Tutu with Alex Boraine: 'I'm very sad'

refusal to co-operate with the TRC was a very serious matter.

He hoped the former president would have a "change of heart" by the stipulated return date. Earlier, when Mr Botha failed to appear

at today's hearing, Archbishop Tutu confirmed that the commission intended to lay a charge against him.

This followed a meeting between the archbishop and Mr Penzhorn in the Truth Commission's Adderley Street offices early today.

After the 50-minute meeting, Archbishop Tutu told journalists that Mr Penzhorn had confirmed Mr Botha's remarks to a weekend Afrikaans-language newspaper that he would not obey the subpoena to attend the hearing in Cape Town today.

"We are deeply disappointed and I'm very sad," Archbishop Tutu said.

"This is someone who said he is a law-abiding person, and we didn't make this law."

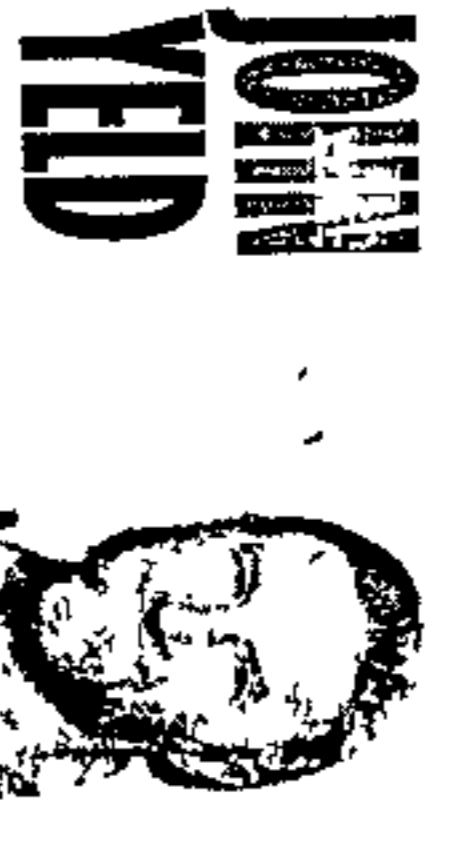
Dr Boraine pointed out that former defence minister Magnus Malan, who was also subpoenaed to the hearing, was appearing before the commission a second time.

"He doesn't like us - in fact he's been very critical of us - but he's here."

"The thing we have to get clear in this country is that no one is above the law," Dr Boraine said.

Ashey Smith reports from Wilderness that Mr Botha's 46-year-old fiancée, Reinette de Water Naude, rushed to his side from Graaff-Reinet as the latest drama unfolded. She arrived at his Wilderness residence, Die Anker, shortly after 11am today.

'Ridiculous, ludicrous lies, fabrications, lunacy' Winnie sweeps aside a nine-day litany from arson to murder



JOHANNESBURG

ON THE TRUTH COMMISSION
Johannesburg - Winnie Madikizela-Mandela, once dubbed "Mother of the Nation" by many of her supporters, came out fighting on the final day of the Truth Commission's hearing into the activities of the Mandela United Football Club



EEBIE VANDER

Responding to what commissioner Khoza Mgojo described as "a litany of serious allegations" made against her over the previous eight days, Mrs Madikizela-Mandela rejected them all and refused to accept culpability

She repeatedly dismissed the allegations as lies, exaggerations, fabrications, and "ludicrous" or "ridiculous" statements
"I am astounded at such rich fabrications. Honestly, for me to have to sit here and listen to such ridiculous statements is a matter of great pain to me," was one of her typical answers.
In another, she stated "I have sat here for nearly two weeks now listening to fabrication by witnesses saying the most ridiculous things about me"
At best, Mrs Madikizela-Mandela conceded that, with hindsight and armed with some of the facts that emerged during the hearing, she might have acted differently
Truth Commission deputy chairman Alex Boraine suggested to her

assaults and said she saw no injuries on the young men.
"When I saw them they looked fine to me - there was no sign of any assault. I never saw Stompie, he never came inside my house. I do not know that child."
Responding to Jerry Richardson's testimony that she had ordered him to kill Stompie, she said "That is ludicrous and the worst lunacy I learnt of Stompie's death in the media right about the time the whole thing exploded in the papers."
Katiza Cebekhulu testified he had seen her stabbing Stompie twice at night, and taking part in the vicious assaults on the four abductees.
She replied "As far as I am concerned, Katiza Cebekhulu is a mental case. It's pure fabrication on his part. I honestly hope you do not believe in the inarticulate statements made by Cebekhulu. The murderer of Stompie himself (Jerry Richardson) testified that I did not do that."
Lolo Sono and Sibuniso Tshabalala, close friends who had connections with the Mandela United Football Club, disappeared in November 1988, and both sets of parents laid the blame squarely at the door of Mrs Madikizela-Mandela.
Lolo's father, Nicodemus Sono, said that he had last seen his badly beaten son in a minibus in which she was a passenger.
Jerry Richardson testified that she had ordered him to kill the two because they were informers.
In response, Mrs Madikizela-Mandela dismissed their testimony as "ridiculous".
She confirmed she had known Lolo and he had been used as a "go-between" or courier between herself and two Umkhonto weSizwe soldiers staying at Richardson's house.
She admitted she had been in a minibus with Lolo, but said she had been taking him on a mission and that he had not been assaulted. "I have never seen him again."
She said she did not know Sibuniso Tshabalala.
Abu Baker-Asvat, Soweto people's doctor, was murdered in his clinic on January 27, 1989. Thulani Dlamini and Cyril Mbatsha were arrested soon afterwards and were convicted of Dr Asvat's murder.
They both said during the hearing that Mrs Madikizela-Mandela had offered them R20 000 to kill him.
The motive for the alleged "contract" on Dr Asvat's life was that he had refused to issue a medical certificate to back her claims that Katiza Cebekhulu had been sodomised by Methodist priest Paul Verryn, and that he (Dr Asvat) had seen how severely Stompie had been beaten.
In her response, Mrs Madikizela-Mandela said she had "a very close relationship" with Dr Asvat and had been "deeply shocked and very saddened" by his death.
On the allegation levelled by Dlamini and Mbatsha, she said "I actually saw them for the first time here. I have never met any of them."
She denied that she had been involved in a serious altercation with Dr Asvat on the day of his murder. "It is one of those hallucinations I'm hearing here for the first time."
Jerry Richardson admitted during the hearing that he had murdered four people, attempted to murder another, and had abducted four.
He testified that all these crimes had been committed on instruction

Sorrow for families of victims - then it's back to the fighting talk

JOHANNESBURG

Johannesburg - Winnie Madikizela-Mandela has apologised for activities of her Mandela United Football Club that went "horribly wrong".
She also told the families of "Stompie" Seipel and Soweto doctor Abu Baker Asvat she was sorry about their murders, but did not acknowl-

edge any personal role in either killing, nor did she extend her apology to several other victims and families of murder victims who testified against her during the nine day Truth Commission hearing into the activities of the football club in the late 1980.
Mrs Madikizela-Mandela's apology came after a strongly worded and emotional appeal from Truth

Commission chairman Desmond Tutu at the close of the hearing.
At the opening last week, Archbishop Tutu stressed that the hearing was not aimed at any individual, but his concluding remarks were addressed directly to Mrs Madikizela-Mandela.
He described her as "a stalwart and icon of the liberation struggle", and said he had immense admiration for her and loved her very deeply.
"Her contribution to the struggle can never be gainsaid."
But Archbishop Tutu also said that matters had gone "horribly, badly wrong".
Stressing that he had not yet made any finding on the evidence presented at the hearing, he said "I beg you, I beg you, please. You are a great person and you don't know how your greatness would be enhanced if you had to say 'I'm sorry, things went wrong, please forgive me'."
Mrs Madikizela-Mandela responded to what she described as Archbishop Tutu's "wonderfully wise words", and said she wanted to take the opportunity to say to the Asvat family and to Joyce Seipel that she was "deeply sorry" for what had happened.
"I am saying, it is true, things went horribly wrong. And for that part of those painful years when things went horribly wrong, I am deeply sorry."
Earlier, when Archbishop Tutu called surviving victims and families of victims to the podium so that he could greet them, Mrs Seipel and Mrs Madikizela-Mandela embraced warmly.
Later last night Mrs Madikizela-Mandela phoned a radio chat show to

Old friends: ANC Women's League president Winnie Madikizela-Mandela greets Truth Commission chairman Desmond Tutu yesterday
that the football club had been "a good idea gone very badly wrong".
"That is correct," she replied.
Just how wrong is apparent from key claims in the long list of allegations made at the hearing.
Teenagers Stompie Seipel, Thabiso Mono, Pelo Mefewe and Kenny Kgase were abducted from the Methodist mission in Soweto on December 29, 1988, when they were taken to Mrs Madikizela-Mandela's Dlephloof home and brutally assaulted.
She allegedly took part in these assaults and the badly injured Stompie was murdered soon afterwards by Mandela United Football Club coach Jerry Richardson, allegedly on her orders.
Mrs Madikizela-Mandela said she did not know that the four had been forcibly removed.
"It was stated to me that the youths had toy-toyed into the bus. My evidence is that I was not there when they were brought forcibly," she told the commission.
She also denied knowing about the

and with the authority of Mrs Madikizela-Mandela.
She responded to Tony Richardson, Richardson's lawyer. "I do not think even you believe that." And asked whether she denied the allegations against her, she said "Absolutely."
Dudu Chilli's home was hit in an arson attack, after the murder of Mandela United Football Club member Maxwell Madondo by Sibuniso Chilli.
In the attack, 19 year-old Finkie Msoni died. Charles Zwane, who was convicted of the attack, testified that it had been ordered by Mrs Madikizela-Mandela.
She responded "That was a very cruel thing to say - I know absolutely nothing about that. Why would I order the burning of her house? I had absolutely nothing against her. I had worked very closely with her. I had great respect for her."
Asked to comment on the testimony that a decision had been taken to kill Sibuniso Chilli because he had refused to join the football club, Mrs Madikizela-Mandela said, "That, logically, sounds very ridiculous to me. I know nothing about it."
Lawyer Sanjay Makanje pointed out to Mrs Madikizela-Mandela that at least nine witnesses had, during the previous eight days of the hearing, directly implicated her in gross human rights violations.
He wanted to know whether there was a conspiracy against her, or whether she could offer any other reason why so many people would come forward to make such allegations against her.
Mrs Madikizela-Mandela responded, "They have led, sir - they would know the reasons why."
declare she was still in the race for the deputy presidency of the African National Congress despite the litany of allegations against her during her three-day ordeal at the TRC.
On a CapeTalk programme where Jon Qwelane was discussing the hearing with callers, she said "I am still in the race. I have been given that role by my people. I have always been a servant of the people."

Gun in Hani killing 'stolen from SADF'

Pretoria – The gun used to kill Chris Hani in 1993 was stolen from the SA Defence Force, the Truth Commission heard in Pretoria today.

The gun, a 9mm pistol, was delivered to a Krugersdorp house a month before the murder, Faan Venter testified

Mr Venter was a friend of former Conservative Party MP Clive Derby-Lewis, who, along with Polish immigrant Janusz Walus, was convicted of the SA Communist Party leader's slaying on April 10 1993

Both are serving life sentences for the crime and are seeking amnesty on the grounds that the murder was politically motivated

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Mr Venter said he had gone to see Derby-Lewis at his Krugersdorp home on March 10 1993 Derby-Lewis asked him if he could get hold of a firearm, preferably an unlicensed one

Derby-Lewis had told him "We are stocking up"

Mr Venter said he assumed this to mean "for the battle that lay ahead" The Conservative Party at the time was anticipating it would have to defend itself against attacks

Mr Venter said he had a 9mm pistol that had been given to him by a friend, Jean Taylor, who was at the time in detention in connection with the theft of weapons

"The gun was stolen from the defence

force I didn't really want it as I already had a firearm It was a nuisance"

Mr Venter said Derby-Lewis had asked him to deliver the pistol to the Krugersdorp home of a friend, Lionel Durant

"When handing over the gun I had to say this is Clive's jersey," he said

Mr Venter said "I saw some humour in it It was a pistol and I called it a jersey"

He said the pistol was in a box in a plastic bag

Mr Durant was not at home and he had handed the bag to Durant's wife, Elizabeth

Elizabeth Durant said yesterday that she received the bag on February 24 and gave it to Derby-Lewis on the following day – Sapa

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Flustered Barnard 'not forthcoming' on spooks

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'Reams of testimonies contradict you'

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JOSEPH ARANES
ON THE TRUTH COMMISSION

Western Cape provincial director-general Niel Barnard has been accused of being "less than forthcoming" when answering questions before the Truth Commission about the State Security Council and National Intelligence Service.

Dr Barnard, who was head of the intelligence service during the apartheid era, former president PW Botha and former defence minister Magnus Malan were subpoenaed to appear before the commission at a special hearing into the activities of the security council.

Mr Botha, due to appear before the commission today, has indicated that he will ignore the subpoena.

Commission chairman Desmond Tutu said he hoped Mr Botha would attend "but because up to now Mr Botha has been saying he will not appear we have been in contact with Western Cape Attorney-General Frank Kahn to draft contingency plans. My hope is that it will not become necessary to implement them," Archbishop Tutu said.

When asked at yesterday's hearing about the role of the security council, Dr Barnard sketched a picture of the intelligence agencies and the security forces being actively involved in stabilising the situation in the country and "laying the foundations" for the peaceful transition to democracy.

Commission member Richard Lyster, who accused Dr Barnard of being less than forthcoming in his answers, said "You are painting a picture of these institutions being benign in their approach and their only concern was stabilising the country.

"There are reams of transcripts of testimonies from other people and amnesty applications, including those from senior officers in the security forces, that paint another view, the effect of which shows an orchestrated campaign by the State to eliminate opponents of the government.

"This is not my personal view or the view of the commission but we are putting it to you as we can't understand how a situation developed where we got two fundamentally different realities," Mr Lyster said.

A visibly flustered Dr Barnard said from the remarks he inferred that the commission had passed judgment on his evidence. "If my view of the situation does not concur with the other, it is part of the process of establishing the truth and reconciliation and it remains my view."

Earlier, Dr Barnard told the hearing that the intelligence service was not involved in



OBED ZILWA

Grilled: Head of intelligence services during the apartheid era, Niel Barnard, at the TRC hearing

killing any of the government's political opponents and that it only gathered information which was used by other departments.

He also denied that the security council authorised illegal cross border raids which resulted in the deaths of innocent people. But he conceded that some of the information, when used by the defence force's special forces and the police security branch, could have led to the death of some people.

"When I learnt about this I spoke to the heads of the police and the defence force and expressed my concern. But I had no authority to investigate the allegations as they were happening in different departments."

Dr Barnard said he also told Mr Botha about plans to stage a coup in the Seychelles.

"After learning about this and being approached, as head of the national intelligence, to help in the coup, which I declined, I shared this with Mr Botha who said he

would discuss it with his political colleagues as it could have a negative impact on the country if it was perceived that the government was behind it."

He said people on both sides of the conflict were no angels and both sides committed atrocities. "While this cannot be justified it must be understood in terms of the context and climate that prevailed at the time.

"The government's response and the strategies they developed must be viewed against this backdrop and planning was done to prevent a revolutionary overthrow of power as was the case in other African states," Dr Barnard said.

General Malan, who voluntarily gave the commission a lengthy written submission earlier this year about his understanding of how the security forces worked during the apartheid regime, is due to testify at the hearing today.

Winnie bruised, but unbowed in leadership race

HUGH ROBERTON
POLITICAL EDITOR

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Winnie Madikizela-Mandela may have been discredited as never before at this week's Truth and Reconciliation Commission hearings, but she continues to be a powerful force in the African National Congress with a core of passionately loyal supporters.

Informed opinion in the ANC is that although she will lose the race for the vice-presidency of the organisation at next week's national conference – if she is nominated at all – the TRC hearings will have had little to do with her defeat.

They say the outcome of the race was sealed long before the hearings began when she failed to secure the backing of provincial formations in the ANC

They are the only formations allowed to nominate candidates and, under relentless pressure from the ANC leadership, all have backed Jacob Zuma, KwaZulu Natal leader of the ANC. If Mrs Madikizela-Mandela is to contest the race, she will have to be nominated from the floor with the support of at least a quarter of the delegates present.

Some of her key supporters are urging her to take this course, hoping the size of the vote for her will send a sharp message that action against her will come at the cost of a major schism.

Her power to survive this week's TRC mauling lies in a proposition widely accepted in some formations of the ANC – and especially the Women's League, of which she is president – that even if she did do all the horrifying things she was accused of having done, her actions were justified by conditions at the time.

Comrades were being tortured and murdered by agents of the apartheid government. The ANC was heavily infiltrated by the security police. It was waging a desperate underground war in which there were



Down but not out: Winnie Madikizela-Mandela

Winnie sweeps aside her accusers, page 3

Editorial comment and Zapiro, page 11

Other TRC reports, page 4

no rules and no quarter given

Most of those in the ANC who played a leadership role in the struggle, so the argument goes, could not avoid becoming involved in gross abuses of human rights

"If Winnie had sought amnesty like Ronnie Kasrils or Joe Modise or Alfred Nzo and others who have been publicly accused of gross human rights abuses, there would not have been a Winnie-week at the TRC," was the way one of the ANC Women's League delegates to next week's national conference put it

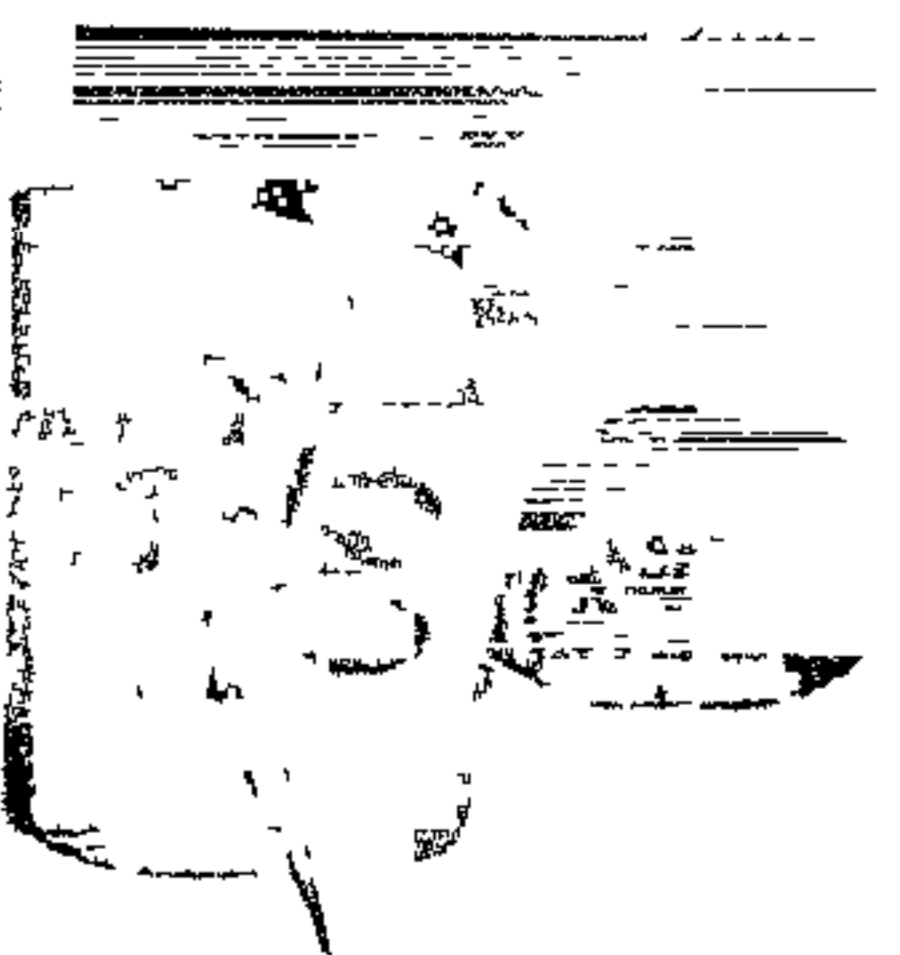
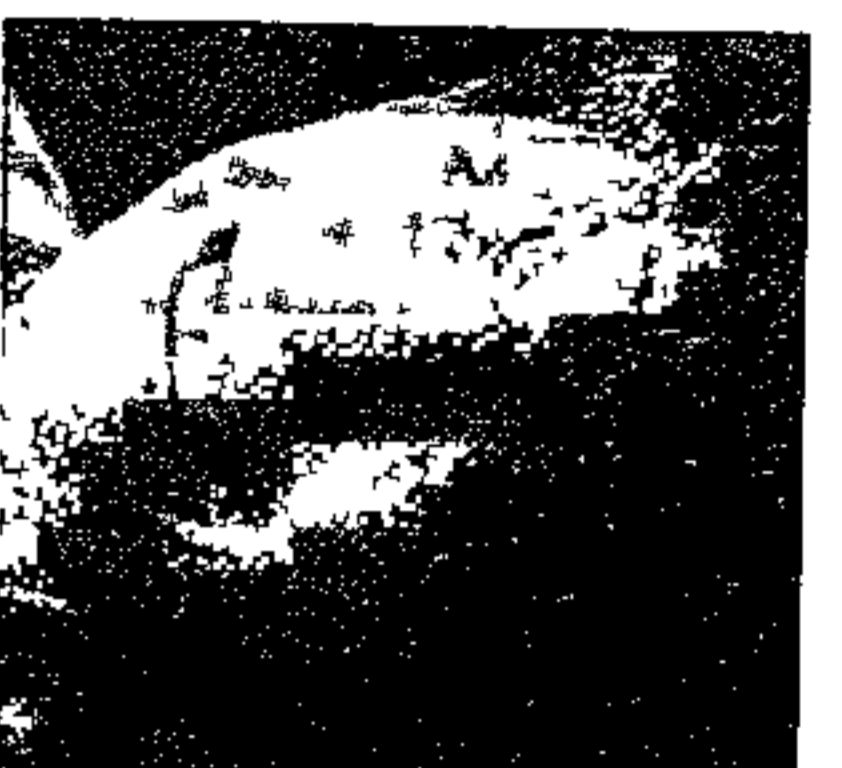
Mrs Madikizela-Mandela astutely played up to the "struggle justification" argument during the TRC hearings, referring to the terror and violence which pervaded Soweto at the time

Several times she drew spontaneous applause from supporters

She also enjoys "tactical" support from other elements in the ANC-Cosatu-SACP alliance, although they may have grave misgivings about her role in Soweto

THE MADIKIZZELA-MANDELA HEARING

Report by Robert Brand and picture by The Star's
chief photographer Debbie Yazbek



WINNERS
DAY 9



A time for healing . . . Archbishop Desmond Tutu hugs Winnie Madikizela-Mandela before the start of yesterday's Truth and Reconciliation Commission hearing into the activities of the Mandela United Football Club

'Accusations are ludicrous, all ludicrous'

(2012) Raw 5/12/97

Commission has come to an end and all we have learnt from it is that arch-enemies are often more alike than they would care to admit.

Like F.W. de Klerk before her, Winnie Madikizela-Mandela attempted to convince the TRC yesterday that she could not be blamed for the actions of her followers.

Like De Klerk, Madikizela-Mandela denied having ordered or encouraged her followers to commit the gross human rights violations recounted by many witnesses.

De Klerk confronted the TRC and lost, there were indications yesterday that Madikizela-Mandela's challenge to the TRC to probe allegations against her at a public hearing might have been a bad miscalculation.

There is, as yet, no case against her which would stand up in court, TRC investigators conceded.

There is no objective evidence to back up allegations that Madikizela-Mandela had personally committed murder and assault, and many of the witnesses who made the allegations are unreliable.

But it was not the purpose of the hearing to gather evidence or prosecution it was intended to establish levels of accountability.

Did she order any of the crimes of which members of

the Mandela United Football Club or their associates have been accused? If not, did she encourage or condone them? To put it simply, where does the buck stop?

The best-known, and best-investigated, cases in which Madikizela-Mandela is alleged to have had a hand are the abduction of four youths from the Methodist manse in Soweto and the subsequent murder of Stompie Seipei, the assaults on and subsequent disappearance of Lolo Sono and Shomoso Shabalala, and the murder of Dr Abu-Baker Asvat.

Allegations that she had been criminally involved in these cases, she told the commission, were "ridiculous", "ridiculous", "hallucinations" and "fabrications". Did she kill Stompie, the 14-year-old boy who was abducted with three other youths from the manse after allegations that they were being sexually abused by the resident priest?

"That is ridiculous and the worst innuendo I learnt of Stompie's death in the media." Did she participate in the assaults on Stompie and the three other youths? "That is ludicrous." "That is ridiculous and the worst innuendo I learnt of Stompie's death in the media."

Did she order the killing of Sono and Shabalala, two youths allegedly accused of having "sold out" two MK guerrillas who died in a shootout with

police? "That is ridiculous."

Did she hire two killers to murder Dr Asvat, the physician who allegedly refused to back up her claims that Methodist minister Paul Verryn had sexually assaulted youths at this manse?

"I saw them (the two killers) for the first time here at this hearing. I have never met them."

Did she order the near-fatal assault on Lerothodi Khameng, a youth who resigned from the football club? "It is ludicrous to suggest it."

There is a response to a blanket denial such as that, and TRC lawyer Hanri Vally said it "So you are saying everybody else that testified at this hearing lied?"

The answer, as could be expected, was affirmative.

It is impossible to determine what is true and what are lies in the tangled web of allegations.

The commission is after a more general truth, the relationship between Madikizela-Mandela and the youths who surrounded her, and the relationship between her will and their actions.

Questioned about the origin and nature of the football club, Madikizela-Mandela said it had initially been established to defuse tensions between various youth organisations in Soweto in 1986.

Although not a soccer fan herself, Madikizela-Mandela provided the team with track-suits and soccer gear, and she watched their first match.

In 1987, she said, the club was disbanded on the orders of her then still imprisoned husband Nelson Mandela.

Under cross-examination by Vally, she conceded that members of the club retained their distinctive yellow track-suits.

Some of them also continued to live in a shack in her backyard.

Pressed further, she agreed that youths wearing Mandela United Football Club track-suits continued to escort her around Soweto as late as February 1989, when they were seen at the funeral of Asvat.

Vally: "Was the club not disbanded?"

Madikizela-Mandela: "It was disbanded. What happened is that boys stayed on my premises and unfortunately, some of them kept the football club track-suits."

The next question was one of control. "I did not have any direct control over those youths who came to stay at my house."

There was no need to control them. They lived on their own in the backyard, and I had my own problems to deal with, Madikizela-Mandela said.

members of the football club were engaging in "hugger". Madikizela-Mandela said, "There is no evidence here that any boy who was staying at my house was involved in a rape or anything like that. If that was the case, I would have acted."

This prompted Vally to list the names of half-a-dozen people who lived at or frequented her house and have been convicted of robbery, murder, assault, arson and other crimes.

Madikizela-Mandela: "I can't recollect." Vally: "Our instructions are that you indicated to them you needed the boys for bodyguards."

Madikizela-Mandela: "That is ridiculous." Vally pointed out to her that the "group of community leaders" stated this under oath before the commission last week. He then went on to ask why Nelson Mandela had ordered her to disband the football club.

Madikizela-Mandela: "He had heard the same rumours, the same perceptions." Vally pointed out that these "rumours and perceptions" that the football club was conducting a reign of terror were fact, and asked when she had become aware of them.

Madikizela-Mandela: "I learnt about that, much later, after my house was burnt." Vally: "There was a whole range of incidents. There was an instruction from Nelson Mandela that you should disband the club. You got a wake-up call when your house was burnt down (in July 1988). The

crisis committee warned you. Yet in February 1989 you are still going around with a group of young men who are staying at your house and wearing the football club uniforms." Madikizela-Mandela: "Those were just perceptions and distortions."

Vally then drew her attention to a letter sent by the crisis committee to then ANC president Oliver Tambo in Lusaka, in which the committee asked what they should do about Madikizela-Mandela.

She answered that she thought at the time the letter was a "Stratcom fabrication." Asked about the Mass Democratic Movement's decision in 1989 to distance itself from her actions, Madikizela-Mandela replied that this was the work of a "cabal" trying to force her out of her leadership position.

Azar Cachalia and Murphy Morobe, the two MDM leaders who made the public statement, were still pushing the "cabals" agenda, she alleged.

"We out there know Azar Cachalia. You heard what he said in his statement (presented before the commission last week), his recommendation that people should not be allowed to hold public office."

And Murphy Morobe, when I came back from Brandfort, the youth told me Murphy Morobe

was part of the cabal." There were more echoes of previous hearings when lawyer S.I. Joseph pressed Madikizela-Mandela on the meaning of her famous 1986 speech that "with our matchboxes we will liberate this country."

Four people were murdered by an associate of Madikizela-Mandela after being branded in-formers, Joseph said.

Could her "matchbox" speech have been intended to exhort people to murder in-formers?

Her answer was reminiscent of those of former government ministers trying to explain the meaning of the word "eliminate" in State Security Council documents.

"I did not intend anyone to understand anything. I was simply describing the situation at the time. You can interpret it in any way you want."

The closest Madikizela-Mandela came to expressing regret about the actions of the football club was when Vally asked her whether she now, with hindsight, thought she should have handled things differently.

"Of course I regret the subsequent loss of life of some of the boys. I am very deeply regretful of what happened to some of those boys."

"But I do not regret whatsoever having harboured those youths and protecting them from the vicious system of the day."

Time for the lion to write its own (more accurate) history

There is an African saying that goes, unless the lion writes its own history, history will always glorify the hunter. P. J. du Plessis' ravings and lame attempts at justifying the heretic means by which wealth was created in this country will do well to let the rest of the world know that the lion is not about to mention the unmentionables (forced removals, disenfranchisement, etc)?



Guilty

The lion is not about to mention the unmentionables (forced removals, disenfranchisement, etc)? The unsinuation that it could only take the arrival of colonialists for indigenous people to develop this country is laughable in its crudity! Each and every society has had development and backwardness at some point or another. Development of societies is not about the innate ingenuity of people but temporal-spatial conditions of the time.

There is an African saying that goes, unless the lion writes its own history, history will always glorify the hunter. P. J. du Plessis' ravings and lame attempts at justifying the heretic means by which wealth was created in this country will do well to let the rest of the world know that the lion is not about to mention the unmentionables (forced removals, disenfranchisement, etc)?

NIS head 'warned PW of torture and killings'

Star 5/12/97

Botha also informed in advance about abortive Seychelles coup, TRC hearing on State Security Council told (252)

SAPA
Cape Town

Former state president P W Botha's own spy chief warned him in the mid-1980s that members of his security forces could be murdering and torturing anti-apartheid activists, the Truth and Reconciliation Commission heard yesterday

Dr Niel Barnard, who headed the former National Intelligence Service (NIS), also told a special hearing on the State Security Council (SSC) that he had given Botha advance warning that the abortive 1981 Seychelles coup was being planned on South African soil, and that it could involve the military

Asked by TRC lawyer Chris Macadam what the NIS reaction had been to reports that activists in South Africa were being murdered and tortured in detention, he said: "We were very worried about that because it wasn't the way to go about doing things"

He had repeatedly brought the reports to the attention of the chief of the defence force and the commissioner of police, telling them he suspected that individuals at executive level in their organisations were "indulging in illegal activities", that he had no evidence to prove this, but that

they had to investigate.

He had voiced the same sentiments to Botha, saying it appeared there could be "some misunderstanding somewhere" and that members of the security forces might be involved in illegal acts. He had told Botha this could not be permitted.

"He said he was also very worried about it, and would deal with it at political level"

This had been around 1986, during the state of emergency. Barnard said the SSC, of which

Security forces suspected of acting illegally

he was a member, had always acted morally and legally and had never condoned illegal acts

Barnard said he had been asked to meet mercenary Colonel Mike Hoare, who told him of plans for a Seychelles coup and asked for NIS help. Barnard said he had refused.

A subsequent UN probe into the abortive coup found that the NIS had known about it in advance, and that the SADF had supplied arms, ammunition and other equipment for it.

Barnard was also questioned about a top-secret 1985 SSC document, titled "Draft counter-revolutionary strategy", which said leaders of anti-apartheid activists in townships should be "neutralised" by means of an Operation Vasvat. The document also suggested they could be made the target of vigilantes, through organisations such as Inkatha.

Barnard said "neutralise" meant to "take away their ability to strengthen the revolutionary climate"

Truth and Reconciliation Commission officials met Western Cape attorney-general Frank Kahn yesterday to discuss "contingency plans" in case former state president P W Botha ignores a subpoena to testify at a TRC hearing today.

It was highly unlikely that Botha would testify, his lawyer Ernst Penzhorn confirmed last night.

Botha has publicly indicated he has no intention of obeying the subpoena. This led to TRC chairman Archbishop Desmond Tutu warning him that he faces criminal charges and the possibility of a fine or up to two years' imprisonment.

According to Penzhorn, Botha was hard at work yesterday finalising answers to a lengthy list of questions which the TRC sent to him.

STAR

5/12/97 (252)

DEBBIE YAZBEK



Quite a moment ... Winnie Madikizela-Mandela embraces Joyce Seipei, mother of Stompie, after Archbishop Desmond Tutu yesterday called victims of crimes allegedly committed by the Mandela United Football Club to the front of the hall.

Winnie: 'I am SO SORRY'

Winnie expresses regret for deaths of Stompie Seipei and Dr Abu-Baker Asvat but stops short of accepting responsibility

By ROBERT BRAND AND ANSO THOM

After eight hours of denial before the Truth and Reconciliation Commission yesterday, Winnie Madikizela-Mandela admitted for the first time that "things had gone horribly wrong" with her football club at the end of the 1980s.

She also expressed regret, without accepting responsibility, for the deaths of Stompie

Seipei and Dr Abu-Baker Asvat - but not before delivering a stinging attack on her political opponents and accusing the TRC of conducting a political vendetta against her.

"It is true, things went horribly wrong. For that part, for those painful years, I am deeply sorry," she said.

Madikizela-Mandela accused a "cabal" within the ANC of trying to oust her and said the TRC hearing was part of a campaign to prevent her from being

elected to the position of deputy president of the ANC.

"My political detractors have used means fair and foul to undermine my stature.

"This subpoena could have been served a year ago... it is an unhappy coincidence that this is happening a few days before the ANC's national conference.

"It is part and parcel of that agenda. A whole lot of things that happened here were not connected to this hearing."

TRC deputy chairman Dr

Alex Boraine responded immediately, rejecting the notion that the TRC had a political agenda.

"We would like to remind you that Mrs Madikizela-Mandela had asked for this public hearing, and this was the soonest we could arrange it."

Madikizela-Mandela also accused former United Democratic Front leaders Murphy Morobe and Azar Cachalia, who had initiated a 1989 declaration by the Mass Democratic Movement distance itself from

her, of leading the "cabal"

In his closing speech, TRC chairman Archbishop Desmond Tutu had high praise for Morobe and Cachalia, saying they were leaders who had shown moral courage at a time of moral decay.

Another such leader, he said, was Albertina Sisulu, recalled to the witness stand to clear up contradicting statements she had made about a patient card in Katiza Cebekhulu's name at Dr Asvat's

surgery. Sisulu confirmed that the handwriting in the card was not hers, and said she had made a mistake when she told BBC journalist Fred Bridgland earlier this year that it was

In her testimony earlier, Madikizela-Mandela denied any involvement in the murders of Stompie, Asvat, Lolo Sono and Siboniso Shabalala, or in several assaults.

"Ludicrous" and "ridiculous" were her favoured answers to questions suggesting she may

'Things went horribly wrong'
Ston 5/12/97
 From Page 1
 (252)

She denied, however, that she had any control over them "They lived on their own in the backyard, and I had my own problems to deal with"

She said crimes committed by these youths outside the confines of her house could not be blamed on her.

Madikizela-Mandela denied that she had assaulted Stompie and other youths abducted from the Methodist manse in Soweto on December 29 1988, and taken to her house.

She said she had left for Brandfort on the day the youths were brought to her house and had not been aware that they had been assaulted. She had found out about the murder of Stompie in the media, she said.

She also denied that the so-called Mandela Crisis Committee, formed to mediate between the Soweto community and herself after frustrations with her football club led to the burning of her house in 1988, had negotiated with her for the release of the youths.

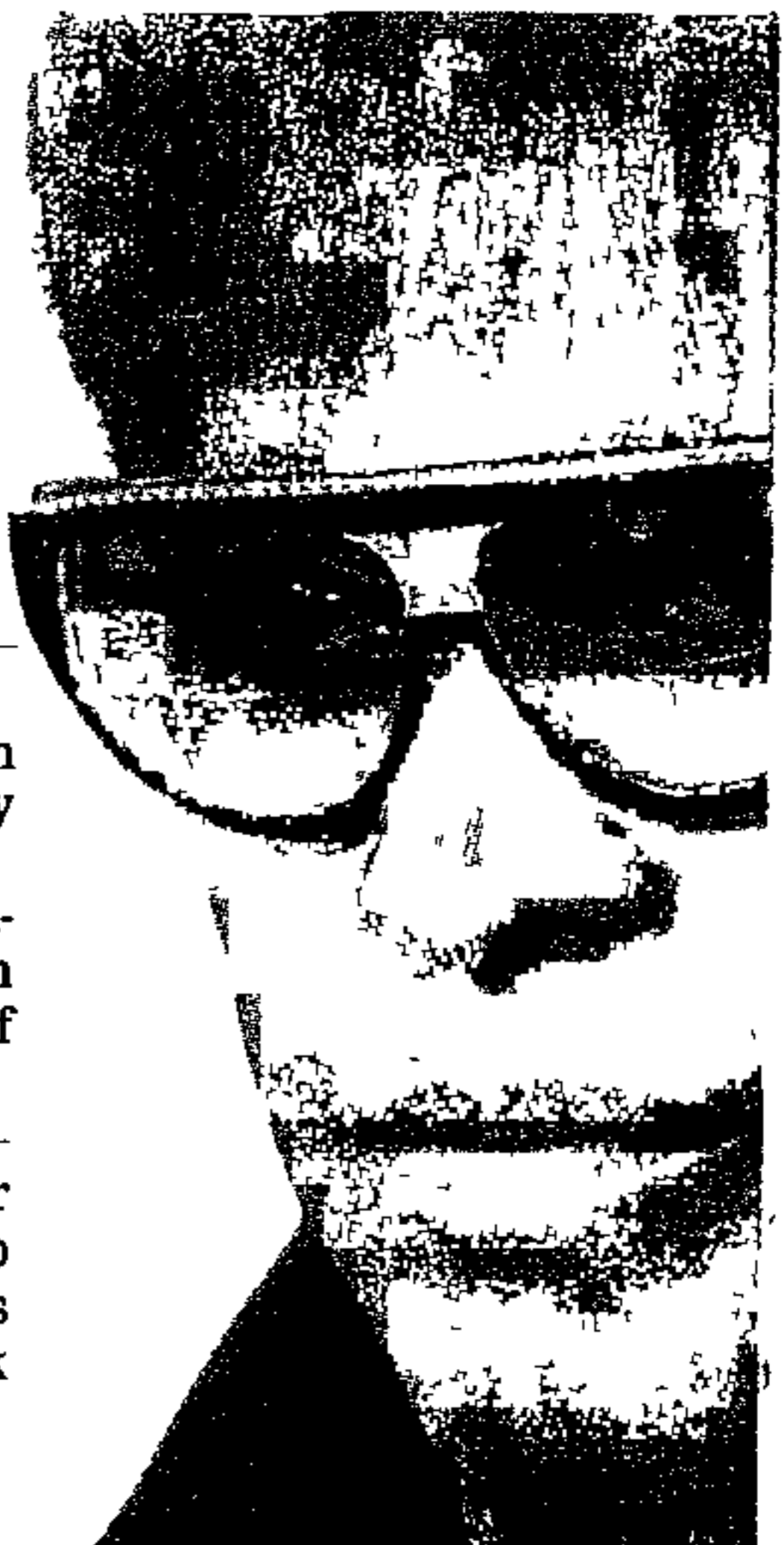
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have had a hand in human rights violations committed by members of her football club.

Madikizela-Mandela maintained that the club had been disbanded on the orders of Nelson Mandela, in 1987.

But under cross-examination she conceded that former club members continued to wear football club tracksuits and continued to live in a shack in the backyard of her house.

► To Page 3



She said she had first become aware that Richardson had murdered Stompie when she was questioned about the murder in a closed inquiry before the TRC in September this year.

Madikizela-Mandela denied an allegation made by Richardson this week that she was a police informer.

Questioned about her response to concerns by Soweto community leaders, Nelson Mandela, the crisis committee and the MDM about the football club's activities, Madikizela-Mandela said she had thought at the time that the security police's Stratcom branch was trying to drive a wedge between her and the community.

She also denied trying to frame the Rev (now Bishop) Paul Verryn "I have never made any accusation against Paul Verryn," she said, maintaining this assertion even after being read transcripts from a television interview in which she had said Verryn was "sodomising black boys"

► 'Accusations are all ludicrous'

A kiss from Winnie for Joyce Seipei

By RYAN CRESSWELL
AND CECILIA RUSSELL

(2nd) Star 5/12/97

For some of the victims of the Mandela United Football Club there was little truth in Winnie Madikizela-Mandela's evidence, but for others there were signs of reconciliation.

When Madikizela-Mandela kissed Joyce Seipei, mother of slain teenage activist Stompie Seipei, yesterday, the mother came one step closer to her request to the TRC to meet and speak to the woman many see as responsible for his death.

Joyce Seipei told The Star, before the dramatic meeting in front of a full session of the special hearing, that she did not believe Madikizela-Mandela was the person responsible for her son's death.

Despite testimony which has alleged that Madikizela-Mandela had killed or given the order for the killing of Stompie, Joyce said she wanted to meet her because "she did not commit the murder".

Although Joyce sat behind the Mandela family throughout

the gruelling nine days, weeping at the testimony which has dealt with her son's death, she had met Madikizela-Mandela only once - when she bumped into her in the toilet.

There Madikizela-Mandela assured her they would meet, Joyce said. When the two met they would share many stories about the boy activist who led an army of children in her hometown of Parys, Joyce said.

Speaking after the hearing yesterday, Xoliswa Falati said she was not happy about the way things had gone.

Falati, who served a two-year sentence for the abduction of four youths including the murdered Stompie, said: "She (Madikizela-Mandela) is denying everything."

"She is going to get away with these things and we thought this was the platform that would stop her," she said.

Dr Ebrahim Asvat, brother of murdered Dr Abu-Baker Asvat, said: "Madikizela-Mandela has apologised, she has shaken my hand but I don't know what she is sorry about."

NP leader wants top-level talks

Port Elizabeth - National Party leader Marthinus van Schalkwyk said he would meet Truth and Reconciliation Commission chairman Archbishop Desmond Tutu on December 15 to discuss the legal uncertainty about the granting of amnesty to 37 top ANC members.

Van Schalkwyk said the attempt by TRC executive secretary Martin Coetzee to explain the "backdoor" amnesty had done more harm than good.

He said Coetzee had basically admitted the TRC Act had not been complied with and that the commission had created a new type of "de facto" amnesty - in case some of the ANC members were implicated in other amnesty applications or cases before the TRC.

Van Schalkwyk said the TRC had no alternative but to withdraw the so-called amnesty, or to grant general amnesty to everybody involved - Sapa

Stompie's friends recall brave leader

(252)
BY TENO MOTHIBELI

Childhood friends of murdered activist Stompie Seipei huddled around a television in the Parys, Free State, township of Tumahole this week to watch the live broadcast of Jerry Richardson describing in detail how he killed him.

Seven friends, most of whom are now in the SA National Defence Force, did not wince as Richardson spoke of how he plunged a garden-shear blade into Stompie's throat.

His murder has become the central focus of the Truth and Reconciliation Commission's probe into the Mandela United Football Club's reign of terror during the late 1980s.

And The Star discovered during a visit to the township this week that

memories of Stompie are still fresh in the friends' minds. Apart from his legendary bravery, they cannot forget, among other things, his enthusiasm for gambling.

"We used to play *zwepe* (spinning a coin) and he was so good at it," said one friend.

But Stompie had little time for childhood pleasures.

Before he left Tumahole for Johannesburg nearly 10 years ago, he ran a 1 500-strong army called the Under Four-teens, which engaged in street battles with the security forces.

He was called "the general" by his followers, and was apparently very bright at school and wanted to become a scientist or a lawyer.

At 14, Stompie had lost count of how many cold nights he had spent behind bars because of

his political involvement.

"Children are better than adults because they are not afraid. Adults run away when police come," was a favourite phrase of his, according to one of his friends.

His uncle, James Seipei, remembers him as an energetic youth whose political maturity baffled everyone.

"He had an incredible brain. He could discuss sophisticated issues in spite of his tender age. But most importantly, he knew when to shut up because he believed the police were always on his tail because they believed he incited people to become involved in politics," he said.

Stompie lived his brief but eventful life on his toes. After any political disturbance took place, he was the first to be picked up.

WINNIE MADIKIZELA-MANDELA

Reports of her demise premature

(252) FMS/12/197

thugery were so tainted by lies and inconsistencies, he says, that her grassroots support remains unshaken.

The decision by the ANC's key Eastern Cape branch to spurn Winnie and endorse the national leadership's choice of Kwazulu-Natal premier Jacob Zuma for the deputy-president's position is merely the view of the provincial leadership, not the party rank and file, says Holomisa, whose power base lies in that region.

"The current ANC leadership — at national and provincial levels — is generally not respected by the rank and file, their decisions do not necessarily represent the will of the people," he says.

Similarly, reports that the ANC Women's League was withdrawing its earlier endorsement of its president, Madikizela-Mandela's candidacy for the

deputy presidency reflects only the feeling of her longtime rivals in the league

"Even if the league or provincial branches say they do not support Winnie, there is the likelihood that individual members will propose her from the floor," Holomisa predicts. He was referring to the ANC conference this month at which key policies and leadership positions will be decided.

If put to a vote, Madikizela-Mandela could draw strong support from individual branches. This was demonstrated again at the North-West Province ANC's general council last week, when leaders could not win sufficient backing for Zuma, and put the matter to a branch vote. Zuma received 72 votes, Madikizela-Mandela 63. Two branches failed to vote, and several others were absent

In the Northern Province, two out of ten regions nominated Winnie but withdrew. She has been nominated by branches and regions in all nine provinces, and though most back Zuma, their support for her endures — especially in the Eastern-Cape.

However, in all provinces except the North-West, the Winnie-Zuma battle was not voted on as leaders insisted on choosing a "consensus" candidate. Thus no clear gauge of her support exists. Strong feelings remain within the ANC that Zuma is not fit to be deputy-president; that he is too subservient to president-to-be Thabo Mbeki. This sentiment is reflected in moves to prevent the deputy-president of the party becoming automatically deputy president of the country. Peter Honey & Justice Malala

Reports of Winnie Madikizela-Mandela's political death are greatly exaggerated. So says United Democratic Movement co-leader Bantu Holomisa, an unabashed friend of Winnie and himself a magnet for support within the ANC, despite his expulsion.

Selective justice in Winnie probe

AM 5/12/97
TRC has yet to scrutinise the atrocities in ANC detention camps

The TRC hearings into the alleged abuse of human rights by ANC Women's League president Winnie Madikizela-Mandela invoke a powerful and eerie sense of *déjà vu*

It derives from the similarities between the events surrounding Madikizela-Mandela and the Mandela United Football Club — which, in the words of former political activist Azhar Cachalia, served as her "personal vigilante force" — and those which occurred in ANC detention camps in Zambia, Uganda and, above all, Angola

There are the same accounts of infiltration by police agents, of rampant paranoia and of summary justice, including torture and execution, imposed on people deemed to be spies and *agents provocateurs*

If Madikizela-Mandela and the footballers-cum-vigilantes are cast in the minds of many observers as characters driven to excesses by unrestrained power and a brooding sense that their ranks had been penetrated by "enemies of the people," the same role is ascribed in the detention camps to the ANC department of intelligence & security and the dreaded *Mbokodo* ("the-stone-that-crushes")

In his statement to the TRC, Cachalia, who was national treasurer in the pro-ANC United Democratic Front, urges the com-

missioners to recommend that anyone convicted of a crime "which amounts to a gross violation of human rights should not be regarded as fit to hold public office" His unstated target is Madikizela-Mandela, whose 1991 conviction for kidnapping was upheld by the Appeal Court

In another uncanny parallel, Cachalia's exhortation echoes a recommendation by the Skweyiya Commission, appointed by the ANC in 1992 to investigate allegations that cadres were tortured in its camps

After recording that cadres accused of being spies and/or mutineers were often "brutalised," the commission concludes "No person who is guilty of committing atrocities should ever again be allowed to assume a position of power Unless the ANC is prepared to take decisive action, the risk of repetition will forever be present"

Madikizela-Mandela is alleged by a succession of witnesses at the TRC to have been responsible for several deaths The commission heard that at least three of the victims were suspected of being spies 14-year-old Stompie Sepele — one of the four residents of the Methodist manse in Soweto who were, a trial judge found in 1991, kidnapped at Madikizela-Mandela's behest in December 1988 — and two young men, Lolo Sono and Sibonisa Tshabalala

The man who allegedly carried out the killings is Jerry Richardson, the coach of the Mandela United Convicted in 1990 of murdering Stompie, Richardson has since admitted to the murder of Sono and Tshabalala in a statement to the TRC But he now declares that in carrying out these killings, and that of Stompie, he was acting on the orders of Madikizela-Mandela

In another major development Police Commissioner George Fivaz has admitted under oath that Richardson was a police agent and that he was paid a reward of R10 000 in 1995 for past services in order to win his co-operation — Fivaz used the phrase "oil his hand" — for a renewed investigation into the deaths of Sono and Tshabalala

The disclosure that Richardson — whose apparent devotion to Madikizela-Mandela is manifest in his references to her as "mummy" — was a police agent shows that the paranoia about spies in her household was not without factual foundation

The infiltration of spies into Madikizela-Mandela's entourage may account for her apparent immunity from arrest during the late Eighties A possible explanation is that her immunity had the potential to brand her as a police agent while the real police agents kept her under constant surveillance and were thus able to report the arrival of young guerrillas at her home

forays into SA

If there are striking parallels between the internal and external situations in the ANC, there is one conspicuous difference While the TRC has devoted considerable time and resources to the investigation of Madikizela-Mandela's alleged complicity in the atrocities committed in her name, there is no matching attempt to pinpoint culpability for brutalities in the ANC camps

It is a discrepancy which many South Africans feel should be put right — particularly as the Skweyiya Commission gave President Nelson Mandela a list of the names of officials responsible for abuses of human rights

Patrik Laurence

As Cachalia notes in his statement, "just about everyone," including the police, seemed aware that there were guerrillas and arms in the Mandela family house, and yet she was not arrested

A similar state of paranoia existed in ANC camps Former chief of staff of the ANC guerrilla army Chris Hani is quoted in the Skweyiya Commission as referring to a "situation of paranoia and hysteria," a predicament which he blames for the arrest, detention and death of Thami Zulu, a young man who became one of the ANC's most successful military commanders but who was targeted by *Mbokodo* after his units began to run into ambushes on their

PW'S ALWAYS GO OUTBURST

ANDREA WESS

In an extraordinary finger-wag from the past, former state president PW Botha has stated the Truth and Reconciliation Commission and the Government for "fiddling" while Rome burns.

In a voluminous 1 700-page written submission to the TRC, he also has denied that he was ever guilty of gross human-rights violations, adding that he was not prepared to apologise or ask for amnesty.

Mr Botha made his submission available to Saturday Argus after failing to respond to a subpoena to appear before a special hearing of the commission yesterday - the subpoena was later found to be invalid and a new one has been delivered.

"South Africa is in the midst of a crisis," he prefaced his reply.

"Crime is out of control, farmers are systematically being murdered, corruption is at an all time high in nearly all of the nine provinces, productivity is on a downward slide, unemployment is taking on discouraging proportions - in the order of between 30 and 50%, depending on which figures you use - and for housing, the backlog is ever greater."

He said the TRC's insistence on his public appearance was "a transparent attempt to discredit the Afrikaner and its former leadership."

He questioned why the TRC had not waited for his written response before issuing a subpoena, leading him to suspect that the TRC was not interested in the answers he might supply.

"He said Home Affairs Minister Mangosuthu Buthelez, who had been accused by a number of witnesses of being involved in violence in KwaZulu Natal, repeatedly had said in public that he would not appear before the TRC, but he was not being threatened with a subpoena."

"This gives rise to the question why a dis-function is being drawn between myself and

Dr Buthelez." Mr Botha said uneven treatment and selective morality were the order of the day and asked how such behaviour on the part of a commission would have been viewed 15 years ago.

Late yesterday, Mr Botha was served a third subpoena at his Wilderness home after the TRC confessed to having bungled its second subpoena on him by failing to specify the time of yesterday's hearing.

The TRC's first subpoena was waived on grounds of ill health when Mr Botha produced a medical certificate and doctor's report after a hip operation.

He is now scheduled to appear on December 19, but his lawyer, Ernst Penzhorn, has made it clear that Mr Botha does not intend appearing in person.

Should Mr Botha fail to appear, he could face a two-year prison sentence or R20 000 fine.

Mr Botha's written submission ranges across issues such as the former State Security Council, the SA Defence Force, cross-border raids, bio-chemical warfare and support given to Unhla in Angola and Renamo in Mozambique.

He said he was answering the TRC's questions with "great misgivings and concern about the future of our fatherland."

He did not see how forcing all white people, "especially the Afrikaner and the brave members of the former security forces", to their knees, would lead to national unity and reconciliation. "I cannot be part of it."

He questioned the legitimacy of the commission, as currently constituted.

He said it should have consisted of people who were "neutral and without high political profile."

"To the best of my knowledge, there is not one member serving on the committee for gross human-rights violations who was not at the very least passively supportive of the so-called struggle," he said.

He challenged any member of the committee to prove him wrong on this point.

Krokodil okayed cross-border raids - Malan

JOSEPH ABANES

It was the apartheid government's policy to authorise cross-border raids in an attempt to prevent terrorist attacks in the country, former defence minister Magnus Malan told the Truth Commission.

General Malan, who was testifying at yesterday's hearing into the role of the State

Security Council during the conflict of the past, said the attacks in neighbouring states were part of the government's pro active defence policy.

Painting a picture of mounting instability in the country during the mid-'80s, he told the commission it was correct to say there was a policy which took on an offensive character and which included cross-border raids.



In the dog box: former president PW Botha, seen here taking his dogs for a walk, has no time for the TRC

'Pik favoured far right'

PIETER MALAN

Pik Botha told the State Security Council (SSC) in the late '80s he would rather serve under an Afrikaner Westrandsweging government than under the African National Congress, former state president PW Botha says.

In his written submission to the Truth and Reconciliation Commission yesterday, Mr Botha launched a stinging attack on his former cabinet colleague PW Botha said he could not believe Pik Botha's submission earlier this year that he had been opposed to apartheid since the 1970s.

"If this is true, it is astonishing that for the next 15 years he continued to accept the privileges, financial rewards and status of a NP government minister."

Mr Botha said that in 1988, Pik Botha told a meeting of the SSC that if he had to choose between an ANC and AWB government, he would have chosen the latter.

He also berated verligte Nat Minister Leon Wessels for not sharing with the SSC his suspicions that people were tortured in police custody, as he (PW Botha) would have dealt with such allegations.

Among Mr Botha's submissions to the TRC were:

■ South Africa had developed a "defensive chemical and biological warfare capability" during the early '80s. He said that to the best of his recollection cabinet had never formally approved the programme.

In terms of the Defence Act, former defence minister Magnus Malan had full

authority to develop such weapons, which he did after intelligence reports showed that the Cubans had such a capability which they intended to use.

He then adds: "Never during my time as prime minister and state president have I been asked for authority to use this capability."

To the question whether authorisation was ever given to poison food or water in ANC or PAC camps, he answered, "No. It was ever requested (to authorise this), I would have refused."

Mr Botha denied he had ever given former police minister Adriaan Vlok instructions to destroy Khotso House with explosives.

He denied he knew about the formation of the Civil Co-operation Bureau (COB) - the dirty tricks branch of Military Intelligence.

He vehemently denied that he had a hand in ensuring continued South African support for the Renamo movement in Mozambique in violation of the Nkomati Accord. He listed several instances where he had ordered that any direct or indirect support to Renamo would not be tolerated.

He said that when it was subsequently brought to his attention that Renamo was still receiving support from "persons or organisations" within South Africa, he had given orders that South African police should warn such people to cease their activities.

There had never been any official policy or instructions to summarily kill all terrorists, but where they resisted arrest - or where necessary during internal covert actions - they had been wounded or killed, Mr Botha said.

WARNING: DON'T SMOKE NEAR CHILDREN

7 May 07:00 picture. As per Government agreed meeting



MANDELAS UNITED: Zinzi Mandela lends support to her mother, Winnie Madikizela-Mandela, during the TRC hearing held over the past fortnight

PHOTOGRAPH
GARY BERNARD



'Ghost of Parliament' makes no speeches, asks no questions

By GLYNNIS UNDERHILL

Winnie Madikizela-Mandela is regarded by many of her colleagues as a "ghost MP" who does little work in Parliament

She has been a rare sight at portfolio committee meetings in Parliament, a fellow ANC MP disclosed. "Once or twice this year she attended a defence committee meeting and we were surprised. But the debate was around the security officers bill and there appeared to be some self-interest because she was involved in a security company," said the MP, who asked not to be named

Official records at Parliament confirm that Madikizela-Mandela, who earns an annual package of R221 861, has attended only three of the nine meetings of the portfolio committee on defence held this year. This is the only portfolio committee on which she serves as a full member, yet no apologies for the missed meetings were received, according to parliamentary records

The DP published a report recently entitled "The ghosts that haunt the halls of Parliament", and Madikizela-Mandela's name topped the list. She has not made any speeches since she was fired as deputy minister of arts, culture, science and technology. Neither has she asked any questions in Parliament since 1994, the report claimed.

DP MP Douglas Gibson said he would like to know what Madikizela-Mandela did in Parliament. "Her attendance in the House is sporadic at best. One wonders what contribution she

believes she is making in Parliament," he said.

If Madikizela-Mandela takes part in any study groups or party activities, some of her own fellow ANC MPs are not aware of this. While other MPs claim they never see her in Parliament, the records show she has been attending sessions this year.

Out of 63 plenary sittings in the House of the Assembly until September this year, Madikizela-Mandela was absent for 26 days, of which 13 were leave days

Stan Absent 26/12/97
For two days she provided a sickness certificate and she still has to give reasons why she was not present in Parliament for 11 days

She is a stand-in member of the portfolio committee on safety and security and on request attended one meeting of the committee this year

The ANC has announced it is to crack down on ministers and MPs who show contempt for discipline by unauthorised absence from committees and the National Assembly. ANC chief whip Max Sisulu has said ministers and MPs guilty of ill discipline would face dismissal from committees or Parliament, fines, blocking of promotion, loss of leave and travel privileges, reseating in the chamber, or censure.

Former British Labour Party adviser Mike Elrick, speaking on behalf of Sisulu, said the ANC chief whip was currently assessing the performances of all party MPs in Parliament but was not prepared to discuss the issue

Winnie hearing: new probes

ARG 6/12/97 (252)

CHARLENE SMITH

Police plan to re-open investigations into at least three murder cases which were referred to in hearings before the Truth and Reconciliation Commission this week. Depending on the TRC report, others could follow.

According to deputy police commissioner John Manuel two of the cases are the alleged kidnapping and murder of two young boys, Lolo Sono and Sibusiso Shabalala, in November 1988

The Witwatersrand attorney-general's office also may re-open the case into the death of Dr Abu Baker Asvat

Sono allegedly was last seen - with fresh assault wounds - in Mrs Madikizela Mandela's company. Testimony before the TRC was that he and Shabalala were murdered and buried at mine dumps near Soweto on her instructions. The two boys' parents intend approaching the Argentine government for help in using sonar-scanning equipment developed in that country as an aid in finding buried bodies.

The third case is that of Jabu Sithole who jumped bail and fled South Africa with the aid of the African National Congress in 1992 to avoid prosecution in the case of Stompie Seipei.

More reports, pages 4 and 5

MAIL & GUARDIAN
December 24 1997 to January 8 1998

THE YEAR IN REVIEW 1997 11



Tough times:
The truth
commission
hearings took
their toll on
those who
participated in
a process that
is only the
beginning of
reconciliation.
PHOTOGRAPH:
AP

The 'truth' ²⁵² as it was told

24/12/1997 - 8/1/1998

The truth commission was confronted this year with bouts of amnesia, half-truths and outright lies — and scenes of humanity

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■ "I am not in possession of any information that might be of use to you" — *Former president FW de Klerk, giving the National Party's response to questions posed by the truth commission about his government's support for the Inkatha Freedom Party*

■ "I am here for the purposes of the truth, therefore I have nothing to say" — *Clive Derby-Lewis, who was found guilty of assassinating communist party leader Chris Hanu, at the start of the truth commission hearing in Benoni*

■ "I do not expect the Hanu family to forgive me but to understand there was nothing personal in the attack. If anything, it is an indication of the importance of the man. If he'd been an ordinary member of the South African Communist Party he would still be alive today" — *Clive Derby-Lewis at his amnesty hearing into the death of Chris Hanu*

■ "If we were the Inquisition we would have had electric prods" — *Truth commission chair Desmond Tutu on why the truth commission had to persuade people to confess*

■ "When the commission treats me like a leper and its chair hugs our former oppressors, then I worry about what type of reconciliation we are fostering" — *Winnie Madikizela-Mandela*

■ "Yours not to reason why. You have to take orders and die. That was our culture, to protect our leaders" — *Xoliswa Falati on why she lied to protect Winnie Madikizela-Mandela*

■ "For the sake of your own inner tranquillity and relationship with the community, it will be helpful if you could find it in your heart to take the commission into your confidence" — *Azar Cachalia addressing Winnie Madikizela-Mandela at the truth commission*

■ "Thank you. This is the father I have known in you for years

You are right. Things went horribly wrong" — *Madikizela-Mandela's final words to Tutu and the truth commission after nine days of hearings*

■ "I believe that we all have the capacity to become saints" — *Truth commission chair Desmond Tutu explaining why he went to such lengths to give Madikizela-Mandela an opening to say sorry*

■ "We are concerned that the commissioners are critical of efforts to bring to book those who perpetrated crimes against humanity. They think justice is of less value than their reconciliation showbiz and avalanche of tears" — *Azapo Gauteng chair Lybon Mabaso, telling a Johannesburg news conference that the commission's attempt to stop attorneys-general from prosecuting perpetrators of apartheid-era atrocities was tantamount to defeating the ends of justice*

■ "A killer must be killed" — *Joni Tsili, widower of a woman allegedly killed by Grahamstown police 17 years ago, speaking before the commission*

■ "I have an understanding of their pain and needs. I understand the pain they have in losing their loved ones because I am in a similar situation, although not quite as drastic" — *Former Vlakplaas commander Eugene de Kock announcing that his biography is being written and the proceeds will go into a trust fund for families of his victims*

■ "Something in me died with my brother. I had to avenge his death" — *Askari Joe Mamasela, speaking of his half-brother's "necklace" death at the hands of African National Congress supporters*

■ "The Afrikaans newspapers were closely aligned to the National Party, which effectively paralysed their critical function. We've been close to the beast and we should tell [the truth commission] what it was like. Let's acknowledge it. We often didn't report as well as we

should have" — *One of a group of journalists at Beeld newspaper on why they wanted to make a submission to the commission on the newspaper's activities during the apartheid years*

■ "I want to charge all the mainstream newspapers — English and Afrikaans — with collusion with apartheid and having a hand, directly or indirectly, in the subsequent murder of thousands and thousands of black people by the apartheid army and police. I'm not off my rocker" — *Jon Quelane at the September truth commission hearings into the media*

■ "If you stared at a white woman or used a whites-only toilet, you had an option of being sjambokked or dismissed." — *Media Workers' Association leader Zakes Nene recounting the experiences of black workers at the SABC from 1975 to 1985*

■ "God, she was brave" — *An informant pointing out graves during the truth commission's hunt for bodies, commenting on one of the deceased cadres who resisted cracking under torture for nine days*

■ "They are virtual outcasts" — *Francois van der Merwe, a lawyer for five men seeking amnesty for a range of apartheid-era crimes, including the death of Steve Biko*

■ "No one today admits to supporting apartheid" — *Truth commission chair Desmond Tutu despairingly at the commission's hearings into the role of business during apartheid*

■ "I told him this fuck-up would once and for all establish South Africa as a haven for terrorists and pirates" — *Pik Botha's response to former law and order minister Louis le Grange's report on the 1981 Seychelles coup*

■ "Anyone who believed Margaret Thatcher's 1980s theory that apartheid would wither away if there was sufficient foreign investment in South Africa was naive enough to think that feeding meat to a lion would turn it into a vegetarian" — *Anti-apartheid archive committee chair Lord Hughes at the commission*

■ "If your story is true, you and your colleagues did nothing

wrong. Mr Biko caused his own death and you and your colleagues are blameless?" — *Advocate George Bizos cross-examining retired security police Major Harold Snyman, one of five amnesty applicants in the death of Steve Biko in 1977*

■ "I knew what was going on. I was very much aware that members' success could be ascribed to the use of unconventional interrogation methods" — *Retired police general Johannes Griebennauw admitting to the commission that he turned a blind eye to police torture of detainees*

■ "It gave the politicians a false sense of security. They did not realise the need for political change" — *Former South African Defence Force chief Constand Viljoen, explaining to the commission that the only complaint they could investigate against the former South African Defence Force was that it was too effective in maintaining internal law and order*

■ "If you personalise it, a very proud person who is publicly exposed for being a scoundrel will almost never respond with humility and contrition, they will almost always respond with anger and outrage. The community feels exposed because they have been caught out, shown up as evil, and this is very hard to deal with" — *Valkenberg psychiatrist Dr Sean Kaliske on why the Afrikaner community has been resistant to the commission*

■ "They don't want to deal with the truth." — *Jacques Pauw, author of Prime Evil, the documentary on Eugene de Kock, on why few whites make up the one million viewers who watch the weekly TRC Special Report on television*

■ "Four versions, four exist of the life of Christ. Which one would you have liked to chuck out?" — *Truth commission chair Desmond Tutu after the first round of submissions by political parties produced four different versions of history*

■ "The terms 'soft' and 'hard' targets didn't exist in our vocabulary" — *Former Azanian People's Liberation Army commander Dan Mofokeng justifying the St James Church massacre to the commission*

Challenge amnesty now, Nats tell TRC

Court move urged on ANC 37

The National Party has given the Truth Commission 10 days to bring a High Court application to review and set aside the recent decision to grant amnesty to 37 prominent African National Congress members.

If the commission does not act by January 2, the NP says, it will "seriously consider" bringing such an application itself.

The Democratic Party has already indicated it intends bringing a similar application, if it can find a victim of rights abuses with the necessary legal standing for the challenge.

The NP has also asked the commission to release publicly its legal opinion from advocate Wim Trengove SC, to the effect that the decision by the TRC's amnesty committee can be challenged in court.

But the commission has indicated it will not release the full text of Mr Trengove's opinion, although it has already revealed the contents, nor will it be forced into any decisions about a possible review application

**JOHN
YELD**



ON THE TRUTH COMMISSION

before the next full commission meeting, scheduled for January 14.

"We're treating this as a legal issue, not as a political football," spokesman John Allen said.

The NP's challenge was in a letter addressed to Martin Coetzee, executive secretary of the amnesty committee, who is on leave. The letter states: "We believe that expeditious legal action should be taken to rectify the unlawful granting of amnesty to the (ANC members). The entire process of truth and reconciliation in our country is under threat... The TRC's delay in making up its mind to bring

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an application to review and set aside the decision of the amnesty committee is causing general concern and hardship."

In a radio interview yesterday, the NP spokesman on the Truth Commission, Jaco Maree, said the ANC amnesty issue had "discredited" the TRC, and that it had not been entirely honest in the way it dealt with the issue.

But this was denied by commissioner Dumisa Ntsebeza, who said several commissioners - including chairman Desmond Tutu, deputy chairman Alex Boraine and himself - had expressed doubts as soon as the decision was announced.

"We said upfront that we're unhappy. We took the initiative... I can't see there's anything secret in that," he said.

Mr Ntsebeza also said there was a difference of opinion in the commission over whether it had the legal right to challenge its own committee in court, and that it would require legal advice in this regard.

TRC's year of triumph

(252) *sowetan* 24/12/97

WHEREAS 1996 was the year of tears for the Truth and Reconciliation Commission, 1997 will go down as the year of revelations

Not only were the hidden graves of fallen freedom fighters revealed but the country learned more about the atrocities perpetrated in the past in the name of apartheid law and order

The remains of revered soldiers such as Barney Molokwane and Phila Ndwandwe raised hopes of many parents and relatives whose loved ones disappeared mysteriously

Even those who blindly supported apartheid for over 40 years, including big business, ran out of vocabulary to defend the indefensible

All they could say, in the face of mountains of damning evidence of the evils perpetrated by the police and army in which their children and husbands served to sustain white supremacy, was "we did not know"

Although this excuse remained lame, it revealed the extent to which sections of the media failed in their duty to inform the public about the true nature of our political situation

The media hearing, which confirmed the long held suspicion that the media was infested with spies, revealed that some captains of this industry were not just agents of the past order but willing participants in the "genocide of the truth"

That media houses allowed some of their senior personnel to be members of apartheid's clandestine disinformation organ, Stratcom, was proof enough of the media's willingness to distort the country's true picture

Stubborn refusal

Even the stubborn refusal of former president PW Botha to appear before the TRC was in itself a revelation. It showed that Botha, under whose rule the most severe forms of repression were visited on apartheid opponents, held a seriously warped idea of reconciliation.

The same idea is shared by many of his war dogs such as the former senior police officers seeking amnesty for the killing of Black Consciousness leader Steve Biko and three Port Elizabeth Civic Organisation leaders Siphon Hashe, Qaqawuli Godolozzi and Champion Galela

Policemen such as Gideon Niewoudt, Harold Snyman, Martin van Zyl and others think they can get amnesty by revealing as little as possible and whitewashing the most important aspects of the atrocities they committed

However, they are in for a shock, if the attitude displayed by amnesty committee members in the Biko hearing is anything to go by

South Africa's road to healing and reconciliation was both painful and revealing this year, but TRC's search for the truth paid off. **Simon Zwane** explains why ...



Former Conservative Party leader Clive Derby-Lewis and Polish immigrant Janusz Walus seek amnesty from the Truth and Reconciliation Commission for the killing of South African Communist Party leader Chris Hanu.

Their questions seemed to suggest that the committee was not convinced of the validity of the cops' political motives provided for ill-treating and brutalising Biko

The decision in the Mkhuzeli Jack case, in which Niewoudt was refused amnesty, showed that attempts to put a humane face on the assaults and torture of apartheid opponents would not succeed.

The hearing into the activities of the notorious Mandela United Football Club and its number one fan Mrs Winnie Madikizela-Mandela would rank as the highlight of the TRC process

Allegations against Madikizela-Mandela and her attitude towards the atrocities perpetrated against fellow comrades in her house were placed before the nation to judge for itself

She was clearly shown as a person who was not prepared to own up to the evils committed in her name by an army of thugs she sheltered

Even the apology she offered to Stompie Seiper's mother and the family of Dr Abu Baker Asvat was squeezed out of her by TRC chairman Archbishop Desmond Tutu

Other highlights were the amnesty hearings on the assassination of former South African Communist Party leader Chris Hanu

The voice of Hanu's assassin, Polish immigrant Janusz Walus, was heard for the first time

in public when he described in chilling detail how he shot and killed Hanu in April 1993

He and his fellow conspirator, former Conservative Party leader Clive Derby-Lewis, however, continued to protect some of the people who might have been involved in the plot

The explanation of the role played by Derby-Lewis' wife Gaye was unsatisfactory

Gaye, who drew up the original list of top African National Congress leaders from which a hit list containing Hanu's name was then made, left a poor impression when she was put on the witness stand

The granting of blanket amnesty to 37 ANC leaders and Trevor Tutu should count as the only aberration in the TRC's impeccable record

Gross violations

The TRC said this amnesty was granted because it did not involve gross violations of human rights. But it is now common knowledge that ghastly acts were committed in ANC detention camps in exile

The individuals responsible for those must be drawn into a public inquiry

Only a political nincompoop would believe that Trevor Tutu was acting in accordance with a political objective when, acting like a spoilt brat, he threatened to blow up an aeroplane in East London

TRC braces for next stormy round

(252)

ARC 27/12/97

JOHN YELD
ON THE TRUTH COMMISSION

The Truth and Reconciliation Commission, which would have closed down on December 15 had its original two-year mandate been adhered to, will enter 1998 in much the same way as it did 1997: wreathed in controversy and subject to shrill criticism from left and right.

But despite several crises which spawned the criticism – notably the clash with the National Party earlier this year over the commission's alleged bias and the granting of "blanket" amnesty to 37 prominent African National Congress members in early December – the commission can look back on the past year with considerable satisfaction.

During the past 12 months, its investigators, researchers, evidence leaders and assessors have uncovered much new evidence to help complete its assessment of South Africa's tragic history between 1960 and 1994.

Such evidence includes the discovery of more than 260 secret graves, believed to be those of Umkhonto we Sizwe cadres killed by apartheid security forces, in areas as widespread as Verulam and Elandsdorp in KwaZulu Natal, Phalaborwa, Pietersburg, Louis Trichardt and Messina in the Northern Province, Ladybrand in the Free State, Nelspruit, Piet Retief and Barberton in Mpumalanga; and Aliwal North in the Eastern Cape.

A probable reason for some of the commission's critics appearing so determined to score points against it now is that they know there are new revelations coming in the new year that will cause them further political embarrassment and reinforce the lie to their claims of "we didn't know" and/or "we didn't approve".

Much of the new testimony – which is likely to be as grim and bloody as any heard during the course of the last 20 months – will be made during public amnesty hearings, of which there will be some 1 600.

Events and incidents likely to feature in these hearings include the involvement of the former apartheid government's security forces in the murder of civilians; cross-border raids, "Stratkom" covert operations against the legal activities of anti-apartheid activists, Vlakplaas activities, and support – including gun-running – for Inkatha Freedom Party "hit squads".

Amnesty applications from

African National Congress cadres are expected to include Umkhonto we Sizwe (MK) assassinations and murders, MK "special operations" like the bombing of Magoo's Bar in Durban in 1986, the killing of policemen, the murder of IFP members in KwaZulu Natal, and human rights abuses committed in exile.

When the notorious Unit 66 operation branch (CCB) held a "team building" session in late 1985, the aim was to motivate its members and stimulate their enthusiasm for activities that included murder, infiltration, bribery, blackmail and destruction. This is clear from a document now in the possession of the Truth Commission, which describes how the CCB – a unit of the apartheid government's Military Intelligence – held a joint planning session to refine its "Year Plan" for 1987.

Under the heading "Team building points", the CCB described its mission for the year as the "maximum disruption" of any enemy of the state, both internally and externally, by means of covert operations.

Members of the Pan Africanist Congress and its armed wing, the Azanian People's Liberation Army (Apla), are believed to be applying for amnesty for attacks on the apartheid government's police and military and also on "soft" targets, as well as for assassinations.

Processing all the amnesty applications at public hearings before the new cut-off date of June 30 next year – the commission must submit its final report a month later – is going to require a supreme effort by the commission's staff and, particularly, by its amnesty committee.

Although Parliament has passed a further amendment to the commission's founding act which will increase the size of the amnesty committee to 19 and thus allow six concurrent amnesty hearings to be held, at least eight of those places – which must include two judges – still have to be filled. If the amnesty committee is to meet its deadline, the Government will have to be persuaded to treat these appointments as a matter of urgency.

The first few weeks of the new year will see considerable attention focused on PW Botha and Western Cape Attorney-General Frank Kahn, who must decide whether to prosecute the former state president for failing to heed a subpoena to appear at a special State Security Council

(SSC) hearing on December 19.

After allowing Mr Botha to avoid the first round of the SSC hearing because he produced a medical certificate proving ill-health, the Truth Commission committed an embarrassing slip-up by serving a technically invalid subpoena for the second round in early December, and Mr

Botha was again off the hook. But when Archbishop Tutu walked the few city blocks to Mr Kahn's office in Queen Victoria Street and personally laid the charge against Mr Botha after he failed to appear for the third round of the hearing on December 19, the commission's credibility was given a significant boost in the eyes of most South Africans.

Despite suggestions from some circles, Mr Botha is not a sickly old man being hounded by uncaring and cruel inquisitors. On the contrary, both his highly publicised personal life and his recent calculatedly insulting comments about the commission in exclusive interviews with a conservative Afrikaans-language newspaper – he called it "a circus" in which he refused to "perform" – make it clear that the former state president is in a lively mood and spoiling for a confrontation.

Particularly after having subjected Winnie Madikizela-Mandela to a gruelling nine-day public hearing – admittedly at her own insistence – just days previously, the commission could hardly have allowed the man who stood at the centre stage of apartheid South Africa for more than a decade, wagging his imperious finger at all and sundry, to slip away without being called to account for the reign of his securocrats.

Responding to the suggestion that the commission could be seen to be victimising Mr Botha by insisting that he appear at a public hearing, Archbishop Tutu said "You are talking to me about feelings in the white

community, and I'm concerned about that.

"(But) are people aware there are other people in this country, black people, who just happen to have feelings?"

The commission could not treat Mr Botha "with kid gloves" after having been accused of being "so rough"

churches, political organisations, education and "front organisations", both inside South Africa and in exile.

Among the "most important CCB guidelines" were

– Activities had to have a "positive effect" inside the country;

– The enemy had to "get the message";

– CCB members had to concentrate on "targets" which would not normally be attacked by the formal security forces, and –

Only covert activities could be undertaken within South Africa.

Murders blamed on the CCB include the assassination of Swapo advocate Anton Lubowski and Wits University academic David Webster, both in 1989.

with Mrs Madikizela-Mandela, Archbishop Tutu continued.

Mr Botha appears set to argue that he had an formal agreement with Archbishop Tutu that he would supply written answers to written questions submitted by the Truth Commission – answers which he finally produced after 10 months and at least two personal interventions by Archbishop Tutu to help him – and that he would not be required to attend any public hearings.

But the archbishop has stated publicly that he had no mandate from the commission to make any such offer the former state president.

"I can't in terms of the law make deals," he told journalists.

Because of the criminal charge against Mr Botha, this difference of opinion will probably be tested in court – possibly even during January.

Another issue likely to be resolved in court, also possibly as soon as next month, is the challenge to the controversial granting of amnesty to 37 ANC prominent members.

This seemingly inexplicable amnesty decision was made by three senior judges who serve on the commission's amnesty committee.

Ironically, the commission's founding act makes this committee effectively autonomous – a legal design introduced at the insistence of the ANC's political opponents, who

feared the major party would otherwise exercise undue influence over the commission.

Although the commissioners met the amnesty committee to discuss its decision, a significant number of them remained unconvinced and unable to comprehend the committee's reasoning in this particular instance.

The challenge to the amnesty decision could be mounted by the National Party, the Democratic Party or even the commission itself, depending on further legal advice and on whether the commissioners can find consensus among themselves on the issue at their first meeting of the new year.

Another issue facing the commission early in the new year is the controversy over the Skweyiya Report on gross human rights abuses in ANC camps in Angola during the liberation struggle. This report was included in the appendices to the ANC's second submission to the commission this year.

But the Afrikaans-language newspaper Rapport recently claimed this was a "sanitised" copy, and published extracts from what it alleged was the unexpurgated version of the report, which contained full accounts of atrocities and the names of perpetrators. The newspaper has now sent a copy to the commission.

Commission sources said that, on initial examination, it appeared the Rapport version was not a "full" Skweyiya Report, but an unsigned document used by the leader of evidence during the hearing which led to the report.

However, it does contain numerous names of ANC members alleged to have committed serious abuses.

The issue of this document and the publication of names of alleged ANC perpetrators will be discussed at the first meeting of the Truth Commission's human rights violations committee next month.

The commission is under pressure from, among others, the DP's Dene Smuts, who says the issue of the document "raises uncomfortable questions about partial disclosure".

How the commission handles this particular controversy could signal whether the renewed determination, vigour and independence it exhibited during the Winnie Madikizela-Mandela hearing in late November and early December will also characterise the final six months of its mandate next year.

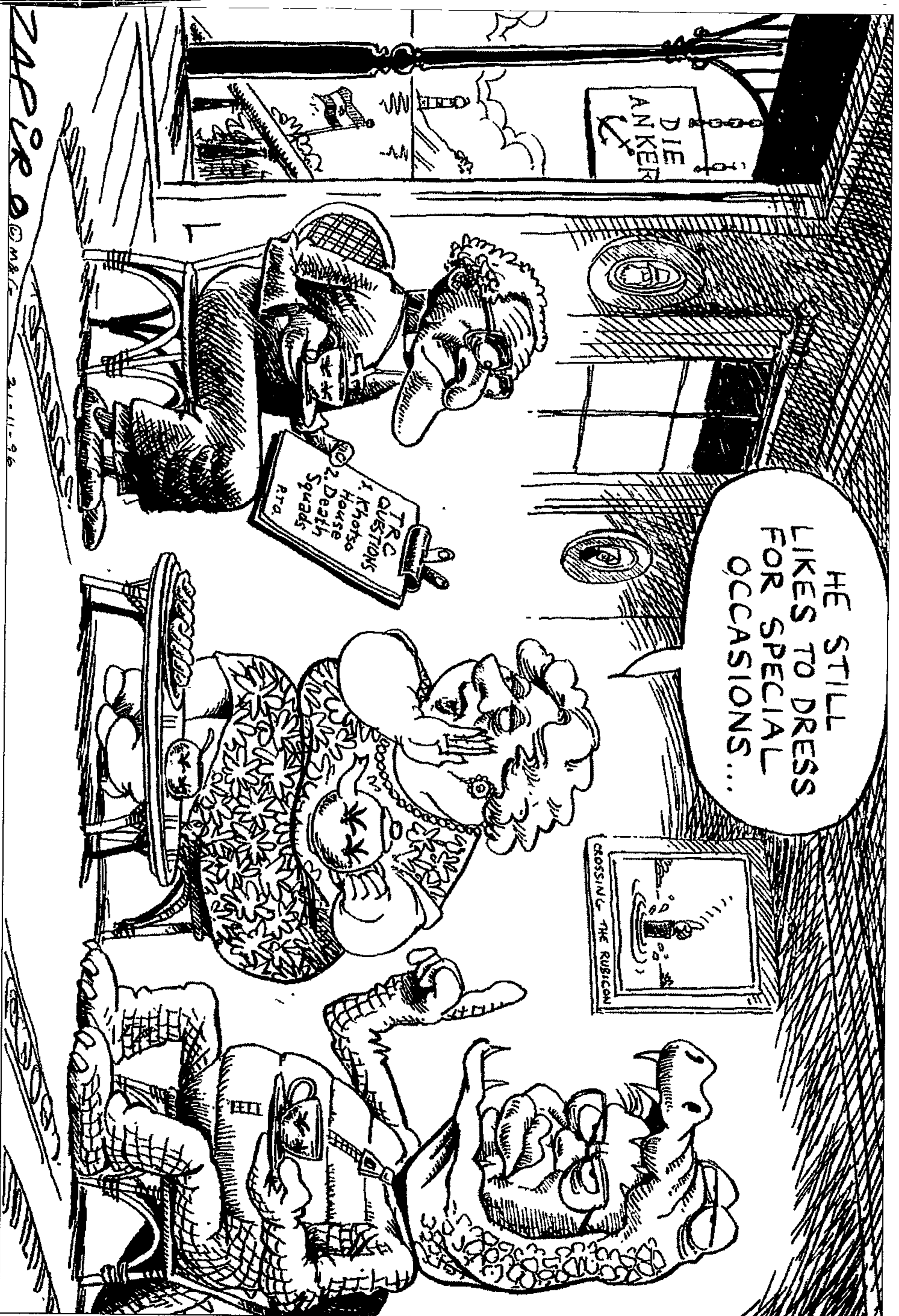
Much of the new testimony will be made during public amnesty hearings

'Are people aware there are other people in this country, black people?'

SANITIZED FOCUS 2

(252)

DECEMBER 27/28 1997



Finger wagging: a cartoon from Zapuro's book, *The Hole Truth*, detailing the struggle this year between former State President PW Botha and Truth and Reconciliation Commission chairman Archbishop Desmond Tutu

'TRC will fail SA if offenders not punished'

Call for court trials

LINDSAY BARNES
CRIME DESK

(262) ARG 29/12/97
29/12/97
The Truth and Reconciliation Commission will fail South Africa if it cannot bring to book perpetrators of gross human rights abuses, human rights group Amnesty International has warned.

The group said the fact that former state president P W Botha had referred to the TRC hearings as "a circus" confirmed its fears that the process was not being taken seriously and was viewed by alleged perpetrators as of no consequence.

Nor was the TRC holding the perpetrators of apartheid atrocities accountable for their deeds, said Njeri Kabeberi, Amnesty International's development officer for eastern and southern Africa.

"We fear that people are not learning from (apartheid atrocities) to ensure that they do not happen again," she said.

If the apartheid leaders were not tried and punished for their alleged crimes, future state leaders may believe they could get off scot-free for similar abuses. Amnesty International believed the perpetrators of heinous crimes in the name of apartheid should face a court trial, she said.

The human rights group was campaigning for an international criminal

court which would hear the cases of human rights atrocities such as those perpetrated in apartheid South Africa.

This court could deal with atrocious abuses in a way that the country in which they took place could not, especially if they were committed by the country's "untouchables", such as powerful government and business leaders.

"We would support a fair trial, but a trial all the same," Ms Kabeberi said.

Gross violators of human rights should not be given immunity or there would be no deterrent for future perpetrators.

Amnesty International was fighting for the world court so that people - especially dictators - who committed unspeakable human rights violations in the future would not get away with their crimes.

"It is because of cases such as South Africa that we feel more than ever before this court is very important," she said.

In October the group supplied the TRC with its reports of human rights abuses committed during the South African liberation struggle between 1960 and 1990.

"We are hoping these will support the TRC's investigations as they contain a lot of information," she said.

Ms Kabeberi commended the TRC for its attempt at reconciliation but said the process should be taken further

PW's lawyers to make new submission in TRC furore

GLYNNIS UNDERHILL
SPECIAL WRITER

Former state president P W Botha's 1 700-page submission to the Truth Commission is not his last word - his lawyers will deliver a fresh submission to Cape Attorney-General Frank Kahn on Friday.

"They are making a representation on his behalf and they say they are presenting me with facts I don't know about," said Mr Kahn

Mr Botha failed to turn up for a TRC special hearing on the State Security Council he once chaired and the commission laid a criminal charge against him Mr Kahn gave

his lawyers until January 2 to make representations to him

Mr Kahn said he expected to make a decision on whether to summons Mr Botha in "a week or two" Indications from Mr Botha's lawyers are that he will appear if summonsed by Mr Kahn

"I will make a decision as soon as I can but this will depend largely on what they tell me. They are playing their cards close to their chests," said Mr Kahn

Mr Botha has said he believes the motivation for ordering him to the hearing is not to get information but to humiliate him and even abuse him in public The commission has rejected Mr Botha's claim

ART 31/12/97

(272)

Security boost after suspect flees

ARGUS CORRESPONDENT

Johannesburg – Police and health authorities are considering various options to increase security measures at hospitals in a bid to prevent prisoners escaping while seeking medical treatment

These moves come in the wake of the escape on Sunday of alleged child rapist and killer Dan Mabote and two other prisoners from Sterkfontein Psychiatric Hospital in Krugersdorp

Gauteng MEC for Health Amos Masondo said he would appoint a team to investigate the escape of Mr Mabote and two others from the hospital

Mr Mabote, 30, is accused of murdering seven-year-old Mamokgethi Malebane of Thembisa, the day before she

(252) (253)
was to testify against him on a rape charge earlier this year

"We need to know precisely how and why the three men made their escape unnoticed. The investigating team's primary task will be to establish answers to these questions. If anybody is found to have failed in their responsibility, disciplinary action will be instituted," Mr Masondo said.

He said the team would be announced next week, and would be expected to report its findings by the end of January.

Acting national police commissioner Morgan Chetty said Mr Mabote's escape reflected the need for a review of security procedures – not only at psychiatric institutions but at all hospitals which housed dangerous criminals.

ARG 31/12/97
"Opportunities for escape often arose because of a lack of interaction between the police and the medical profession," Mr Chetty said.

Dr Ruth Zwi, Gauteng's director of Mental Health Services, said the current policy regarding the handling of suspects undergoing psychiatric observation needed to be clarified.

"The patients are the joint responsibility of health, justice and correctional services.

"We therefore need to improve communication between these departments in order to find and close the holes in the system.

"And until this is done we will take interim measures – requesting guards to help in securing specific patients if necessary," she said.

I lied to protect Clive, says Derby-Lewis wife

ARG 2/12/97 (202)
ARGUS CORRESPONDENT

Pretoria - Gaye Derby-Lewis says she lied two or three times to protect her husband during his trial for the murder of SA Communist Party leader Chris Hani.

"I prevaricated, in fact I lied to protect my lover," she told the Truth and Reconciliation Commission hearing at Vista University's Mamelodi campus yesterday.

It was Mrs Derby-Lewis's first day on the stand at the amnesty application of her husband, Clive, and his co-conspirator in the murder of Mr Hani, Janusz Walus.

When accused of involvement in the plot to assassinate Mr Hani, she held her ground, insisting that she knew nothing of her husband's plans.

Mrs Derby-Lewis said the only fact she had lied about during the trial was that she did not know where her hus-



NICOLENE OLCKERS

Unintimidated: Gaye Derby Lewis

band had obtained the so-called hit list, which gave the names and addresses of possible targets, including Chris Hani.

She had also lied in handwritten statements made while she was being held under Section 29 of the Internal Security Act after her arrest.

ANC plea to undertakers

ARG 2/12/97 (252)
ARGUS CORRESPONDENT

Johannesburg - The African National Congress urged undertakers and burial societies to provide information on their role during the apartheid era.

The call followed another reburial of the remains of two Umkhonto weSizwe members at the weekend.

The remains were exhumed last week from unmarked graves near Piet Retief, Mpumalanga.

Addressing a media briefing in Johannesburg yesterday, ANC acting secretary-general Cheryl Carolus said the Truth and Reconciliation Commission should subpoena burial societies which played a role in secret burials

"so that we know how they were doing it"

She added "We appeal to all funeral undertakers and burial societies to come forward because there seems to have been a network of people who collaborated with the former government."

There was a very large number of MK members for whom the ANC could not take responsibility when it applied for amnesty because the way in which they disappeared was not known.

More than 160 secret graves of members, whose families thought they had gone into exile, have been discovered by the TRC in various parts of the country.

Decline in convictions: an emerging crisis in South Africa

Nov 2/12/97

(252)

One major problem is overworked personnel, both in the police services and the prosecutor's office

By SARAH OPPLER
AND ANTONETTE LOUW

The latest official estimates indicate that convictions for most crimes have declined steadily since 1992/93.

According to the police, rates of reported crimes - in real terms and measured per 100 000 of the population - have recently stabilised and in some cases, are declining.

If fewer crimes are reported to, and investigated by, police, it stands to reason that the numbers of convictions, too, would drop.

But the disturbing reality is that the decline in convictions preceded the levelling off of reported crimes - by several years.

In fact, many of the serious crimes were still on the increase when convictions began their descent.

Members of the South African Police Service - as the front end representatives of the criminal justice system who are battling

computerised, and court sentencing figures are unavailable. Furthermore, a trend peculiar to South Africa is that the police - and not the justice department - collect court statistics. So, once dockets of cases which have proceeded to court are returned to the police station which issued them, copies of the final disposal are sent to Central Statistical Services for summary and publication.

Some of the problems which the police experience in the collecting and processing of their own data on the Crime Administration System, arguably also apply to the statistics reflecting the police's clearance rate and subsequent court proceedings.

CLEARANCE RATES

The "clearance rate" is calculated as the ratio of the number of cases handled by the police which are referred to court, withdrawn or unfounded, to the total number of cases either cleared or undetected (see Figure 1).

This definition is similar to that used in Europe, as are some clearance rates - particularly for crimes which are simultaneously recorded and cleared up, like shoplifting, drug related offenses and illegal possession of firearms.

For violent crimes, particularly murder, the SAPS's clearance rate is substantially lower than that in European countries.

Between January and June 1997, nearly 40% of murder cases remained undetected (representing a 60,4% clearance rate) (Source: SAPS Crime Information Management Centre September 1997).

A recent victim survey conducted by the Institute for Security Studies and Greater Johannesburg Safer Cities established that more than half of murder victims knew their attackers, most by name.

This trend suggests that securing convictions for these crimes should be easier than for others.

Among the violent crimes, aggravated robbery had the lowest clearance rate, with 77% of cases remaining undetected.

Property crimes, with the exception of shoplifting, are notoriously difficult to solve, with between 80% and 90% of burglaries and theft of, and out of, motor vehicles going undetected (Figure 2) (Source: SAPS Crime Information Management Centre September 1997).

And of those cases which eventually do reach court, a large proportion are withdrawn during proceedings - one of the main factors contributing to declining conviction rates.

Nearly half of all cases of attempted murder, aggravated robbery, rape, serious assault and other robbery were withdrawn in court in the first six months of this year (Figure 3).

WITHDRAWALS IN COURT

There are several possible reasons for this.

Prosecutors can decline to proceed with a case if there is insufficient evidence - something which may only be established on the day of the court appearance due to extensive workloads.

The lack of evidence in turn relates to poor detective work by investigating officers - a predictable symptom of bad management and the continuous "brain drain" from police investi-

Poor police work is a symptom of SAPS brain drain

gating departments. Consequently, the system of police docket inspection has collapsed.

Cases are also frequently postponed when investigating officers fail to bring the case docket to court or to subpoena witnesses.

The legacy of using torture to extract confessions has also inhibited police investigating skills.

The police and courts are not solely to blame though. Withdrawals also result from the disappearance or death of witnesses, or when victims retract the charges before finalisation of the case, particularly in cases of domestic violence and rape.

It is not, however, only withdrawals in court that pose a problem.

Half of common assaults, more than two-thirds of serious assaults and 23% of rape charges are withdrawn before reaching court.

While this is often regarded (especially by the police) as the victim's decision, the type of service provided by the police (and legal system) and their attitude towards victims reporting crimes at police stations, probably plays a crucial role

Public has most contact with police in justice

high crime levels - come into more contact with the general public than any other agency in the delivery of safety and security.

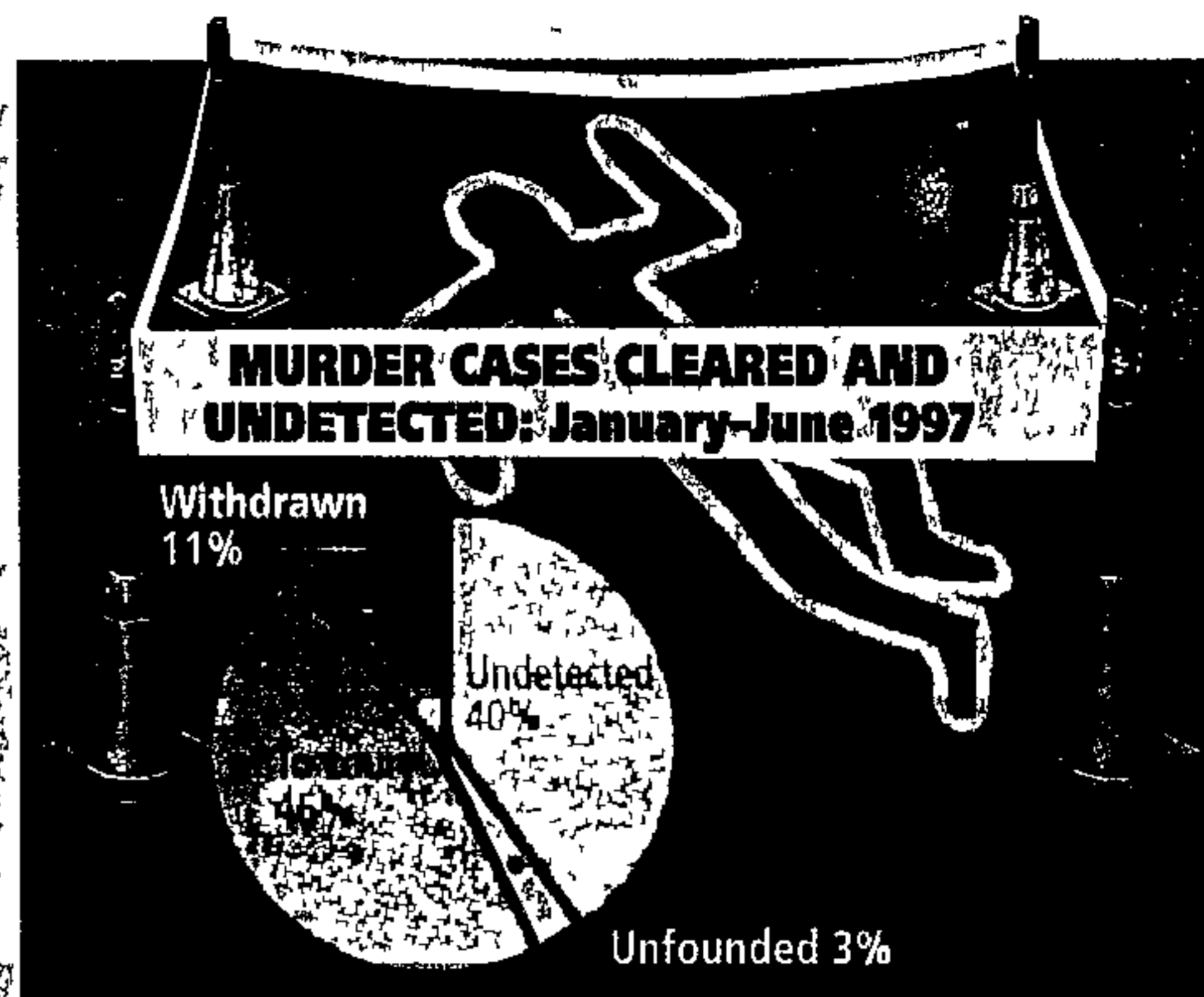
So problems in the police, of which detection and statistics collection are major headaches, have not escaped public scrutiny.

By contrast, too little is known about court processes and attendant problems and, crucially, the detective-prosecutor relationship.

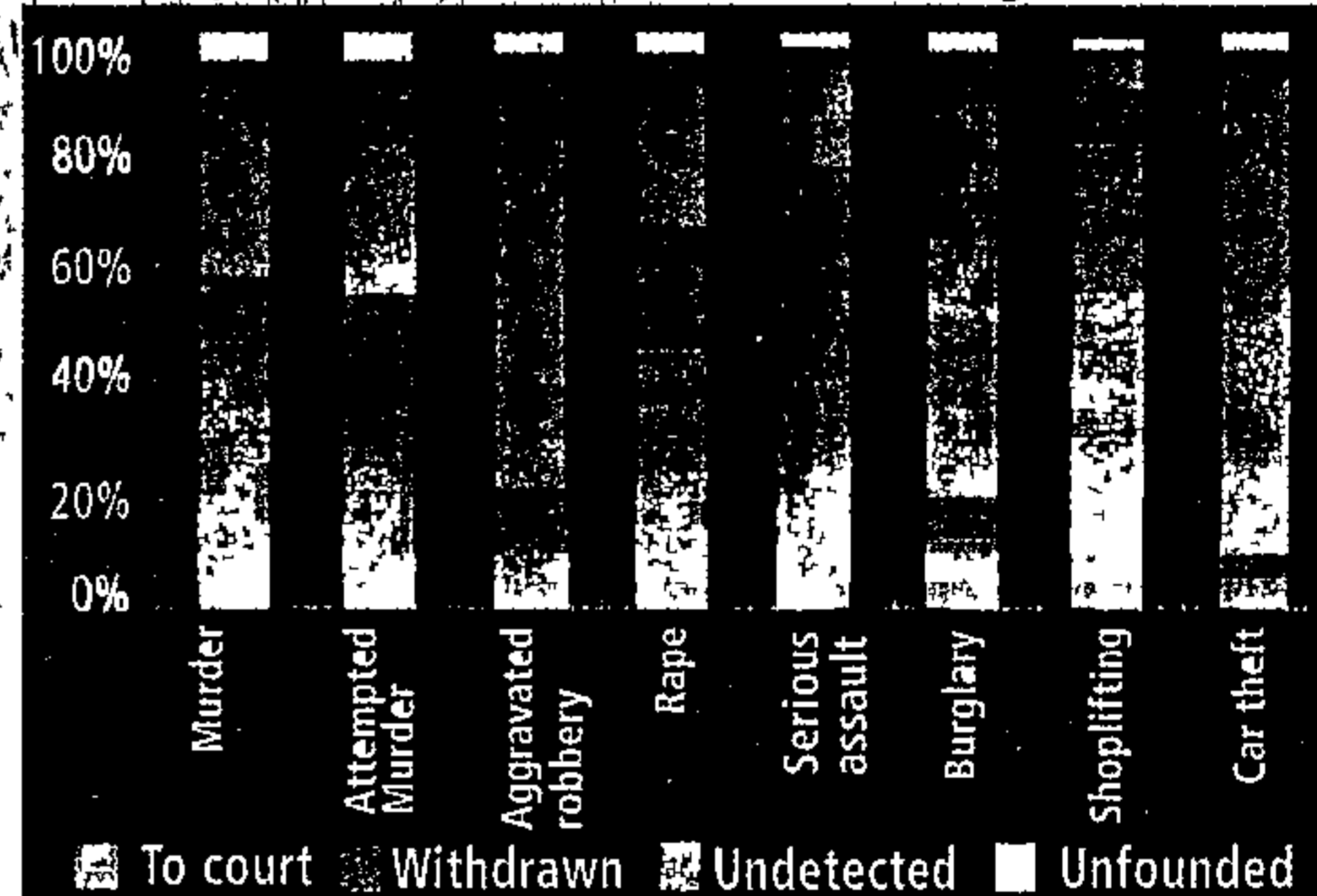
The steady drop in convictions even for drug related crimes and traffic offenses - which rely almost entirely on police action and usually provide the prosecution with concrete evidence - reflect grave deficiencies in this area.

While these trends are too consistent across varying crime types to be attributable to statistical peculiarities, the collection of conviction figures is not without its problems.

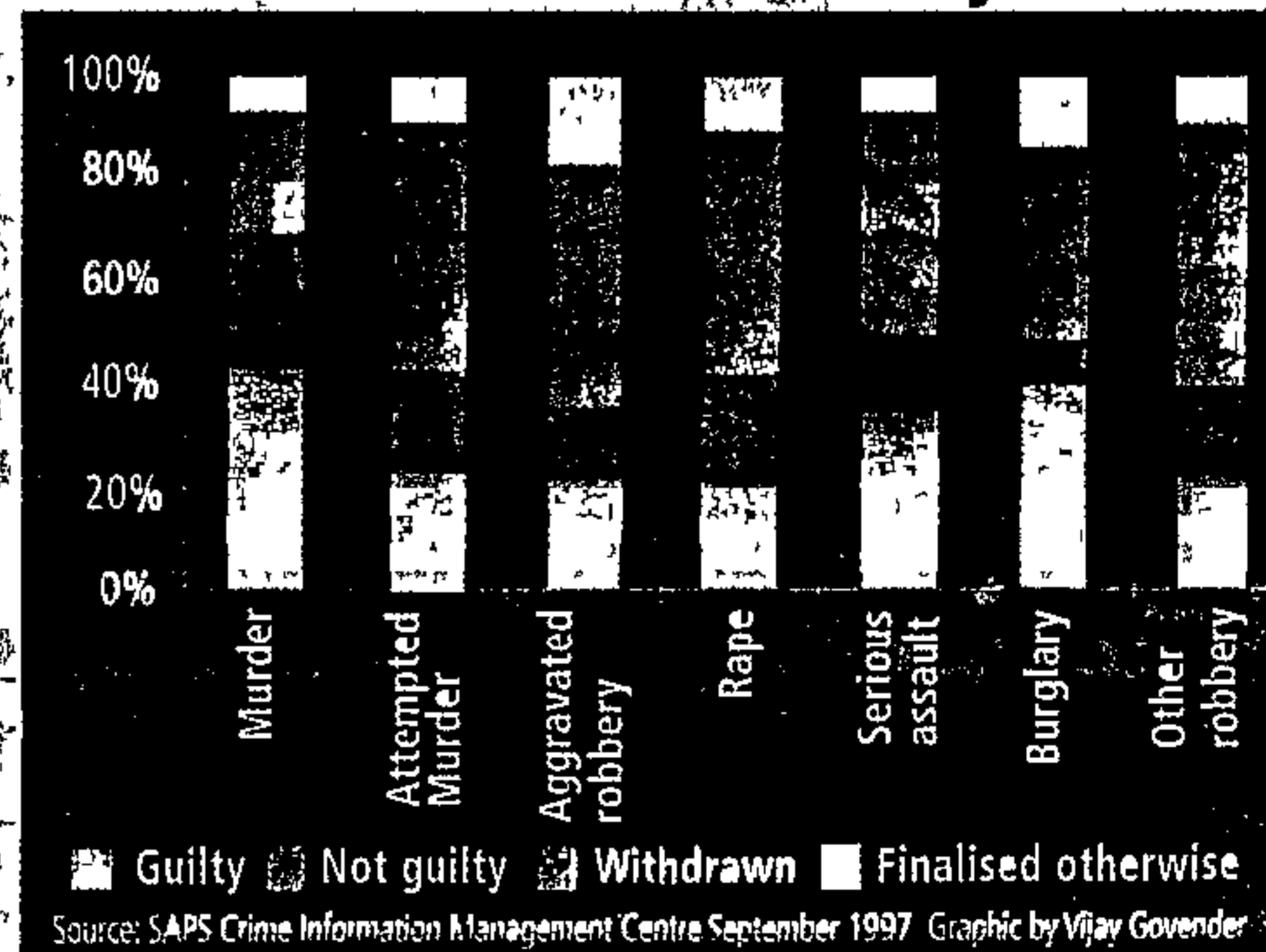
Statistics on the workloads of courts (involving the number of cases police bring to court, backlogs etc) are presently recorded manually from court records - indeed no information in the Department of Justice is



DISPOSAL OF CASE DOCKETS: January-June 1997



CASES DISPOSED OF IN COURT: January-June 1997



in decisions to withdraw cases.

EXPERTISE AND RESOURCES Incompetent investigating on the police's part is also perpetuated by prosecutors' inexperience in guiding investigations.

According to one magistrate "Without exception the job of a state prosecutor is a stepping stone to another career in the field of justice."

That the 20 prosecutors at the Johannesburg Magistrates' Court have already worked 3 800 hours of un-

paid overtime from January to August this year, is one example of the unprofessional treatment, including low salaries, that state prosecutors have to tolerate.

The Department of Justice's "penny foolish and pound wise" policy is affecting victims' co operation with the judicial system as well as the state's ability to convict.

There is a lack of essential equipment, such as photocopiers, fax machines and computers.

Limited office space - the 23 prosecutors at the Johan-

nesburg Magistrates' Court only have two offices - means victims and witnesses are often interviewed in an office with 10 people in it.

Lacking expertise, basic resources and with 15 cases a day, it is unsurprising that prosecutors seek greener pastures and that the consequent high turnover prevents the development of expertise.

Sarah Oppler and Antonette Louw Crime and Policing Programme, Institute for Security Studies

Third of accused slip through nets of justice

By GILL GIFFORD
Crime Reporter

At least one-third of criminal cases handled by the courts are withdrawn because suspects disappear and witnesses go missing, contributing to an emerging crisis of dropping conviction rates amid high levels of ongoing serious crimes.

A study by the Institute for Security Studies revealed that convictions for most crimes had dropped steadily since 1992-93, while reported crime had stabilised or decreased.

But the decline in convictions had preceded the levelling off of reported crime by several years, and some serious crimes were actually increasing when convictions began dropping.

During the first half of this year, about 40% of murder cases went unsolved, while the remaining 60% were either put through the court system, withdrawn for a specified reason or unfounded because they were attributed to suicide or another non-culpable reason.

According to Michelle Baird, director of the Bureau of Justice Assistance, bureau research indicates that one in

every three criminal cases is withdrawn because the suspect or witness goes missing.

"We found that one-third of all witnesses don't come back to court after their first appearance because of frustration, confusion or intimidation. The accused sometimes slip away when they are granted bail," Baird said.

The bureau, in conjunction with the Ministry of Justice, jointly initiated the Pre Trial Services project to address flaws in the system.

According to Baird, while the effect of Pre Trial Services on conviction rates has not yet been analysed, it was expected to improve the current declining conviction figures - described by experts as an emerging crisis.

Pre Trial Services, started after a nine-week study at the Mitchells Plain Magistrates' Court in the Cape from May to July, is now active in both Mitchells Plain and Johannesburg.

"We were shocked to discover that if a witness or a suspect in a criminal court case misplaces or forgets their next appearance date, there is cur-

rently no way court clerks can look up the date for them unless they can remember the name of the prosecutor involved. This is because court filing is done according to the next appearance date," Baird said.

Pre Trial Services, operating from the holding cells at the Johannesburg Magistrates' Court, is working on registering all incoming cases and following them up.

Witnesses are also provided with a safe waiting area where they are informed of court procedures and offered the opportunity to liaise with the case prosecutor if they are intimidated.

According to Sarah Oppley of the Institute for Security Studies' crime and policing programme, police are also working on improving their investigation of cases and their partnership with prosecutors.

"The new Detective Academy was opened recently, marking a shift from the old service with its torture and beatings to a new system with better methods," Oppley said.

► Emerging crisis in SA

CE

ANC urges undertakers to speak out

(252)
(207)

By XOLISA VAPI

Political Staff

SPW 2/12/97

The ANC has urged undertakers and burial societies to come forward with information on their role during the apartheid era.

The call follows another reburial of the remains of two Umkhonto weSizwe cadres at the weekend. The remains were exhumed from unmarked graves near Piet Retief in Mpumalanga last week.

Addressing a media briefing in Johannesburg yesterday, ANC acting secretary-general Cheryl Carolus said the Truth and Reconciliation Commission should subpoena burial societies which played a role in secret burials "so that we know how they were doing it".

"We appeal to all funeral undertakers and burial societies to come forward because there seems to have been a network of people who collaborated with the former government," Carolus said.

She added that there was a very large number of MK cadres for whom the ANC could not take responsibility when it applied for amnesty because the manner in which they disappeared was not known.

More than 160 secret graves of Umkhonto weSizwe cadres, whose families thought they had left for exile, have been discovered by the TRC all over the country. A large number of those identified have been exhumed and reburied.

Irked by the National Party's "deafening silence" on the discovery of more secret graves in Mpumalanga recently, the ANC also repeated its call to the TRC to recall former president F W de Klerk to account for the activities of the security forces.

Sowetan 3/12/97

More secret MK graves discovered ⁽¹⁵²⁾

By Russel Molefe

ANOTHER 11 secret graves of Umkhonto we Sizwe (MK) guerrillas killed by the apartheid-era security forces in the 1980s have been discovered in the former Venda homeland and in Louis Trichardt in Northern Province

Three of the graves are in the Mutale area and the rest are in Louis Trichardt.

However, more graves are believed to be in Messina, according to Truth and Reconciliation Commission investigator Captain Fanie Molapo

Those secretly buried near Mutale include MK commander Patrick Mutswaletswale and Elias Mulaudzi, both residents of the former Venda homeland

Their remains will be exhumed next week

Mutswaletswale and Mulaudzi, believed to have executed several successful military operations, including the bombing of the then Sibasa police station in 1981, were ambushed when they attempted to infiltrate the country again from Zimbabwe in 1983

Other secret graves contain the remains of Andrew "Magic Bones" Madi, Ruben Letsetla, Daniel Nkabinde, Velaphi Mlungisi, Alfred Nkosi, Abraham More, Oupa Lukhele, Richard Nyangeni and Andrew Ranyao

The pictures in Molapo's possession suggest the most

cruel and barbaric methods of torture of captured guerrillas before they were killed and buried secretly

The horrific pictures suggest that some of the guerrillas had their intestines pulled out while still alive

during interrogation

Some had their bodies cut to pieces by a cutting torch that is usually used by welders.

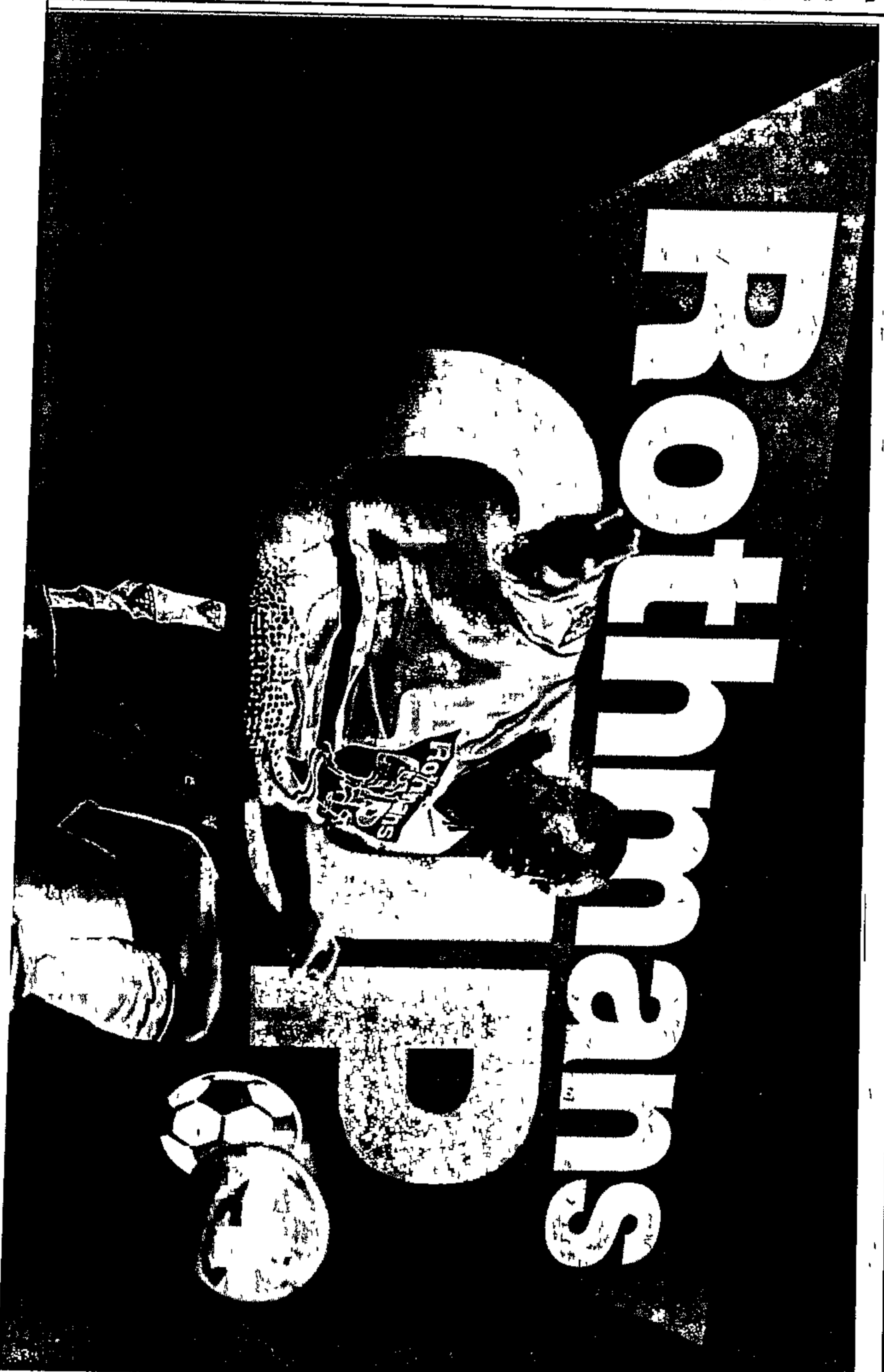
The discovery of the graves in Northern Province has swelled the

number of secret graves containing the remains of activists and guerrillas

Already 70 secret graves have been discovered in Piet Retief and about 95 in Barberton, Nelspruit and Komatipoort in Mpumalanga

Mpumalanga Premier Mathews

Phosa said "When the families went to the police to ask about the remains of their loved ones, they were told to ask the ANC. But the police did not tell them that they had buried them"



TRUTH COMMISSION

Sisulu's testimony 'found wanting'

(272) BD 2/12/97

Stephen Laufer

ALBERTINA Sisulu, the woman who for many is the real mother of the nation, testified to the truth commission's hearings on Winnie Madikizela-Mandela's football club yesterday in an atmosphere fraught with expectation over the stand she might take.

But, apparently advised by her lawyers to keep her answers as lean as possible, the former United Democratic Front president's testimony was found wanting by many.

Commissioners and observers who expected Sisulu to expose Madikizela-Mandela's alleged role in the death of Soweto "people's doctor" Abu-Baker Asvat and the football club's reign of terror in the township in the 1980s expressed sadness and anger that she had apparently felt unable to go significantly beyond the evidence she gave at the trial of Asvat's murderers.

Sisulu's testimony appeared on several accounts to differ from what she had told a British television crew filming a documentary on Katiza Cebekhulu, one of Madikizela-Mandela's former associates spirited out of SA before he could testify in her trial in connection with the abduction of Stompie Seipei.

Seipei was one of four young men abducted from the Methodist manse in Soweto in late 1988 and severely beaten on Madikizela-Mandela's property. His convicted killer Jerry Richardson said in an amnesty application that he slashed Seipei's throat on her orders.

Sisulu denied knowledge of a visit by Madikizela-Mandela to Asvat's surgery, where she was the nurse,

hours before he was murdered on January 27 1989, during which she is alleged to have had a "volcanic row" with him. Had she known Asvat had trouble with Madikizela-Mandela, "I would have gone all out to help him, he was my child."

She denied filling in a medical record card a month earlier which, if authentic, would prove that Madikizela-Mandela lied in saying she was out of town when Seipei was murdered. A comparison of the handwriting on two admission cards indicates that Sisulu was in fact not responsible for creating the card in question.

During cross-examination, commissioner Dumisa Ntsebeza said he had the impression Sisulu had done her "level best to say as little as possible, to avoid anything that could implicate or incriminate Madikizela-Mandela."

Ntsebeza said his questions were put in the awareness of and respect for Sisulu's enormous contribution to the struggle against apartheid. He was also aware that Madikizela-Mandela "was your comrade and that the Mandela and Sisulu families come from a very long way on both the male and female sides." Could it be, Ntsebeza asked, that Sisulu did not want to be the person to implicate a comrade in Asvat's murder?

Commission deputy chairman Alex Boraine told Sisulu her evidence was powerful "because of your integrity." That was why he found it difficult to understand why she had given the television team and the commission different versions on seeing Cebekhulu in the surgery on the day in question.

TRUTH! COMMIS

CP had discussed violent resistance — Derby-Lewis

Stephané Bothma

PRETORIA — Conservative Party leader Ferdi Hartzenberg told a meeting shortly before the assassination of Chris Hanu that although violence was not party policy, the CP "could not put all its cards on the table", the truth commission heard yesterday.

Testifying in support of her husband's amnesty application, Gaye Derby-Lewis said she interpreted Hartzenberg's words to mean CP supporters had to look for options other than peaceful resistance to an African National Congress (ANC)/SA Communist Party (SACP) takeover of SA.

Clive Derby-Lewis and Polish immigrant Janusz Walus have applied for amnesty for the April 10 1993 slaying of SACP leader Chris Hanu.

Gaye Derby-Lewis, who told commissioners she had had no idea that her husband and Walus were planning Hanu's assassination, said CP policy was becoming militant towards the end of 1992. "The people were very afraid and the party and individual members were militant and many discus-

sions about what should be done were taking place at the time.

"Because of a large-scale infiltration of the right wing (by the security police), it was agreed that whatever must be done, must be done by individuals," she testified.

She said the CP had openly said it would stop the ANC/SACP coming to power. During the CP congress in September 1992, she said, active resistance was discussed as an option should passive resistance fail. "After that CP members started mobilising."

Derby-Lewis denied statements in her handwriting that she had known that her husband and Walus planned to kill Hanu. She had made five statements while being held but her interrogators had told her what to write.

She was acquitted of complicity in the murder. Her husband and Walus were sentenced to death, but had their sentences commuted to life imprisonment when capital punishment was abolished.

Although she admitted to lying during her trial to protect her husband, Derby-Lewis denied an allegation by George Bizos, for the Hanu family, that she was now "ly-

ing through her teeth to see that her husband gets amnesty."

Testifying about a "hit list" found at Walus's home after his arrest, Derby-Lewis said she had drafted the list for the purpose of writing an article for the CP mouthpiece, Die Patriot. She denied that it had been a hit list, adding that she had asked former Citizen reporter Arthur Kemp to supply addresses for those whose names were listed.

Several journalists and ANC and SACP politicians were listed, including Hanu.

"I was working on an article on the liberation gravy train," she said, adding that the names of journalists were on the list because "they worked against their own people."

Derby-Lewis said she was convinced that journalists were often used by intelligence agents and that more than half SA's journalists were used in this way in exchange for money.

She said journalists were "poorly paid and therefore susceptible to bribery."

Cross-examination by Bizos continues today.

BD 2/12/97 (252)

Asvat's killer voices remorse

Nomavenda Mathiane

THE brother of slain Soweto doctor Abu-Baker Asvat yesterday broke down and wept at the truth commission's hearings into his death after Asvat's murderer confessed and asked the Asvat family for forgiveness.

Zakhele Cyril Mbatha, who shot Asvat in his surgery in Soweto in 1989, yesterday told the commission he had been tempted and misled by "a clever and older person" to commit the murder in January 1989. He did not say who this was. "I am the killer and from today they (the Asvat family) don't have to look elsewhere for the killer."

The commission hearings were adjourned when Abu-Baker's brother, Ibrahim Asvat, broke into uncontrollable sobbing. As he wept, Winnie Madikizela-Mandela laughingly embraced her daughters, Zinzi Mandela-Hlongwane and Zenani Dlamini, who had entered the hall.

Ibrahim had earlier told the commission that the family had never accepted that the motive for his brother's murder was robbery.

Under cross-examination, Mbatha conceded that his account of the murder contradicted four earlier versions

DD 2/12/97 (252)
he had given to the police, to the truth commission and to his advocate.

Sapa reports that he said his confession to the police had been tortured out of him, while his statement to commission investigators earlier this year had been inaccurate because he knew nothing of the commission and did not trust it. A third statement was presented to the commission yesterday.

In this, Mbatha said he had gone to Madikizela-Mandela's house, where she had given his co-accused, Thulani Dlamini, the gun Mbatha used to shoot Asvat. Before visiting Madikizela-Mandela's house, Mbatha said Dlamini had told him to book an appointment on his behalf. Mbatha had done this under a pseudonym and had given his thumbprint to Asvat's receptionist, Albertina Sisulu.

Commission chief investigator Hanif Vally put it to Mbatha that his third statement, led yesterday by his lawyer, Peter Soller, had been "tailored with a political flavour" that the other statements lacked. When Vally asked Mbatha why he had not told the judge in his trial that Madikizela-Mandela had instructed him to kill Asvat, Mbatha said he had still been "under the authority of the police officers."

Hani's killers 'no crackpots'

Stephané Bothma

PRETORIA — The assassination of SA Communist Party leader Chris Hani was a political act and not merely a senseless shooting of black people by "crackpots" such as Wit Wolf Barend Strydom, the truth commission was told yesterday.

"People like Strydom and the Wit Wolwe are all nuts. They are crackpots who run out and shoot black people in the streets," Gaye Derby-Lewis testified in support of her husband's amnesty application for the April 10 1993 slaying of Hani.

Clive Derby-Lewis and Polish immigrant Janusz Walus applied for amnesty, claiming the killing was a political move to further the political objectives of the Conservative Party.

Gaye Derby-Lewis, in cross-examination by George Bizos SC for the Hani family, admitted that she had a poor opinion of certain elements within the right wing.

"They go out and shoot six blacks, but at the same time six more blacks are born at Baragwanath (hospital)."

She told the commission that she had no knowledge of her husband's plans to kill Hani. She learned about his involvement only after his arrest.

Derby-Lewis, who had been in the employ of the CP, said she was telephoned by CP official Pieter Mulder after the assassination. He had raised the possibility of the CP issuing a statement, reports Sapa.

BD 3/12/99 (252)
"Dr Mulder said we must be circumspect because the CP's position was ambiguous," she said.

"I told him that we (the CP) cannot say that we are sad (about the death) because we are not sad. We should say something about violence not being the answer," she testified.

She believed the CP should issue an "uncontroversial, bland and vague statement".

Questioned by Bizos about the CP's reaction to Hani's death, Derby-Lewis said she could not remember that party leaders had made public addresses after the killing in which they dissociated the CP from violence.

"I do remember that about a week after Hani's death (then CP leader Andries) Treurnicht said that he who lives by the sword dies by the sword."

Bizos questioned her again about a list drafted by her with names of ANC and SACP members and journalists.

Claiming it was drafted for research purposes for an article she was to write, she dismissed as "ludicrous" a claim by Bizos that it was in fact a "hit list" drafted to execute those named.

The list with 19 names, including Hani's, was given to Walus by her husband before the assassination.

Three of the journalist's names on the list were Tim du Plessis of Beeld, former Sunday Times editor Ken Owen and Willem Wepener.

Derby-Lewis' cross-examination continues today.

Winnie's lawyer suggests truth commission

witness was a spy

Stephen Laufer

WINNIE

Madikizela-Mandela's

lawyer Ishmail Semanya suggested yesterday that the association of a truth commission witness with Jerry Richardson and Madikizela-Mandela's former aide Xoliswa Falati — both accused of having worked with the police — made her a police informer herself.

In response, Peter Jordi, the lawyer for the witness, Evodia Nkadimeng, said Semanya's logic implied that Madikizela-Mandela must also have been a police agent because she had had a much longer association with Richardson and Falati.

Commission chairman Archbishop Desmond Tutu warned all the participants in the hearing not to accuse others lightly of having been police informers.

"If there is evidence, we must allow it to stand. If not, this is a very dangerous assertion. Even today that is almost a death sentence."

Earlier, a former member of Madikizela-Mandela's football club, Gift Ntombeni, testified that Madikizela-Mandela had called him to her house 10 days ago to inquire whether he planned to testify.

On Monday, Semanya said his client had not and would not contact witnesses. He said the commission should charge her if it had evidence.

It was learned separately that Archbishop Desmond Tutu visited former United Democratic Front president Albertina Sisulu yesterday to discuss perceptions of the evidence she had given on Monday.

A commission spokesman said that having talked with Sisulu, Tutu and the commission would welcome her if she wished to return to give further testimony.

Bid to shackle Hani's killers causes stir

Stephané Bothma
and Bonile Ngqiyaza

PRETORIA — A sudden directive to place Clive Derby-Lewis and Janusz Walus in leg irons for the first time at their amnesty hearings yesterday created an outcry by lawyers representing the murderers of SA Communist Party leader Chris Hani

The directive, which correctional services confirmed was issued yesterday after the "oversight" was noticed, came four months after the two first appeared before the truth commission's amnesty committee in August

After correctional services staff wished to place the two killers in leg irons at the hearings, Derby-Lewis's

lawyer, Harry Prinsloo, told committee chairman Judge Hassen Mall that "despite inquiries about why leg irons are suddenly necessary, no reasons were furnished. Our information is that some political interference is at work."

Derby-Lewis and Walus were sentenced to death for the April 10 1993 murder of Hani, but the sentence was changed to life imprisonment

After discussions with correctional services personnel in chambers, Mall said "We regret that somebody set in motion a process whereby (convicted) applicants will appear in handcuffs and leg chains. On no occasion has this happened before."

However, Mall said prison staff had assured him "nothing will be done

about putting leg irons on prisoners" and the two were left unshackled

Hani's widow, Limpho, who has been attending the hearings daily, had no comment to make in her capacity as chairman of the parliamentary portfolio committee on correctional services. "We are all seeing it for the first time today. But I have noticed that prisoners appearing at the Winnie Madikizela-Mandela truth commission hearings have been cuffed," she said

Department spokesman Barry Eksteen denied the directive followed a complaint by the Hani family or the public. "It is a normal part of the rules that a prisoner serving a long prison term must be put under restraint when making a public appearance."

BD 3/12/97 (252)

Zinzi Mandela-Hlongwane 'took part in football club atrocities'

Stephen Laufer
and Nomavenda Mathiane

DAMNING allegations that Zinzi Mandela-Hlongwane was an active participant in gross human rights violations perpetrated by her mother Winnie Madikizela-Mandela's football club were heard by the truth commission yesterday.

Witnesses also gave graphic testimony on the role of the football club in township violence in the late 1980s. Former club member Gift Ntombeni

told the commission that Mandela-Hlongwane had been the first to carve the letters "ANC" and "WM" into the chests and backs of victims. She had also instituted the practice of burning victims' feet.

As witnesses made allegations about Mandela-Hlongwane's role in leading beatings and instigating torture, Madikizela-Mandela's lawyer, Ishmail Semanya, placed on record that he was not representing Madikizela-Mandela's daughter. Among the football club members to

testify was Lerothodi Ikaneng who alleged he was a victim of a murder attempt by "coach" Jerry Richardson after being branded an informer by Madikizela-Mandela. Ikaneng showed the commission a 5cm-long scar across his Adam's apple where Richardson allegedly attempted to slash his throat before leaving him for dead.

Ikaneng said he had fallen into disfavour after witnessing the murder of Thoh Dlamini by another Madikizela-Mandela acolyte, Sizwe Sithole, the father of one of Mandela-Hlongwane's

children. Having refused to accept Madikizela-Mandela's offer of a place to hide from the police, Ikaneng said he had himself fallen prey to the club.

Ntombeni said he did not know whether Madikizela-Mandela had ordered Dlamini's killing. If she had not, then her daughter Mandela-Hlongwane had. "Winnie is a very brave woman — she is capable of anything," Ntombeni said. "Zinzi (Mandela-Hlongwane) has taken after her mother. They are capable of anything." Ntombeni said club members had

manned the gate at Madikizela-Mandela's house at all times, registering community complaints in a book. Club members would "hunt that person down, and if (they) found them, (they) would assault them". Madikizela-Mandela was often present during assaults, and sometimes participated. Ntombeni said club members "would not ever dare defy" Madikizela-Mandela. "If you did, you were branded an informer".

See Pages 4 and 5

ANC will not discipline Winnie for 'cowardly, improper attack'

Jacob Dlamini
and Pule Molebeleni

THE African National Congress (ANC) would not take disciplinary action against Winnie Madikizela-Mandela for "cowardly and improperly" attacking the organisation's polices in a recent newspaper interview, it was announced yesterday.

However, Madikizela-Mandela would be asked to appear before the ANC national working committee to explain her actions, ANC acting secretary-general Cheryl Carolus said.

She described Madikizela-Mandela's interview, in which she accused the ANC of

renegeing on its election promises and betraying its principles, as "improper".

She also accused Madikizela-Mandela of being a coward, saying she had failed to raise her concerns within the organisation. Madikizela-Mandela sits on both the ANC national executive committee and the working committee.

Her standing within the ANC women's league, of which she is president, has also been dealt a blow by the league's decision to drop its nomination of her as ANC deputy president. This had been communicated to her and she had accepted the decision, a league source said yesterday.

The source said there was nothing un-

toward in dropping her nomination, as the last national executive committee of the league only set out to "try" her name "before (it) reviewed (its) decision at the executive meeting before the conference".

The source said support had not been forthcoming for Madikizela-Mandela, and her nomination had not received 100% backing. "From all of (the members)",

Madikizela-Mandela apparently antagonised her support base when she defied a committee, consisting of the league's nine provincial leaders, which advised her not to stand for the deputy presidency. "That made them angry," said the source.

Her general lack of discipline, particu-

larly the interview in which she attacked the government for non-delivery and evidence against her at the truth commission, had more to do with this decision.

She was the only candidate challenging Jacob Zuma for the position after Mputumalanga premier Mathews Phosa was forced to stand down from the race.

The ANC will hold its 50th conference in Matieleng from the 16th to the 20th of this month to elect a new hierarchy. The league is meeting this weekend to finalise its nominations list and to strengthen its position for the conference.

The party decision not to discipline Madikizela-Mandela was taken at a meet-

ing attended by President Nelson Mandela, Deputy President Thabo Mbeki and ANC national chairman Jacob Zuma on Monday.

Carolus said the row sparked by Madikizela-Mandela's attack had been a "storm in a tea cup" and that no other member of the ANC had raised concerns.

The decision had also been influenced by the ANC leadership's belief that her attacks had not adversely affected the organisation's image, Carolus said.

The relationship between Madikizela-Mandela and her ANC colleagues was strained, Carolus said. It had become difficult to work with a person who failed to

raise her views honestly.

She denied that the ANC leadership had resolved to isolate Madikizela-Mandela.

ANC spokesman Ronnie Mamoepa said the national working committee's decision was a purely internal party matter and totally unconnected to the truth commission's continuing hearings into the activities of the Mandela United Football Club. Carolus also announced the ANC would contest the granting of amnesty to Joe Mputumalanga, its former provincial secretary in a fellow ANC member. Nxumana had claimed he had been instructed by the late Chris Hanu to attack Khaya Shabangu.

TRUTH COMMISSION

Outrage greets 'secret' amnesties

Wyndham Hartley

20 3/12/97

(2/72)

CAPE TOWN — Opposition parties have reacted with outrage to the "backroom amnesties" granted to 37 members of the African National Congress leadership and have slammed the truth commission's amnesty committee for failing to explain its reasons for decisions which apparently conflict with the law.

The National Party has written to the commission asking for all the details of the amnesties to be made available to the people of SA, while the Democratic Party has expressed disappointment that the amnesty committee will not explain its decision.

NP leader Marthinus van Schalkwyk said the Promotion of National Unity and Reconciliation Act made no provision for blanket amnesties and this meant that the 37 granted "for all offences associated with a political objective as defined by the act" constituted an illegal backroom amnesty.

He said the granting of these amnesties was the commission's most serious credibility crisis.

DP spokesman on the commission Dene Smuts said it was almost inevitable that the 37 amnesties would be challenged on review in a court of law by someone with an interest in the decision.

"We find it difficult to see how Defence Minister Joe Modise can be given indemnity from prosecution on the papers in chambers for acts which led to death and injury," Smuts said.

According to the act all acts leading to gross human rights violations cannot be dealt with in chambers and have

to be exposed to public hearings.

"We find this doubly strange since Modise made it clear in 1996 that he intended to apply for amnesty but was overruled by an ANC announcement that the party's leadership would seek collective amnesty (which is not allowed in the act)," Smuts said.

Last year Modise acknowledged that he would apply for amnesty for ordering the Pretoria Church Street bombing.

Van Schalkwyk said: "Looking at the list of names, public allegations have been made in the past against some of those persons with regards to gross human rights violations. The (commission) must act in a transparent way and provide the information on which they took the decision and why they are convinced that they could act in terms of this section (19B)."

He added that the commission now had only two options — to withdraw the amnesties granted or to treat all South Africans equally and allow other "soft amnesties".

He said the commission could not lay a foundation for reconciliation if it ignored its own legislation in an attempt to favour the ANC.

Smuts said that Deputy President Thabo Mbeki's amnesty was even more problematic because it stated "baldly" that he was granted amnesty for "no specific deeds, omissions or offences".

"A person cannot be indemnified for nothing in particular and nothing in general unless the law allows for general amnesty, which it does not. If Mbeki can get off the hook like this, FW de Klerk could have done the same," she said.

Goldstone

Goldstone recommends Sibaya be prosecuted

20 2/12/97
Jacob Dlamini (252)

SA CONSTITUTIONAL Court Judge Richard Goldstone has recommended that Cape Town gardener Bennett Sibaya be prosecuted for perjury after making false allegations against truth commission investigators headed by Dumisa Ntsebeza.

In a report presented to President Nelson Mandela yesterday, Goldstone said he had found the allegations made by Sibaya linking Ntsebeza to the Heidelberg Tavern

intrusion was appointed by Mandela to chair a commission of inquiry to probe Sibaya's claims, said the judge. The allegations created the impression that Sibaya or "someone directing him" had sought to implicate Ntsebeza in serious criminal activity.

However, there was no evidence to establish the identity of the person or people who might have conspired with Sibaya.

Goldstone attacked the police probe into Sibaya's claims, saying the investigation had been defective and that the police investigators had failed to check the allegations or to put them to Ntsebeza.

The judge said the commission had also erred in not having the allegations independently probed when they first became known to it.

He also said the investigation by Capt John Lubbe had been deficient and incomplete. Lubbe had, for no good reason, reached the conclusion early in his investigation that Sibaya's claims against Ntsebeza were true.

Goldstone said racism and the fear of perceived racism within the commission and the SA Police Service could have contributed to the delay in and inadequacy of the investigation of Sibaya's false claims.

Goldstone called for all documents improperly removed from the commission by Lubbe to be returned.

The judge said he would not recommend what action the commission should take against Lubbe as the commission had said it was considering laying criminal charges against him.

Goldstone said Sibaya's prosecution would help establish his motives for implicating Ntsebeza, and would determine whether other people were involved in the matter.

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return to TRC

ALBERTINA'S DILEMMA ON WINNIE

Sisulu set for

JOHANNESBURG: When Winnie Madikizela-Mandela finally testifies today, she cannot bank on Albertina Sisulu. Special Assignments Writer **ROGER FRIEDMAN** reports

LIBERATION struggle icon Ms Albertina Sisulu, reportedly "very concerned" at the perception that she was protecting Ms Winnie Madikizela-Mandela in her evidence to the Truth and Reconciliation Commission on the activities of the Mandela United Football Club, is considering returning to the witness table to "clarify" certain issues

Commission chairperson Archbishop Desmond Tutu yesterday excused himself from the Football Club hearing for about two hours to pay a "pastoral visit" to Sisulu, which included a video show and discussion on possible reasons for the perception

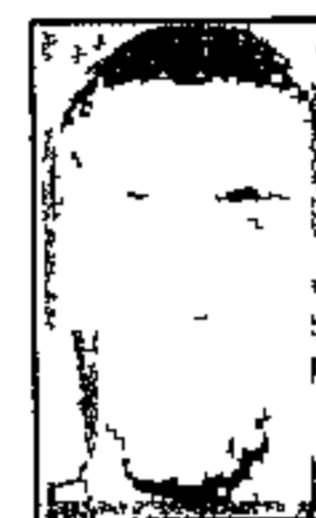
Deputy chairperson Dr Alex Boraine told the Cape Times that Sisulu contacted the commission early yesterday after reading media reports questioning her evidence to the commission the previous day

"She was very concerned that there may have been a discrepancy between her statements in the television documentary, *Winnie Mandela and the Missing Witness*, and what she said here. She approached us because she wanted to ascertain if the impression carried in the media was shared by the commission," said Boraine

"She wanted to know if she could come back to make any further statements. She is now discussing with her family whether she should come back. If she wants to, we will certainly accommodate her

"She is a woman of enormous integrity in the community"

(252)



During her testimony on Monday Sisulu appeared to directly contradict critical parts of her interview on the BBC documentary

Her denial that it was her writing on Mr Katiza Cebekhulu's patient record at the surgery of the murdered "people's doctor" Abu-Baker Asvat, after expressly confirming that it was hers in the documentary, seemed to flabbergast members of the commission

"I wasn't expecting this, Archbishop," said the commission's leader of evidence, Mr Hanif Vally, in a faltering tone

It was left to a commissioner, Mr Dumisa Ntsebeza to ask the former United Democratic Front president if she was trying to say as little as possible that might implicate Madikizela-Mandela

Ntsebeza asked if the reason for this could be the long relationship between the Mandela and Sisulu families, which stretched back to long before President Nelson Mandela and Mr Walter Sisulu were convicted of treason and banished to Robben Island

"Is it because you wouldn't like to be the one identified in South

LT 3/12/97

African history to speak about your comrade in terms that she was involved in the death of Dr Asvat?" he asked

With tears in her eyes, an angry Sisulu — Asvat's nurse and receptionist at the time of his death — responded by rattling off her liberation struggle credentials, saying she was not before the commission "to tell lies"

But Boraine told Sisulu that he, too, found her evidence "difficult to understand"

Said Boraine "I also watched the documentary, and your evidence was extremely powerful because of who you are and your integrity did you ever deny making those statements?"

Yesterday, Tutu took a copy of the video for his visit to Sisulu. The video was frozen at the point where Cebekhulu's patient card was shown, full-screen

"She now knows the cards

are exactly the same. How that will influence her decision whether or not to come back we are not sure. Clearly, she is troubled about it," said Boraine

● Madikizela-Mandela and Sisulu are said to have suffered a troubled personal relationship for many years

Radio news reported yesterday that after Sisulu stood down from the witness stand on Monday Madikizela-Mandela tried to embrace her, but was shooed away



THE MADIKIZELA-MANDELA HEARING

WILLIAMS DAY 6

Shock waves from Albertina's testimony

Denial about handwriting on Katiza Cebekhulu's patent record among the surprises during sixth day of hearings into Mandela United Football Club

By Cecilia Russell

I wasn't expecting this, Archbishop," Truth and Reconciliation Commission lawyer Hanif Vally said as he stumbled over his words trying to find the right question to ask Albertina Sisulu, ANC stalwart and former nurse for murdered Dr Abu-Baker Asvat

Sisulu, expected to shed light on the circumstances around the murder, had flabbergasted the commission and media by denying that the writing on the Katiza Cebekhulu patient records was hers.

Looking carefully at the patient records recording a visit to Asvat's surgery on December 30 1988, she carefully and clearly said the writing could not be hers. "I don't print when I write."

This was the second surprise revelation in her dramatic testimony

Sisulu had earlier said that even if Asvat and Madikizela-Mandela had had a "volcanic row" hours before he was murdered (January 27), she would not have been able to hear it because she was inside her dispensary, away from the area where he examined patients.

Despite legendary stories about how the two women - community leaders while their husbands Walter Sisulu and Nelson Mandela were in prison - disliked each other, she seemed reluctant even to speculate about Madikizela-Mandela's alleged involvement in the murder.

Although she said the Mandela United Football Club was "doing havoc" in Soweto, she could not understand why Madikizela-Mandela would kill Asvat.

"I wouldn't think Mrs Madikizela-Mandela would kill Asvat."



AM2

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ALL PICTURES BY DEBBIE YAZBEK

women to hospital, a sad Sisulu, speaking as though it happened yesterday, said: "Dr Asvat was at this stage no more alive."

Two days later she was questioned by the police at the surgery and then at the police station, where she assisted with the drawing up of an identikit. She was able to identify the two men who were later tried and convicted of the murder of Asvat - Thulani Dlamini and Zakele Mbeatha.

"Dr Asvat took (adopted) me to be his mother, the clinic was a clinic of a mother and a son," Sisulu explained.

Commissioners tried to make sense of the contradiction between what she said in a BBC documentary, in which she had admitted the handwriting on the patient record was hers, and her apparent about-face at the commission.

Commissioner Duma Nsebeza suggested that Sisulu was saying as little as possible that might implicate Madikizela-Mandela.

"Is it because you wouldn't like to be the one identified in South African history to speak about your comrade in terms that she was involved as someone who was involved in the death of Dr Asvat?" he asked.

With tears in her eyes and anger in her voice, she replied, "I am not here to tell lies. Dr Asvat was my child. He never told me. What else could Albertina Sisulu have done?"

She added that despite the closeness of their relationship, Asvat never broke patient confidentiality and, if his relationship with Madikizela-Mandela was rapidly deteriorating, he never told her of this either. "If he had (confided in me) he could possibly have been

She had earlier tearfully told of the last hours of the "people's doctor" With a crackling voice, she told the TRC that on January 27, two young men had come into the surgery Sisulu had been doing routine chores - admitting patients, writing details on cards, and taking fingerprints of all male patients because this was "standard procedure" at the practice.

She had taken the details of one of the young men, and although she could not remember his name, she noticed that after Asvat had come to the surgery, the man was missing. "Other patients told me he had gone to fetch cigarettes," Sisulu said in a quiet, clear voice.

At about 4pm, when all the other patients, besides two women who were waiting to be taken by ambulance to Baragwanath Hospital, had gone, the two young men reappeared, saying they still wanted to see the doctor.

"I knocked on Dr Asvat's door to advise him of their presence," Sisulu said, her voice hoarse with emotion.

Sisulu explained how they entered the examination room. A click indicated that the security door, which could be

opened only from the inside of the surgery, had closed.

After about 10 minutes there was a bang - a gunshot - and the sound of someone shouting "Abu!" This was followed by a second gunshot and a scream from Asvat.

Sisulu then ran through the

back door and screamed for help. "People came running from all directions."

She then ran to the front door. She noticed the ambulance arriving to fetch the two patients, and spotted the two young men running out of the

The ambulance personnel "saw the drama and had chased the two men", but they managed to escape.

Sisulu then went inside and saw the fatally wounded Asvat lying face down on the floor. By the time the ambulance people had returned to take the two

She said that under the circumstances of constant house arrest, detentions, and harassment from the police - which even made it difficult for her to visit her husband Walter when he was on Robben Island - she had no choice but to leave it to the United Democratic Front of which she was a leader, to distance the movement from the reign of terror of the football club.

There was a coverup, Asvat's brother claims

BY CECILIA RUSSELL

Ebrahim Asvat, brother of the slain Dr Abu-Baker Asvat, has put his faith in the Truth and Reconciliation Commission.

Like others who have testified during the special TRC hearing into the activities of the Mandela United Football Club, he is looking to the commission to help reveal the truth about his brother's murder.

At the start of his submission yesterday, Asvat said his family never believed that robbery was the motive for the murder.

"Allegations have appeared in the local and international media repeatedly claiming that the assassination was a conspiracy," Ebrahim told the TRC. He accused the police of failing to investigate the murder properly and suggested that the police, the previous government and the ANC were guilty "of a serious coverup".

Thulani Dlamini, who was convicted of murdering the doctor, told police after his arrest that he had been offered R20 000 by Winnie Madikizela-Mandela for the murder. This statement was never produced in court, and Asvat said yesterday that his family had never received a good explanation for why it was excluded as evidence in court. The police had only told them that they "did not want to pursue that line", he said.

Asvat said the prosecutor at the trial gave him a copy of the statement, saying cryptically, "This statement may become helpful some time in the future."

Asvat also said he found Madikizela-Mandela's behaviour after the murder strange. He would have expected her to have been "more supportive



Pondering... TRC chairman Archbishop Desmond Tutu listens to the emotional testimony of Dr Abu-Baker Asvat's assistant Albertina Sisulu and his brother Ebrahim Asvat.

At about 4pm, when all the other patients, besides two women who were waiting to be taken by ambulance to Baragwanath Hospital, had gone, the two young men reappeared, saying they still wanted to see the doctor.

'I was tempted by a very clever person'

BY ANSO THOM

Zakhele Cyril Mbatha, convicted killer of Soweto doctor Abu-Baker Asvat, has accused Winnie Madikizela-Mandela and "her helpers" of tempting him into agreeing to carry out the murder eight years ago.

Addressing the Asvat family at yesterday's TRC hearing, Mbatha said, "In all I have done, I did because I was tempted by a very clever person, older than me.

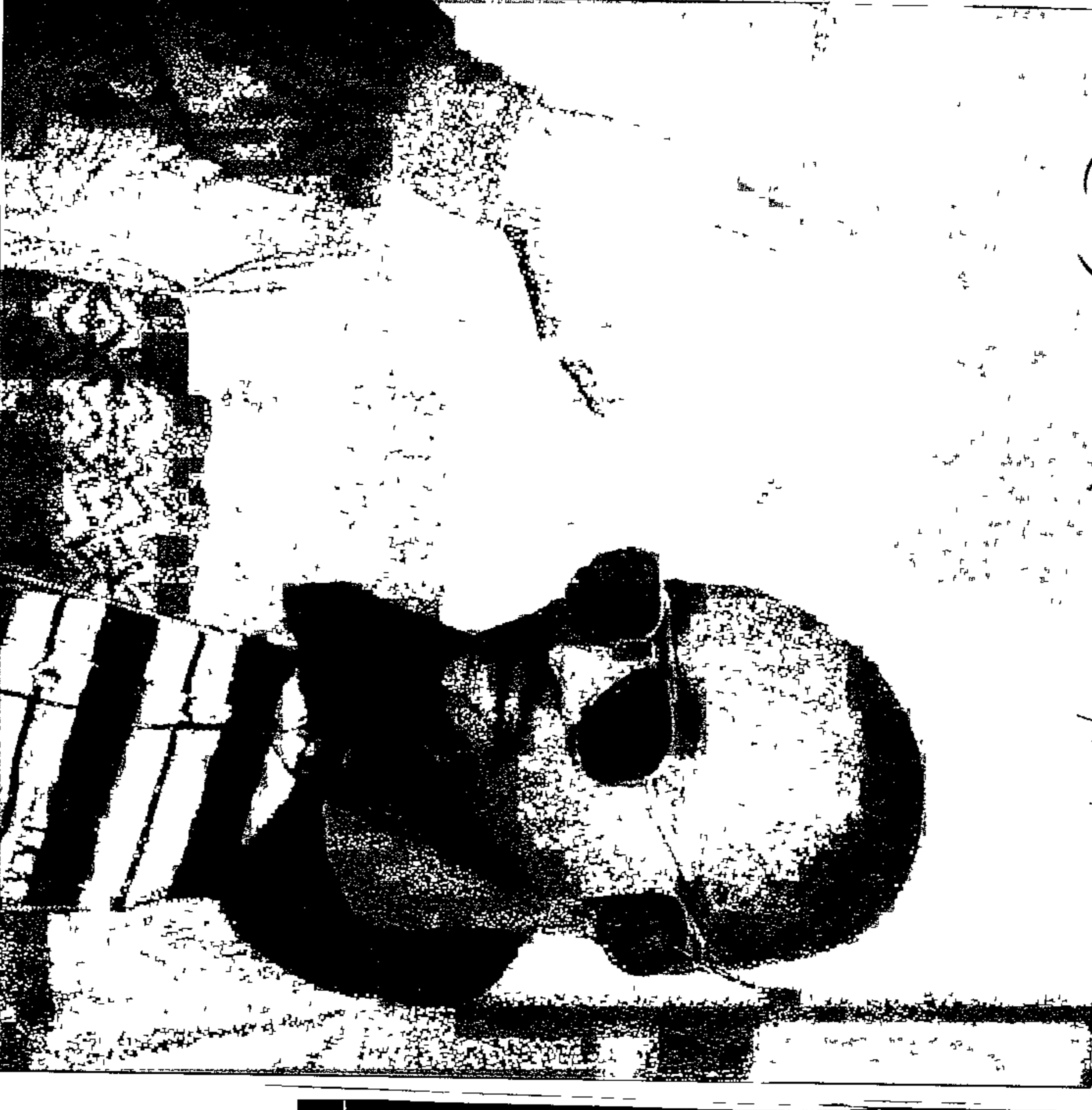
"They used all their means to convince me," said Mbatha, who had earlier physically fingered Madikizela-Mandela as the person who had offered him R20 000 if he killed Asvat.

In his testimony, an emotional Mbatha, who is serving a 30-year sentence, said he was approached by co-accused Thulani Dlamini and the driver of a maroon BMW, Botha Shwala, on January 26 1989.

"They asked me to do them a favour and make an appointment to see Dr Asvat. He gave me the name of Mandla Mkwanya. I went inside and booked for him. I gave my name to the person who was handing the booking. I did not know then that the person was Albertina Sisulu," Mbatha said.

"She demanded my thumb-print. She seemed very scared. She gave me a card for a booking the same day. I left the surgery and gave the card to Thulani Dlamini," he claimed. Mbatha and Dlamini went to a park where they checked a 9mm gun, which proved to be faulty.

Later Mbatha, Dlamini and Shwala drove to the Mandela house where they met Madikizela-Mandela. "We explained we had come after receiving a message. She said 'Oh, you're the guys I've been waiting for'." She



Zakhele Mbatha... says he was offered R20 000, went to Dr Asvat's surgery and shot him.

young and then explained that there was a certain man (Asvat) disturbing her political work. She said she wanted the man to be removed and would appreciate if we helped her.

"Thulani explained to her the first gun was useless. She disappeared into a room and returned with a small parcel covered with a cloth. She said she would pay us R20 000 if the task was completed satisfactorily."

surgery and was called into Asvat's consulting room.

"He told me to relax and lie down. I waited for him to turn his back and pointed the gun at him when he turned around. "We had a scuffle and a shot went off. He overpowered me and pushed me into a mirror. I shot him when I realised I might be in danger."

Mbatha yesterday asked the Asvat family for forgiveness. "I feel free that I have told you I am the killer. You have seen me. I am the first and the last. I was given the death penalty, but I thank the good Lord that he kept me to come clear. I am free now that I have told the truth."

Archbishop Tutu ordered an adjournment because the Asvat and Mbatha families were overcome by grief, before cross-questioning recommenced on the three differing accounts of the murder. Mbatha has given in three statements.



Ebrahim Asvat... says police failed to investigate the murder properly.

with regard to my sister-in-law".

He said the smuggling to Zambia of Katiza Cebekhulu, a key witness and co-accused in the Stormie Seipei kidnapping and murder trial, had pointed to a coverup.

Cebekhulu claimed in Fred Bridgland's book *Katiza's Journey* that he was instructed by Madikizela-Mandela to show Dlamini and Zakhele Mbatha the whereabouts of Asvat's surgery.

The deafening silence from members of the (Mandela) Crisis Committee" had added to the impression of a coverup. Relying heavily on Bridgland's book, he asked Albertina Sisulu to explain the "volcanic row" which it alleges erupted between Asvat and Madikizela-Mandela on January 27 1989 - after Asvat allegedly refused to give her a certificate to confirm Cebekhulu had been sodomised.

But later yesterday Sisulu testified that if Madikizela-Mandela and Asvat had had a row on the day Asvat was murdered, she had not heard it. Nor had she seen Madikizela-Mandela at the surgery on the day Asvat was murdered.

Ebrahim Asvat said that when the murder investigation was reopened in 1995, after requests from the Asvat family, the same investigators - H.T.

87 000 GRANT TO FAMILIES

Mass graves 'just a drop in the ocean'

ET 3/12/97

JOHANNESBURG: Acting on information from police seeking amnesty, TRC investigators have uncovered at least 260 mass graves, thought to be those of ANC cadres.

The discovery of more than 260 secret graves, believed to be those of uMkhonto we-Sizwe cadres, was "just a drop in the ocean", Mpumalanga premier Mr Matthews Phosa said yesterday.

Phosa said that the 70 graves discovered in Piet Retief and the 95 in Barberton in Mpumalanga in recent weeks showed a pattern of mass burials because bones had been found in every grave.

Although most families have been paying their own costs for retrieval and transportation of exhumed bodies, in the case of the Barberton and Piet Retief graves, the TRC has agreed to pay each family R7 000 to cover costs.

The TRC appointed a team to investigate human rights abuses and solve the mystery of activists, who "disappeared" during the reign of SA's security forces.

Graves have been found in Ventlam and Elandsdorp, in Kwazulu-Natal; Phalaborwa, Pieterstburg, Louis Trichardt and Messina in the Northern Province; Ladybrand, and QwaQwa in Free State; Nelson Mandela Bay and Barberton in Mpumalanga, and Alwal North and the former Transkei in the

Eastern Cape. Phosa said that the graves of slain MK cadres had been pointed out to the ANC since 1990. Following information, the ANC managed to pinpoint exact locations before proceeding with the exhumations. Information from policemen seeking amnesty for human rights violations also led the TRC to unmarked graves, now dubbed "apartheid's killing fields" by Phosa.

Families speculated about the graves and came to us with information they had. The TRC has also been very helpful about the location of the graves, which were deduced from its reports.

"We have also given the TRC the names of 250 people who have not been accounted for," Phosa said.

Phosa said it had been a horrifying spectacle for families especially, "to look at a mass of bones which was all that was left of their loved ones who left home fighting for freedom".



South Africa

A 12-person team, which excavates the remains of victims of human rights violations all over the world to determine the truth about their deaths, is assisting the TRC investigators to collect evidence which will be used to prosecute those responsible for the killings, Ntsebeza said.

The exhumations will be interrupted over Christmas and will continue in the new year, when TRC officials will resume searching for mass graves in the Northern Province, Eastern Cape and Western Cape. — Own Correspondent



MORTAL PICTURE: Chief state pathologist Patricia Klepp, who carried out the post-mortem on slain teen activist Stompie Seipei, describes his wounds. She said he had been stabbed in the neck three times but, contrary to other claims, had not been slaughtered "like a sheep".

PICTURE AP

Zinzi took part in assaults — witness

ET 3/12/97

JOHANNESBURG: Soweto youths who allegedly raped a schoolgirl were beaten, stambokked and shocked at the instigation of Ms Zinzi Mandela-Hlongwane, Ms Winnie Madikizela-Mandela's daughter, the Truth and Reconciliation Commission heard yesterday.

Mandela-Hlongwane also took part in the assaults, former Mandela United Football Club member Leratodi Ikaneng told the TRC hearing here into serious crimes committed during the late 1980s by Madikizela-Mandela and her personal bodyguards, the Mandela United Football Club.

The hearing is chaired by TRC chairperson Archbishop Desmond Tutu.

Ikaneng said he was attacked by football club "coach" Jerry Richardson after watching club member Sizwe Sithole shoot dead his friend Thole Dlamini on October 16, 1988.

He said Madikizela-Mandela told him Dlamini was killed after giving evidence in the trial of another club member who killed activist Maxwell Madondo.

Ikaneng said he was a member of the club when a schoolgirl from Dalwonga High School was raped by some Soweto youths.

The girl reported this to Madikizela-Mandela and the youths were brought by football club members to a shack — known as Lusaka — at the back of Madikizela-Mandela's Diepkloof house in Soweto.

"They were stambokked, one could tell they were (shocked) in

some way," Ikaneng said. Later that night the football club assaulted the youths again.

"When they were being assaulted Zinzi was instigating, saying they were rapists and must be assaulted. Even Zinzi herself participated. She instigated the whole thing."

Ikaneng said the shooting of Dlamini upset him and he went to see Madikizela-Mandela to complain. She said she would shelter him. Ikaneng decided to go into hiding on his own but was caught by the club with club member Gift Ntombeni. He was confronted by Madikizela-Mandela and Mandel-Hlongwane.

Madikizela-Mandela slapped him and ordered him to be taken to the shack and beaten. TRC investigator Mr Piens Pngou read Madikizela-Mandela's September denial of this in a TRC in-camera hearing, and Ikaneng said "She knows everything. I don't know why she's denying this."

Ikaneng escaped and fled to Sharpeville, but Ntombeni was assaulted, he said.

Ikaneng returned to Soweto in January 1989 to see his girlfriend and was caught by Richardson and several other club members.

He said they took him to open veld, where Richardson stabbed him in the chest and neck with one half of a pair of garden shears. Ikaneng showed the hearing the scar under his chin where he was stabbed. Ikaneng said he was dumped in some reeds and left for dead. He said ex-football club members shot at him in 1990. — Sapa

Gaye told police: 'Walus a bit slow'

PRETORIA: Convicted assassin Janusz Walus was "a bit slow", the Truth and Reconciliation Commission heard yesterday.

It was told that Ms Gaye Derby-

shoot? You are going to go out and shoot six blacks, but while you do that, another six are born at Baragwanath Hospital."

She again rejected several parts of state testimony made during the

Tutu slams 'agent label'

ET 3/12/97

JOHANNESBURG: Truth and Reconciliation Commission chairperson Archbishop Desmond Tutu admonished Ms Winnie Madikizela-Mandela's lawyer yesterday, saying that calling a witness a police agent was tantamount to giving her a death sentence.

Tutu's warning to Mr Ismail S. Mthembu came on the seventh day

remark on April 24, 1993, while she was being questioned by police.

In video footage of the interrogation shown to the TRC's amnesty committee, she said "I never had much to say to Walus because I found him a bit slow."

Mr George Bizos, acting for the Han family, used the video to illustrate that Derby-Lewis was not under duress when she made statements that implicated her in the killing of SA Communist Party leader Chris Han.

She denied her remark about Walus was derogatory. She said she was referring to the communication skills of Walus, who was not fluent in English. He was a highly intelligent man with a mind of his own, she said.

Walus and Clive Derby-Lewis were convicted of killing Han in his driveway outside his Boksburg home on April 10, 1993.

Both are serving life sentences for the crime and are seeking amnesty on the grounds that it was politically motivated. Gaye Derby-Lewis was acquitted on charges of complicity.

In the video, she was heard saying that she and her husband did not have much to do with right-wingers outside the Conservative Party. Her husband was a CP MP.

Referring to right-wingers, including Afrikaner Weerstandsbeweging members, she said "I personally thought they were crack-pots and an embarrassment."

She said she was not shying away from militancy, but that such right-wingers were on the wrong track.

"I said to them 'You talk about shooting, but who are you going to

po... she complied to expedite her release from detention. She reiterated that she had no prior knowledge of Han's murder.

The hearing, at Vista University, continues today.

Meanwhile, moves to chair Walus and Clive Derby-Lewis during their amnesty hearing were stopped by the TRC yesterday.

This followed a complaint by Mr Harry Prinsloo, who is acting for Derby-Lewis.

When the hearing resumed after lunch, Prinsloo told the amnesty committee that prison officials had brought along legions to chain the two applicants.

Prinsloo said there had been no need before to put the applicants in leg irons.

"There is no information about an escape attempt, or that they would misbehave," he said. "On the contrary, they have been well-treated by the prison authorities until now."

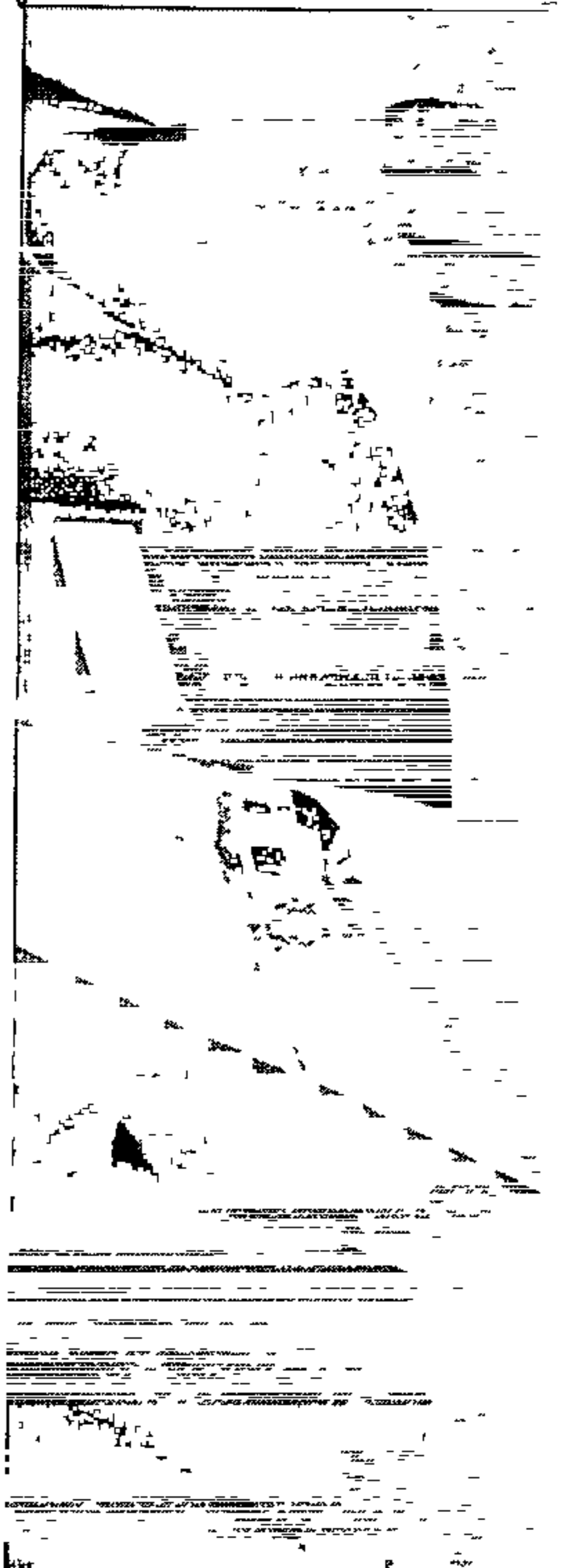
Urging committee chairperson Mr Justice Hassan Moll to act, Prinsloo said his information was that there had been political interference.

Judge Moll said the committee had never before conducted amnesty hearings with the applicants, even long-term prisoners, being put in chains.

"I think this matter is now concluded," Judge Moll said.

Hani's widow Limpho, who chairs the parliamentary portfolio committee on correctional services, told reporters she had had no prior knowledge of the matter.

"I am not all bad, you know," she said. "Whether they are chained or not, it will not bring my husband back." — Sapa



ISWEAR: Respected veteran activist Albertina Sisulu takes the oath at the TRC hearings this week.

Albertina's two testimonies

BBC interview

Fred Brigland: Is that your writing on top there? (As Sisulu is allegedly shown Katza Cebekhulu's card).

Albertina Sisulu: That's my handwriting.

AS: Yes, it's his writing.

AS: And that date there, is that the date you would have stamped on it? Was that part of your job?

AS: Yes, it was ...

AS: Yes. What I used to do when we admit, I take the name of the patient, the date here, and then stamp the card for that date. He (Asvat) used to take his own history. What I did was just to dispense the cards and stamp, I put the stamp.

AS: But would the date there, as you have stamped it, that would be the correct date, would it?

AS: I should think so, because I wouldn't just put any other date if it's not the right day. You would query it or correct it.

AS: So, you're certain that's the correct date?

AS: That was the correct date if it's stamped there on that date, not unless this is a duplicate or a different card altogether.

TRC cross-examination

Mr Hanif Vally (TRC counsel): Do you recognise the handwriting at the top of the card?

AS: I don't recognise the handwriting nothing down the particulars on Katza Cebekhulu's card. I have never seen Katza Cebekhulu.

AS: Would you have recalled if Mrs Madikizela-Mandela accompanied him?

AS: I don't know who was accompanying whom. Both myself and Mrs Mandela were banned, barring us from speaking to each other.

Mr Norman Kades (the Asvat family lawyer): Is the handwriting at the top of Katza's card — K569 — your handwriting?

AS: The name and address entry is not mine. I don't print when I write.

NK: Why, in the TV interview, did you say those two lines were in your handwriting?

AS: If I had filled in that card I would have recorded the patient's weight and urine as well. This card is not in my handwriting. Mine is more cursive, as I was taught in the Transkei.

NK: Who would've administered the date stamp?

AS: If I was there I would have, but the doctor also had one and could have stamped the card in my absence.

NK: Would you have known if Mrs Madikizela-Mandela visited the offices on 27 January (1993), leading to the row?

AS: I would have been at the back of the house in the dispensary and wouldn't have heard anything.



ARCH PALS: Winnie Madikizela-Mandela hugs Desmond Tutu yesterday

Consider charging Sibaya — Goldstone

OWN CORRESPONDENT

JOHANNESBURG: Judge Richard Goldstone has recommended that the Western Cape Attorney General consider pressing criminal charges against Gugulethu gardener Bennett Sibaya, who had alleged that TRC Investigative head Mr Dumisa Ntsebeza was involved in the December 1993 Heidelberg Tavern attack.

The commission handed in its report to President Nelson Mandela yesterday and recommended that Ntsebeza's accuser be "sanctioned for subverting the truth".

Sibaya made a sworn statement that Ntsebeza drove the getaway car after an attack on the bar by the PAC's armed wing, the Azanian People's Liberation Army.

He repeated the allegation under oath before the TRC a few

Panel stands by 'group amnesty'

(252)

THE Truth and Reconciliation Commission's amnesty committee has maintained a stubborn silence in the face of mounting pressure for it to explain its decision to grant amnesty to 37 African National Congress members.

Many of the ANC applicants, who include a number of cabinet ministers, were granted amnesty on the grounds that they accepted collective responsibility for offences committed by members of the organisation's structures.

Most of their applications did not specify the incidents for which they sought amnesty.

National Party leader Mr Marthinus van Schalkwyk accused the committee of breaking the law in granting "illegal backroom amnesty" to ANC leaders.

The TRC's founding legislation specified that amnesty could be



granted only to applicants who had made a full disclosure of all relevant facts about a specific offence. It did not provide for a blanket amnesty.

The TRC had two options to withdraw the amnesty granted to the ANC leaders and apply the act evenhandedly or to ask for the act to be amended to allow any South African to apply for "soft amnesty".

Van Schalkwyk said he had asked to meet TRC chairman Archbishop Desmond Tutu to discuss the controversy.

The NP has also written to the TRC asking for all documentation on the applications and the reasons for granting amnesty. NP officials have collected copies of the

Carolus: We'll fight decision

JOHANNESBURG: The African National Congress said yesterday it would challenge the granting of amnesty to former ANC Eastern Cape provincial secretary Mr Joe Nkuna, who claimed he was acting on the orders of murdered SACP leader Mr Chris Han.

Nkuna received amnesty from the Truth and Reconciliation Commission for the attempted murder of Mr Ka Shabangu, the ANC organising department head.

ANC acting secretary-general Ms Cheryl Carolus said the ANC was convinced there was not a shred of truth in this "scurrilous" excuse. She was referring to Nkuna's claim that Han ordered him to attack Shabangu.

Carolus said Han would never have given such an instruction — Sapa.

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THE MADIKIZELA-MANA HEARING



Anso Thom writes that an accomplice in the murder says he was never politically motivated, but in eight conflicting statements made since his arrest the one constant is the offer of cash for the killing

Star 3/17

DEBBIE YAZBEK

'I only did it for the money'

(257)

R20 000 reward, allegedly offered by Winnie Madikizela-Mandela for the murder of Dr Abu-Baker Asvat was the only motivating force behind his decision to participate in the killing, Thulani Dlamini told the Truth and Reconciliation Commission yesterday.

Dlamini and Mbattha have both told the commission of a meeting with Madikizela-Mandela where they claimed she promised them a reward of at least R20 000.

Dlamini, a member of the Inkatha Freedom Party, denied he was politically motivated. Since his arrest in February 1989, Dlamini has made eight conflicting statements to, among others, the SA Police Service, the TRC, lawyers and the court.

But a recurring issue in all these statements was the allegation that Madikizela-Mandela had offered them the money.

Mbattha described how he was approached at Mzimhlope



DAY 7

Dlamini's testimony came 24 hours after his was approached at Mzimhlope



Driven by greed ... Thulani Dlamini said he and his cousin Zakhale Mbattha had been offered R20 000 to shoot a person. He was angry that in the end he received no money.

...and came to court on 11...
 co-accused and cousin, Zakhhele Mbatsha, told the commission that he (Mbatsha) had pulled the trigger, saying he had been politically motivated and that the reward was not the sole motivation.

Torture and killing became soccer club's main role

(252)
 Star 3/12/97
 BY CECILIA MUSSELL

was approached at Mphahlele Hostel, where he lived, by Botha Shwala "sometime in December 1988".
 "He said he had business to discuss with me and Cyril Mbatsha. I went to find Mbatsha. Botha asked us whether we were brave."
 "We asked what he meant. Botha said that he knows that we want money because we

want it and like it."
 "He said there is a person he wishes to introduce to us. It was someone who wants us to shoot a person. He asked us if we are not afraid to do that. Botha said if we shoot this person, we will be paid R20 000."
 In the evening the two men were taken to Madikizela-Mandela's house by Shwala.

who introduced them to her as "the people who are going to assist us with that problem of yours".
 According to Dlamini, Madikizela-Mandela asked Shwala whether they were brave enough to do the job. "She said she hoped Botha had relayed the whole story to us."
 "Mrs Mandela said she will pay us an amount of R20 000 if

we do the job. We said we wanted R10 000 upfront, but she refused. We didn't trust her as it was the first time that I'd seen her."
 The following day Mbatsha and Dlamini returned to Madikizela-Mandela's house, where they exchanged a firearm, which was given to them by Shwala, but was found to be faulty.

Dlamini claims Katiza Cebekhulu then showed them Asvat's surgery and pointed out the doctor when he stepped out of the consulting room "to stretch".
 The next afternoon Mbatsha and Dlamini returned to the surgery, where Mbatsha made an appointment to see

Asvat. "He was eventually called into the consulting room. I heard the sound of a firearm. People started to run."
 "They were crying. I was standing at the grill which was opened by the receptionist (Albertina Sinsulu). We then ran away."
 "We never got our money. I don't know where Botha got the firearm," Dlamini said in his

statement to his lawyer, Michael Miller.
 Under cross-examination from Madikizela-Mandela's lawyer, Ishmal Semanya, Dlamini said he was very angry when he "did the task" and was never paid.
 "I am deeply sorry and wish to offer my apologies to the Asvat family," he told Asvat's brother, Ebrahim.

Angry exchanges over informer accusations

(252)
 Star 3/12/97
 BY RYAN CRESSWELL

Tempers flew at the Truth and Reconciliation Commission yesterday amid accusations and counter-accusations of people having been informers during the 1980s.

The finger-pointing took place during the testimony of Eyvodia Nkadineng, a former girlfriend of a Mandela United Football Club member who was killed by Vlakplaas commander Eugene de Kock.

A worried-looking Archbishop Desmond Tutu, chairman of the commission, felt compelled to warn about the dangers of making such claims. "It is almost a death sentence," he said.

Tutu said the commission could not allow such unsubstantiated claims. He was reacting to a question Winnie Madikizela-Mandela instructed her lawyer Ishmal Semanya to put to Nkadineng.

"What is your response if I put it to you that you were a police operative and therefore responsible for the killing and blowing up of this poor man," he said, referring to Johannes "Thembe" Mabotha, who was killed by De Kock.

Semanya was apparently slightly upset by Nkadineng's repeated claims that "comrades" had told her that Mabotha was an informer. Nkadineng's lawyer, Peter Jordt, then jumped in and said that according to Semanya's logic, his own client was an informer because she was associated with Jerry Richardson and Katiza Cebekhulu, who police say were informers.

Nkadineng told the commission she had met Mabotha while she was detained in the Potgietersrus police cells. She said she had heard from other comrades that Mabotha

might be an informer. But he later came to her home at Mankweng, Pieterburg, and they started a relationship at some point. Mabotha later returned with Richardson and said he knew Madikizela-Mandela well. He said he even knew that her hair was grey.

He returned in 1989 for a third time but on this visit he brought Xoliswa Falah, Cebekhulu and a man called Bosmont Falah told her they were on their way to Lusaka to tell Oliver Tambo about the Stompie Seipei case. Under cross-examination, she said she thought the mission had been aborted because of her claims against Mabotha.

Nkadineng was subsequently called to Madikizela-Mandela's Diepkloof home and asked about her claims against Mabotha, but he repeatedly denied them.

Nkadineng stayed at the house for some time. She said she felt "in danger" but was never touched. She also said Mabotha was having a relationship with Madikizela-Mandela and was always with her.

Nkadineng said she later left the house and returned to her own home. She was then detained again and this time saw Mabotha, who had been arrested at Groblersdal. She said it looked as though he had been assaulted. Nkadineng said he was then taken away by police and she never saw him again.

De Kock has asked for amnesty for killing Mabotha, and another senior policeman has asked for amnesty because he handed the arrested man over to the Vlakplaas commander.



Truth dance ... Winnie Madikizela-Mandela and Archbishop Desmond Tutu share a light moment on day seven of the TRC special hearing in Mayfair.

The first victim in whose assault Ntombeni participated in was a man identified as Nkosana, "who collected number plates as a hobby". The club members would assault the victims but they would also torture some and burn their feet, Ntombeni said.

"Sometimes we would inscribe or write using a plastic utensil" on the bodies of the victims, he added.
 "Zinzi was the first to do this. She inscribed the words 'ANC' on the victim's chest and on his back," Ntombeni alleged. The disciplinary procedures

were carried out on members of the community after problems were reported to Sizwe Sithole, the father of Zinzi's child, and Madikizela-Mandela, he said.
 The football team would then search for the "perpetrators", arrest them and bring them back to Madikizela-Mandela's house. After January 1988, when Zinzi accused him of being an *inyanga* (informer), Ntombeni left the house because he no longer felt

safe.
 But this was not the end of his association with the Mandela household. In December 1988, Sithole forced him at gunpoint to accompany him to Tholi Dlamini's home. They found that Dlamini and Lerotothodi Ikaneng had left to go to an all-night vigil.

They followed the two men, and Sithole shot and killed Dlamini. A couple of days later Sithole tried to kill Ntombeni, but he was able to escape because Sithole's gun jammed.

Three weeks later Ntombeni was summoned to see Madikizela-Mandela. "She said I was an informer."
 He was assaulted and forced to stay at Madikizela-Mandela's house for about four days until his wounds were healed.

He followed the two men, and Sithole shot and killed Dlamini. A couple of days later Sithole tried to kill Ntombeni, but he was able to escape because Sithole's gun jammed.

The nine days of often searing evidence that preceded Winnie's testimony were not

More questions than answers

M+G 5-11/12/97

(252)

Despite a number of moving testimonies against Winnie Madikizela-Mandela, a myriad questions still remain, writes David Beresford

As the extraordinary truth commission hearings on Winnie Madikizela-Mandela neared an end, amid a fog of lies, evasions, contradictions and self-justification, South Africa was left facing the question: what do we now know about the scandal surrounding the one-time "Mother of the Nation"?

The answer, at one level, is "not a lot more". At a micro-level, little that was new emerged from the testimony of the witnesses. But they did have the effect of pulling together numerous, disparate pieces of evidence from which something of an overall picture began to emerge as to what went on at Madikizela-Mandela's Soweto home in the late 1980s and early 1990s which gave rise to the "Winnie scandal".

That picture is constructed, centrally, around the evidence of three outstanding witnesses — Dudu Chili, Peter Storey and Nichodemus Sono — whose testimony against Madikizela-Mandela was particularly devastating.

Chili was the former friend of Madikizela-Mandela, who turned bitterly against her when members of the Mandela United Football Club attacked her home with AK-47s and petrol bombs, killing her 13-year-old niece, Finkie Msomi.

Speaking with the clipped, precise tones of an accountant, Chili's unemotional description of the events leading up to the incident was delivered with a steely determination which brooked no contradiction.

First there was the ugly reputation surrounding the football team, which led her to warn "my boys" to stay clear of them. Then there were the rumours she picked up that her children were being labelled "sell-outs" by the club.

Being a person of direct simplicity she went straight to Madikizela-Mandela demanding to know what was happening. Madikizela-Mandela replied that if they were not members of the club they would inevitably be seen as sell-outs. Then Chili got word that the club's "disciplinary committee" had pronounced a "death sentence" on her son, Sibusiso, and a friend, Ikaneng Lerothodi.

Attacks on both youths followed. Lerothodi miraculously surviving a brutal assault and Sibusiso — driven frantic by news of the threat to his life ("I stood at the back door and cried") — fighting back when he was attacked by the football team, killing one of them. Finally there was the "revenge" attack on Chili's home.

Her story conjured up the reign of terror imposed on the community by Madikizela-Mandela's young thugs. If there was any question about Madikizela-Mandela's culpability for that terror — any suggestion that it was merely a form of youthful gang rivalry familiar to deprived communities — it was answered by the



Still smiling: Winnie Madikizela-Mandela embraces eight-year-old Jubulile Zwane, daughter of convicted murderer Charles Bobo Zwane, who testified about the activities of the Mandela United Football Club. PHOTOGRAPH: AP

testimony of Nichodemus Sono.

The story of Sono's hunt for his missing son is told in an accompanying article. His evidence was of a piece with that of Chili, except that where hers was unemotional, Sono's was made all the more powerful by the hint that he was driven by a sense of guilt — a suspicion that he had somehow failed his son, Lolo. Asked why, if Madikizela-Mandela was planning to kill the young man, she would have alerted him by bringing his son to him first, he said the question had troubled him as well. All he could think was that maybe Lolo had made up some story to persuade Madikizela-Mandela to drop in on his home, in the hope his father would

find some way to save him.

"I failed," he said — two words which spoke of years of parental anguish. Whether or not Lolo Sono and his missing friend, Sibusiso Tshabalala, were killed on Madikizela-Mandela's instructions (and there must be few who would doubt the judgment of a police investigator that there was at least *prima facie* evidence of it), the story of how a father lost his son leaves little doubt that she was in command of the terror represented by the football team.

And then there was Bishop Peter Storey, that veteran of the anti-apartheid struggle who hammered home his indictment of Madikizela-Mandela with a controlled fury that allowed her lawyer, advocate Ismael Semanya, SC, no room for defence.

With the help of his contemporary diaries

he exposed her as a liar of terrifying ruthlessness, one who had the power to manipulate the most powerful men in her community, who nursed an ego to defy even Nelson Mandela and who suffered a lack of conscience — allowing the foulest smears of even the church — which pointed to an absence of morality and suggesting a personality verging on the psychopathic.

There were, of course, a host of other witnesses, most sensationally her former accomplices. It is a rule of law that the testimony of accomplices should not be relied upon without corroborating evidence, and those who turned on Madikizela-Mandela during the two weeks of hearings proved the value of the principle.

There was her former lieutenant, Jerry Richardson, whose bizarre performance on the witness stand reminded one of the psychologists' report to the Appellate Division which saved him from the death sentence — finding, as it did, that he was suffering a severe personality disorder and was possibly psychotic and schizoid.

Xoliswa Falati, whose manic attacks on her former patron — suggesting at one point that the commuter massacres of the early 1990s were the work, not of a "third force", but of Madikizela-Mandela's small band of thugs — tested even Desmond Tutu's patience.

And Katiza Cebekhulu — the petty thief who once robbed a blind man's cup of 50 cents — transformed by the eccentric imagination of the English peer, Baroness Emma Nicholson, into an avenging angel wielding a supremely improbable sword of justice.

For all the bizarre, manic and eccentric elements to their testimony, there was sufficient corroboration of aspects of their stories to colour the "big picture" which made the truth commission hearings such a damning indictment of Madikizela-Mandela.

But for many who have followed the twists and turns of the "Winnie scandal", the big picture will not satisfy their hunger for a resolution to a myriad questions left unanswered by the inquiry.

Did she order the killing of Dr Abu Baker Asvat, or was his death just as the Stompie Seipei scandal was breaking an extraordinary coincidence of timing? How did the supreme court find the motive for the killing was robbery when nothing was stolen?

What lay behind the baffling reluctance of the police to question Madikizela-Mandela and the attorneys general to prosecute her?

Why did Jerry Richardson's police handler go to his death in the kitchen of his agent's home when the building was surrounded — in the words of the ersatz football coach — by "enough police to fill Orlando stadium"?

What really lay behind the "suicide" of her chief enforcer, Sizwe Sithole, who hanged himself in his cell with the help of shoe-laces and a belt which he did not have? Why did Kuki Zwane die? Was she the victim of Sithole's passion and Zinzi Mandela-Hlongwane's jealousy?

What lay behind the mysterious hit-and-run accident in which the guerrilla commander, Vincent Sefako, died? And why did the football team murder Susan Maripe, the young woman who called the ambulance to his assistance? They are some of the questions which are the legacy of the woman who would be president of the nation.

For all the eccentric elements to their testimony, there was sufficient corroboration of aspects to colour the 'big picture'

Kelly Berzack

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sive — but they were damning all the same



Resting his weary head: Chair of the Truth and Reconciliation Commission, Desmond Tutu, relaxes during a lunch break. PHOTOGRAPH: ADIL BRADLOW/AP

Winnie's position in jeopardy

MTG 5-11/12/97
(252)

Wally Mbhele

The African National Congress Women's League is headed for a major showdown this weekend, that could split the organisation, over the nomination of their president, Winnie Madikizela-Mandela, for the ANC deputy presidency.

It appears that a statement issued to the media claiming that the ANC national working committee's, and the KwaZulu-Natal region of the league's, withdrawal of its nomination of Madikizela-Mandela this week did not enjoy the support of all the league's structures.

Senior officials in the league told the *Mail & Guardian* there would be a blistering confrontation at its national executive committee meeting in Johannesburg this weekend, which could see the organisation splitting into two camps.

Madikizela-Mandela is understood to have been shocked to hear of the decision that her nomination was no longer supported by the organisation she heads.

She is expected to open the league's meeting with a state-of-the-nation address, which may issue a challenge to her detractors. But, sources in the league say her snubbing had never been discussed at any of their meetings and no special meeting had been called to discuss removing her name from the ANC's nomination list.

The pressure on Madikizela-Mandela was compounded by an ANC national working committee announcement this week that she will be summoned to appear before the party's senior leaders to explain her public criticism of the ANC's performance in government.

The ANC's acting general secretary Cheryl Carolus called Madikizela-Mandela a "coward", and expressed concern at a leading member of the party publicly challenging "agreed policy positions of the movement without raising them within the ANC structures".

On Wednesday, following the ANC's attack on Madikizela-Mandela, several ANC national executive committee members, including Steve Tshwete, Ronnie Kasrils, Joe Nhlanhla and Mathews Phosa among others, descended on the truth commission's hearing in Mayfair.

The party's chief representative, Ronnie Mamoepa, had been dispatched to the hearings to answer media questions if the ANC's interests were threatened by Madikizela-Mandela's testimony.

However, many senior members of the league said this week that they unequivocally supported their leader and predicted she would emerge as their only candidate for ANC deputy president at the end of their meeting on Sunday.



Tongue-tied: Winnie Madikizela-Mandela. PHOTOGRAPH: DENIS FARREL/AP

But, some are hoping she might voluntarily withdraw herself from the race for deputy president. Others have suggested that a motion of no confidence will be passed at the meeting if she does not step down.

Highly placed women's league insiders have warned of a possible split if she is forced out. They say the statement that Madikizela-Mandela is out of the running for the deputy presidency stemmed from the league's national office and not from its meetings.

They add that many senior members of the league heard of her removal from the nominations list from radio and newspaper reports. The statement, issued by the league's executive member, Mavivi Myakayaka-Manzini, does not appear to have been canvassed widely among other senior members.

"No structures of the women's league have taken, let alone discussed that resolution," said an official, who expressed surprise that Madikizela-Mandela was not informed of the decision.

"Following the 'controversial statement' purporting to be coming from the league's national working committee we, as senior officials, met and discussed how to respond."

"We agreed that the matter will be discussed by the national executive committee over the weekend. This matter is already dividing us and it is going to cause big problems at the meeting if it is not handled properly."

Another women's league source said some executive members may resign in solidarity with Madikizela-Mandela and refuse to endorse a new nomination list "if [Nkosazana] Zuma is forced down our throats".

"They are seeking ways to isolate Madikizela-Mandela and make her an outcast," the angry woman said.

State ignored driver's evidence for nine years

MTG 5-11/12/97

Kurt Shillinger and Peta Thornycroft

The state has had sufficient evidence for nine years to charge Winnie Madikizela-Mandela with kidnapping Soweto youth Lolo Sono.

Michael Seakamela, the former driver who took the badly beaten boy in the company of Madikizela-Mandela to his parent's home, made a statement about the alleged kidnapping shortly after Sono disappeared in 1988.

Seakamela confirmed the statement to the police when the case was re-examined in 1995 and said he was prepared to give evidence in any case involving the disappearance of Sono.

According to the *Boston Globe*, Seakamela, a potentially devastating witness, went into hiding after allegedly being intimidated by Madikizela-Mandela on Saturday, following an interview he had had at his house with a truth commission investigator.

Seakamela's 1988 statement, contained in docket number 236/11/88 at Meadowlands police station, is now missing.

Senior Superintendent Fred Dempsey took the original statement from Seakamela, and, in 1995 when the case was re-opened, Senior Superintendent Henk Heslinga signed the docket out of Meadowlands police station when a range of crimes associated with the Mandela United Football Club were re-visited by police investigators.

According to the *Boston Globe*, Heslinga made a note in his diary, after examining the docket, that there was a *prima facie* case for bringing charges against Madikizela-Mandela in connection with the disappearance of Sono.

In 1995, after completing a re-investigation into the murder of the Sowetan doctor, Dr Abu Baker Asvat, the acting Witwatersrand attorney general Kevin Attwell wrote to the police saying he could find insufficient new evidence to justify reopening the case.

Attwell does not remember seeing the Sono docket in 1995, nor does he remember the name Lolo Sono. It may be that the man in charge of the docket at the time, Superintendent HT Moodley, never showed it to him.

In the last few days Attwell has launched an extensive search for the docket, but has found no record that it ever passed through the attorney general's office.

The police say the attorney general's office takes the decision whether or not to prosecute, and that the attorney general declined.

However, lawyers say, there would have been nothing to stop the police laying a charge themselves, as they knew a young man had disappeared and they had two witnesses, Seakamela and Lolo Sono's father, Nichodemus

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Sono, who had signed statements which corroborated each other.

In 1991, when Madikizela-Mandela was being charged with kidnapping murdered youth Stompie Seipei, the then attorney general Klaus von Lieres und Wilkau decided not to act on the Sono matter for political reasons.

He told the *Boston Globe* "A second prosecution may have looked like deliberate harassment".

Von Lieres told the *Mail & Guardian* this week "Politics may have played a role as far as the police were concerned. I did not think politicians were so keen to see a proper investigation".

The matter was discussed in the normal course of events with then minister of justice Kobie Coetzee, according to Von Lieres, but he says there was no pressure not to prosecute.

Despite Madikizela-Mandela's dismissal on Thursday of Seakamela's statement, implying that it had been extracted under torture, Seakamela had willingly repeated what he said in his statement to Dempsey to the *Boston Globe* on November 29.

Seakamela recalled that he drove Madikizela-Mandela and several football club members to the Sono home. They collected Lolo Sono and, after he was accused of being a police spy, he was beaten during the ride to Madikizela-Mandela's house and then inside her garage. Later that evening, according to Seakamela, they returned to Lolo Sono's house.

In Nichodemus Sono's statement in the missing police docket, and in his testimony to the truth commission, he recalls the last time he saw his son, shivering and badly beaten in the powder-blue minibus. Madikizela-Mandela refused to release the boy, and his mother, Caroline Sono, brought him a jersey.

Seakamela said he saw Lolo Sono for the last time when he drove them all back to Madikizela-Mandela's house. When he went to work that morning there was no trace of the youth.

Nichodemus Sono said he and Seakamela had refused to be witnesses in the 1991 trial of Madikizela-Mandela "because we had a feeling we were being watched". But he said he would give evidence in any trial concerning the disappearance of his son now.

So too will Seakamela if he can be persuaded to come out of hiding. Madikizela-Mandela's lawyers have denied that their client saw Seakamela last weekend.

National Police Commissioner George Fivaz said this week two corroborating statements from credible eyewitnesses were sufficient material for a prosecution.

Hani was slain with army gun

(252) CP 7/12/97

THE GUN used to kill South African Communist Party leader Chris Hani in 1993 was stolen from the SA Defence Force, the Truth and Reconciliation Commission heard on Friday.

The gun, a 9 mm pistol, was delivered to a Krugersdorp house a month before the murder, Faan Venter testified.

Venter was a friend of Clive Derby-Lewis who, along with Polish immigrant Janusz Walus, was convicted of Hani's slaying on April 10, 1993. Both are serving life sentences and are seeking amnesty on the grounds that the murder was politically motivated.

Venter said he went to see Derby-Lewis at his Krugersdorp home on March 10, 1993. He said Derby-Lewis asked him if he could get hold of a firearm, preferably an unlicensed one because "we are stocking up". He assumed this to mean for "the battle that lay ahead" because the CP was anticipating defending itself.

Venter said he was in possession

of a 9 mm pistol given to him by Jean Taylor, who was at the time in detention in connection with the theft of weapons.

"The gun was stolen from the defence force," Venter said.

Venter said Derby-Lewis asked him to deliver the pistol to the home of a friend, Lionel Durant saying "This is Clive's jersey."

Durant was not at home and he handed the bag to Durant's wife, Elizabeth.

Elizabeth Durant testified on Thursday that she received the bag on February 24 and gave it to Derby-Lewis the following day wrapped in a jersey.

Venter could not explain why Durant's version differed from his but conceded that he had told police that he had delivered the gun in the second half of February, a mistake that he later corrected.

Goerge Bizos, acting for the Hani family, commented "We will submit that you know much more than what you are prepared to admit" - Sapa

Two years' jail for PW if he avoids the truth

Sunday Times Reporter

FORMER State President P W Botha could face two years in prison if he fails to appear before the Truth and Reconciliation Commission on December 19

The commission had subpoenaed Botha to answer questions at an inquiry on Friday into the ac-

tivities of the former state security council, but Western Cape Attorney General Frank Kahn said the subpoena was legally defective

Commission investigators flew to George on Friday and served a third subpoena on Botha.

This week, commission chairman Archbishop Desmond Tutu threatened tough action after Botha's lawyers offered to answer the questions in writing

In his 1 700-page written submission on Friday Botha

● Denied he was guilty of gross human rights violations,

● Charged that the commission was out to discredit the Afrikaner and his former leadership, and

● Denied any knowledge about the formation of the Civil Co-operation Bureau He also denied that he had authorised the bombing of Khotso House

Handling of Sibaya affair found wanting

Goldstone points to truth body itself reports **CARMEL RICKARD**

LEAVING aside the Iyang Bennett Sibaya, it was the Truth and Reconciliation Commission itself which came in for most criticism in the Goldstone Commission report, published this week.

The report, which compiles the findings of Constitutional Court Justice Richard Goldstone, deals with a number of issues related to Sibaya's allegations against the truth commission's investigative unit head, Dumsa Ntsebeza. Sibaya had implicated Ntsebeza in the 1993 Heidelberg Tavern bombing, repeated these allegations at a truth hearing, and then just as dramatically recanted, saying it was all untrue.

Apart from its twin key findings — clearing Ntsebeza, on the one hand, and ruling that Sibaya lied, that he should be "sanctioned" and that criminal charges against him should be investigated, on the other — the report devotes five pages to examining and criticising the commission's response to the problem posed by Sibaya's extraordinary allegations.

Its criticism of the truth body begins with Captain J Lubbe, a policeman who, until September, had been seconded to the commission's investigative unit in Cape Town.

Justice Goldstone notes that when, as part of his preparation for the hearings into the Heidelberg Tavern bombing, Lubbe discovered an "information note" about Sibaya's initial statement, he quite properly brought

it to the attention of Ntsebeza, who was his superior, and to the attention of other truth commission members. Ntsebeza instructed Lubbe to investigate the allegations but the investigation which he carried out was neither full nor competent, says the report.

An experienced investigator such as Lubbe should have been left with serious doubts about the trustworthiness of Sibaya's allegations merely by comparing the two statements Sibaya had made, the first immediately after the bombing and the second when he was interviewed by the truth body in August.

However, the report says, Lubbe was probably unable to make any objective decision because he had already convinced himself of Ntsebeza's guilt.

The report is also critical of the truth commission's leadership saying they should have had the alle-

gations against Ntsebeza probed independently rather than opting for an internal inquiry.

Their error of judgment resulted in "tremendous tension, dislocation and controversy" within the commission and created irresolvable conflicts of interest for all concerned.

The full impact of Lubbe's defective investigation and the "inappropriateness" of allowing him to investigate Ntsebeza became clear to senior truth commission members only after the reports were submitted and the hearings into the Heidelberg attack had already been scheduled.

Commission chairman Archbishop Desmond Tutu then decided it was too late to call for an independent inquiry and that the best way forward was to deal with the Sibaya allegations during the hearings.

Criticising this decision, Justice Goldstone says he understands the tremendous problems which would

have resulted if the hearings had been delayed, but he "cannot agree that that was the only or most appropriate option available."

"Harm could still have been averted had the decision been taken to call for an independent inquiry at that stage."

Whether the allegations against Ntsebeza were well-founded or not, he says, "the need to ensure public confidence in the accountability and transparency of the TRC should have dictated the manner in which it dealt with this unfortunate affair."

He makes three findings on how the commission handled the matter. ● The truth commission and Ntsebeza correctly appreciated the importance of investigating and not suppressing Sibaya's allegations.

● The commission erred in appointing its own investigators to look into the allegations, rather than immediately appointing an independent

investigation, and ● That, once it had decided not to call for an independent investigation, the commission erred in not putting in place effective internal mechanisms to ensure that, as far as possible, the investigation carried out was effective and objective.

Goldstone also concludes that "racism and fear of perceived racism" by the police and the commission may have played a role in the delay and inadequacy of the investigation.

Earlier in the report, the judge says "issues of race" appeared to have affected the way in which the allegations were dealt with.

He said he had little doubt that the "apparent racism" of Lubbe and some members of the police involved in the initial Heidelberg investigation influenced decisions and events surrounding the Sibaya affair.

"Without racial predispositions or fears thereof", the investigations carried out by the police and the commission may well have been "more appropriate and efficient."

He adds "I have also been disturbed by the many, sometimes veiled and sometimes implicit, allegations and counter-allegations of racism, which have surfaced during the history of the commission's dealings with this matter."

Overt racism and the more complex phenomenon of unconscious racism and fears of perceived racism were equally destructive and debilitating and needed to be challenged

CARMEL RICKARD

JUSTICE Minister Dullah Omar has defended the abolition of the death penalty against the unprecedented attack of a prominent High Court judge who called the scrapping of capital punishment a "dreadful mistake" that should be corrected.

Judge David Curlewis made his extraordinary comment when he passed a 2 410-year sentence on convicted serial killer and rapist Moses Sithole in the Pretoria High Court on Friday.

And several senior colleagues say they believe he was expressing the views of up to 80 percent of the Bench.

"I would have sentenced Mr Sithole to death but the politicians have done away with it," Judge Curlewis said. "The politicians should have realised that doing away with it was a big mistake."

He slammed the "interference" of prisons' officials, saying that when a court sent someone to jail for life, this should not mean 25 years.

"I believe 'life' means a person must spend the rest of their natural life in prison."

Omar said the Sithole matter was a "terrible case." He could understand victims feeling Sithole was the kind of man "who ought not to live."

However, the Constitutional Court's scrapping of the death penalty reflected an attempt to make South Africa a constitutional state, and put certain core values beyond the reach of transient majorities, he said.

The issue of "interference" with sentences raised by Judge Curlewis has increasingly rankled the judiciary, who see it as undermining the courts' authority and diminishing the public's trust in the Bench and the court process.

Several judges said Judge Curlewis was voicing the concern of most of his colleagues when he criticised the interference of politicians and prison officials which regularly led to the early release of people from jail.

The judge's blistering attack comes soon after the judiciary was criticised during Truth and Reconciliation Commission hearings for not having spoken out in court in the apartheid years against what they had believed to be wrong. A number of judges also made written submissions along these lines.

Against this background, several judges said while Judge Curlewis's

I would have sentenced Mr Sithole to death but the politicians have done away with it. The politicians should have realised that doing away with it was a big mistake.

JUDGE DAVID CURLEWIS

Judges back Curlewis on the death penalty

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decision to speak up about capital punishment was unusual, it could not be criticised.

Omar also declined to criticise the judge, saying that he felt his remarks were "not inappropriate." But he warned that, while judges had the right to speak out, they had to accept that once they began to comment on matters of policy, they were opening themselves to criticism in the same way as politicians were open to criticism.

Omar added that he wanted the public to respect the Bench.

"I respect the right (of Judge Curlewis) to express an opinion on this subject and therefore I do not want to express any views which may be critical of him."

Omar said he did not find the judge's unprecedented sentence of 2 410 years inappropriate.

In the view of a senior judge, the 20 to 25 percent of the Bench who might disagree with Judge Curlewis over the reintroduction of the death penalty believed that the debate missed the point and that the focus should rather be on how to ensure an "effective deterrent" to crime.

Omar also called this a key question. He said even if the death penalty were to be brought back, it would not necessarily resolve the problem. If criminals felt they had very little chance of being arrested, tried and convicted, then even the possibility that they could face the death penalty would fail to deter them.

"Calls for the reintroduction of the death penalty divert people from the real issue — how to build a real deterrent to crime," he said.

● See page 2

Shocking murder of MK cadres revealed

By Khathu Mamaila

HOW do you describe the frame of mind of a man who uses an electric saw to cut in half the skull of another person? What do you call a man who uses a cutting torch to sever a person's hands?

Had somebody told me that this was the work of security police in the Far North during the apartheid regime, I would probably have dismissed the allegation as propaganda.

But photographs in possession of Truth and Reconciliation Commission investigators prove that certain members of the security branch were not only bloodthirsty sadists but even more cruel than the devil.

The photographs show the mutilated bodies of seven Umkhonto we Sizwe guerrillas who were captured along the Mutale River, near Messina, close to the Zimbabwewan border.

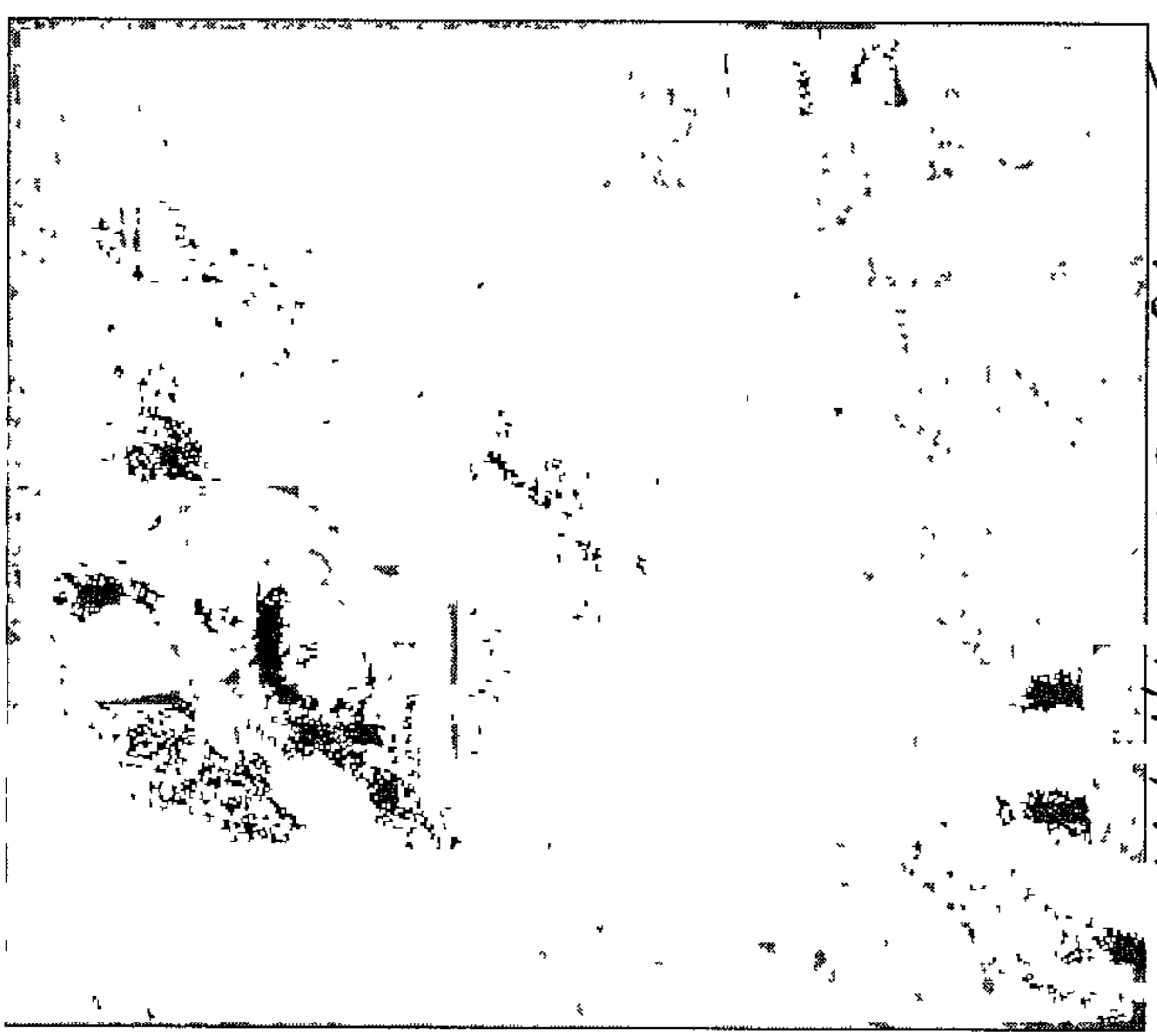
One of the bodies was beheaded with a cutting torch. The same torch was used to cut off the hands of the cadres at the wrists. An electric saw was used to cut the head of one cadre into two halves.

After the seven were brutally killed by members of the security police in Louis Trichardt, they were buried secretly in Tshikota, a few kilometres from the town.

Save for Mlungisi Velaphi of East London, whose family could not attend the exhumation in Tshikota last week, the remains of the other six were exhumed by the TRC. The bodies exhumed are those of Daniel

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Sowetan 17/12/97



Flashback ... a forensic expert exhumes the remains of an MK cadre near Barberton last month.

They found a hiding place along the Mutale River. The askari whose name is being withheld by the TRC, told his comrades that he was going to look for food.



Flashback ... a forensic expert holds the skull of a murdered MK cadre in Thandukukhanya near Piet Retief last month.

that the African National Congress did not know exactly what happened. Speaking about her second-born child, who left the country in 1985 at the age of 18 at the height of apartheid repression, Nkabinde displayed her mixed feelings.

"I am happy that at least I finally know the truth about what happened to my son. I sometimes hoped that as I had not buried my son, he might come back. I am relieved that I will take his bones and bury him in his hometown.

But part of me is very sad because I cannot understand why anybody would want to kill another person in such a savage manner. The people who did this to my son should be punished," Nkabinde said.

MK cadres "Why did they have to be murdered in such a gruesome way?" He said the security policemen were vicious and stopped at nothing to eliminate freedom fighters.

He also said Andrew Madi, Patric Mutswaletswale and Tshithiwa Mulaudzi - three MK soldiers whom police claimed were found in a house in Tshipise, about 100km northeast of Thohoyandou - were actually abducted from a safe house in Zimbabwe. They were then placed in a house in Tshipise and murdered. They had bullet wounds all over their bodies. The Madi family did not even know where their son was buried. In Mulaudzi's case police allowed a maximum of 24 people to bury him, while only 12 family members were

set to defy TRC call tomorrow

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MISSION

President P W Botha to defy the Truth and Reconciliation Commission and refuse to appear at the TRC's Cape Town hearing tomorrow.

Commission officials said yesterday they had received no further word from Mr Botha's lawyer on the subpoena to answer questions about the former security council, of which he was

Mr Botha's attorney, Ernst Pennington, said his client would

not obey a subpoena requiring him to appear on December 5

But that subpoena proved to be legally defective, letting Mr Botha off the hook temporarily

Yesterday, inquiries at Mr Botha's Wilderness home about whether he had had a change of heart were met with a terse "no comment" by his staff

Truth Commission spokeswoman Christelle Terreblanche said that if Mr Botha did not turn up for the hearing, a charge would be laid with West-

ern Cape Attorney-General Frank Kahn

Mr Kahn said yesterday "At this stage



Defiant: PW Botha

ARG 18/12/987
the man has not committed an offence, and I'm not going to discuss it"

In a television interview on Sunday, Mr Mandela disclosed that he had gone out of his way to persuade Mr Botha to obey the subpoena

He said he had spoken to the 81-year-old twice in an effort to defuse the looming showdown and had spoken personally to all four of Mr Botha's children

"I have urged his family to help to prevent his humiliation," he said "If he continues along this line, the law must take its course"

Amnesties were legally flawed, truth body advised

Stephen Laufer

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ED 19/12/97
MAFIKENG — The amnesties granted to 37 apartheid-era leaders of the African National Congress (ANC) were legally flawed and should be taken to the High Court on review, advocate Wim Trengove has advised the truth commission.

Trengove was asked by the commission to review the amnesty decisions after criticism that it had not complied with the Promotion of National Unity and Reconciliation Act — the law governing the body's work.

The amnesty committee is independent of the commission, but the commission has the power to call for a review of its decisions.

The blanket amnesties were granted to Deputy President Thabo Mbeki and 36 ANC leaders, who had not cited specific acts or omissions. Their applications had also not been made on an individual basis.

Truth commission chairman Desmond Tutu is expected to make an announcement on Trengove's findings in Cape Town today, where the commission is gathering, having subpoenaed former president PW Botha for a third time.

Sources said last night that the commission was still considering whether to take Trengove's advice. It was possible that the 37 amnesty decisions would be referred to the senior state law adviser for a second time.

An amnesty committee member said last night that Trengove's recommendation had been discussed during a truth commission meeting on Wednesday. A final decision on what action to take would be made early in the new year.

Earlier this year Tutu told a news briefing that the commission believed the committee's decision to grant amnesty to the ANC leaders did not comply with the act's requirements and should legal advice confirm this, an application would be made to court to have the decision reviewed.

As the amnesty committee was an autonomous body, this was the only course open to the commission.

'Business sector has role to play in protecting human rights'

Linda Ensor

(253) 120 19/12/97

CAPE TOWN — Human rights organisation Amnesty International has resolved to encourage the business sector to play a greater role in the protection and promotion of human rights both within companies and in the societies where they operated.

About 500 delegates from 80 countries have met this week at the University of the Western Cape for a conference of the organisation's decision-making body.

The conference decided to draw up a "checklist" of human rights principles for companies to concern themselves with, including injunctions to treat employees in a fair and nondiscriminatory way, to ensure that security arrangements complied with United Nations principles on the use of force, and to be accountable to the communities in which they operated.

Andrew Anderson, director of Amnesty International's campaigning and the crisis response programme, said the body had not

gone so far as to call for corporate sanctions or boycotts of countries guilty of gross violations of human rights.

But it believed companies should take into account human rights considerations when deciding to invest or do business in a country where abuses were endemic, noting the grave risk of alienating public opinion if they ignored them. Companies which failed to take this into account and had suffered the consequences included Shell in Nigeria, BP in Columbia and Total in Burma.

DP vows to fight amnesty for 37 ANC leaders in court

ARC 19/2/987 (252)

Tutu set to announce final decision

JOHN YELD
ON THE TRUTH COMMISSION

The Democratic Party is to ask the High Court to set aside the Truth Commission's granting of amnesty to 37 top African National Congress members.

This was announced yesterday by DP justice spokeswoman Dene Smuts

Ms Smuts said the party had

obtained legal opinion to the effect that the "blanket" amnesty decisions on the ANC members were invalid

But the DP may not need to go to court. The TRC is studying its own legal opinion on the issue, from top advocate Wim Trengove SC

The commission previously announced it was prepared to ask the High Court to review and set aside the decision by its

semi-autonomous amnesty committee, depending on Mr Trengove's opinion

Commission chairman Desmond Tutu is expected to make a statement today

Earlier this week the National Party handed the commission a copy of its legal opinion, which also said the ANC amnesties were not in accordance with the commission's founding act

Meanwhile, it is reported

from Durban that the numbers of people in KwaZulu Natal who made statements to the TRC about human rights abuses during the apartheid era shot up by more than 50% during the final week of statement-taking

TRC spokesman Mdu Lembede said the vast majority of last-minute statements had come from Inkatha members whose homes were allegedly damaged during the ANC-IFP conflict

ANC rules out death penalty

ARL 19/12/1987 (252)

CLIVE SAWYER
POLITICAL CORRESPONDENT

Mafikeng – Moves for a return to capital punishment have been dealt a death blow by delegates to the African National Congress conference, the movement's supreme policy-making body.

They ruled out a constitutional change to bring back the death penalty

Justice Minister Dullah Omar confirmed that the issue had been raised in discussions by a justice sub-committee

"It was mentioned in the context that there needs to be an effective deterrent to crime, and that the criminal justice system needs to be strengthened, with a review of laws to provide for appropriate sentencing"

He pointed out legislation on appropriate sentencing had been approved in the session of Parliament just past. There was no support for a return to capital punishment

The decision reinforces statements by President Mandela and new ANC president Thabo Mbeki at the conference that there



Dullah Omar: 'no support for the death penalty'

would be no revival of capital punishment

Opening the conference, Mr Mandela said: "Calls for the restoration of the death penalty are, in reality, calls to hang those who are black and poor and who, in the main, commit murder among themselves"

"Those who make this demand seek to

deny the fact that it is dehumanising poverty imposed on people by the apartheid system which generates this crime"

In discussions by the conference's sub-committees on peace and stability, delegates urged a tough stance against crime

The conference's firm stance against the death penalty follows a Constitutional Court ruling against capital punishment, which had its sequel in the repeal of these laws by Parliament this year

The stance is likely to be a central issue in the 1999 elections. But there could be more immediate political ramifications in the Western Cape where Mr Omar is the provincial ANC leader and Premier Hernus Kriel of the National Party seeks a referendum on the death penalty

Mr Omar disclosed that conference delegates were "very angry" about corruption undermining the work of government

This echoed comments by Mr Mbeki during an interview, when he said corruption extended to within the ANC itself, with people abusing their careers in the movement to enrich themselves illegally

PW Gives TRC the finger

Star 19/12/97

(252)

He fails to appear at special hearing
Tutu to meet Cape attorney general

STAFF REPORTER

Former state president PW Botha failed to keep his 9am appointment with the Truth and Reconciliation Commission today.

TRC chairman Archbishop Desmond Tutu was due to meet Western Cape Attorney General Frank Kahn at 10.30am to lay charges against the former state president.

If convicted of flouting a lawful subpoena, Botha could face up to two years in prison or a R2 000 fine.

Botha was still at home only two hours before the scheduled 9am start of the hearing, several hundred kilometres away from the Cape Town venue.

A phone call to the Botha's Wilderness home revealed that he was "in the shower" shortly before 8am. SABC radio news reported.

TRC spokesman Christelle Ter Schanche said the commission had had no word from Botha or his attorney and did not expect him to arrive in time.

Earlier, Ter Schanche said Tutu would personally lay criminal charges against Botha if he flouted the subpoena. The penalty could be two years' imprisonment or a R2 000 fine.

The commission wanted to ask Botha about the workings

of the former State Security Council, cross border raids, the apartheid state's chemical warfare programme and the killing of anti-apartheid activists.

In particular, TRC officials said, the commission wanted his views on testimony by former National Intelligence Service chief Dr Niel Barnard at a previous TRC hearing that he (Barnard) had personally informed Botha about the killing of activists by security police.

Botha has publicly denounced the commission as a "circus" and said he would not appear before it.

Tutu tried to lay charges against Botha on December 5 after he had ignored an earlier subpoena.

However, the subpoena turned out to be legally defective and the second subpoena was served at Botha's Wilderness home the same day.

Commission officials said yesterday there had been no further word from Botha.

Inquiries at his Wilderness home yesterday about whether he had had a change of heart were met with a terse "no comment".

Botha's attorney, Pretoria-based Ernst Penzhorn, could not be reached for comment yesterday.



Stand off former state president PW Botha gives a characteristic finger wag in this file picture with President Nelson Mandela. He missed his special hearing with the TRC this morning.

His legal firm has closed for the Christmas holiday and a domestic worker who answered the telephone at his home said he was away.

Botha had supplied the commission with voluminous written answers to a list of questions delivered to him early this year. In his 1 800-page reply, he denies involvement in human rights violations and argues that his government simply maintained the law.

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Two more judges back call for the death penalty

Angry jurists speak out after lawyer is killed by hijackers

CARMEL RICKARD

TWO more judges have added their voices to the growing dissent within the judiciary over the scrapping of the death penalty.

Judge Peter Combrinck and Judge John Broome, both from Kwazulu Natal, complained that there has been no consultation with the judiciary about whether capital punishment acts as a deterrent — a question raised by abolitionists and by the Constitutional Court when it declared the death penalty unconstitutional.

Speaking at a memorial service for Alan Brooks, an attorney who was hijacked, tortured and murdered last weekend, Judge Combrinck said he was filled with a "deep and bitter anger" that in present-day South Africa such a killing was an everyday occurrence.

He told about 200 members of the profession who attended the service that he was also angry that the high crime rate was allowed to continue.

The judge, a friend of the murdered attorney, further expressed deep frustration at the fact that the hands of the judiciary were tied and that in cases where it was appropriate to do so, they were no longer able to impose the death sentence.

Judge Combrinck said the Constitutional Court should not be blamed for the situation. In declaring the death penalty unconstitutional, the justices of that court had merely been doing their duty of interpreting the Constitution.

However, he was astonished that in the debate over whether the death penalty acted as a deterrent, the only people who had not been consulted were judges. The views of academics and criminologists who "never set foot in a courtroom" had been canvassed, despite the fact that the average judge heard about 40 murder cases every year, while most senior judges had heard well over 1 000 such cases.

"Yet they have never been consulted," he said. "It is about time they were."

Speaking to the Sunday Times later, the deputy judge president of Kwazulu Natal, Judge John Broome, who also attended the service, said he completely associated himself with Judge Combrinck's views.

He said judges saw the devastating impact that violent crimes had on their victims. "We see the families and hear how they are affected. We see the perpetrators and come to assess what might act as a deterrent. Yet we are not consulted."

Judge Broome said he believed that if a referendum on the death penalty were to be held, there would be 90 to 95 per cent support across the country, and across all race groups, for the reintroduction of capital punishment. Asked whether judges would support reinstatement of the death penalty in similar proportions, he said he had no doubt they would.

Ironically, Brooks had in the past few years come to support reimposition of the death penalty. He was hijacked last Saturday on his way to a meeting, forced to draw money from his bank account and was then shot, execution style, in the back of the head.

Three men have already appeared briefly in court in connection with his murder.

Brooks, a prominent member of the legal community in Kwazulu Natal, was a former president of the Natal Law Society.

The remarks of the two judges at his memorial service follow recent comments by Judge David Curlewis. During his sentencing of mass murderer and rapist Moses Sithole, to more than 2 000 years in jail, he made a blistering attack on "politicians" whom he held responsible for the scrapping of the death penalty.

He said its abolition was a dreadful mistake which should be corrected.

Judge Curlewis also slammed constant interference by prisons' officials in the length of jail terms served by prisoners. He said when a court sentenced a prisoner to life it should mean the convict spent the rest of his life in jail.



DEEP AND BITTER ANGER Judges Peter Combrinck and John Broome at the memorial service for Durban lawyer Alan Brooks. Picture: MICHAEL WALKER

Pen spreads more than words

BALLPOINT pens used by hospital doctors to write notes and prescriptions could infect patients, according to an Austrian study.

It is well known that many patients pick up infections in hospital. While inadequate hygiene and contaminated stethoscopes and thermometers have all been blamed in the past, this is the first time the spotlight has fallen on the humble ballpoint.

Researchers identified 15 species of organism on pens, including bacteria that could cause severe illness.

The study, published in *The Lancet*, examined the pens used by 42 doctors at Salzburg Hospital in Austria.

Researchers found that only seven percent of the pens were bug-free. More than half had one strain of bacterium and four out of 10 had at least two strains. — ©The Telegraph, London

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UNTIL he went to university, Zak Yacoob hardly knew what a lawyer was, or that South Africa was in the grips of political and racial turmoil. Isolation in an institution for blind children had kept him ignorant of these realities.

Now 30 years later and at the peak of his career as a lawyer, he is poised to make a unique contribution to resolving those problems of which he was kept unaware for so long.

He becomes the Constitutional Court's newest member in February next year, bringing it back to its full complement of 11 justices, following the elevation of the court's former deputy president, Ismail Mahomed, to the position of Chief Justice.

Yacoob will become part of the select group of jurists charged with the crucial task of interpreting the Constitution and acting as its guardian.

Yet his decision to make a career in the law was due to mere chance.

When he was in Std 6, a local newspaper ran a story about him — he never found out why — and someone read it to him. One of his teachers was quoted as say-

Law opened his eyes to injustice

The newest member of the Constitutional Court judges by skill and sensitivity rather than sight

ST 21/12/97

(252)

ing he was destined to go into law and would make a good lawyer.

At that stage Yacoob had no idea of what a lawyer did, or even what the law was. But he decided to do it anyway.

It was only when he started studying at the University of Durban-Westville that he discovered his teacher had been right.

He discovered many other things too. Like racial tensions, the existence of the ANC and that not all whites were the kind, clever people he had come to believe them to be, based on his limited experience of school inspectors.

But the political awakening began at university was put on hold after he qualified. Learning how to make it as a

blind advocate took all his time pacing himself with a reader, ensuring he had all the facts he needed from the legal papers in a case, perfecting the technique of taking and reading Braille shorthand notes in court and during cross-examination.

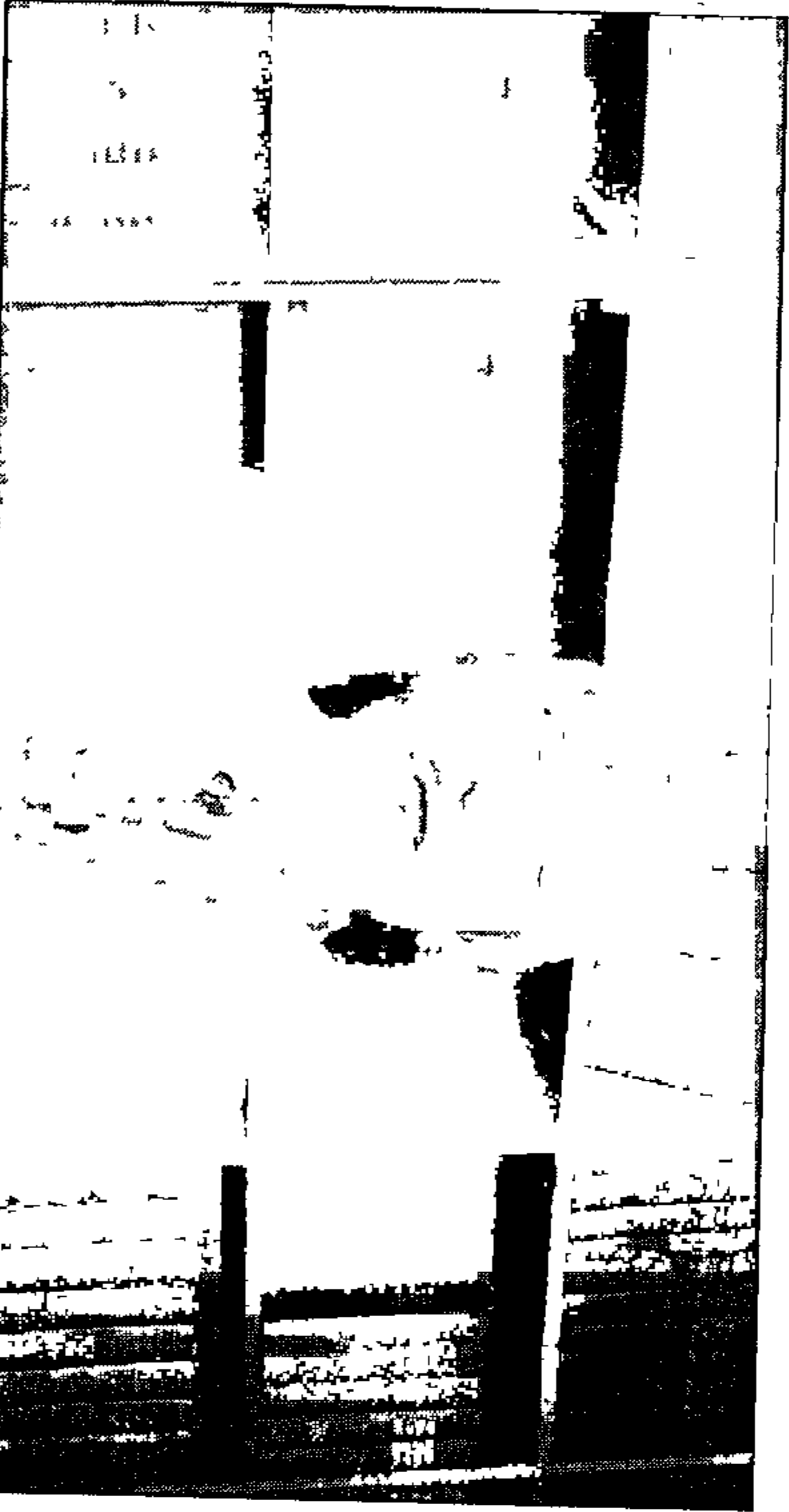
It was only in about 1980 that he was confident enough to respond to the political challenges that then came his way.

Widespread school boycotts had led to the detention of many anti-apartheid leaders and the government passed a law banning gatherings of more than 10 people. Yacoob was asked to join a committee of 10 formed to give direction to the protest, and his political career was immediately back on track.

Anyone who was politically active during the 80s will remember Yacoob in action, particularly his clarity and leadership during repeated crises.

But while he appeared in many political cases, including the Delmas-Treason Trial, he managed to maintain a rounded practice which included commercial and general legal work.

He took silk in 1991, yet continued to play a key role in the transition to democracy. He was a commissioner on the Independent Electoral Commission, which oversaw the 1994 elections, a member of the technical committee on fundamental rights during the 1993 negotiations, and a member of the panel of independent experts consul-



INSIGHTFUL: Zak Yacoob, the newest member of the Constitutional Court

Picture: MS ROY

ted by the Constitutional Assembly while it worked on successive drafts of what has become the final Constitution.

Yacoob anticipates abortion will be among the most important issues to come to the Constitutional Court in future, but adds that this question must be seen in relation to the broader debate about socio-economic rights and the tension between

liberty and equality. Those who know Yacoob predict he will soon start trying to persuade the court to write shorter, more accessible judgments so that the public will not feel quite so alienated by the legal technicalities typical of the court's decisions. Simple, direct language, even to express complex issues, has always been the hallmark of his legal work.

In the past, Yacoob has played down the difficulties he has had to overcome.

But this week he spoke out strongly against the view that blind lawyers would face insurmountable problems if they were to be appointed as high court judges or magistrates.

Many lawyers discussing his suitability for appointment have said blind people would not do

well in a high court since they would not be able to see witnesses and make a finding about their credibility. The Constitutional Court, where witnesses do not appear, is said to be a better court for such a judge.

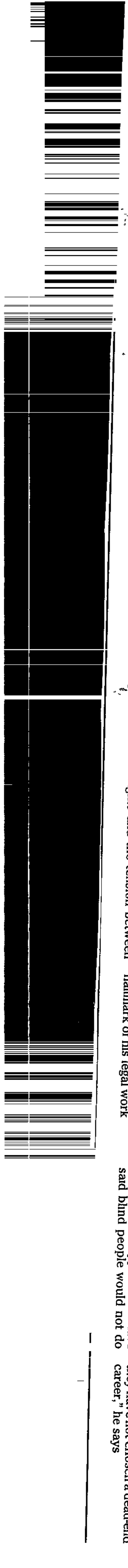
The many witnesses whose evidence has been devastated by Yacoob's cross-examination might disagree.

Yacoob says that making an assessment on witness credibility is more dependent on skill, sensitivity and careful listening than on sight.

"Some judges and cross-examiners draw poor conclusions about witnesses because they lack the skills required, even though they can see."

The only other blind advocate in South Africa, Johan Roos of the Cape Town Bar, hopes his colleague's appointment to the Constitutional Court will begin to break down barriers to the appointment of blind lawyers to the high courts and the magistracy. While he and Yacoob are the only blind members of the Bar, there are a number of blind attorneys and even more blind law students.

"This appointment will do a lot of good. It will give these students a boost and confirm that they have not chosen a dead-end career," he says.



Truth body 'must reveal its position on amnesties'

(252)

THE National Party (NP) called yesterday for the truth commission to disclose its position on the blanket amnesty granted recently to 37 African National Congress (ANC) leaders.

Labelling the amnesties "illegal" and "backdoor", the NP urged the commission to reveal the contents of advocate Wim Trengove's submissions to the committee over the affair.

"In view of the fact that the commission has apparently already received the legal opinion of Trengove, the sudden secrecy seems strange.

"The public has a right to know what the legal opinion is, and the commission is requested to disclose it as soon as possible.

"The NP warned earlier that this blanket amnesty was illegal and invalid," the party said.

The NP also criticised Transport Minister Mac Maharaj for recent statements about the collective amnesty.

"The NP is concerned about statements by Mac Maharaj that the ANC will under no circumstances be deprived of their blanket amnesty. This reinforces the impression that there are senior ANC leaders who deem themselves to be above the law," the NP said — Sapa

BD 22/12/97

CAPE ARGUS, MONDAY, DECEMBER 22, 1997

Truth register records regrets

Ordinary people use e-mail for reconciliation

JOHN YELD
ON THE TRUTH COMMISSION

"My grandfather fought World War 1, my father fought World War 2, I fought Apartheid's Wars, and I pray that my son will be the first male in four generations of my family not to have to fight a war."

That is the message from apartheid-era spy Craig Williamson, who was one of the first people to inscribe a message on the Truth Commission's electronic Register of Reconciliation which came on-line via electronic mail last week.

"The register has been established to give ordinary individuals an opportunity to express their regret at failing to prevent human rights violations and to demonstrate their commitment to reconciliation."

Mary Burton, the commissioner who proposed the register, said it had been established in response to a deep wish for reconciliation in the hearts of many South Africans.

"(They are) people who did not perhaps commit gross violations of human rights but nevertheless wish to indicate their regret for failures in the past to do all they could have done to prevent such violations, people who want to demonstrate in some symbolic way their commitment to a new kind of future in

which human rights abuses will not take place."

The first message recorded on the register is from Sarah Henkeman, a South African studying international conflict analysis in the United Kingdom.

"The path that country has taken into negotiations (Codesas) and conflict resolution (Truth and Reconciliation Commission) has found root in my soul and I dedicate the rest of my life to the pursuit of conflict resolution thanks to all the TRC staff for the fine example they are to us God bless Africa," she wrote.

The second message is from Ulrich Swart of Rivonia, Sandton, who said he was an Afrikaner who had been "grossly misled" by his peers.

"I was led to believe that all was well, both in the Christian and worldly sense. I now realise that this was not so and will do all in my power to make amends for the wrongs of the past and ensure that those who follow me will be exposed differently."

"Therefore they will act differently as I and my family shall now do."

Peter S Rosmarin of Cape Town said he was ashamed of the behaviour of his fellow white South Africans and regretted not having objected to human rights abuses committed against his fellow South Africans.

Peter Lautschner of Port Elizabeth said he

particularly regretted having served in the army in Namibia.

"I am astounded and hurt on hearing the revelations of ex- and current security personnel on the atrocities committed in the past."

"I further am astounded at the same issues committed by the ANC, Azapo and other organisations during this period," he said.

Anne Perner of Cape Town expressed her deepest regrets "for my non-involvement" in the actions during the "bush war".

Deon Stols of Centurion apologised for his actions during the "bush war".

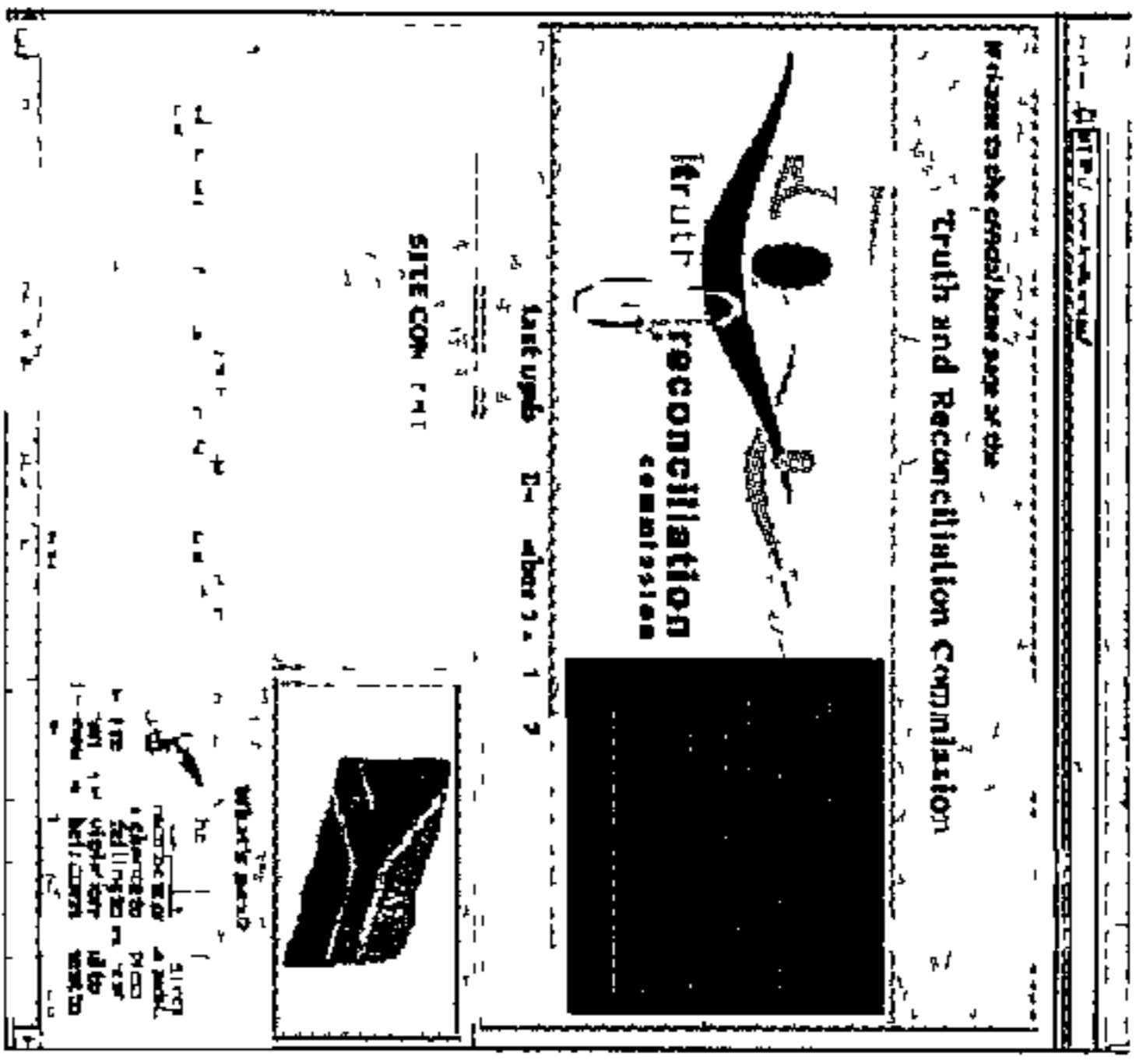
"I am sorry for being a racist during the apartheid years," he said.

Peter Reitemeyer of Cape Town said he had been a member of the SA Defence Force in 1983 and 1985, and although he witnessed police brutalities against the local population in and around Uitenhage, he had not acted.

"To have done anything then would have involved a court martial. For this, I am truly sorry," he said.

Peter Davis of Cape Town also apologised for not reacting.

"I'm sorry that through all the years of 'knowing' what was going on, I, like many other South Africans, was too scared in the knowledge of the draconian rule of the Nationalists, to do something constructive to end the curse on our people," he said.



Daniel du Plessis of Vredehoek apologised on behalf of his family for ill-treating their servants.

"... especially to the family of the woman known by me as 'Liesbet' (Elizabeth) who worked for us for many years when we were living in the Free State."

"She came from Lesotho and lived in a little hut outside our own property. We were living in a mining town outside of Theunissen."

"To this day my parents cannot tell me what happened to her when my father was transferred."

"I know that they would also wish to apologise for not treating her properly."

The Register of Reconciliation can be viewed on the Truth Commission's home page, <http://www.truth.org.za>.

TRC receives flood of victims' statements from KwaZulu

Rush may mean estimate of those qualifying for payouts will have to be revised

By DAISY JONES

The total number of people in KwaZulu Natal who made statements to the Truth and Reconciliation Commission about human rights abuses during the apartheid era shot up by more than 50% during the final week of statement-taking

Mdu Lembede, the commission's spokesman for the region, said KwaZulu Natal and the Free State had received 3 200 victims' statements between December 8 and last Monday's midnight deadline. This final flood had pushed the total number of statements in

(252) the region up to 8 300.

Lembede said the vast majority of last-minute statements had come from Inkatha members whose homes were damaged during the ANC-Inkatha conflict in the KwaZulu Natal Midlands in the early 1990s

Places like Hammarsdale, Port Shepstone and Estcourt produced hundreds of Inkatha statements before the cut-off date, he said.

"Most ANC people involved in the conflict took advantage of the TRC's statement-takers from the start," Lembede remarked

Truth Commission spokeswoman Christelle Terre-

blanche said on Thursday that the commission's KwaZulu Natal office was the only one which was flooded with thousands of victims' statements in the final week.

The Cape Town office, for instance, took fewer than 50 statements in the final week

The rush in KwaZulu Natal follows the announcement in October of the commission's proposed reparations policy

The announcement was met with a call by KwaZulu Natal premier and Inkatha leader Ben Ngubane to Inkatha supporters to make statements to the TRC's Human Rights Violations committee.

After assessing the statements, the committee has the authority to declare victims, who then become eligible for reparation

Victims may qualify for a Government gratuity of R21 700 a year for six years

When the commission announced the policy it estimated that 22 000 people would be declared victims of gross-human rights abuses by the time it submitted its final report at the end of July

But, after the flood of statements from KwaZulu Natal, it's highly likely the figure will probably have to be revised upwards by several thousand

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A guilty plea could result in reduction of sentence

(252)

OWN CORRESPONDENT

JOHANNESBURG: Sentences for sexual crimes could be halved for suspects who plead guilty if the Hoexter Commission's recommendations are implemented.

The Hoexter Commission of inquiry, which investigated radically overhauling South Africa's clogged court system, handed its report to President Nelson Mandela's office last week.

The commission, digressing from its mandate to investigate the civil courts, has recommended a fast-track criminal court, based on the Western Australian model.

In this system, sentences are shortened by 30% for general crimes and 40% for sexual crimes for suspects who plead guilty within two months of their arrest.

This trade-off would cut months off criminal trials in high and low trial courts.

The trade-off is greater for sexual crimes since it saves victims the harrowing ordeal of testifying in court, according to Commission spokesman Mr Robert O'Connell.

He said few criminals served their whole sentences and this gave them an added incentive not to delay the process if, through their access to the entire police docket, they realised there was enough evidence against them.

Lawyers for Human Rights director Dr Vinodh Jaichand welcomed the recommendation, saying "Essentially the idea is a good one in that it allows the criminal justice system to function as a unit, minimises the trauma for the victim and allows options for the accused."

Mr Krish Govender of the National Association of Democratic Lawyers cautioned that the system might give the impression that crimes would not be punished as severely as they should be.

CT 23/12/97

Claims for reparation flood TRC

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Lometa 23/12/97

THE Truth and Reconciliation Commission (TRC) has received about 20 000 claims for compensation stemming from human rights violations under apartheid, thousands more than expected, a spokesman said yesterday.

The TRC, which is investigating apartheid-era crimes, must decide by April whether the applicants are eligible for financial reparations.

The number of claims received by the December 15 deadline exceeded by "a few thousand" the TRC's projections, the spokesman said.

In October the panel recommended the establishment of a R3 million fund to compensate victims of major human rights abuses under apartheid.

Depending on the seriousness of the incidents, victims could receive up to R21 700 per year for up to six years.

The panel's findings will be contained in a final report to be submitted to President Nelson Mandela in late June or early July.

The last two weeks saw a flood of applications, including nearly 3 000 from violence-prone KwaZulu-Natal province - Sapa-AFP

UNSPECIFIED

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TRC hearings the scenes of epic battles to air the truth

ROBERT BRAND

(252)

ARG 23/12/97

Johannesburg – Already in January the themes which would dominate the Truth and Reconciliation Commission process throughout the year became apparent

In KwaZulu Natal, the African National Congress proposed a special amnesty for crimes committed in the course of its ongoing feud with the Inkatha Freedom Party. The plan was vigorously opposed by TRC chairman Archbishop Desmond Tutu and nothing came of it.

In mid-January, the National Party strongly attacked the TRC for what it termed misleading statements about former president FW de Klerk's handling of the 1992 Steyn Commission report, which had named top South African Defence Force officers allegedly involved in third-force activities. The NP's ire was aimed at TRC deputy chairman Alex Boraine, who, the NP contended, was trying to settle old scores against a former political adversary.

Dr Boraine's contention that Mr De Klerk had ignored Judge Steyn's recommendation to investigate allegations of serious wrongdoing against SADF generals, the NP said, was "a calculated attempt by the commission to harm Mr de Klerk".

The feud between the NP and the commission escalated throughout the year and eventually ended up in the High Court. And, although the legal aspect was settled, it sowed a legacy of distrust and continues to bedevil the commission's efforts to persuade Afrikaner leaders – such as Mr De Klerk's predecessor PW Botha – to co-operate.

The amnesty hearing for Dirk Coetzee, former Vlakplaas commander and the killer of Griffiths Mxenge, got underway in Durban on January 20. A week later, an Eastern Cape newspaper reported that five policemen had applied for amnesty for the death of Black Consciousness leader Steve Biko.

The first month of 1997 past, the commission turned its attention to the political leaders who were, nominally at least, in charge of the policemen who had committed these outrages.

On February 4, it sent a long list of questions to P W Botha, the former state president who had invented the "total onslaught" theory and the accoutrements that went with it, such as the State Security Council and the Joint Management System. Although no deadline was set for Mr Botha to answer the questions, it already was clear that the commission was heading for a



Father confessor: Archbishop Desmond Tutu

showdown with the man who was known during his years in leadership as the "Groot Krokodil".

In March, the commission made another breakthrough when amnesty applications by six former security policemen led to the discovery in KwaZulu Natal of the secret graves of 10 activists killed by the security forces.

As with so many other discoveries by the commission, this proved to be the tip of the iceberg. Soon, more secret graves were discovered in the Free State, the Northern Province, at Aliwal North in the Eastern Province, among the latter the grave of Gauteng Premier Tokyo Sexwale's brother Lesetja. By year end, TRC investigators will have uncovered 195 such secret graves.

July saw the start of some of the most harrowing amnesty hearings when the killers of US exchange student Amy Biehl confessed before the TRC.

In the same hearing, the perpetrators of the St James Church massacre, in which 11 died, also pleaded for forgiveness. Miss Biehl's parents attended the hearing and publicly forgave their daughter's killers.

July also saw the start of the so-called "institutional" hearings. First was a hearing on prison conditions during apartheid, it was to be followed by controversial hearings on the medical profession, the media, the legal profession, business and labour, and religious communities.

August started with the announcement that notorious hit-squad commander Dirk Coetzee had received amnesty for the murder of Griffiths Mxenge. The ruling provoked an outcry, especially from the Mxenge family, which threatened to ask the High Court for a review, but didn't.

In September, Winnie Madikizela-Mandela obeyed a subpoena to appear at a closed inquiry by the TRC's investigative unit.

However, she asked for a public hearing and the commission granted her request, setting the stage for a marathon session of two weeks in November during which dozens of witnesses testified about human rights violations allegedly committed by her and members of her "football club".

Among the accusations against her were complicity in the murder of teenage activist Stompie Seipei and two other youths, Lolo Sono and Sibonisa Shabalala.

On the final day, Mrs Madikizela-Mandela denied all the allegations against her. After an emotional appeal by Archbishop Tutu, she conceded "things had gone terribly wrong" and expressed regret, but without accepting responsibility.

In October, Parliament approved a bill to extend the life of the commission to April next year and of the amnesty committee to July next year. The commission also unveiled an ambitious reparations policy, in terms of which victims of apartheid would be paid annual amounts of up to R24 000 for six years. The plan would cost R3-billion.

By November, the commission had finally lost patience with Mr Botha, who refused to appear before it although he was willing to answer in writing to written questions. The commission subpoenaed him to appear at a hearing on December 5.

And so the month, which was supposed to be the commission's last, started with another storm when Mr Botha, referring the commission as a "circus", failed to obey the subpoena.

Archbishop Tutu immediately proceeded to lay criminal charges against him, only to learn that the subpoena was legally defective because it did not specify the time Mr Botha had to appear. A new subpoena was served, calling on the former state president to appear before the commission on December 19 – and again Mr Botha refused.

This time, the commission laid charges and Western Cape Attorney-General Frank Kahn gave Mr Botha until January 2 next year to make representations as to why he should not be prosecuted.

Family court vital, commission finds

(252)

Hoexter inquiry also recommends a new department be set up to administer South African courts

By **CATHY POWERS**
High Court Reporter

The Hoexter Commission has recommended that an independent family court be established and that a counselling service to sustain it should be developed. The commission appointed to overhaul the civil court system also advised that such a family court should be made accessible to the public by charging "very modest tariffs".

The report said. "Since 1983 attempts at legislative reform with a view to the establishment of some sort of family court have been half-hearted and inept."

The family advocate is "in truth, purely a children's advocate", the report states. In its view the family court should be a friendly, informal

court, said commission spokesman Robert O'Connell. Director of the Family and Marriage Society of South Africa (Famsa), Dr Annette van Rensburg, said Famsa had supported the establishment of a family court for the past 10 years since the notion had first been proposed.

"It's absolutely necessary, especially in cases of divorce where it's important to deal holistically with the family," she said.

"The best interests of the child are not always served because the focus is on the parents getting divorced. Often the parents don't have the emotional energy to deal with the children," Van Rensburg said.

What emerged strongly in the Hoexter Commission's first report was the courts' "hostile nature" and the fact

that they are intimidating and not very user-friendly.

As an essential first step towards the establishment of a family court, the Mediation in Certain Divorce Matters Act No 24 of 1987 must be repealed and replaced by a statute to be called the Family

Best interests of child not served

Advocate and Family Counselling Service Act

The commission attacked the pace of litigation in South African courts, saying it was "Victorian in character and totally outmoded". "The system is too slow because the pace of litigation is

dictated by the parties and their legal representatives.

The system is too expensive because delays in litigation inflate the costs of litigation."

Case management and court-annexed alternative dispute resolutions, which would allow a judge to refer matters to a mediation service as part of a speed-up of the court process, are urgently needed in the high courts, the commission reported.

Case management involves a routine control which requires the parties to report to the court at a number of intervals. There must be strict compliance with deadlines.

The administration of courts also came under the commission's spotlight. The administration of the courts and the provision of adequate support services should normally be highly specialised

functions (but) "the courts are administered by the Department of Justice in an unsatisfactory manner", the commission found.

"The system would function more efficiently and productively if South Africa were to have its own department for courts," according to the commission.

"What the commission has learnt overall is that overseas courts are run like businesses by managers. We are working with public funds and we have to run an efficient service to satisfy everyone," O'Connell said.

Members of the Hoexter Commission visited New Zealand, Australia, the UK, the US and Canada in a bid to find workable solutions to speed up South Africa's clogged and inefficient court system

Long arm of the law never rests, not even at Christmas

By **FIKILE-NTSEKHELELO MOYA**

As you and your family settle down to a delicious Christmas lunch, spare a thought for the men and women on call to ensure that justice is done.

"What do you mean this Christmas?" asked a senior magistrate at the Johannesburg Magistrates' Court when asked if they had any special plans for the day. "As with other holidays, in fact 365 days a year, we will have two magistrates and three prosecutors on call on Christmas Day, the

Day of Goodwill and on New Year's Day in case of an urgent bail application."

While magistrates and prosecutors are old hands at the waiting game, bail officers from the newly established pre-trial system will find out what it's like waiting for a call that could come any minute to get to the office.

Bail officers armed with a cellphone and a car are on standby 24-hours a day to help magistrates and prosecutors take decisions on granting bail.

"We will have two bail offi-

cers working this holiday season. As we do on other holidays and Sundays, they will drive to police stations to have interviews with people who have been arrested.

"They will collate their personal information like addresses, next of kin, dependants and whether they are employed or have assets so that the courts can decide whether to grant them bail.

"If there are disputes about the information, bail officers drive to the various places where the information

can be verified," senior bail officer at the court, Warren Matidza said.

He added that officers sometimes had to drive in the dead of night to inhospitable destinations to ensure an accused's right to bail.

Where suspects are charged with sex-related cases like rape and indecent assault, bail officers establish whether the accused live with the complainants and, if they do, alternative accommodation is recommended. Unlike other court offi-

cials, bail officers have to conduct interviews before the court date so that other magistrates and prosecutors who were not on call during the holiday season know what type of suspect they are dealing with when courts resume normal duties, Matidza said.

So next time you complain about the slow wheels of justice, think again.

The process may be slow but at least it continues to operate while most of us are enjoying the goodwill and merit of the silver season.



Greatly reduced sentences proposed for criminals who plead guilty

By **CATY POWERS**
AND **RVAI CRESSWELL**

Sentences for sexual crimes could be nearly halved for suspects who plead guilty, if the Hoexter Commission's recommendations are implemented. The Hoexter Commission of Inquiry, which investigated the radical overhaul of South Africa's clogged court system, handed its report to President Nelson Mandela's office last week.

The commission, digressing from its mandate to investigate the civil courts, has recommended a fast-track criminal court, based on the Western Australian model. In this system, sentences are shortened by 30% for general crimes or 40% for sexual crimes for suspects who plead guilty within two months of their arrest. This trade-off would reduce criminal trials by months in High Courts and Magistrates'

Courts. For sexual crimes the trade-off is greater since it saves victims the harrowing ordeal of testifying in court, according to commission spokesman Robert O'Connell. He said few criminals serve their entire sentences and this gave them the incentive not to delay the process if, through their access to the entire police docket, they realised there was enough evidence against them. But some child welfare workers feel the 40% reduction

for guilty pleas for sexual offences would be far too high, and the fact that these offenders would get a greater reduction than general offenders could send out a negative message about the seriousness of child abuse. Some lawyers are concerned that people could perceive that crimes are not punished as severely as they should be. Child Abuse Action Group spokesman Marinda Friedmann said the changes were

necessary to unclog the overburdened system, but a 20% reduction was more realistic. "The amount of trauma suffered by victims makes it imperative that sentences are a deterrent. We are also worried that sexual offenders would get a greater reduction than other criminals and this could lead to people perceiving a sexual crime as less of a crime," she said. Lawyers for Human Rights director Dr Vinodh Janchand welcomed the recommendation,

saying: "Essentially, the idea is a good one, in that it allows the criminal justice system to function as a unit, minimises the trauma for the victim and allows options for the accused." Krish Govender of the National Association of Democratic Lawyers said the system might give the impression that crimes would not be punished as severely as they should be.

More reports

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MOMENT OF RECKONING: Winnie Madikizela-Mandela, left, puts on a brave face as she arrives for the final day of the truth commission hearing, while an unhappy Xoliswa Falati leaves the proceedings after having addressed the media



DIARY OF

Step by step on a trail of lies leading



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SP7/12/97

EARLY in 1989 the future president of the country, Nelson Mandela, languishing at Victor Verster prison in Paarl, received disturbing news from home.

Family lawyer Ismail Ayob had flown in for an emergency meeting to discuss a grave crisis around the activities of a group of boys known as the Mandela United Football Club with which his wife, Winnie, had surrounded herself. They were involved in murder, torture and abductions and the community was extremely angry. Local leaders had tried in vain to intervene. An envoy had been sent to Lusaka to brief exiled ANC president Oliver Tambo, and urgent action was necessary.

The instructions from Mandela were clear: go home and tell her to disband the club immediately, and to free the abducted boys.

It was not to be. It had all started in October 1988 when rumours began circulating in Soweto that Paul Verryn, the Methodist minister at Orlando West, was a homosexual and was abusing the young men seeking sanctuary from security police.

About mid-November Xoliswa Falati, whose house had been burnt down, arrived with her daughter, Nompumelo, to live at the manse.

The following month Stompie Seipei, a 14-year-old from Tumahole township in Parys, also arrived and was joined a few days later by Katiza Cebekhulu from Kwazulu Natal.

Seipei often went to town and returned with gifts, which aroused suspicions that he was a police agent.

When Verryn went on leave on December 22, he left Falati in charge, but the young men were not happy.

Said one: "Before Falati came to stay with us we shared the housework. After she came she started giving orders and complained to us that we were not helping."

Falati threatened to bring in the Mandela United Football Club to discipline the young men.

Verryn was told about this by the youths when he returned briefly on December 28, and he advised Falati not to carry out her threat.

The following morning, according to

More details of the last weeks of Stompie Seipei and Dr Abu-Baker Asvat emerged at a special truth and reconciliation commission hearing in Johannesburg this week. CYRIL MADLALA pieces together the evidence

Falati, Cebekhulu, told her that Verryn had attempted to rape him, and Cebekhulu threatened to kill the minister. Falati went to Winnie Madikizela-Mandela's home, which was nearby, and reported Cebekhulu's story, as well as claims that Verryn was abusing the other young men.

Madikizela-Mandela had Cebekhulu fetched from the manse. He confirmed the allegations, after which Madikizela-Mandela ordered that Thabiso Mono, 20, Gabriel Mekingwe, 20, Kenny Kgase, 29, and Seipei be fetched from the church premises.

Madikizela-Mandela's conviction for kidnapping arises from this incident, because the court found that they had been removed against their will and taken to Madikizela-Mandela's house, where she also provided shelter for the boys known as the Mandela United Football Club.

These are the boys who went with Falati to abduct the four from the manse.

When the young men arrived at Madikizela-Mandela's house they were taken to a room at the back of the main building.

Madikizela-Mandela asked the four why they were sleeping with a white man, and asked Seipei why he was an informer as had been alleged by Falati.

When the youths denied the allegations, Madikizela-Mandela started to assault them. Members of the football club, Cebekhulu, Falati and her daughter joined in.

Madikizela-Mandela says that she took Cebekhulu to Dr. Abu-Baker Asvat

DEATH

to a child's decaying corpse

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to get medical proof that he had been sodomised

She maintains that she then left for Brandfort

However, according to records at the surgery, Cebekhulu only visited Asvat once — on December 30

Albertina Sisulu, who was a nurse at Asvat's clinic, admitted in a BBC television documentary that it was her handwriting on the card that reflected that Cebekhulu saw Asvat on December 30

This week she told the commission that she had made a mistake, and that the writing on the card was not hers

Everybody else who was at Madikizela-Mandela's house on December 29 confirms that she remained in Soweto and participated in the assaults

According to evidence, she used a sjambok, and Stompie was the most severely beaten because it was alleged he was a spy

The following day, another football club member, Guybon Gabela, arrived and also assaulted Sepei, who was already badly injured, for being a spy

According to Jerry Richardson, the club's "coach", he discussed Sepei's case with Madikizela-Mandela and she said he should see what could be done

Cebekhulu claimed that Madikizela-Mandela was worried about Sepei's condition and phoned Asvat who came to examine the injured youths

Cebekhulu says Asvat observed of Sepei "This boy is seriously ill. He could die at any moment. I cannot save him. You must take him to hospital."

However, everybody else, including Madikizela-Mandela and the young men who were assaulted, denies that Asvat came that day

That night, Sepei was killed

Richardson says that, after asking Sepei to write down his home address so that he could take him there, he realised that the boy would die anyway, and, carrying out Madikizela-Mandela's orders, he took Sepei to a spot near a railway line

Together with another club member, Slash Mtshali, they laid the boy down and took turns to use garden shears to kill him

Richardson says they slaughtered Sepei like a sheep, but a post-mortem shows that his throat was stabbed rather than slit

Cebekhulu says he saw Madikizela-Mandela stab Sepei twice with a shiny object

"She was carrying something in her hand which she lifted high and plunged down into a body that I identified as being Stompie"

Richardson has applied for amnesty for the murder

By this time, the whole township was abuzz with rumours about what was happening at the home of Nelson Mandela, the revered hero who was in prison

On January 13, Mandela Crisis Committee members Dr Frank Chikane, Aubrey Mokoena, Sister Bernard Ncube and Sydney Mufamadi visited Madikizela-Man-



HOLDING THUMBS: Winnie Madikizela-Mandela gets a kiss from one of her granddaughters during the hearing

dela to find out about the youths, but she insisted that they had not been kidnapped and were happy at her house

Over the next few days the committee and Ayob visited Madikizela-Mandela to try to persuade her that the youths be released and that the club be disbanded. But they failed, despite a visit by church leaders Father Smangiso Mkhatsywa, the Rev Otto Mbangula and Bishop Manas Buthelezi

The distressing news reached Mandela in prison and, through Ayob, he told Madikizela-Mandela that he wanted the members of the football club removed from the premises the following day

On January 15, Ayob returned to Madikizela-Mandela, but was unsuccessful in securing the release of the young men

The crisis committee decided to seek assistance from the ANC in Lusaka, and Chikane received a rare telephone call from ANC president Oliver Tambo, who was concerned about reports about the missing boys

He asked Chikane to go to Madikizela-Mandela's house immediately and tell her to release the captives

Although Tambo had said he had spoken to Madikizela-Mandela, who was expecting Chikane, five hours of discussions did not produce the youths

Madikizela-Mandela told the commission this week that she received no such call from Tambo

On January 16, about 150 people

representing various communities gathered in Soweto to discuss the crisis, and resolved that she be approached to produce Sepei, that she be isolated and that the club be dismantled forthwith, or the community would do it

That day the young men were handed over to community leader Dr Nthato Motlana and freed. They told how they had been abducted and had been beaten at Madikizela-Mandela's house

They reported that Sepei had been taken away and they did not know what had happened to him

Cebekhulu also arrived at the meeting and said he thought Sepei was dead

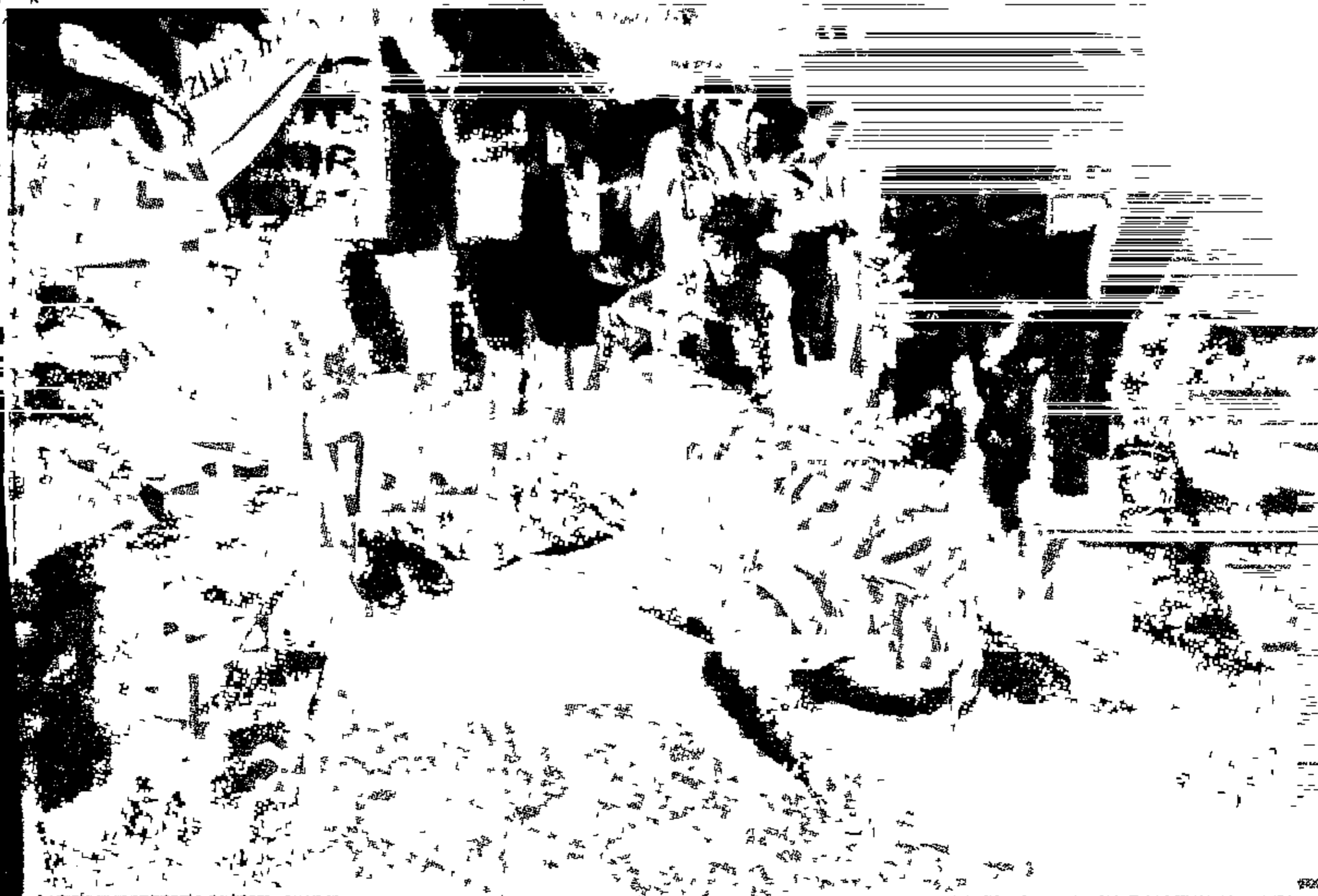
In the presence of Verryn, the youths withdrew the allegation that he had sodomised them

On January 27, Asvat was murdered by Nicholas Dlamini and Zakhele Mbatha

Dlamini told the commission that, the day before the murder, he and Mbatha were promised R20 000 by Madikizela-Mandela for killing Asvat. Cebekhulu has said he was instructed by Madikizela-Mandela to show the pair Asvat's surgery, but the details of exactly how this came about are buried in several contradictory statements made by the killers

On February 15 1989, Major Jaap Joubert announced that the body that had been found infested with maggots on January 6 was that of Sepei

The wife of the future president had been implicated in murder



GETTING DOWN: Militant former Umkhonto eSizwe cadres toyi-toyi and demonstrate their support for Madikizela-Mandela outside the ver in Mayfair, Johannesburg, for the special hearing

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**CLOCKWISE
FROM TOP
LEFT: An
exhausted
Archbishop
Desmond
Tutu; Jerry
Richardson
and a fellow
prisoner
share a joke;
Dumnisa
Ntsebeza
enjoys a
break; and
Joyce Seipei
chats to a
well-wisher**

**Pictures:
NICKY DE BLOIS
and RAYMOND
PRESTON**

SOMEWHERE beneath a mountain of lies, half-truths, fabrications and hallucinations lies the truth that only Winnie Madikizela-Mandela knows

For beyond the theatrical performances of Jerry Richardson, the grief of Joyce Seipei and the moral decay of some politicians who testified, lies the real reason why after nine days in search of the truth, it remains as elusive as ever

The players in this week's drama at the commission's hearings into the Mandela United Football Club were all there for different motives: the lawyers to establish Madikizela-Mandela's prima facie culpability; the convicted murderers to try their luck by claiming political motives; and Archbishop Desmond Tutu to heal the wounds of past conflicts

But for the hundreds of journalists who arrived from every corner of the globe, and the millions of South Africans who sat glued to their television sets, it was all about the political fate of Madikizela-Mandela, the one-time torchbearer of the liberation struggle, and President Nelson Mandela's former wife

At the end of it all, the question that begged an answer was whether Winnie Madikizela-Mandela had done enough to restore her image after evidence linked her to horrendous violations of human rights

It is understanding each player's motives that determines the success or otherwise of the past week's exercise

For Tutu, the first prize would have been for Madikizela-Mandela to have taken the stand and expressed genuine regret about things that went "horribly wrong"

The archbishop pleaded, "I beg you, please, have not made any particular finding about what happened. You are a great person and you do not know how your greatness will be enhanced if you said, 'sorry, things went horribly wrong'."

That Madikizela-Mandela, after consulting her legal adviser, did offer apologies to the families of Dr Abu-Baker Asvat and Stompie Seipei's mother, Joyce, would have pleased Tutu

Her gesture, however, seemed to be more a courtesy to Tutu than what she really wanted to do

The kiss that Seipei's mother planted on Madikizela-Mandela's lips appeared more genuine than anything else. Tutu could have hoped for in terms of reconciliation between victim and perpetrator. The mother of the young activist, who was murdered by football club

Winnie slams the lid on the ugly cauldron of truth

This week's Truth and Reconciliation Commission inquiry into Winnie Madikizela-Mandela failed to clear her name. CYRIL MADLALA reports on whether it did enough to keep her political career alive

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and proceeded to make a spectacle of the proceedings. He told the commission that he had not been involved in politics and had only been a soccer coach. Asked why he cited a political motive for the murders, he is seeking amnesty for, he said, "I am trying my luck." The hall echoed with laughter

But why these proceedings had to be convened in the first place is no laughing matter, for Madikizela-Mandela at least

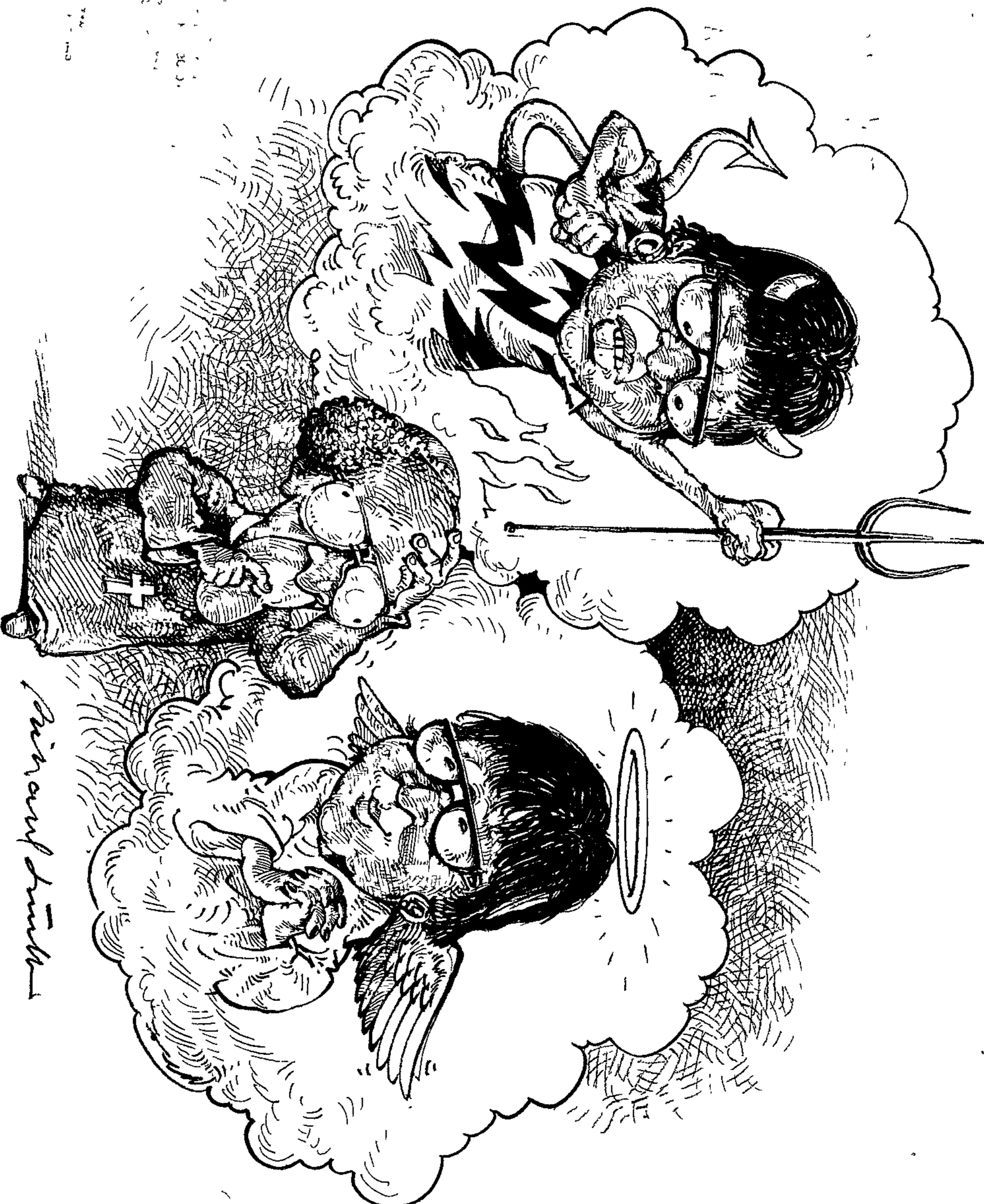
She insisted on a public hearing in order to face her accusers and once and for all deal with all the allegations that have hounded her since the late 80s. If it's doubtful that she realised

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Mandela had been portrayed as the devil herself. When it was her turn to defend herself, the response was simple: the allegations were "ridiculous and ludicrous, hallucinations and lunacy." The witnesses were described as pathetic liars. They had contradicted each other's testimony, while others, she said, she had never even met

She was formidable when she took the stand, not so much because she was convincing when she stood by her denials, but because the lawyers who were supposed to extract answers from her seemed overawed

he said "I'm thinner than s like"



publication of an interview in which she launched a bitter attack on the ANC

She suggested to the commission that there was a political campaign against her

"My political detractors have used means fair and foul to undermine my stature. This subpoena could have been served a year ago. It is an unhappy coincidence that this is happening a few days before the ANC national conference," she said

"It is part and parcel of that agenda. A whole lot of thi-

cusSED a certain document with him. She referred to Mutamadi's "cowardly" action

But for all her troubles to project herself as an innocent victim, Madikizela-Mandela failed on an important score

Just as she could provide no evidence to show that linking her to the excesses of the football club was merely part of the former government's dirty tricks campaign, she failed to use the hearing to demonstrate

that she was a victim of a campaign by SA's new rulers

She did, however, indicate that she had not applied for amnesty because after discussing the matter with Deputy President Thabo Mbeki, she had been under the impression that her name would be included when the ANC leadership took collective responsibility for what had been done in the name of the struggle

That her name was excluded

could, in her mind, be an example of the political campaign she alluded to

It is unlikely that the evidence heard by the commission this week, riveting as it was for the media, will affect Madikizela-Mandela's support from the grassroots she appeals to. As her supporters, in ANC Women's League uniforms, sang outside the hall this week about her, "Your sin is your bravery"

The posters on the walls said

"People's recommendation SA vote Winnie 1999 state president"

While her performance will not have necessarily eroded that constituency, she will know that the questions that remain unanswered after this week's hearing will haunt her political ambitions

It is the truth that is as yet unknown which will eventually set her free — if she is as innocent as she claims to be

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coach Richardson, was more willing to open her arms to be hugged by Madikizela-Mandela although she had wept painfully with each description of how her son's life ended. For the lawyers, who sought to confirm that Madikizela-Mandela had a hand in numerous murders, the motive was to establish that she was guilty, despite Tutu's assurances that the hearing was not a court of law. After the hearings adjourned, former Mass Democratic Movement leader Azhar Cachala told journalists that there were sufficient grounds for prosecution, especially in the case involving the disappearance of Soweto youth Lolo Sono.

Then there were the likes of Richardson. He placed his miniature football on the table what was in store for her when the commission obliged witness after witness, people who had been close to her, bared their souls and spoke of a vicious woman who not only physically assaulted children, but used henchmen such as Richardson to kill. Tales of infidelity abounded in her backyard were recounted by former friends and victims. Long-forgotten police files were drawn, secret intelligence communications were quoted, and witnesses who had disappeared rather than testify against her when she was convicted for kidnapping were located to tell the commission what the judge did not hear.

By the end of the testimony against her, Madikizela-

have given my final answer if you don't like it, that's too bad, or: "Don't talk to me like that." She stood by her story that she was not in Soweto when Sepei was killed, and insisted that she had nothing to do with the murder of Dr Asvat.

The smile on her face at the end of the hearing, as she proceeded to shake her inquisitors' hands, was one who had triumphed.

If her motive for insisting on a public hearing had been merely to deny everything, she should be pleased with her performance. After all, the allegations were nothing new to her.

Politically, however, she cannot have done very well, and insisting on a public hearing may have backfired, particularly because it came so soon after the

that happened here, were not connected to this hearing. But as FRC deputy chairman Alex Boraine pointed out, she herself had asked for an open hearing, and this had been the earliest it could be arranged. What that statement by Madikizela-Mandela confirmed was that she had hoped to use the hearing to project herself as a victim who was being hounded for political reasons.

Her attack on Cachala and on Murphy Morobe, the MDM leaders who were bold enough to denounce her actions during the hearing, is further evidence of her approach.

She also had daggers out for Sydney Mufamadi, the Minister of Safety and Security, who told the commission that she was lying when she said she had dis-

Winnie's saga: blow by blow

CHIARA CARTER presents a catalogue of accusations against Winnie Madikizela-Mandela with her replies to each of these in an attempt to clarify the various conflicting accounts

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NINE DAYS of testimony in the Winnie Madikizela-Mandela hearing at the TRC, many confusing and sometimes contradictory accounts were heard of just what lay behind a string of assaults, abductions, and murders linked to people associated with the Mandela United Football Club.

■ **The Mandela United Football Club**

THE TRC is general consensus that the club was started in about 1986 as a way to organise youth.

Coach Jerry Richardson said the team played about eight matches.

Evidence before the TRC indicated that youths associated with the Mandela household were involved in a "reign of terror" including abductions, assaults and murders from 1987 to 1989.

The TRC heard that the Mandela home in Orlando was burnt down by students from Dalwonga in revenge against the MUFUC.

Madikizela-Mandela said the MUFUC was disbanded in mid-1987 on the instruction of Nelson Mandela.

Displaced youths continued to stay in her yard and they continued to wear the MUFUC tracksuits on occasions when they accompanied her to public events, having no other decent clothes.

The boys did not act as her security guards. She did not interfere in their lives, nor they in hers.

No proof had been presented to her that the youths were involved in criminal activities such as rape and assault, nor was she given evidence that they included informers.

She had not refused when the Mandela Crisis Committee, community organisations, and the Mass Democratic Movement demanded the youths move, but had been concerned that there was no alternative accommodation.

■ **The Disciplinary Committee**

The TRC heard that complaints brought to the Mandela house were recorded in a book and then investigated. Those accused were then brought before a disciplinary committee run by Sizwe Sithole and Vincent Sonwabo. Punishment was meted out by the youths Zinzi Mandela was alleged to have been a part of the committee.

Madikizela-Mandela said the first she heard about such a committee was at the TRC Section 29 hearings, and she knew nothing about a register of complaints.

■ **The death in October 1987 of**

SEFAKO aka Vuyisile or Comrade V died in a car accident.

The TRC heard from Thami Hlatswayo suggestions that the accident was arranged because Sefako had fallen foul of Madikizela-Mandela.

A neighbour, Susan Mearpe, who called an ambulance was gunned down with an AK47. Hlatswayo said this was done by Peter Diamini.

Madikizela-Mandela said Sefako died in a car accident, that it was ridiculous to suggest that the MUFUC then went on a revenge attack. She did not know Thami Hlatswayo.

■ **The death of two ANC cadres and a policeman at the home of MUFUC coach Jerry Richardson on 9 November 1988**

RICHARDSON told the TRC he had betrayed the cadres to the police. He could not explain why his handler, Sergeant Pretorius, died after entering the house alone.

Richardson said after his release by police he had been accused by members of the Mandela household of being an informer but the blame then shifted to Lolo Sono, a youth who had acted as a courier between the cadres and Madikizela-Mandela.

■ **The disappearance and presumed subsequent murder of Lolo Sono and his friend, Siboniso Tshabalala in November 1988**

SONO's father, Nicodemus, said he had last seen his son, badly assaulted, in the Mandela minibus which came to the house to fetch clothes and papers. Sono said he pleaded with Madikizela-Mandela to release his son.

A statement obtained by police from driver Michael Seakamea corroborates this claim. Seakamea also told this to a journalist and an investigator from the TRC but could not be traced to give evidence at the hearing.

Katiza Cebekhulu said he had heard Madikizela-Mandela order Richardson to fetch Sono and had seen her participate in assaulting the youth.

created with the MUFUC had been searching for Tshabalala, who subsequently disappeared.

Richardson said he saw the two boys assaulted by a group of youths from the Mandela house, and that the order to kill the two came from a cadre called Sonwabo, who had said the command was given by Madikizela-Mandela.

Richardson said he and two other men murdered the boys.

Madikizela-Mandela said she last saw Sono on November 9 when she dropped him near Richardson's house. She did not know Tshabalala.

■ **The false accusations against Bishop Paul Verryn**

ALL witnesses told the TRC that the allegations made against Paul Verryn were false.

Katiza Cebekhulu claimed he was sent by Madikizela-Mandela to the manse to set up Verryn.

He had told Falati that he had been sexually assaulted and she then went to Madikizela-Mandela, setting in motion the events which led to Seipel's murder and the serious assault of three other youths all of whom had fallen foul of Falati at the manse.

Madikizela-Mandela said the first she knew of Cebekhulu was when Falati told her about a boy who was so disturbed that he was threatening to attack Verryn.

Madikizela-Mandela took Cebekhulu to Dr Abubaker Asvat because she was concerned about the youth's mental health.

The allegations she subsequently made against Verryn were based on the information supplied by Xoliswa Falati.

■ **The kidnapping of four youths and the subsequent murder of Siboniso Tshabalala**

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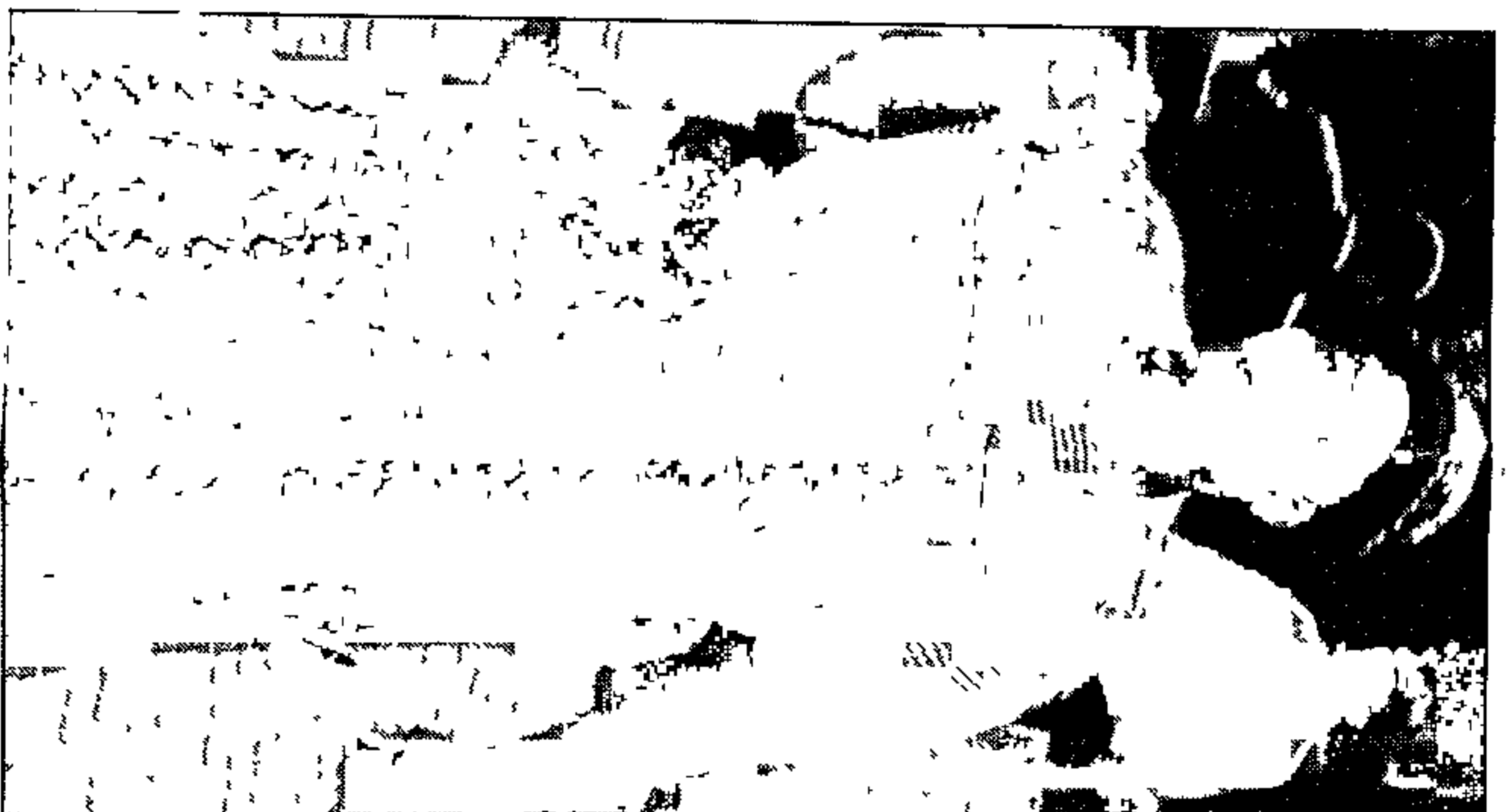
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STILL IN THE DARK. Stompie Seipel's mother and Madikizela-Mandela embraced at the close of the hearings this week despite uncertainty about what really happened to the child activist.

Falati told Madikizela-Mandela that Katiza Cebekhulu had alleged he was sodomised by Rev Paul Verryn.

Falati, Richardson and a group of youths then abducted Stompie Seipel. Kenny Kgase, Tshabiso Momo

in a minibus driven by John Morgan and took them to Madikizela-Mandela's home on December 29.

There they were taken to a back room and Stompie was accused of being an informer.

All the witnesses who testified said Madikizela-Mandela was present when the assault on the four began, and said she took part in the initial beating.

Morgan, Falati, Richardson and Cebekhulu claimed Madikizela-Mandela knew about the poor state of Seipel the following day but Mekgwe denied this.

Morgan said he was instructed to get rid of Seipel by Madikizela-Mandela. He refused.

Cebekhulu said he saw Madikizela-Mandela stab Seipel that night.

Richardson said he and a MUFUC member took Seipel away from the house and that he then murdered Seipel by "slaughtering" him with a blade. He claimed he was acting on Madikizela-Mandela's orders.

Mekgwe said Seipel vanished at night after being taken away by Richardson. A pathologist's report said Seipel was stabbed and not slaughtered.

The TRC heard testimony about protracted negotiations between community leaders and Madikizela-Mandela for the release of the boys. It took ten days for Dr Nthato Mofhane to secure their freedom.

Madikizela-Mandela said the boys were fetched at the initiative of Falati. She was in Bradford on the night of December 29. A doctor's card which placed her in Johannesburg on December 30 was incorrect.

She denied holding back on releasing the youths until their injuries healed. She had not known about the 29 deaths until the 31st and

the media it was "judicious" to claim she was involved.

■ **The murder of Dr Abubaker Asvat on January 25, 1989**

THE two convicted murderers Cyril Mbatha and Diamini claimed that they were hired to do the job by Madikizela-Mandela. Their accounts were the latest in a long series of statements made by the pair.

The TRC also heard that Richardson had twice visited Asvat just prior to his death.

Madikizela-Mandela had taken Cebekhulu to Asvat on 30 December and was told to return in the new year so Cebekhulu could be referred to a specialist.

Falati and Richardson claimed that Asvat had been called to the Mandela household to treat Seipel and had said the boy needed hospitalisation. Cebekhulu said he had been taken back to Asvat in January and there had been a blazing row with Madikizela-Mandela, when the doctor refused to say he had been sodomised.

Madikizela-Mandela said the last time she saw Asvat was in December. She had not returned with Cebekhulu in January despite his being the only evidence that she had that Verryn was sexually molesting youths. This was because events had overtaken matters. She could not recall attorney Krush Naidoo attempting to lay a charge against Verryn on Cebekhulu's behalf.

■ **The murder of Tholeke Diamini and the assaults on his sister, Phumzile; the attempted murder of Lerathodi Ikhanenge and the assault of Gift Ntombeni**

DLAMINI was murdered in October 1988 by Sizwe Sithole, an ANC cadre who was the father of Zinzi Mandela's child. He was killed after he gave a statement to police.

The TRC heard that MUFUC members, Lerathodi Ikhanenge and Gift Ntombeni, fled from the scene. Ntombeni said Sithole had subsequently tried to kill him.

Gift Ntombeni and Ikhanenge

they were accused of being informers and assaulted. Ikhanenge then escaped.

In January 1989 Richardson and a group of youths attempted to murder Ikhanenge. Richardson said this was on Madikizela-Mandela's order. Morgan said he heard this instruction being given and Falati said she heard Richardson report back to Madikizela-Mandela.

Phumzile Diamini said she was assaulted twice while she was pregnant. The first occasion was by Madikizela-Mandela who was unhappy about Diamini's relationship with a youth called Shakes. The second time by MUFUC members for several hours on the instruction of Madikizela-Mandela.

However, Richardson said he and Madikizela-Mandela had stopped Madikizela-Mandela said she recalled Phumzile Diamini but had never assaulted her. She had heard Tholi was killed by Sithole but it was certainly not on her instructions.

Madikizela-Mandela said she gave no order to kill Ikhanenge.

■ **The death of Finkie Msoni in an attack on the home of Dudu Chhli**

LERATHODI Ikhanenge had left the MUFUC. His friend, Sibusiso Chhli had refused to join the club.

Sibusiso's mother, Dudu, had been assisting Albertina Sisulu shelter youths who left the Mandela household.

Dudu Chhli said she had been told that during a meeting at Madikizela-Mandela's office a death sentence had been passed on her son by Madikizela-Mandela.

Immediately thereafter, she noted that her house was being monitored by armed youths.

A MUFUC member, Maxwell Madondo, was killed by Sibusiso Chhli when Chhli was attacked. Sibusiso said Madikizela-Mandela drove past the scene in a red Audi. This was also claimed by Morgan and MUFUC member Gift Ntombeni, who

they were accused of being informers and assaulted. Ikhanenge then escaped.

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Dudu Chhli said she had been told that during a meeting at Madikizela-Mandela's office a death sentence had been passed on her son by Madikizela-Mandela.

Immediately thereafter, she noted that her house was being monitored by armed youths.

A MUFUC member, Maxwell Madondo, was killed by Sibusiso Chhli when Chhli was attacked. Sibusiso said Madikizela-Mandela drove past the scene in a red Audi. This was also claimed by Morgan and MUFUC member Gift Ntombeni, who

G M B I

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City Press

to the office of Madikizela-Mandela, Katiza Cebekuhlu, Ntombeni said he had been told the instruction came from Madikizela-Mandela

Dudu Chuli was detained by police when she returned from a trip abroad That night her house was set alight and her niece, Frinke Msomi, died in the attack Madikizela-Mandela said she had not been at the scene when Madondo was killed and did not have an Audi at the time She had the greatest respect for Dudu Chuli She knew of no incidents where boys like Sibusiso were forced to join the club and knew nothing about the attack on the Chuli house

Philip and Peter Makhanda kidnapped and tortured in 1988 after they were accused of being informers of FIP Ntombeni testified that this was done by MUFIC members and that Zinzi Mandela had carved ANC on the brothers' bodies The murder of Sicoelo Dloomo in January 1988 Only Falati claimed this was ordered by Madikizela-Mandela

A man called John Dube has claimed amnesty for the murder without any mention of Madikizela-Mandela The murder of Khuti Zwane on December 1988 RICHARDSON said Zwane was labelled an informer and killed after being assaulted This was done on the instruction of Madikizela-Mandela

He said Zwane was stabbed but according to a pathologist's report she was shot The murder of Morgan Bamhisa in 1987 LITTLE information came out about this murder at the hearing

Sizwe Sithole died in police detention in 1990 He allegedly hanged himself after making a state-

Cap00076



NOT MY SCRIPT... Says Albertina Sisulu, referring to a medical appointment card, with Katiza Cebekhulu's name on it, found at the late Dr Abu-Baker Asvat's clinic. Cebekhulu said Winnie Madikizela-Mandela murdered Stompe Sepele

police interrogated him, he confessed that he and Dibeakwane had decapitated the dead woman. Minsi said Komane's body was exhumed - and the head, legs and arms were found to be missing. The whereabouts of the other body parts has not been established.

The five have pleaded not guilty. Bail was denied.

... of medicine allegedly made out of human flesh which has gone to the forensic laboratory for testing," said Minsi. The two men appeared at the Accrains magistristrate's court last week and were not asked to plead.

'Victims' may prosecute Winnie, if State doesn't

Tutu too hard on lawyers, and soft on Sisulu ...

BY DESMOND BLOW

LAWYERS representing some of the alleged victims of Winnie Madikizela-Mandela and her former football team are considering bringing a private prosecution - should the Attorney-General fail to bring charges against her.

Anthony Richard, who represented Jerry Richardson and others, at the Winnie Madikizela-Mandela inquiry, told City Press that despite the "shortcomings" of the TRC hearings, there was now "sufficient evidence" to bring a successful prosecution.

"Commissioner George Fiyaz told the commission that no charges had been brought against Madikizela-Mandela because there had been insufficient evidence, but he can no longer say that, and if the Attorney-General refuses to bring a prosecution, I and other lawyers are prepared to recommend a private prosecution," said Richard.

Richard complained that witnesses, including Madikizela-Mandela, were not properly tested or challenged during the proceedings.

"With due respect to Archbishop Desmond Tutu, we disagree that the cross-examination of witnesses should

have been limited to the extent it was," he said.

□ There has also been criticism of the "gentle handling" of the controversial statements by Albertina Sisulu about the medical card filed at Dr Abu-Asvat's clinic.

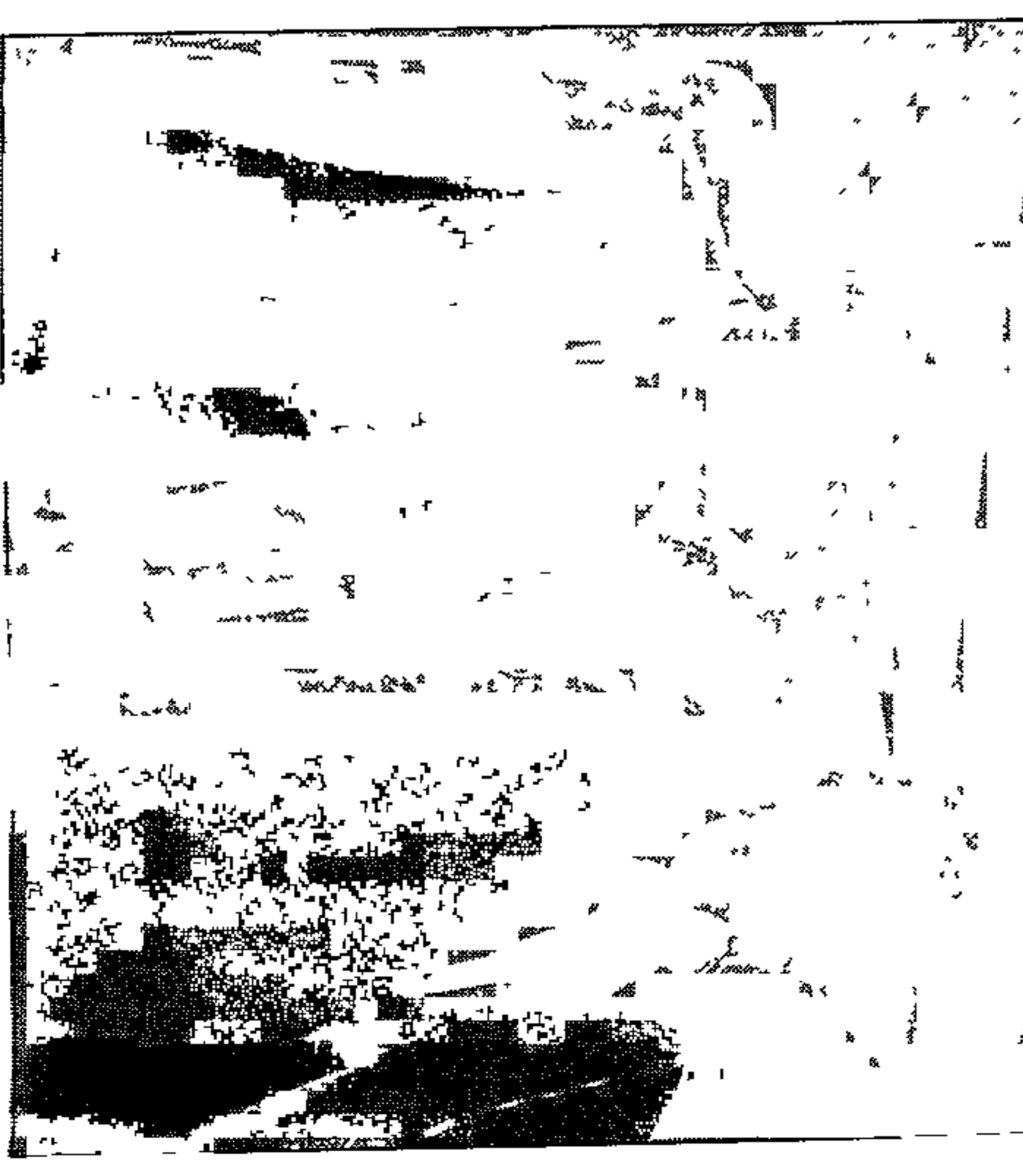
This was an important element that would have proved whether Madikizela-Mandela was in Soweto, as many witnesses claimed, or in Brandfort, as she claimed.

Sisulu said in a BBC-TV interview that it was her handwriting but contradicted this in her testimony to the truth and reconciliation commission this week.

She was recalled and said she had "made a mistake" in the TV interview.

Investigators said a handwriting expert should have been called in.

Norman Kades (representing the Asvats) was not a handwriting expert and his acceptance of Sisulu's denial should be ignored, City Press was told.



HERE I COME!... Winnie Madikizela-Mandela arrives at the TRC

Stuff movies and novels are made of

Most people think

Winnie is innocent
(252) 277/12/197

BY CHIARA CARTER

The labyrinth of fact and fiction which has emerged after nine days of gruelling testimony at the Winnie Madikizela-Mandela and Mandela United Football Club TRC hearing into alleged human rights violations has yet to be unravelled

PIES, love affairs, underground missions, kidnappings, shootouts and conspiracies: the very stuff of films and novels was the script of the Madikizela-Mandela Truth & Reconciliation Commission (TRC) hearing.

But the truth the commission seeks was less apparent than a smog of "smoke and mirrors".

After nine days of testimony, a labyrinth of facts and fictions had piled up. The tangled web of events which led to the death of at least 10 people, accused of being informers in the circle surrounding the extended household of Madikizela-Mandela, needs to be unravelled.

The pattern was that a string of people were labelled informers and then assaulted or murdered by people associated with the Mandela United Football Club (MUFC) between 1987 and 1990.

Madikizela-Mandela flatly denied involvement in any atrocities and any attempt at a cover-up.

The theme was betrayal – often falsely – of being informers were killed, and the revelation that at least four people close to Madikizela-Mandela at some point had in fact been working for the apartheid state.

The TRC heard about Stratcom operations to smear Madikizela-Mandela and her daughter Zinzi. Then there was the betrayal of Madikizela-Mandela by those whom she once trusted, with accusations ranging from the plausible to the insane.

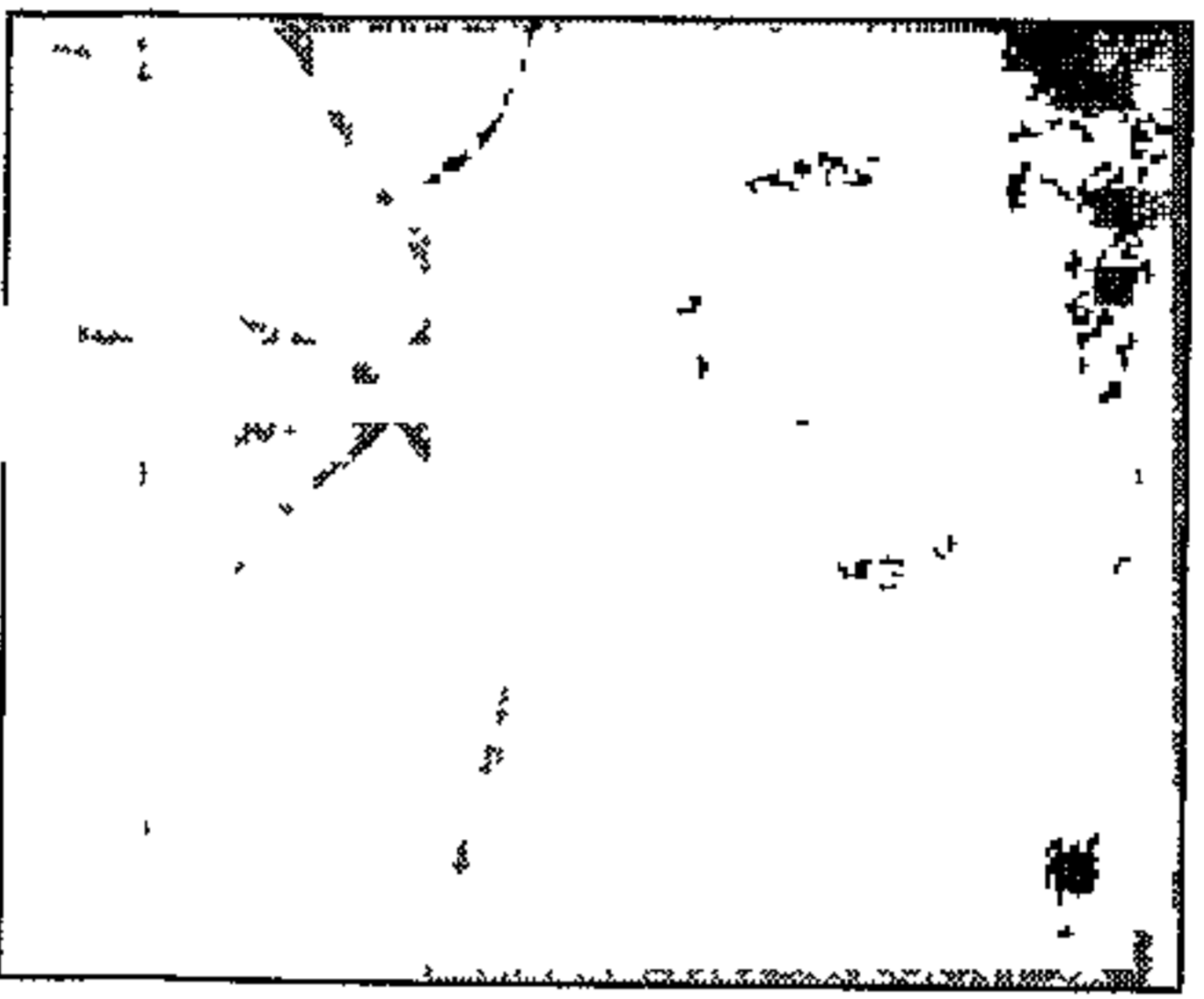
At the centre of many of the bloody events was the bizarre figure of former MUFC coach Jerry Richardson whose testimony ranked as theatre of the absurd.

Richardson's ramblings made little sense and the TRC struggled to extract a coherent account.

He was obsessed with depicting



XOLISWA FALATI... wild-eyed and contradictory



JERRY RICHARDSON... clutching at a soccer ball

the woman he calls "Mummy" as an all-controlling, evil figure, an archetypal witch, and the policeman who investigated the Dr Abu-Baker Asvat murder, Senior Superintendent HT Moodley, as the other villain of the piece.

But under sharp questioning Richardson revealed that it was he who was the villain, confessing to the betrayal of two cadres living at his house in return for the promise of a car.

Whether Richardson is insane, semi-retarded or was playing to the gallery is difficult to assess. But, from his arrival in the Mandela household in November 1988, his

has been no corroboration for the claim that this was done by moonlight by Madikizela-Mandela.

Another bizarre sub-plot was the role of police Madikizela told the TRC her home had been like a "police station". Just what the police were doing and who were informers is still to be uncovered with members of the Soweto security police yet to be questioned.

Then there was the dead askari, Johannes Mabotja aka Themba. The TRC heard testimony from Mabotja's "girlfriend", Eyodla Nkandimeng, that she thought he was Madikizela-Mandela's lover and that Madikizela-Mandela would not listen when she warned that Mabotja was a police agent.

Madikizela-Mandela said Mabotja did not live at the house but visited and was about to blow the whistle on Vlakplaas when he was detained by security police.

Mabotja was subsequently murdered by Vlakplaas commander Eugene de Kock.

The hatred felt by these members of Madikizela-Mandela's extended household was not shared by many others in the audience, which included former MUFC members and supporters from the Women's League as well as family and friends.

The long, gruelling testimony was often painful for victims and their families. Gruesome accounts of murder and mayhem saw Nicodemus Sono wipe tears from his eyes and a sobbing Joyce Seipei, mother of Stompie, flee the room.

Whatever one's views, who could fail to feel sadness at the sight of one of the world's most famous women, idolised for her role in the liberation struggle, accused of such terrible deeds before a world audience?



ARCHBISHOP DESMOND TUTU... Commission chairman

There was the sorry spectacle of many of the youths who testified Asvat's killers, Cyril Mbatia and Thulani Dlamini and convicted murderer Charles Zwane, struggling to provide coherent accounts and stumbling over their latest versions of events were indeed examples of a "lost generation".

The more pathetic were many of the politicians and community leaders whose failure to act decisively at the time was equalled by their attempts of prevarication at the TRC.

Madikizela-Mandela's testimony, coming after the extraordinary Richardson, should have been her moment of glory.

Her defence was simple: it was all rubbish.

Much of what Madikizela-

Madikizela said was plausible — that she did not know what was happening, least of the extent to which her circle was infiltrated by police informers.

However, Madikizela-Mandela's blanket denials did not always convince and she struggled to explain why she did not exercise more control over the youths living in her yard.

Madikizela-Mandela repeatedly dismissed the charges against her as "ludicrous", "ridiculous" and "misleading" or "I cannot recollect that".

She attacked her accusers as mad, bad and hars — not always without justification. One-time driver Joe Morgan was accused of being senile. She attacked Sydney Mufamadi for withholding information about Cebekhulu's role as an informer and

said the MDM leaders who testified, Azhar Cahcaba and Murphy Morobe, represented a cabal.

At the end of the day, the TRC has to make sense of it all — not only who did what and who ordered what but who was responsible. It is here that Madikizela-Mandela is most likely to face blame. As a leader she had a moral responsibility to act when the first rumours about the MUFC began circulating, she did not and in so doing betrayed herself and the struggle.

It is against this background that TRC chairman Archbishop Desmond Tutu requested Madikizela-Mandela, who he called an icon of the struggle, to acknowledge things had gone horribly wrong and apologise for this.

A subdued Madikizela-Mandela then apologised to the Asvat family and to Joyce Seipei.

This issue of moral responsibility is unlikely to strike any chord with Madikizela-Mandela's supporters, who did not need this week's testimony to be convinced that it is she who was betrayed and the real victim of history.

BY ZB MOSHELE

WINNIE Madikizela-Mandela is not guilty of any of the accusations levelled at her at this week's TRC hearing, respondents in a home-run survey believe.

The survey, run by City Press T-Shed, found 60 per cent of respondents believe Winnie is not guilty of most accusations levelled at her at the TRC hearing.

It is the only survey to be published since the TRC hearing began in May 1997.

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It is the only survey to be published since the TRC hearing began in May 1997.

So you think Madikizela-Mandela is not guilty of anything? Actions are judged at the TRC and she will make a deputy prosecutor of her own and the country.

At the TRC hearing, she will be asked to answer questions about the role of the MUFC in the assassination of Dr Asvat and the killing of Stompie.

These are the questions that will be asked of her at the TRC hearing.

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These are the questions that will be asked of her at the TRC hearing.

Abolishing death penalty 'a

readful

A Pretoria High Court judge yesterday harshly criticised the Government's scrapping of the death penalty.

Mr Justice David Curlewis aired his views on the subject after sentencing baby-faced serial killer Moses Sithole to an effective 2 410 years in jail.

The judge said he should have sentenced Sithole to death, but politicians had done away with this punishment. The abolition of the death penalty was "a dreadful mistake" and should be corrected, he said.

"Politicians have realised their mistake and tried to correct it by changing the law with regard to minimum sentences, so that sentences could meet the

legitimate anger of the community I'm not impressed," he said.

"I can freely support execution because I have almost the lowest percentage of death sentences in this division."

He said the objective of punishment was to both punish the offender and deter others. He added that in Sithole's case, he would not take into account mercy or humanitarianism.

There was nothing that could be said in favour of Sithole.

Judge Curlewis said the fact that Sithole had Aids and had a life expectancy of between five and eight years did not make "the slightest difference" to him.

"There is nothing I can say to lessen the hurt of the mother's

and relatives of the many young women who were so brutally raped and murdered."

Sithole was on Thursday convicted on 38 counts of murder, 40 of rape and six of robbery. The court found that he had initially only raped his victims but, after spending time in jail for raping a married mother of a young child, he started killing his rape victims to avoid detection.

The judge said there was only one way to protect young black women in society, and that was to teach young children to distrust anyone who approached them. This was quite contrary to the African custom, where greeting and friendliness were para-

mount

He described the police attitude in the 1980s to the rape of black women as "appalling" and said the custom that rape "had to be dealt with between families" had to change in order to protect young black women in an industrial society.

The attitude of men had to change as well, he added.

The judge said he had little faith in the prison department or the parole board because criminals were continuously released before they ought to be.

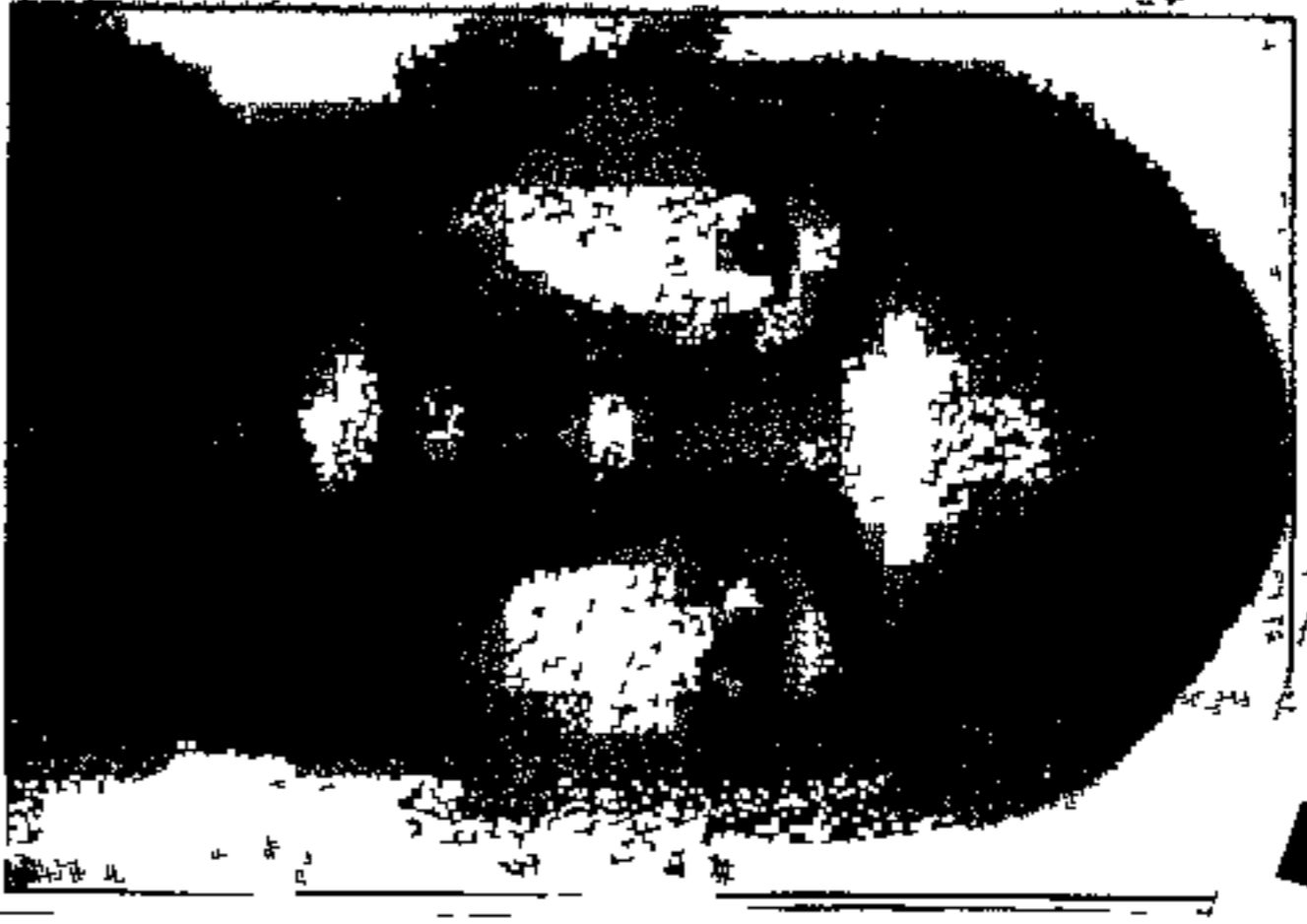
If a judge imposed a 10-year sentence, he did not mean an accused should serve only six years. He said prison authorities should stop interfering with sentences and should not "fudge the

issue" by referring to good behaviour.

"The public should be told that life imprisonment does not mean life. It now means 25 years. Experience and practice show that he will probably be let out after 25 years or soon thereafter."

"In my opinion, if a man is sentenced to life imprisonment, the public should know that he's going to spend the rest of his natural life in jail."

He said Sithole's crimes were "horrible", and that when one listened to tapes about what Sithole had told the women before he killed them, one realised it was "terrible, terrible". He would not let Sithole's



MOSES SITHOLE: His having Aids made no difference to judge

(252) Star 6/12/97

sentences run concurrently because he wanted to make it clear he meant him to remain in a prison for the rest of his life.

Family members, who burst into applause after the sentence, told reporters that they were satisfied with the judge's decision.

Sithole, who has maintained his innocence throughout the trial, was calm and told an interpreter that he had expected the sentence.

■ South Africa has had a spate of well-publicised serial killings in recent years.

In 1995, a Cape Town court sentenced schoolteacher Norman Afzal Simons, then 28, to 10

years in jail for murdering a 10-year-old boy. Simons was accused in the sex killings of about 20 boys.

Last year, police arrested a mental patient in connection with the deaths of 17 prostitutes found strangled in the Cape Peninsula.

In 1994, authorities nabbed another man, David Selepe, suspected of killing 11 women in the Johannesburg suburb of Cleve-land. Selepe was later shot dead while trying to escape from custody.

And in July this year, police warned of a new serial murderer possibly operating in a southern suburb of Johannesburg — Sapa and AFP.

mistake!

TRC saga enthralled and stuns Soweto residents

By JOHN MAKONI

(A5A) Star 6/12/97

Soweto's streets were eerily empty this week as the population swarmed around their television sets for a voyeuristic look into "Winnie's troubles". Those who had come home early huddled to watch their famous neighbour undergo what many observers had billed as the greatest test yet of her political career.

Winnie Madikizela-Mandela's usually bustling neighbourhood of Orlando West was transformed as residents tuned in to the live broadcast of the TRC hearing on the activities of the Mandela United Football Club. Children as young as 10 heard Jerry Richardson, former MUFJFC coach, tell the TRC horrendous stories of murder, beatings and kidnapping that were committed before some of them were born.

At a small brick house 10 doors down from Madikizela-Mandela's home-turned-museum, an elderly woman shook her head as she watched the hearing with her daughter and grandchildren. Disbelieving mutterings broke the stunned silence.

The opinions of those who watched were as wide as the generation gap of viewers. "We have idolised Winnie since we were children but these allegations have made me change the way I view her," said 28-year-old Charles

Msoni, a carpenter and father of two young children. Msoni, however, still praised Madikizela-Mandela for her commitment to Soweto's poor.

Many residents refused to be interviewed when the *Saturday Star* asked if they thought the nine-day inquisition would affect her political career. Many seemed afraid to speak publicly.

At the Baragwanath International Hotel, pub patrons were more willing to air their views. Beers in hand, they were glued to the tube as Richardson accused Madikizela-Mandela of being an apartheid police spy in the 1980s. They all shook their heads in disbelief.

Said Victor Mchunu (47), an insurance broker from Diepkloof Extension: "Winnie has emerged as utterly evil. She had too much power and she abused it. She must step down from public life. I used to hold Winnie in high esteem, but not anymore."

On Thursday, Winnie herself took the stand. At a shebeen on the border of Orlando West and Dube, patrons said it was the only time they could sympathise with their "mother".

As 27-year-old barman Jerry Seretse put it: "I think Winnie is telling the whole truth. Nevertheless, these scandalous reports might negatively affect her political career. But she's my mother. We've come very far, through the dark days of apartheid, with her."



ABSORBED: These shebeen patrons sat glued to the TV set as Winnie Madikizela-Mandela attended the TRC hearing into her activities and those of the Mandela United Football Club. PHOTOGRAPH CHRIS ADLAM

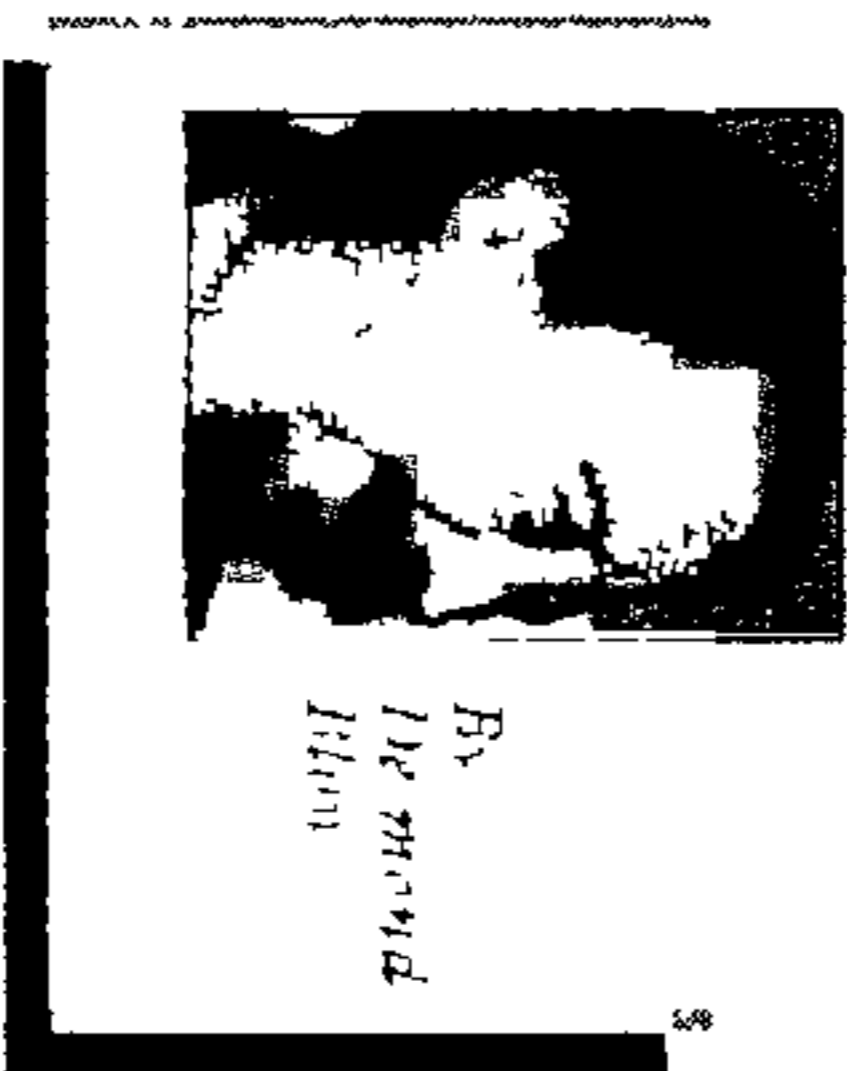
Amnesty evidence still scant

Gaye Derby-Lewis's hit-list could be weak link

THE AMNESTY hearings for the killers of the SA Communist Party Chris Hanu do not appear so far to have produced any evidence for assassin Janusz Walus and former Conservative Party (CP) MP Clive Derby-Lewis to be granted amnesty

After weeks of evidence nothing new has so far emerged Derby-Lewis and Walus have maintained that they alone were involved and have "made a full disclosure" and the Truth and Reconciliation Commission (TRC) commissioners and lawyers for the Hanu family have not been able to prove that there was a wider conspiracy - although there are several suggestions and a few names have been hunted at to imply this

On the other hand, lawyers for the killers are having difficulty in trying to suggest the crime was political. It is necessary for those seeking amnesty to prove that the crime was political and that full disclosure has been made. Although the investigators and Hanu



with him at the Krugersdorp home of Derby-Lewis. Walus replied that he had only seen Clark a few times and had only heard about the Volksfront after his arrest. Bizos then revealed Clark had stolen R12 million from various Johannesburg companies to pay for the Hanu murder trial of Derby-Lewis and Walus.

He also asked Walus if he had ever seen Clark in the company of Johannes Nikolaas Visser and Walus replied he could not remember.

Bizos said Visser had made an application to the TRC for amnesty for the theft of R369 082, 56c from the JCI Pension Fund, stolen to help pay for Derby-Lewis's defence.

He said Visser had stolen the money to pay for a two-way radio for the Volksfront but Clark had decided to use it for the defence.

However, head of the fund Colin Rouse said an investigation had revealed that there were no funds missing. He suggested it had been stolen from a different fund. Police believe that Visser, a

tried to prove that the crime was political. Derby-Lewis had claimed that he had hoped that the death of Hanu would plunge the country into chaos, allowing the right-wing to seize power.

He said the National Party (NP) had betrayed its mandate, opening the way for a communist takeover of the government.

In his evidence Walus claimed that as Derby-Lewis was a former CP MP and leader of the party, he helped formulate CP policy. Walus therefore believed the CP was behind the plot to kill Hanu.

Walus said he had never queried any of Derby-Lewis's instructions.

The CP had distanced itself from the crime, but Hartzenberg said the CP accepted the killers had thought they were acting on behalf of the party.

He said the killers could have interpreted militant talk by party leaders at the time as a sanction to use violence to promote the CP's aims.

"I said some strong things myself which could have been interpreted as an instruction to do something."

Hartzenberg said the CP had never distanced itself from Derby-Lewis, even after his conviction for murder. Instead, it started a fund to pay for his legal costs.

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CP 7/12/97
Amnesty-seekers for the murder of SACP chief

Chris Hanu, Janusz Walus and Clive Derby-Lewis,

appear to have made less than full disclosures



JANUSZ WALUS... Says that the hit-list of the people's leaders was given to him by Derby-Lewis



CLIVE DERBY-LEWIS... Maintains that Janusz Walus had asked for the hit-list

lawyers are finding it difficult to prove there was a wider conspiracy, sufficient doubt appears to have been created to suggest that Walus and Derby-Lewis have not made full disclosures

□ A very weak link in the evidence for the amnesty seekers is the alleged "hit-list" names and addresses of liberation struggle leaders including Chris Hanı and Nelson Mandela and the names of journalists who were in favour of the unbanning of the ANC, PAC and the Communist Party

Derby-Lewis's wife, Gaye Derby-Lewis, obtained the list from right-wing journalist Arthur Kemp, who has left South Africa and cannot be brought before the TRC committee

Gaye Derby-Lewis - still believed by police investigating the Hanı murder to be the instigator of the crime, although she was acquitted in the murder trial - still maintained this week that the list was to be used for writing articles about people on the gravy-train. She stuck to this story in cross-examination by Advocate George Bizos SC for the Hanı family

Last week Walus's testimony differed from the evidence of Derby-Lewis about the list, found in his Pretoria flat after the murder

Derby-Lewis had maintained Walus had asked for the list - but Walus said Derby-Lewis gave it to him

Neither of them, or Gaye Derby-Lewis, has satisfactorily explained how the list was passed from Gaye Derby-Lewis to Walus.

□ Bizos last week asked Walus whether Edwin Clark, an intelligence officer with the Afrikaner Volksfront and Vryheidsfront, had ever had discussions

Deep Levels and who has been jailed as an ordinary felon, is trying his "luck" by maintaining that his crime was political

The ANC and Hanı lawyers are trying to trace Clark to bring him before the TRC, but he appears to have disappeared

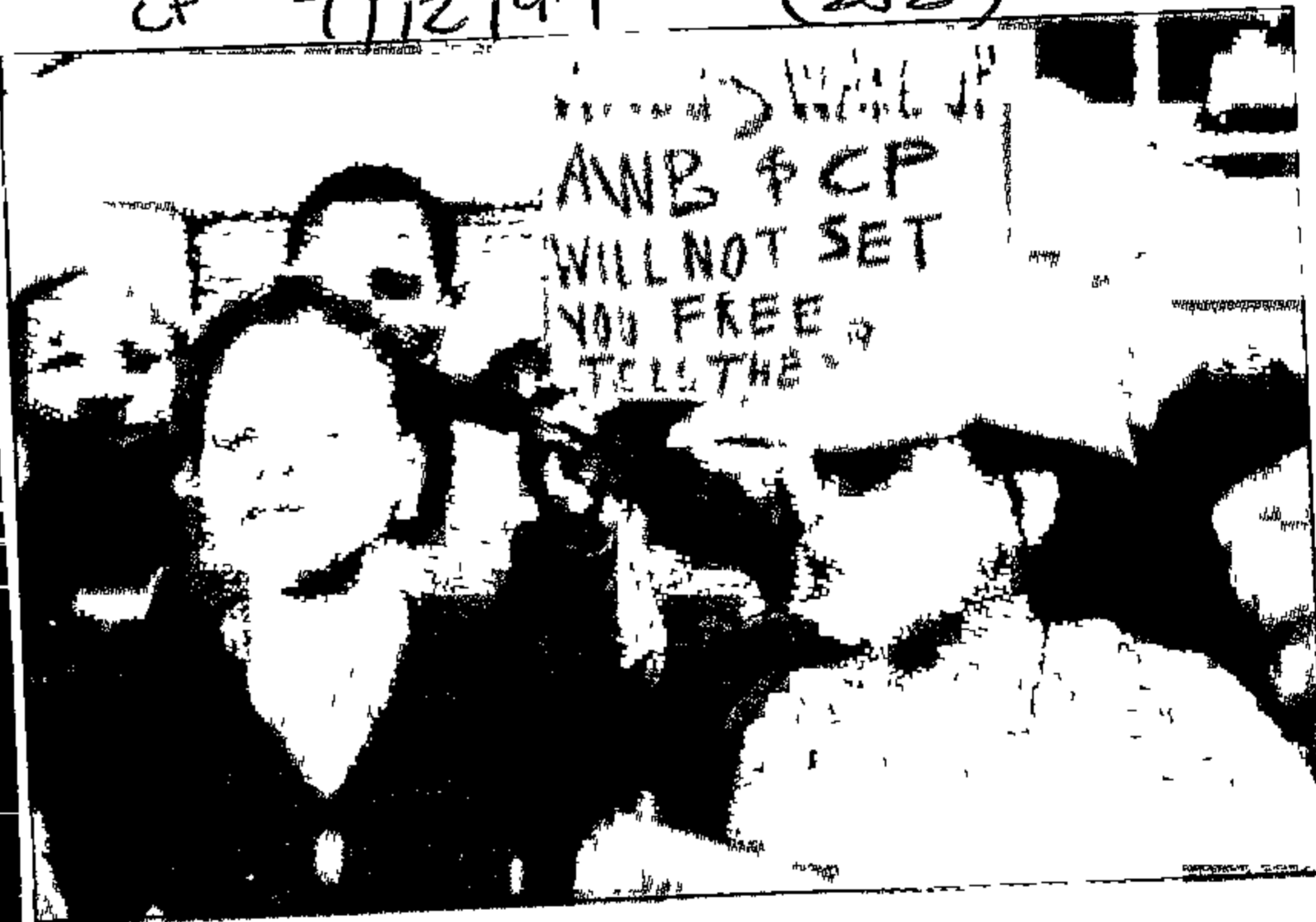
City Press also discovered that Clark, who worked in the computer field, was at the home of Derby-Lewis when Walus was given the murder pistol by Derby-Lewis, and that he was there when Arthur Kemp who obtained the so-called "hit-list" for Gaye Derby-Lewis had had breakfast with them

Clark was to have been a state witness in the murder case but was never called

In trying to explain why journalists were on the list for people she intended to write about, Gaye Derby-Lewis said that journalists opposing conservative views were either bribed, or acted as agents for others. She named some journalists, including Tim du Plessis of *Beeld* and former newspaper editors Ken Owen and Willem Wepener

Du Plessis on Wednesday rejected the allegation. He said he had obtained legal advice and intended pursuing the matter

□ CP leader Ferdi Hartzenberg



WRONGFULLY BLAMED... Limpheo Hanı (left) with supporters

Hanı hurt by accusations

CHRIS HANı'S widow has sat through weeks of painful evidence by cold-blooded killers trying to justify the murder of her husband - and has had to suffer unjustified accusations in the process

She was irrationally blamed for Derby-Lewis and Walus' arrival at the TRC hearing in Mamelodi wearing leg-irons

And on Wednesday, during a commotion among audience members Walus's attorney, Mrs Van der Walt, blamed "Mrs Hanı and a woman in a green dress, for preventing me from hearing the

Afrikaans interpretation on my headphones"

In fact, Hanı was reading a newspaper at the time and not attending to Hartzenberg's evidence, and a woman in a green T-shirt had thrown up her hands in disbelief at something Hartzenberg had said

Committee chairman Hassan Moll admonished Limpheo Hanı and the other woman about shouting out their views during Hartzenberg's evidence

"It is for the committee to decide who is lying and who is not," he said

NEWS
leaders
rejoice at
clearing
of Verryn

Winnie digs in

The Methodist Church of Southern Africa yesterday welcomed the proceedings of the TRC hearing into allegations of human rights abuses by Winnie Madikzela-Mandela and members of the Mandela United Football Club

Bishop Myrme Dandala said. The MCSA was more than an observer at the hearings, collectively and through allegations against certain of our members, we were the subject of some serious charges. We rejoice that these allegations were irrevocably refuted and are now part of the public record.

At the hearings, Bishop Paul Verryn was exonerated from any wrongdoing. And another MCSA member, Bishop Peter Storey, also told the commission how he and fellow members of the Mandela Crisis Committee, had tried to stop the human rights abuses of the club.

COURAGE SALUTED:
Bishop Paul Verryn



Verryn was sodomising young boys under his care. "The slurs against Bishop Verryn were also exposed as the lies we have always known them to be. We salute his courage and record our deep appreciation for the example he has set of the manner in which reconciliation might be achieved," Dandala said.

He said the church would do all it could to minister to Madikzela-Mandela with "every concern for her personal and spiritual well-being."

Dandala said the past week had been viewed with a great deal of agony and served as a reminder of the darkest years of apartheid paranoia, and brutality. "It is our belief that those who bear collective and individual guilt for sanctioning human rights abuses under apartheid be held publicly accountable and subjected to the same scrutiny witnessed in Mayfair this year with the... Sapa

She denies it all and sticks to her guns

By CHARLENE SMITH

Winnie Madikzela-Mandela said after nine days of giving and listening to testimony at the Truth and Reconciliation Commission hearings to "put an end to speculation."

If anything, it has fanned the flames of debate about the woman who would be deputy president. She said on Thursday that "beyond today, those who vilify me cannot claim ignorance". However, anyone who claimed they now knew the truth would, with respect, be liars.

Could she control a country with a murder rate, so police told us this week, of 65 a day? Madikzela-Mandela said she respected the privacy of the members of the Mandela United Football Club who lived on her property and they respected hers. "I did not have any direct control over the boys."

Madikzela-Mandela was brilliant in her own defence. She manipulated the process, in four instances deferring questions posed by four commissioners "until later for my summing up" and never answered them. Her summing up proved to be what TRC chairman Tutu referred to as a "campaign speech".

What are the charges that were put to Winnie Madikzela-Mandela? And what was her reply to some of the witnesses who appeared to damn her?

1 The TRC hears: The assault that led to the death of Stompie Sepele in 1988 began because she and Xoliswa Falah believed...



THE ACCUSER: Jerry Richardson says Winnie gave him the order to kill Stompie

PHOTOGRAPH DEBBIE VYZBEK

Is Madikzela-Mandela, who apparently could not control a band of youths who lived on her property, fit to be deputy president?

Consider the fact that these youths, her own self-styled "bodyguards", were raping, murdering, torturing and beating the people of Soweto and burning down their houses, according to TRC testimony.

All these foul deeds were done, Madikzela-Mandela said, without "the knowledge or approval of me or any of my family."

gator, launched a brief but brilliant cross-examination. In the end it was Archbishop Desmond Tutu who, after her summation, begged her to admit that "things went horribly wrong".

She said to the "family of Dr Asvat, how deeply sorry I am, things went horribly wrong. I agree and for that part, when things went wrong, there were factors that led to that, I am sleeping with each other and that is alien to our culture."

2: She took Katiza Cebekhulu to the surgery of Dr Abu-Bakker Asvat for a medical examination to see whether he had been sodomised.

She said she first met



THE ACCUSED: Winnie Madikzela-Mandela says the accusations against her are all false

PHOTOGRAPH DEBBIE VYZBEK

In an interview with the American broadcaster NBC in February 1989, Madikzela-Mandela said of Verryn "I do not understand why a man of his calibre would continue sodomising black children."

Two years later, at her trial into Stompie's death, she said boys at the manse "were sodomising black children."

In an interview with the American broadcaster NBC in February 1989, Madikzela-Mandela said of Verryn "I do not understand why a man of his calibre would continue sodomising black children."

2: She took Katiza Cebekhulu to the surgery of Dr Abu-Bakker Asvat for a medical examination to see whether he had been sodomised.

3: Football club members said Cebekhulu's mental state. I made no accusation about Paul Verryn."

4: Football club members said Cebekhulu's mental state. I made no accusation about Paul Verryn."

5: Football club members said Cebekhulu's mental state. I made no accusation about Paul Verryn."

the burning of Dudu Chilli's house and the murder of Chilli's 13-year-old niece Finkie Msimoni, who was shot in the house with an AK-47.

She denied that she had been approached by Chilli to desert from trying to recruit her sons, or that she had ordered the murder of one of those sons, Sibhiso, who survived.

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It's all a plot to sink me, she says

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Madikizela-Mandela denied being complicit in the attempted murder of Lerathodi Ikaneng, or the murders of Tholi Dlamini, Vincent Sefako, Susan Marpe, Peter Dlamini and others

4: The TRC heard Richardson's evidence, which implicated Winnie in other violent crimes

■ Madikizela-Mandela scathingly dismissed Richardson's testimony and his competence as a witness. Under cross-examination by Jordi, for the Sono and Shabalala families, she said "If anyone believes the evidence of Jerry Richardson, I have a severe problem with them. No one in their right mind would have further confidence in him."

When Ntsebeza put it to her that the testimony of Cebekhulu, her former driver, John Morgan and that of the state pathologist who examined Stompie's corpse presented a prima facie case that Madikizela-Mandela had killed Stompie, she said "If Richardson confesses to that murder (Stompie's), we must believe him."

5: In 1988, Cyril Mbatha claimed at the TRC, she gave him and Thulani Dlamini a firearm and promised them R20 000 if they killed Asvat. According to earlier evidence, Asvat examined a badly beaten Stompie, shortly before his murder, and told Madikizela-Mandela that the child needed to be admitted to hospital.

■ Madikizela-Mandela claimed never to have met Stompie, Mbatha or Dlamini. "I had a very close relationship with Dr Asvat. I was deeply shocked and very saddened by his death. I saw Mbatha and Dlamini for the first time here."

She initially told the TRC that she last saw Asvat when she took Cebekhulu to see him on December 30, 1988, but she later changed the date to December 29, to coincide with her court testimony in 1991 that she was in Brandfort (in the Free State) from December 29 till late on the night of December 30, the period in which Stompie was murdered.

She later told another lawyer that Asvat had not come to her house on December 30 - she could not have had this knowledge if she was in Brandfort, as she claimed.

6: The TRC heard tales of atrocities committed by football club members. Was she not concerned that members of the MUFC were involved in criminal acts?

■ Madikizela-Mandela said, "There is not a single case of a boy who has admitted to rapes or the things you are claiming here."

In fact, a number of former MUFC members who testified admitted to involvement, while living on her premises, in robberies, hijackings, murder, attempted murder and assaults.

7: Allegations surrounding the disappearance of Lolo Sono and Siboniso Shabalala. The pair were last seen, said Sono's father Nicodemus, in the company of Madikizela-Mandela, who refused to allow Sono's only son to stay at home with him.

According to Richardson, the boys were murdered and buried near mine dumps in Soweto. Although Nicodemus Sono laid charges of kidnapping on November 14, 1988, the day after he says he last saw his son with Madikizela-Mandela, those charges have never been investigated.

■ "My contact with Lolo Sono was in connection with his knowledge of Tebogo (an MK soldier who was later killed in a shootout with security police following information from Richardson,

at whose house they were staying under instruction from Madikizela-Mandela) Sono was my courier with that unit. I could not have contact with that unit directly, they were guerrillas and were underground. The police would know if I was in communication with the cadres.

"Tebogo said he was worried about Sono and wanted me to remove him. I had no idea Richardson was a police informer. I do not know Siboniso Shabalala."

Her lawyer, Ishmail Semanya, asked her, "Richardson says he killed them on your instruction."

Madikizela-Mandela replied, "That is ridiculous. Nicodemus Sono said the last time he saw his son was in a combi with me. It is true. I went to collect him to take him to Tebogo."

Semanya, "He said Sono was injured."

Madikizela-Mandela, "I have no idea why he is making that up, unless he is on a bandwagon to talk to these publications (the news media)."

She said she had taken Sono and left him at Richardson's house on November 13, 1988. Vally pointed out that on that date, Richardson was in jail - the police attack on his house had taken place four days earlier and Tebogo was dead.

Madikizela-Mandela, "When it comes to the intricacies of dates, I am not

clear. All I know is that I left the boys at the house. My last contact with Lolo was when I dropped him in the vicinity of Jerry Richardson's house."

8: A number of witnesses said the MUFC had a disciplinary committee, at one time headed by Zinzi Hlongwane-Mandela's then boyfriend Sizwe Sithole and then later by a man called Sonwabo.

It was alleged that both Madikizela-Mandela and her daughter used to preside over some hearings, where "wrongdoers" were tortured.

Evidence was led that Zinzi and her mother carved "Viva ANC" and "M" into the bodies of young men and then filled the wounds with acid. Victims were also electrocuted.

■ Madikizela-Mandela said "I heard of a disciplinary committee for the first time in the in-camera hearing (in October 1997)."

"Whenever it suited whatever agenda, my daughter's name is dragged in the most ridiculous evidence I have ever heard."

9: Evidence was given that she was the target of disinformation by the security police, but at least two witnesses claimed she also had an affair with Stratcom official and former security policeman Paul Erasmus.

■ The cross-examiners at the TRC did not ask her about her affair with Erasmus.

She claimed that three black journalists (one of whom had spent six years on Robben Island) worked for Stratcom to discredit her.

Ntsebeza challenged her on this and she said she had no proof. He also noted that in documents from Stratcom to the TRC detailing journalists who worked for them, or were sympathetic, neither of the three journalists' names were mentioned.

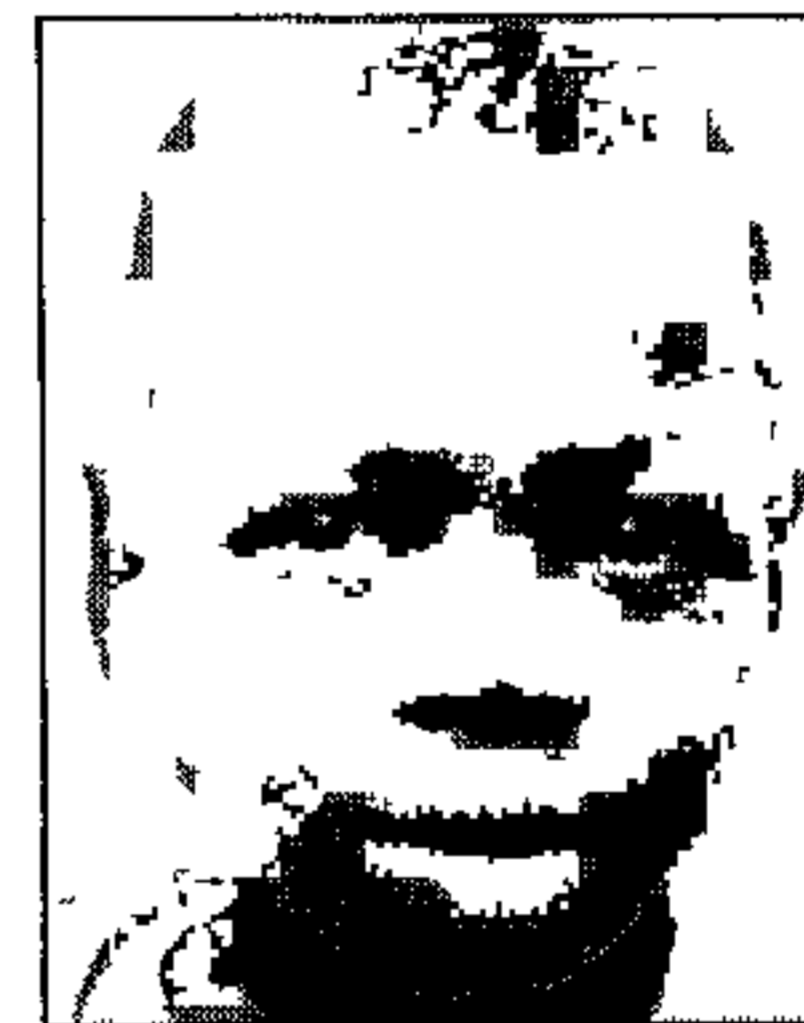
At the end of it all, who was telling the truth?

Truth commissioner Yasmin Sooka, "If your evidence is to be believed, then everyone else here is lying."

Madikizela-Mandela said, "Yes, it is true, most of the witnesses who testified here are lying."



ANOTHER TUNE: Xoliswa Falati turned on her former friend



MURDERED: Stompie Seipei's death remains a mystery



Winnie's answers beg more questions

If her testimony is true, most other witnesses were lying

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CHARLENE SMITH

Winnie Madikizela-Mandela said after nine days of giving and listening to testimony at the Truth and Reconciliation Commission that she had asked for open hearings to "put an end to speculation".

If anything, it has fanned the flames of debate about the woman who could be deputy president. She said, "beyond today those who vilify me cannot claim ignorance". However, anyone who claimed they now knew the truth would, with respect (as legal teams said when none was intended), be liars.

If her views during cross-examination are to be believed, she was, and is, the victim of an incredible conspiracy to tarnish her name, encompassing church leaders, members of the cabinet and other senior political leaders, the media, prisoners, ordinary folk and refugees.

If her testimony is to be believed, all came to the TRC and an open hearing that she had requested with a unified mission - to prevent her rise to political power.

Is Mrs Madikizela-Mandela, who apparently could not control a band of youths who lived on her property, fit to be a deputy president? Consider that, according to TRC testimony, these youths, her own self-styled "bodyguards", were raping, murdering, torturing and beating the people of Soweto and burning down their houses.

All these foul deeds were done, said Mrs Madikizela-Mandela, without her knowledge or approval.

Mrs Madikizela-Mandela was brilliant in her own defence. She manipulated the process, in four instances deferring questions posed by commissioners "until later for my summing up" and never answered them. Her summing up proved to be what TRC chairman Desmond Tutu referred to as a "campaign speech".

In the end it was Archbishop Tutu who, after her summation, begged her to admit that "things went horribly wrong". She said to the "family of Dr Asvat, how deeply sorry I am, and to Stompie's mother, how deeply sorry I am. It is true things went horribly wrong; I am free, and for that part when things

went with two concerns, one was sodomy and the other was Paul Verryn, and you conveyed these to Dr Asvat."

Mrs Madikizela-Mandela replied "That is so. Dr Asvat said he would have to refer him to a specialist. I assumed it was about the sodomy and Cebekehu's confused mental state. Dr Asvat said he was concerned about Cebekehu's mental state. I made no accusation about Reverend Paul Verryn."

Q: Mandela United Football Club members said they committed crimes, including murder, at her command. Her counsel, Ishmail Semanya, put it to her: "Jerry Richardson said you ordered the killing of Stompie."

A: "That is ludicrous and the worst lunacy I learnt of Stompie's death in the media," she said. She gave a similar response to allegations that she was involved in two assaults on pregnant Phumzile Dlamini, the murder of Maxwell Madondo, the burning of Dudu Chibi's house and the murder of Ms Chibi's 13-year-old niece, Finki Msoni, who was shot in the house with an AK47. She denied she had been approached by Ms Chibi to desist from trying to recruit her sons, or that she had ordered the murder of one of those sons, Sibusiso, who survived. Mrs Madikizela-Mandela denied complicity in the attempted murder of Lerahodi Ikemeng, or the murders of Ifhohi Dlamini, Vincent Sefako, Susan Marrippe, Peter Dlamini and others.

Q: Jerry Richardson's competence as a witness.

A: Mrs Madikizela-Mandela scathingly dismissed Richardson's testimony. Under cross-examination by lawyer Peter Jordt, for the Sono and Shabalala families, she said "If anyone believes the evidence of Jerry Richardson I have a severe problem with them. No one in their right mind would have further confidence in him."

Yet, when Mr Nisebeza put it to her that the testimony of Mr Cebekehu, her former driver John Morgan and that of the State pathologist who examined Sepe's corpse presented a prima facie case that Mrs Madikizela-Mandela had killed Stompie, she said "If Richardson confesses to that mur-

der, criminal activity?" Mrs Madikizela-Mandela replied "There is not a single case of a boy who has admitted to rapes or the things you are claiming here."

In fact, a number of former MUPC members who testified admitted to involvement - while living on her premises - in robberies, hijackings, murder, attempted murder and assaults.

Q: The disappearance of Lolo Sono and Sibusiso Shabalala. The pair were last seen, said Sono's father Nicodemus, in the company of Mrs Madikizela-Mandela, who refused to allow Mr Sono's only son to stay at home with him. According to Jerry Richardson, the boys were murdered and buried near mine dumps in Soweto. Although Mr Sono laid charges of kidnapping on November 14, 1988, the day after he last saw his son with Mrs Madikizela-Mandela, those charges have never been investigated.

A: "My contact with Lolo Sono was in connection with his knowledge of Tebogo (an MK soldier who was later killed in a shootout with security police following information from Jerry Richardson, at whose house they were staying under instruction from Mrs Madikizela-Mandela) Sono was my courier with that unit. I could not have contact with that unit directly, they were guerrillas and were underground. The police would know if I was in communication with the cadres."

"Tebogo said he was worried about Sono and wanted me to remove him. I had no idea Richardson was a police informer. I do not know Sibusiso Shabalala."

Mr Semanya asked her "Richardson says he killed them on your instruction." Mrs Madikizela-Mandela replied "That is ridiculous. Nicodemus Sono said the last time he saw his son was in a kombi with me. It is true I went to collect him to take him to Tebogo."

Mr Semanya "He said Sono was injured."

Mrs Madikizela-Mandela "I have no idea why he is making that up, unless he is on a handwagon to talk to the news media." She said "I had taken Sono and left him at



More questions than answers Winnie Madikizela-Mandela and her daughter Zimzi, right, during this week's hearings

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went wrong, there were factors that led to that, I am deeply sorry."

What are the charges that were put to Mrs Madikizela-Mandela?

Q: The assaults that led to the death of Stompie Seipei in 1988 began because she, and Koliswa, Falati, believed Methodist minister, now bishop, Paul Verryn was sodomising boys in his care. The hearing found that these allegations were untrue. Nonetheless,

A: In an interview with the American broadcaster NBC on February 1, 1989, Mrs. Madikizela-Mandela said of Reverend Verryn: "I do not understand why a man of his calibre would continue sodomising black children." Two years later, at her trial into Seipei's death, she said boys at the Manse, were sleeping with each other and that is alien to our culture."

At the TRC this week, she said "I have no problem with two consenting adults engaging in those activities, but (Koliswa) Falati said some were children." She denied she had tried to destroy the character of Bishop Verryn.

Q: She took Katiza Cebekhulu to the surgery of Abbi-Baker Asvat for a medical examination to see if he had been sodomised.

A: She said she first met Mr Cebekhulu on December 29, 1988. "I heard there was a young boy who was ill and so I took him to Dr Asvat. It is not true that he claimed sexual misconduct on the part of Paul Verryn, I barely knew Verryn."

She later contradicted her testimony. TRC chief legal adviser Hanif Vally "You

der (Stompie's), we must believe him "

Q: In 1988 Cyril Mbatha claimed at the TRC Mrs Madikizela-Mandela had given him and Thulani Dlamini a firearm and promised them R20 000 if they killed Dr Asvat. According to earlier evidence, Dr Asvat examined a badly beaten Stompie Seipei shortly before his murder and told Mrs Madikizela-Mandela the child needed hospitalisation.

A: Mrs Madikizela-Mandela claimed never to have met Seipei, Mbatha or Dlamini. "I had a very close relationship with Dr Asvat. I was deeply shocked and very saddened by his death. I saw Mbatha and Dlamini for the first time here."

She initially told the TRC that she last saw Dr Asvat when she took Mr Cebekhulu to see him on December 30, 1988, but she later changed the date to December 29, to coincide with her court testimony in 1991 that she was in Brandfort (in the Free State) from December 29 till late on the night of December 30 - the period in which Stompie Seipei was murdered. She later told another lawyer that Dr Asvat had not come to her house on December 30 - she could not have had this knowledge if she was in Brandfort as she claimed.

Q: Was she not concerned that members of the MUFIC were involved in criminal acts?

A: "No evidence has been brought that boy so-and-so raped so-and-so, on such-and-such a day," she replied.

Mr Vally asked "Are you saying there was no evidence that the boys staying at the back of your premises were involved in

Richardson's house on November 13, 1988 - Mr Vally pointed out that on that date Richardson was in jail - the police attack on his house had taken place four days earlier and Tebogo was dead.

Mrs Madikizela-Mandela "When it comes to the intricacies of dates, I am not clear. All I know is that I left the boys at the house. My last contact with Lolo was when I dropped him in the vicinity of Jerry Richardson's house."

Q: A number of witnesses said that the MUFIC had a disciplinary committee, at one time headed by Zinzi Hlongwane Mandela's boyfriend Sizwe Sithole and later by a man called Sonwabo. It was alleged both Mrs Madikizela-Mandela and her daughter used to preside over some hearings, where "wrong-doers" were tortured. Evidence was led that Zinzi and her mother carved "Viva ANC" and "M" into the bodies of young men and then filled the wounds with acid. Victims were also electrocuted and had their feet burnt. Mrs Madikizela-Mandela, according to testimony, was fond of using the stambok or punching offenders.

A: Mrs Madikizela Mandela said "I heard of a disciplinary committee for the first time in the in-camera hearing (in October 1997). Whenever it suited whatever agenda, my daughter's name is dragged in the most ridiculous evidence."

At the end of it all, who was telling the truth?

Truth commissioner Yasmin Sooka "If your evidence is to be believed then every one else here is lying."

Behind the nation's icon hides what could be the mother of all godfathers

By Bill Moyers
1/12/97

In what looks increasingly like its biggest challenge so far, the truth commission will need great courage to make an unambiguous finding on Winnie Madikizela-Mandela, writes Stephen Laufer

IT MIGHT seem strange that a report on the first five days of the truth commission hearings on the bloody events around Winnie Madikizela-Mandela's football club should start with an allusion to Chicago's legendary Mafia boss, Al Capone.

But the story of Capone and his undomg may hold interesting parallels for those pondering Madikizela-Mandela's future. The analogy may also prove thought-provoking for those who have a role in determining that future — the commission, the criminal justice authorities, her political peers.

Capone successfully evaded prosecution for murder and gross crimes of violence because the FBI had no reliable first-hand witnesses to supply the evidence to bring him down.

Capone had surrounded himself with fierce foot soldiers, most of them poor, uprooted migrants. Held together by a finely woven net of loyalty and coercion, the blood brotherhood would lie, kill and suffer imprisonment for their beloved leader.

In the end, the US authorities were forced to take the more mundane inland revenue route. Capone went to jail on tax evasion charges.

With her long and distinguished role in the battle to free SA from injustice and oppression, it would be wrong simply to portray Madikizela-Mandela as a Mafia boss.

With an altogether more complex background and motivations than Capone's, a picture of her as the 1980s chief of an organisation described by one witness this week as her own personal "vigilante gang" has emerged.

As with Capone, she surrounded herself with a motley group of poor, uprooted and brutalised young people, the victims of apartheid brutality and dislocation.

They were willing to exchange absolute loyalty for love and care from an icon.

As a result, her reputation today, rather than the hearing and beyond its walls speaks louder than any prosecution, witness can — just as in Capone's case.

What is apparent after five gruelling days of testimony is that her reputation is deserved in all its many facets. The credible and the unreliable witnesses have made that clear. The dodgy witnesses — whether MPs, wealthy businessmen imprisoned acolytes still denying they ever belonged to her football club, while apparently trusting in her to rescue them from a life behind bars — have shown that the structures and social systems which kept anyone out of jail and added year by year to his mystique were in operation around her during the 1980s in many ways, they still are.

As with Capone almost seven decades ago, reliable witnesses with first-hand knowledge of the football club's criminal doings and Madiki-



Winnie Madikizela-Mandela listens to testimony at a truth commission hearing last week.

Picture AP

zela-Mandela's alleged role in them are hard to find.

The police are not much use either. They, after all, were the foot soldiers of another criminal conspiracy, another Mafia.

Most credible witnesses have been able to reflect only what was common knowledge in Soweto at the time. Yet, in a crucial and under-reported contribution, Safety and Security Minister Sydney Mutamadi gave perhaps the only really damning first-hand account of her role during the abduction.

While other members of the Mandela crisis committee more or less staidomed through their account of the events, trying to avoid the really nasty bits, he made it clear to the commission that she was indeed in charge throughout what Bishop Peter Storey called a "hostage negotiation situation".

Nevertheless, Madikizela-Mandela's legend lives, as does Capone's to this day. And just as in Chicago, her future is unlikely to be determined by successful criminal pros-

participating lawyers this week as evasive and obstructive."

The thinking of her supporters beyond the confines of the commission is not very different from that of those who have testified — some in prison uniform and others in the fine suiting of SA's new fat cats. They have not been a pretty sight, and none of them have been noticeable for the unembroidered openness of their answers to questions or the moral rectitude of the opinions they have expressed.

The unspoken message from friendly witnesses appears to be that whatever the truth, Madikizela-Mandela remains an icon.

Because her suffering at the hands of apartheid stands for the suffering of every other black South African, forgiveness is hers no matter what she did.

For many, Madikizela-Mandela deserves a "get out of jail free" card, unlike others who have had to apply for amnesty. For them she will always be the mother of the nation, never mind that she may also have been the mugger of the nation.

Their view will be hardened when Madikizela-Mandela finally takes the stand herself, probably on Wednesday. References this week by the commission's lawyers to her statements to an earlier in-camera hearing, in which she apparently mixed high arrogance with professions of ignorance and innocence, mean that we should expect fireworks.

The only problem is that the message to Madikizela-Mandela's supporters will come less through what is said than via live television images. They will show several pale lawyers, including two employed by the commission, hounding a black woman.

As he did several times this week, her lawyer Ishmail Semanya — apparently without much of a legal defence — will play to the sentiment arising out of the images. As with PW Botha, the often unspoken bottom line will be that the commission is a witchhunt, organised by the African National Congress leadership and inspired by the racism which has always victimised her.

So what can be said is that as in Capone's case, what will remain after the hearing is ambiguity. Until

another route to truth, justice and morality is found, that is.

That route is available to the commission in the combination of testimony by Mufamadi, the Mass Democratic Movement leaders who distanced the anti-apartheid movement from her in early 1989. Murphy Morobe and Azhar Cachalia.

Mufamadi's straight talking gives the commission a credible black first-hand witness to her being in command of the situation. Morobe has shown that it is not just hindsight or a current political agenda speaking when Madikizela-Mandela is condemned for her maverick behaviour.

And Cachalia's suggestion that perpetrators of gross human rights violations be barred from office — refined under questioning to refer only to perpetrators not granted amnesty — gives the truth body the moral, legal, and political mechanism with which to prevent her from capitalising on her support and re-managing a political player as SA struggles to build its democratic institutions and a political culture based on human rights and justice.

The truth commission will require great courage to make an unambiguous finding. Facing what is increasingly looking like its biggest moral challenge — unlike the apartheid perpetrators, a finding on Madikizela-Mandela is about the future, not the past — it will need to overcome its own array of sentiments towards her in favour of straight talk.

Madikizela-Mandela and Semanya should not whinge when the commission does so. The ultimate argument against her has come from her lawyer and Madikizela-Mandela herself.

Their argument has been that her former acolytes, Jerry Richardson and Xoliswa Falah — each convicted of several serious offences — were alone responsible for any gross human rights violations committed within her orbit.

This leaves the question: is she so weak a personality that she can be dominated by two unstable people with high criminal energy? If so, she is surely unfit to hold high office. If she is not so weak that she is easily dominated, then she must take responsibility for what happened.

Winnie's football club in the spotlight

Stephen Laufer

THE truth commission hearings into Winnie Madikizela-Mandela's football club during the late 1980s enter the home straight today as she prepares to take the witness stand.

Initially scheduled for five days, the commission was forced to extend the hearing by three days as 12 legal teams and six commissioners, including chairman Archbishop Desmond Tutu, spent much longer than anticipated questioning witnesses.

Madikizela-Mandela is due to testify for the whole of Wednesday, the last day of the hearing. The commission said yesterday she could begin testifying as early as tomorrow afternoon.

The hearings are expected to be broadcast live on television.

Testimony today and much of tomorrow is expected to focus on the

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killing of Soweto "people's doctor" Abu Baker Asvat, shot dead in his surgery in 1989 following the abduction of four young men from a Methodist manse to Madikizela-Mandela's house.

Several witnesses have said that Asvat examined one of those abducted, the brutally beaten Stompie Seipei. They claim Madikizela-Mandela ordered Asvat's murder because he knew of her complicity in Seipei's death.

Madikizela-Mandela has denied involvement in the doctor's killing. But one of the convicted murderers, Zakhlele Mbatha, last week gave the truth commission a statement in which he said that she promised him R20 000 to kill Asvat and gave him the gun.

Mbatha and co-accused Thulani Dlamini are due to testify to the commission, as is Albertina Sisulu, Asvat's receptionist at the time of his murder. The police officers who investigated

the murder and subsequent allegations of links to Madikizela-Mandela have also been called.

Also expected to give evidence are former football club member Gift Ntombeni and the so-called coach, Jerry Richardson. Richardson has claimed in an amnesty application that he killed Seipei and two other youths, Lolo Sono and Siboniso Shabalala, on Madikizela-Mandela's orders.

On Friday former special branch operative Paul Erasmus said he had run several successful operations designed to discredit Madikizela-Mandela and President Nelson Mandela and the African National Congress.

Asked why the police had never intervened to prevent criminal activity, Erasmus said "We preferred to let her dig her own grave."

See Pages 2, 4 and 8

So many bills, so little time to pass them

After a marathon parliamentary session, Martin Schönteich reviews the best and worst of 1997's legislative procedures

(252) 120 2/12/97

THE National Assembly and the National Council of Provinces have completed their parliamentary work for 1997. It has been a busy year for legislators: 116 bills were tabled in the assembly, the majority of which have been passed.

With so much legislation, members of Parliament were hard pressed to read, let alone analyse and study, all the pieces of legislation on which they had to vote.

The situation was exacerbated by the fact that Parliament was relatively idle during the first half of the year. In the last four weeks of the parliamentary session, about 40 bills were debated and voted on. On the day before the National Assembly adjourned for the summer break, it had to vote on 30 bills and reports.

To cope, the assembly divided itself into three extended public committees. While this might have been efficient, it limited the ability of MPs to participate in and listen to all the debates on legislation passed that day.

Many of the bills dealt with during the last weeks of the session, such as Health Minister Nkosazana Zuma's "health bills" and Labour Minister Tito Mboweni's Basic Conditions of Employment Bill, were highly controversial. However, due to time constraints they were rushed through with little debate.

The parliamentary affairs office of the SA Institute of Race Relations compiled a list of bills passed during 1997 which posed the greatest threat to a free society if measured against the core values of individual liberty, free enterprise, limited government; and the rule of law.

□ **Basic Conditions of Employment Bill** By further regulating the labour market the bill will increase the cost of labour. The effects of the bill will be more lay-offs and the creation of fewer jobs. To offset the higher costs of labour, employers will mechanise and try to produce more with less labour.

People worst affected by the bill will be the unemployed and those with little education. Manual labour is the easiest to mechanise. Many less educated people, who are employable only at low wages will remain unemployed due to minimum wage regulations.

□ **Medical, Dental and Supplementary Health Services Profession Amendment Bill** The bill empowers the minister of health to compel medical graduates to perform a one-year term of community service before they may register as doctors. The minister could, by way of regulation, extend the term.

The bill will discourage bright, young school leavers from studying medicine and encourage medical grad-



Legislators tabled 116 bills in the National Assembly this year

uates to emigrate. The result will be a lack of doctors in SA which will push up the price of medical services. The real losers will be the poor, unable to afford the cost of good medical services, who will be reliant on the services of badly trained Cuban doctors.

□ **Higher Education Bill** The bill grants excessive powers to the minister of education to determine policy on behalf of institutions providing higher education.

For example, in the past, parliamentary approval was required for the closure or merger of a tertiary institution created by statute. In terms of the bill, the minister may do this by way of an administrative decision without having to consult the tertiary institution concerned. The far-reaching powers granted to the minister place at risk the autonomy and freedom of tertiary educational institutions.

Numerous bills which were passed in 1997 could be added to the above list. There were, however, other bills which were passed, which do not pose a threat to a free society and are praiseworthy.

□ **Nonprofit Organisations Bill** This deregulated the nonprofit sector. In

terms of the bill, nongovernmental organisations will no longer be compelled to register with the welfare department. The bill also treats South Africans as responsible people who can choose to whom they donate their money without state interference.

□ **Parole and Correctional Supervision Amendment Bill** This does away with the arbitrary manner in which sentenced prisoners have been released by prison officials. The bill sets minimum periods to be served before prisoners may be considered for parole.

□ **Abolition of Corporal Punishment Bill** As its name implies, the bill amends various pieces of legislation which contained provisions where corporal punishment could be imposed by the state on its citizens. The bill complies with the constitutional provision that no person is to be subjected to cruel or degrading punishment.

A number of controversial pieces of legislation are to be passed in 1998, some of them good, most of them bad. Many are likely to make the institute's list of worst bills for a free and open society at the end of next year.

The Employment Equity Bill will seek to empower the state to impose

affirmative-action quotas on private employers.

The National Prosecuting Authority Bill will create the post of a national director of public prosecutions. This "super attorney-general" will have considerable authority over provincial directors of public prosecutions, placing in jeopardy the latter's independence.

The Sports and Recreation Commission Bill will place enormous power over recreational activities in the hands of the state via a number of state-financed regulatory bodies.

The draft bill makes provision for a commission which will oversee such matters as sports sponsorship and which will have the power to deny funding to sports organisations based on their affirmative action policies.

Government's penchant to legislate to empower the state at the expense of civil society should serve as a warning to all of us.

It is the duty of civil society to be vigilant and to oppose laws that restrict individual liberty.

□ *Schönteich is parliamentary affairs manager for the SA Institute of Race Relations.*

who had been evicted from land since that date could now either try to get back onto the land or apply for compensation

Land affairs director-general Geoff Budlender said the department was fully geared up to implement the law. Back-up

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Boraine slams criticism of amnesty for Trevor Tutu

Bonile Ngqiyaza

THE truth commission yesterday launched a counter-attack on "misdirected" criticisms by politicians of its decision to grant chairman Archbishop Desmond Tutu's son Trevor amnesty, saying these were based on ignorance of the amnesty process.

Commission deputy chairman Alex Boraine threatened also that the commission would take legal steps against people who impugned the dignity of its chairman — a man he described as being of absolute integrity, who would never have interfered with or influenced the amnesty process.

He said the amnesty committee had powers of autonomy, and both the commission and its commissioners were precluded by law from taking part in the amnesty decision-making process.

Tutu senior — who was away in the US when it was proposed his son apply for amnesty — had not known about the decision until after his son's lawyer was informed of it, Boraine said.

"The archbishop has never even seen his son's application form," he said.

Boraine said the reason there was no public hearing on Tutu's application was that it did not involve gross human rights violations as defined in the law — killing, torture, abduction or severe ill treatment.

80/11/2/97
"Nobody was injured or killed as a result of Mr Tutu's actions. All matters not involving gross human rights violations are dealt with in chambers, on paper, and Mr Tutu's application was handled on the same basis as any other application of its kind."

Cases involving Pan Africanist Congress members took longer to come before the amnesty committee because most of them involved acts which required that the committee hold public hearings. "It takes longer first to schedule, then to hear and then to consider the evidence and decide upon such applications," Boraine said.

Meanwhile, Democratic Party spokesman Dene Smuts expressed the hope that the amnesty committee would explain the acts for which the African National Congress (ANC) leadership had been indemnified from prosecution.

"It is imperative that this be done to prevent the otherwise inevitable question arising whether the committee concurs with the ANC's new view of itself as a special case," Smuts said.

She said the granting of amnesty to Trevor Tutu and, reportedly, the commission's CEO, together with the ANC elite, created the unfortunate impression that a supercategory of certain people had received a "more than equal treatment. This needs to be dispelled".

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Kasrils admits to mine deaths, bombings

Stephané Bothma

PRETORIA — Deputy Defence Minister Ronnie Kasrils is seeking amnesty for a host of bomb explosions and other African National Congress operations in SA, including the "landmine campaign" in border areas in the mid-1980s which, according to police statistics, left 24 civilians and one security force member dead.

Unlike commanders of SA's security forces during the apartheid era, in his amnesty application Kasrils accepted full responsibility for Umkhonto we Sizwe (MK) cadres who fell under his general command, a truth commission source said.

According to Kasrils' application, the ANC's "landmine operations" began in 1986 and lasted about two years. Military intelligence provided maps of border areas and the farm and security network for the

operation.

"The targets were military personnel and commando units made up of farmers in militarised border zones near Swaziland, Zimbabwe and Botswana," Kasrils said. "When farm labourers and civilians were killed, MK commanders, myself included, visited these areas with instructions to our operatives to exercise greater caution."

Although he gave no detail about the number of deaths and injuries caused in the campaign, official police statistics show that between November 26 1985 and February 21 1991, 57 landmine incidents were recorded of which 39 landmines actually detonated. The rest were detected and deactivated. About 25 people were killed and 76 injured.

Kasrils said he had attempted to contact as many of the operatives under his command as possible so that they could apply

for amnesty themselves.

He said that during December 1961 and mid-1963 he was personally involved in:

- Detonating a bomb at the Durban municipal pass office;
 - Severing telephone cables at Shallcross in Durban;
 - Setting goods trains alight with petrol bombs;
 - Stealing dynamite from a road construction company near Marjannahill;
 - Destroying electrical pylons near Pietermaritzburg;
 - Exploding a bomb at the security police offices in Baker Street, Durban;
 - Detonating a bomb at the offices of Bata Shoe Company in Durban during a workers' strike; and
 - Detonating a bomb at the central post office in Durban.
- No one was killed in any of the attacks.

Kasrils also applied for amnesty for establishing the so-called "Broedersroom cell" under the leadership of Damian de Lange. It included Ian Robinson, Susan Westcott, Hugh Lugg and Paul Anargen.

In 1986 and 1987 the cell carried out two operations, an explosion at a communications tower in Linksfield Ridge, Johannesburg, and a bomb attack on a military bus on the East Rand which injured about 20 military personnel.

He was also involved in the explosion at Anthea's Club at the Pietersburg Holiday Inn and he admitted involvement in the ANC's Operation Vula, which ran from 1990 to 1994 and aimed at strengthening the organisation's underground inside SA. Kasrils also applied for amnesty for his role in encouraging township communities "under siege from hostile forces and third force hit squads" to set up self-defence units.

Youth commission plans for national service

Pule Molebedi

PLANS are being formulated by the National Youth Commission to have a national service for SA before the turn of the century, it emerged at yesterday's 2nd "youth summit" held in Midrand.

The event was attended by 167 organisations, the majority of whom voiced their support for the mooted principle of a national service. As a result, the commission's chairman Mahlengi Bhengu announced that they would be

preparing a green paper on the national youth service programme.

She said the national service was a programme which would involve youth in national reconstruction and development through various forms of volunteerism. It would provide accredited work and training experience. Departments earmarked to participate in this programme were labour, education, welfare, health

and the commission itself.

The summit comes in the wake of criticism that the commission was taking too long to formulate a youth policy. However, a draft youth policy which came out of the earlier submissions made by 42 youth hearings, nine provincial summits and specialist workshops, was presented by the commission to the summit.

"We are confident that the

draft as presented is an accurate reflection of the hopes and needs of the youth in SA," said Bhengu, who added that their commitment to a consultative approach was the ultimate testament to the fundamental integrity of the policy.

She said the challenge, once the policy was finalised, was to develop the detailed action plan which to operationalise its noble aims and objective. "It makes no

sense to present the policy to government without our strong recommendations around how it will most effectively become a living reality for youth."

The debate on whether the franchise rights should be lowered to 16-year-olds was also raised, but has been referred to the Youth Law Review Team.

The team is expected to look in to wide-ranging laws which ascribe rights — such as marriage and consent — to young women and men according to their age.

Exclusive

Angry Trevor Tutu: 'My right to amnesty'

(252) CT 11/12/97

Leave Arch out, warns TRC

TREVOR TUTU is adamant there was no criminal intent in his telling ground crew there was a "device" on board his SAA flight. Officials took this to mean an explosive device and he was in no mood to enlighten them, he says. Special Assignments Writer **ROGER FRIEDMAN** reports

MR Trevor Tutu, son of Truth and Reconciliation Commission chairman Archbishop Desmond Tutu, is lashing out at politicians and sections of the media for the outcry over being granted amnesty, says he believes their reaction is a hangover of the previous government's campaign to discredit his father.

Several weekend newspapers carried prominent reports quoting Democratic Party and Pan-Africanist Congress spokesmen as saying the amnesty decision smacked of nepotism. They also questioned Tutu's 1989 hoax bomb threat's being construed as a political act.

"As far as I was concerned, on April 27, 1994 Tutu's son was over and I could set about building a

showed those who had claimed the right to treat me as their vassal or serf, that I was neither vassal nor serf, but a proper citizen of this country and should be treated as such."

Tutu was released on Friday from Goodwood Prison, where he had recently begun serving a 3-1/2-year prison sentence under the Civil Aviation Act.

"I'm talking once and that's it," the 41-year-old Johannesburg entrepreneur said. "I had thought the nightmare was over until I read today's newspapers."

Tutu spoke frankly about the "bad-boy" reputation he had acquired over the past two decades. He admitted being "pig-headed" and sometimes using language "more suited to the docks" in his dealings with apartheid officials.

"I suppose in

THE Truth and Reconciliation Commission would take legal action against anyone who "impugns the integrity" of its chairman, Archbishop Desmond Tutu, over his son, Mr Trevor Tutu's being granted amnesty, deputy chairman Dr Alex Boraine said yesterday.

"It is scandalous to suggest Archbishop Desmond Tutu interfered with or influenced the amnesty process," Boraine said.

"Archbishop Tutu is a man of absolute integrity and would never resort to seeking special treatment for his son's application."

Noting that the TRC amnesty committee was autonomous and that commission members were specifically precluded from taking part in its decisions, Boraine said Tutu had been "scrupulously correct".

The archbishop was overseas when his

son's lawyer proposed that he apply. The archbishop had not seen his son's application and heard of the decision only after his son's lawyer had been told.

Members of the staff and of the amnesty committee who had dealt with the application had taken fully into account the risk of criticism. The TRC's executive secretary, advocate Mr Martin Coetzee, was satisfied with the way in which it had been handled, Boraine said.

The amnesty committee was satisfied that Tutu's written explanation corresponded with the definition of an "act associated with a political objective".

In terms of the TRC legislation, amnesty applications for actions other than the violation of human rights were submitted in writing and heard in chambers.



'OUTCRY ISN'T ABOUT ME': Trevor Tutu

(252)

CT 11/12/97

We had won, Tutu says critics want to discredit his father. days I was visi-
junior said ble I was in advertis-
"This public outpouring of grief over ing a young black executive in an MG
my being granted amnesty is not about me motor car
It's about my father. It's still an attempt to "They used to pull me over and attempt
discredit him, to try to bring him down to intimidate me. Their expectations that I
"This outcry now is 'Hang on, as far as should put up with their disdain were like a
we are concerned in our racist hearts, just red rag to a bull."
because he couldn't put up with that "For example, they once alleged I was
(apartheid) system doesn't mean it was driving under the influence of alcohol and
political offence. We should be the ones kept me in jail for the weekend, even
to decide though the district surgeon found I had not
been drinking."
"There seems to be a knee-jerk reaction Tutu denied any criminal intent in his
to the name 'Tutu'. It's almost as if there bomb hoax, which came during a South
are sleepers left in the system who are reactivat- African Airways flight in 1989 from Port
ed when they hear the code word 'Tutu'. Elizabeth to Johannesburg. At the East Lon-
Tutu was granted amnesty by a three- don stopover, members of the cabin crew
member amnesty committee panel headed had refused to give him a newspaper.
by Mr Chris de Jager, a former member of "I was one of four passengers in the
the Afrikaner Weerstandsbeweging nomi- business class. There were more than
nated by the Freedom Front enough papers, but they gave them only to
The application was adjudicated on whites."
paper and in chambers. Tutu got off the aircraft to buy one, had
The panel found favour with Tutu's a run-in with a white policeman in the ter-
explanation "I have been the subject of minal building and then found the plane
wrongful arrest, detention, withdrawal of was about to take off without him. After
my passport and too many other slights delaying the aircraft twice to recover his
to be mentioned here. My action was associ-
ated with a political objective in that it
□ Turn to Page 3

3

I was not guilty, says Trevor Tutu

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from Page 1

possessions, but still without the papers on which he had been working, he told the police and ground crew there was a "device" on board. All of this had occasioned a three-hour delay. The police and ground crew had assumed he was referring to an explosive device but, Tutu said, he was in no mood to explain other meanings of the word.

Charged under the Civil Aviation Act, sentenced and on bail pending appeal, Tutu disappeared. He was re-arrested in August. Meanwhile, his lawyers were preparing a fresh appeal and had submitted his amnesty application.

"We were not admitting guilt. I was not guilty, but I had been found guilty, so I had to apply."

Tutu was severely critical of DP leader Mr Tony Leon, who told a weekend newspaper the decision smacked of "a degree of favourable treatment." "I think it is particularly rich for Tony, Leon, with his antecedents, to suggest my father would ever behave in a way that was immoral."

"I'm intrigued. I bought into the necessity for the TRC and its amnesty process. We do have to build a nation. I have two young children and they cannot grow up in a country in which people hate each other. Who are these people? Where were they when everyone was being harassed, beaten and detained, when I was sung the police for my illegal detention, if they are now so sure I was not politically motivated?"

DOCTOR'S KILLERS TO TESTIFY

Winnie 'offered cash for Asvat's death'

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CT 11/12/97

JOHANNESBURG: Besieged on the political front and by testimony at a TRC hearing Winnie Madikizela-Mandela prepares to take the stand

MS WINNIE MADIKIZELA-MANDELA, whose campaign for election to the deputy presidency of the ANC suffered a blow at the weekend, returns to the Truth and Reconciliation Commission today to face new allegations of complicity in murder.

Two men convicted of murdering Dr Abu-Baker Asvat in January 1989 are expected to testify this week that Madikizela-Mandela offered them R20 000 to kill the popular Soweto doctor

The TRC's special hearing on the activities of Madikizela-Mandela's band of youthful associates known as the Mandela United Football Club enters its second week today and is expected to end tomorrow

Madikizela-Mandela, who maintained a stony silence throughout five days of testimony last week, is expected to take the stand tomorrow to answer to the charges against her

"I am waiting my turn. When all this is over I will speak," she said at the opening of a new museum at her former home in Soweto

Madikizela-Mandela's quest for the second highest office in the ANC received a setback at the weekend when two provinces in which she was thought to have mass support, the Eastern Cape and the Northern Province, failed to nominate her

She now only has the backing of the ANC Women's League.

In a sworn statement before the commission, Thulani Dlamini claims he and Cyril Mbatha met Madikizela-Mandela person-



BESIEGED: Madikizela-Mandela

ally to negotiate a "contract" to murder Asvat

Asvat was killed a month after the death of Stompie Seipei, the 14-year-old activist who died after allegedly being assaulted at Madikizela-Mandela's Soweto home

According to testimony before the TRC, Asvat had examined Stompie after the assault and insisted that he be taken to hospital

Madikizela-Mandela refused. It has also been alleged that Asvat

refused to provide Madikizela-Mandela with medical "proof" that Stompie and other youths had been sexually molested at the Methodist mission of the Rev (now Bishop) Paul Verryn

After Stompie's death in January 1989, Madikizela-Mandela accused Verryn of

molesting youths in his care and accused the Methodist church of focusing on Stompie to deflect attention from Verryn's conduct

The allegations against Verryn have been found to be false in separate inquiries by the police and the Methodist church

His accusers, among them youths who stayed at the mission and Ms Xoliswa Falati, Madikizela-



WITNESS: Albertina Sisulu

Mandela's former associate, have also withdrawn their accusations

Also scheduled to testify this week is Ms Albertina Sisulu, the ANC stalwart who worked as a receptionist for Asvat at the time of his murder

Sisulu is expected to testify about an alleged visit by Madikizela-Mandela to Asvat's surgery shortly after Stompie's death during which Madikizela-Mandela had a heated row with the doctor

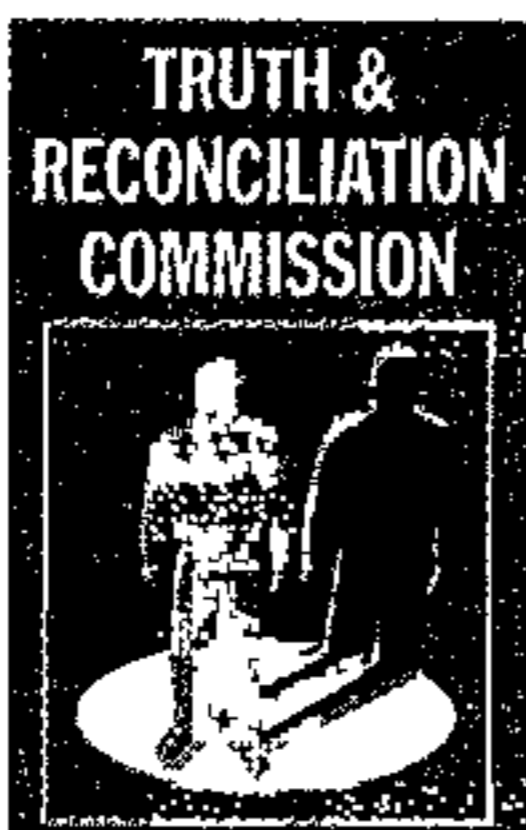
Jerry Richardson, the "coach" of the MUFC who has applied for amnesty for four murders, including that of Stompie, is also scheduled to testify

Richardson, who arrived at the hearing last week wearing an MUFC tracksuit, says in his amnesty application he and an associate slit Stompie's throat "like slaughtering a sheep"

The commission may also call the state pathologist who conducted a post-mortem on Stompie's body

The post-mortem report shows two stab wounds to the boy's body, apparently contradicting Richardson's claim.

Katiza Cebekhulu, who took part in the assaults on Stompie and who testified last week, claimed Madikizela-Mandela stabbed Stompie twice with a "shiny object". — Own Correspondent



Winnie 'won't be prosecuted'

Sowetan 1/12/97 (252)

By Joe Mdhlela

UNTIL substantial evidence is found linking Winnie Madikizela-Mandela to the death of Dr Abu-Baker Asvat in the late 1980s, she will not be prosecuted, police commissioner George Fivaz has told the Truth and Reconciliation Commission.

Testifying before the TRC in Johannesburg on Friday, Fivaz said the deputy attorney-general of the Witwatersrand felt there was not sufficient evidence for a successful prosecution of Madikizela-Mandela.

Fivaz said on the basis of this, the attorney-general had declined to prepare for the extradition of Katiza Cebekhulu, who now lives in exile in London. Cebekhulu has implicated Madikizela-Mandela in Asvat's death.

Fivaz described Cebekhulu,

Madikizela-Mandela will have her say this week before the TRC

who last week testified before a TRC hearing on the activities of Madikizela-Mandela's private bodyguard, the Mandela United Football Club, as an unreliable witness.

He said Cebekhulu had so far given "four versions" regarding Asvat's death. On the basis of these contradictions, it was not possible to rely on Cebekhulu's testimony in a criminal trial.

Fivaz also told the TRC he had been approached by the parents of Lolo Sono, who urged police to follow up all clues to trace their missing son or prove that Madikizela-Mandela was responsible for his death.

The youth's father, Nicodemus Sono, last week testified before

the TRC. He said his son had been assaulted by members of the football club and had disappeared while in the care of the football club.

Fivaz said the case had been referred to the AG, who declined to prosecute Madikizela-Mandela because Lolo Sono's body had not been found. The site where the youth's body allegedly had been buried was thoroughly searched, "but no such body was found".

Madikizela-Mandela, who requested the TRC hearing to clear her name, is expected to testify this week.

The public hearing began last Monday when testimony implicating her in human rights violations was heard.

TRC says Tutu amnesty above board

(252)

Sowetan 1/12/97

Commission threatens to sue as parties weigh in over chairman's son's escape

By Themba Molefe

THE TRUTH AND Reconciliation Commission has defended its decision to grant amnesty to the son of its chairman Archbishop Desmond Tutu and threatened to sue anyone who persisted in claiming he influenced the process.

The amnesty committee announced on Friday the granting of amnesty to 37 African National Congress officials, including Deputy President Thabo Mbeki, Defence Minister Joe Modise and Transport Minister Mac Maharaj. Trevor Tutu, who was serving a three-and-a-half-year jail term for a bomb scare, was among the group.

In a statement amid criticism from across the political spectrum following the decision - the TRC yesterday said "The Archbishop has never even seen his son's application form. He did not know about the decision until after his son's lawyer was informed of it. The TRC will take legal action against anyone who impugns his integrity in this matter."

The TRC further said many of the criticisms directed by politicians were misdirected and based on ignorance of the amnesty process.

"The reason there was no public hearing on Mr Tutu's application is that it did not involve gross human rights violations as defined in the law. Nobody was injured or killed as a result of Mr Tutu's action.

"The reason that Pan Africanist Congress cases take longer to come before the amnesty committee than cases such as Mr Tutu's is that most of them involve acts which require that the committee holds public hearings."

Political record

PAC general secretary Mr Ngila Muendane said Trevor Tutu had no political track record while "more than 200 PAC cadres are languishing in jail".

ANC spokesman Mr Ronnie Mamoepa could not confirm Trevor Tutu's membership save to say the party was acquainting itself with his application and the basis for granting him amnesty.

He lauded the granting of amnesty to the other 36, however, saying it underscored the TRC's integrity.

The Democratic Party's Mrs Dene Smuts said the TRC faced a credibility problem following its granting of amnesty to the ANC group.

Most journalists 'in the pay of somebody'

Pretoria — More than half of South African journalists were "in the pay of somebody", Gaye Derby-Lewis told the Truth and Reconciliation Commission today.

"Journalists are poorly paid and susceptible to bribery," the wife of one of the killers of SA Communist Party leader Chris Hani said.

Former Conservative Party MP Clive Derby-Lewis and Polish immigrant Janusz Walus were convicted in 1993 of killing Mr Hani outside his Boksburg home earlier that year.

Both were sentenced to death, but their sentences were commuted to life imprisonment when the Constitutional Court abolished the death penalty. They are seeking amnesty for the crime on the grounds that it was politically motivated.

Today Mrs Derby-Lewis was extensively questioned about a list she compiled in 1992. It contained the names of several journalists, including former newspaper editors Ken Owen and Willem Wegener.

She said these men were working

against their own people. She said she focused on members of the media because she was convinced journalists were often used by intelligence agents. "They are the first line of penetration, the KGB says."

Mrs Derby-Lewis asserted that more than half of South African journalists were being used in this way in exchange for money.

Other names on the list included those of African National Congress and SACP leaders. She said she drew up the list in her capacity as a jour-

(252) AR 6/1/97

nalist for the CP newspaper, Patriot. "I was working on an article on the liberation gravy train," she said.

Mrs Derby-Lewis said she sent the document to former Citizen reporter Arthur Kemp to obtain the home addresses of the people listed. "This was done for no other reason but to expand on their backgrounds."

She said the CP was in despair after the unbanning of the ANC and the SACP in 1990. "Our attitude was 'What are we going to do to stop the treason?'"

TRC denies any Tutu role in son's amnesty

(252)

AKG 11/2/97

Johannesburg. The Truth Commission today rejected accusations that its chairman, Archbishop Desmond Tutu, sought special treatment for his son Trevor, who was granted amnesty on Friday.

The Democratic Party and the Pan Africanist Congress charged at the weekend that Trevor Tutu's pardon was facilitated by his father.

But TRC deputy-chairman Alex Boraine said in a statement at the start of today's Winnie Madikizela-Mandela hearing that Archbishop

Tutu had not and could not have intervened on his son's behalf.

Trevor Tutu, 41, was freed on Friday from a three-and-a-half-year sentence for making a false bomb threat aboard a South African Airways internal flight in 1989.

He recently began his sentence after evading police for four years.

He said in his application for amnesty that his act was politically motivated and was intended to demonstrate that black South Africans could not be pushed around by whites.

Many of the criticisms directed by political parties and organisations at the amnesty committee's decision are misdirected and based on remarkable ignorance of the amnesty process, said Dr Boraine.

The commission takes strong exception to those who have suggested that the chairperson of the commission interfered with or influenced the amnesty process in any way.

Archbishop Tutu is a man of absolute integrity and would never resort to seeking special treatment

for his son's application, said Dr Boraine.

He underlined the separation imposed by law between the activities of the TRC and its amnesty committee, which is headed by a judge and operates from separate offices with separate staff.

"We as a commission have no involvement in any of the applications that are made. As far as Trevor Tutu's application is concerned, neither the chairperson nor any other commissioner ever saw the application," he said - Reuter.

IFP bill would allow death penalty legislation

(252)
The Inkatha Freedom Party has tabled a Private Member's Bill in the National Assembly, paving the way to amend the Constitution and allow legislation imposing the death penalty

The Bill seeks to amend sections of

the Constitution prohibiting 'cruel or inhuman punishment' "The Bill inserts the word 'executed', and will make it clear that the Constitution does not outlaw the death penalty," said IFP chief

whip Koos van der Merwe - Sapa

ARG 11/2/97

Asvat was living in fear before killing, says brother

Albertina Sisulu denies visit by Winnie

(252) ARG 11/12/97

Johannesburg — The behaviour of Soweto doctor Abu-Baker Asvat changed markedly during the week before his murder — and his family noticed he was afraid — his brother, Ebrahim Asvat, told the Truth Commission today.

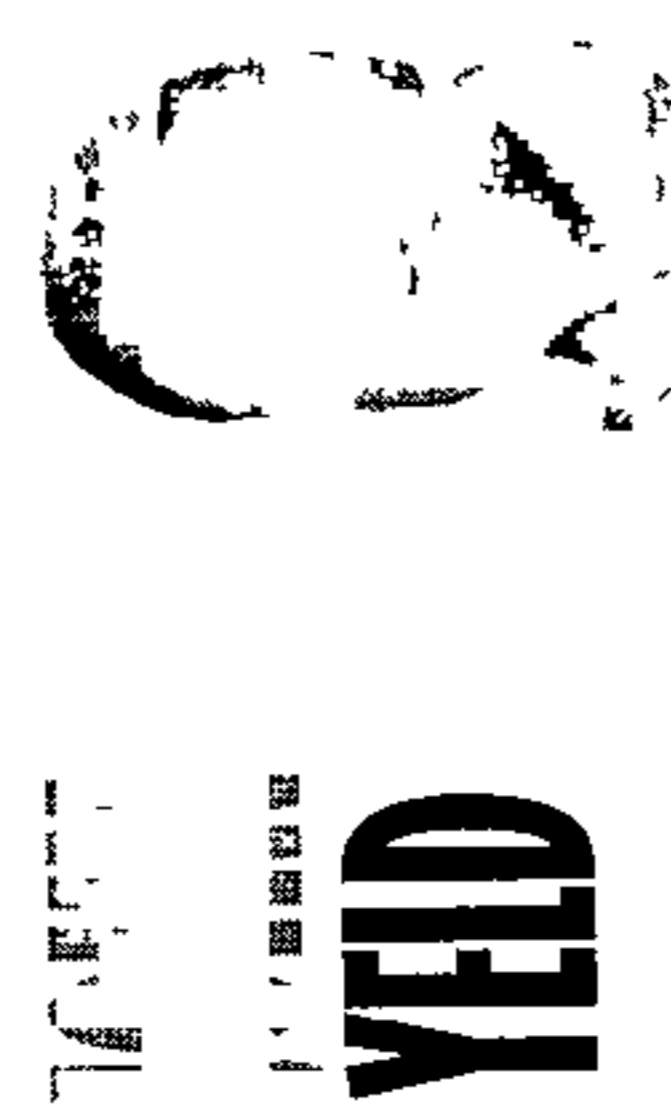
He was testifying during the commission's "special event" hearing on the activities of the Mandela United Football Club in the late 1980s.

Dr Abu-Baker Asvat was murdered on January 27, 1989, allegedly hours after a "volcanic row" with Winnie Madikizela-Mandela, who allegedly wanted him to provide a medical certificate backing her claim that a member of her football club, Katiza Cebekhulu, had been sodomised by Methodist priest Paul Verryn.

Dr Ebrahim Asvat confirmed to the hearing that his evidence was mostly hearsay.

He said that after the alleged row with Mrs Madikizela-Mandela — she claimed to have been in Brandfort at the time — his brother had gone to visit his lawyer and friend Priscilla Jana at her home in Lenasia.

"Jana tells the Asvat family after Dr Asvat's death that she knows a lot, but later retracts," he said in his chronology of events surrounding his



YED

ON THE TRUTH COMMISSION

brother's death

Dr Abu-Baker Asvat had then gone to the bank before going home "where he holds his daughter to his chest and performs his Friday prayers in a non-ritualistic manner".

Dr Ebrahim Asvat said that according to medical records, the "coach" of Mrs Madikizela-Mandela's football team, Jerry Richardson, had been examined by Dr Asvat the day before his murder and then again on the morning of his death.

Also, his medical records showed that Mrs Madikizela-Mandela had brought Mr Cebekhulu to him for a consultation on December 30, 1988, the day she claimed to have been in Brandfort. Dr Ebrahim Asvat said Mrs Madikizela-Mandela had been a regular Friday night dinner guest at

his brother's home, but that after the murder she had never visited them socially again.

She had visited his brother's widow late on the night of the murder to offer her condolences but had not shown "real grief". "It was just her behaviour that everyone felt wasn't normal," he said.

Mrs Madikizela-Mandela had phoned Dr Asvat's widow about three weeks after the murder to ask why the family had been accusing her of involvement with his murder.

"We were very, very surprised that she had phoned because the family never put out any statement," Dr Ebrahim Asvat said.

Albertina Sisulu, who was Dr Abu-Baker Asvat's nursing sister, testified that she had been at the surgery on the day of his murder and denied that Mrs Madikizela-Mandela and Mr Cebekhulu had visited him that morning.

Mrs Sisulu, a leader of the former United Democratic Front and wife of ANC veteran Walter Sisulu, caused a big surprise with her evidence when she said she did not recognise as hers the handwriting on the medical card of December 30, recording patient details when Mrs Madikizela-

Mandela had brought Mr Cebekhulu for his first examination by Dr Asvat.

This was the opposite of what she had said during a recent interview for the BBC television film *Katiza's Journey*, about Mr Cebekhulu.

This throws wide open again the issue of Mrs Madikizela-Mandela's alleged alibi of being in Brandfort. She also denied ever seeing Mr Cebekhulu at Dr Asvat's surgery.

Asked if she had heard the "volcanic row" that was alleged to have happened between Dr Asvat and Mrs Madikizela-Mandela, Mrs Sisulu replied "If Mrs Mandela had gone to see Dr Asvat, she wouldn't have gone through my reception room".

"Even if there had been an argument, I wouldn't have heard a word," she said.

Asked whether she had ever been personally threatened by Mrs Madikizela-Mandela and/or the football club, Mrs Sisulu said her house had been burned down and she suspected the football club had been responsible, although she had no proof.

This could have been because she had asked her sister's children to leave the football club because of their "reign of terror" in the township.

Albertina backs Winnie

JOHN YELD AND ROBERT BRAND (25a)

ON THE TRUTH COMMISSION

ART 1/12/97

Johannesburg - In dramatic testimony today, African National Congress stalwart Albertina Sisulu said she believed Winnie Madikizela-Mandela to be innocent of complicity in murder.

Contradicting a statement she made in a recent interview with the BBC, Mrs Sisulu, who worked as receptionist for murdered Soweto doctor Abu-Baker Asvat, testified it was not her handwriting on a medical record card which indicated Mrs Madikizela-Mandela had brought Katiza Cebekhulu to the surgery a few weeks before Dr Asvat's death.

She had told the BBC it was her writing. The card, dated December 30, 1988 - the date Stompie Seipei was severely assaulted at Mrs Madikizela-Mandela's home - had thrown into doubt Mrs Madikizela-Mandela's claim to have been in Brandfort at the time.

Mrs Sisulu also denied she saw Mrs Madikizela-Mandela at the surgery on January 27, 1989, the day Dr Asvat was murdered. Cebekhulu claims Dr Asvat died just hours after a "volcanic row" with Mrs Madikizela-Mandela.

See page 4

Sowetan 11/12/97

Trevor Tutu hits back at critics of amnesty

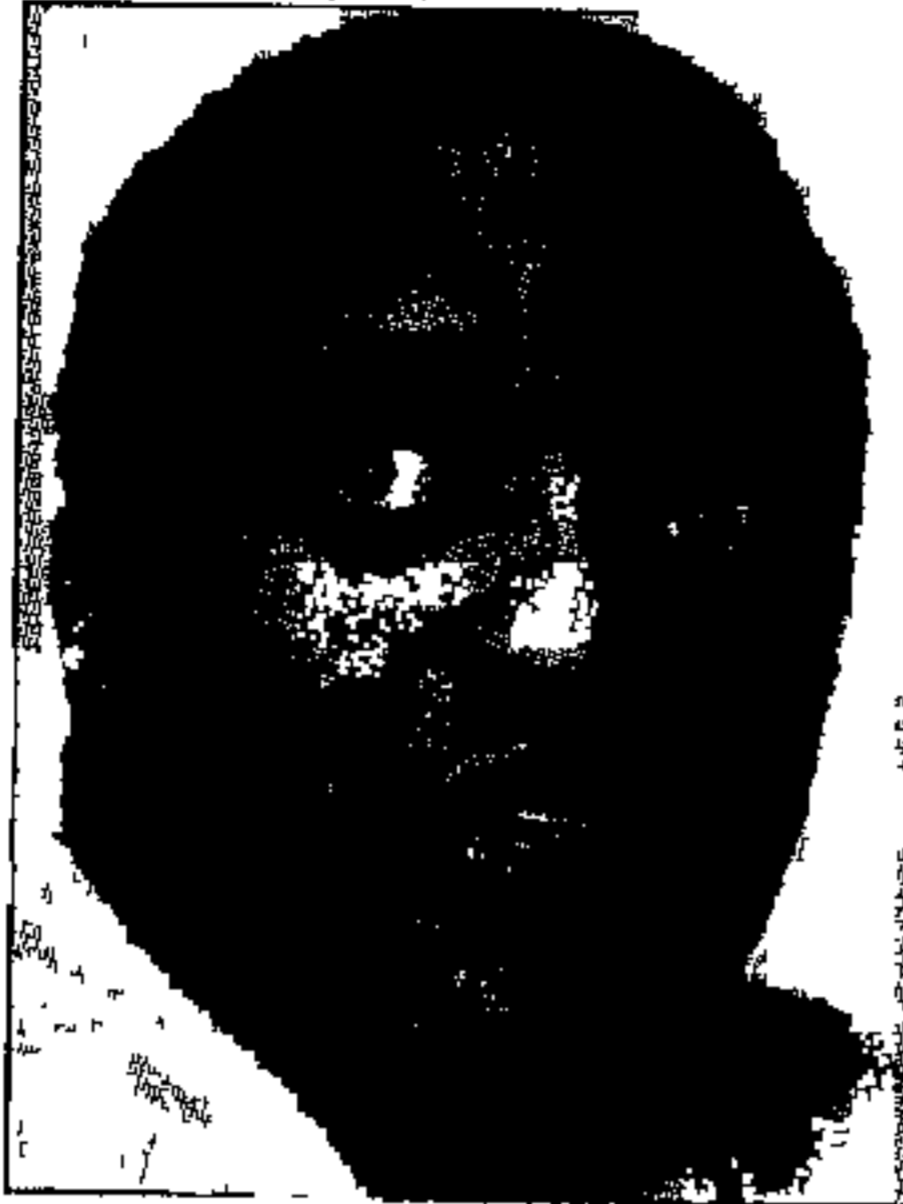
(252)
OWN CORRESPONDENT
Cape Town

Trevor Tutu, son of Truth and Reconciliation Commission chairman Archbishop Desmond Tutu, has lashed out at politicians and sections of the media over the outcry at his being granted amnesty, saying he believed their reaction was a relic of the previous government's campaign to discredit his father.

Several weekend newspapers carried prominent reports quoting Democratic Party and Pan Africanist Congress spokesmen alleging that Tutu's amnesty smacked of nepotism, and questioning whether his making a hoax bomb threat in 1989 could be construed as a political act.

Tutu was granted amnesty by a three-person panel of the amnesty committee headed by Chris de Jager, a former member of the AWB who was nominated on to the commission by the Freedom Front.

The panel found favour with Tutu's explanation: "I have been the subject of wrongful arrest, detention, withdrawal of my passport and too many other slights to be mentioned here . . . My action was associated with a political objective in that it showed those who had claimed the right to treat me as



Trevor Tutu ... unrepentant

their vassal or serf that I was .. neither vassal nor serf, but a proper citizen of this country and should be treated as such."

After being released from Goodwood prison on Friday - where he was serving a three-and-a-half-year prison sentence under the Civil Aviation Act - Tutu spoke exclusively on Saturday to The Star's sister paper, the Cape Times.

Tutu (41), of Johannesburg, spoke frankly on his "badboy" reputation, admitting to being "pig-headed" and sometimes using language "more suited to the dockside" in his dealings with apartheid officialdom.

"I suppose in those days I

was very visible. I was in advertising, a young black executive in an MG motor car. They used to pull me over and attempt to intimidate me. I concede that their expectations that I should put up with their disdain was like a red rag to a bull.

"For example, they once alleged that I was driving under the influence of alcohol and then kept me in jail for the weekend, even though the district surgeon found I had not been drinking."

Tutu denies he committed any crime in relation to the bomb hoax. He was flying South African Airways to Johannesburg. At the East London stopover, members of the cabin crew refused to give him a newspaper, he said, so he got off the plane to buy one. During an ensuing fracas, he told the police and ground crew there was a "device" on board.

Sentenced, and on bail pending appeal, Tutu disappeared from sight. A fugitive for four years, he was rearrested by the police in August only after a newspaper tracked him down, and began serving his sentence.

Tutu was severely critical of DP leader Tony Leon, who reportedly said the case smacked of "a degree of favourable treatment".

TRC defends its integrity

By ROBERT BRAND

Suggestions that Truth and Reconciliation Commission chairman Archbishop Desmond Tutu unduly influenced the decision to grant his son amnesty were "scandalous" and the commission would take legal action against anyone making them, Tutu's deputy, Dr Alex Boraine, said yesterday.

Boraine said criticism of the decision was "misdirected and based on ignorance" about the amnesty process.

"It is scandalous to suggest that Archbishop Tutu interfered with or influenced the amnesty process. Archbishop Tutu is a man of absolute integrity and would never resort to seeking special treatment for his son's amnesty application," said Boraine.

He was reacting to statements by opposition parties questioning Tutu's role in the processing of the amnesty application by his son Trevor.

"The archbishop has never even seen his son's application form. He did not know about the decision until after his son's lawyer was informed of it," Boraine added.

Winnie to face new murder accusations

Albertina Sisulu is expected to tell Truth Commission of a heated argument between Madikizela-Mandela and Asvat at the doctor's surgery, shortly after Stompie's death.

(252)

By Robert Brand

Winnie Madikizela-Mandela, whose campaign for election to the deputy presidency of the ANC suffered a blow at the weekend, returns to the Truth and Reconciliation Commission today to face new allegations of complicity in murder.

Two men convicted of murdering Dr Abu-Baker Asvat in January 1989 are expected to testify this week that Madikizela-Mandela offered them R20 000 to kill the popular Soweto doctor.

The TRC's special hearing on the activities of Madikizela-Mandela's band of youthful associates known as the Mandela United Football Club enters its second week today and is expected to end tomorrow.

Madikizela-Mandela, who maintained a stony silence throughout five days of testimony last week, is expected to take the stand tomorrow to answer to the charges against her. "I am waiting my turn. When all this is over I will speak," she said at the weekend when opening a museum at her former home in Soweto.

Madikizela-Mandela's quest for the second-highest office in the ANC received a setback at the weekend when two provinces in which she was thought to have mass support, the Eastern Cape and the Northern Province, failed to nominate her.

She now has the backing of only the ANC Women's League. In a sworn statement before the commission, Thulani Dlamini claims he and Cyril Mbatsha met Madikizela-Mandela to negotiate a "contract" to murder Asvat.

Asvat was killed a month after the death of Stompie Sepei, the 14-year-old activist who died after allegedly being assaulted at Madikizela-Mandela's Soweto home.

According to testimony before the TRC, Asvat had examined Stompie after the assault and insisted that he be taken to hospital. Madikizela-Mandela refused.

It has also been alleged that Asvat refused to provide Madikizela-Mandela with medical "proof" that Stompie and other youths had been sexually molested at the Methodist mission of the Rev (now Bishop) Paul Verryn.

After Stompie's death in January 1989, Madikizela-Mandela accused Verryn of molesting youths in his care and accused the Methodist Church of focusing on Stompie to deflect attention from Verryn's conduct.

The allegations against Verryn have been found to be false in separate inquiries by the police and the Methodist church. His accusers, among them youths who stayed at the

mission and Xoliswa Falati, Madikizela-Mandela's former associate, have also withdrawn their accusations.

Also scheduled to testify this week is Albertina Sisulu, the ANC stalwart who worked as a receptionist for Asvat at the time of his murder. Sisulu is expected to give testimony about an alleged visit by Madikizela-Mandela to Asvat's surgery shortly after Stompie's death during which Madikizela-Mandela had a heated row with the respected doctor.

Jerry Richardson, the "coach" of the "football club" who has applied for amnesty for four murders, including that of Stompie, is also scheduled to testify.

Richardson, who arrived at the hearing on Thursday wearing a Mandela United Football Club tracksuit, says in his amnesty application that he and an associate slit Stompie's throat "like slaughtering a sheep".

Staw 1/12/97

The commission might also call the state pathologist who conducted a postmortem on Stompie's body.

The postmortem report shows two stab wounds to the boy's body, apparently contradicting Richardson's claim.

Katza Cebekhulu, who participated in the assaults on Stompie and who testified last week, claimed Madikizela-Mandela personally stabbed Stompie twice with a "shiny object".

Suspicions have been voiced that Richardson may still be covering for Madikizela-Mandela, in spite of the fact that he is serving a life sentence for the murder.

Last week, the commission heard testimony from former members of the "football club", parents of youths who had allegedly been murdered, and former Mass Democratic Movement leaders who spoke out publicly against Madikizela-Mandela in 1989.

Madikizela-Mandela accused of intimidating commission

Stephen Lafer

A GROUP of Winnie Madikizela-Mandela's supporters joined the audience at the truth commission in camouflage uniforms yesterday amid allegations of intimidation of witnesses.

The allegations came on a day fraught with tension and bizarre antics. The commission also heard evidence from one of its investigators on an apparent case of intimidation. Earlier, former United Democratic Front president Albertina Sisulu was

accused by a commissioner of "trying your best to say as little as possible."

Commission investigator Piers Pigou took the stand to report that a crucial witness, traced last Friday, Michael Seakamela, had disappeared yesterday after saying he had been contacted by Oupa and Mummy, a reference to Madikizela-Mandela and his brother Seakamela, who had been badly beaten Lolo Sono was last seen alive with her, had mutually been willing to make a statement on what he

knew of her involvement in Sono's death. His brother Oupa, is the father of Madikizela-Mandela's grandchild.

Madikizela-Mandela's lawyer, Ishmail Semanya, said she had never been in contact with Seakamela. But commission chairman Desmond Tutu said there was "no doubt that some people feel intimidated." He had earlier granted witness protection to the family of Zakhele Mbatha, one of the convicted killers of Soweto, "people's doctor" Abu Baker Asvat. Mbatha said he feared for his family's

safety while Madikizela-Mandela's uninformed supporters were present.

The other man convicted of killing Asvat, Thulani Dlamini, had taken ill before being able to give evidence. He was diagnosed as being dehydrated. Evidence leader Hanf Vally said he had reports that Madikizela-Mandela had contacted at least three other witnesses, apparently in a bid to influence them. They included her former driver John Morgan and former football club members Gift Ntombeni and Jabu Sithole, who testified last week.

(2522)

BP 2/12/97



At the start of the day, Madikizela-Mandela spent several minutes waiting in her car before using a group of her chanting supporters to make a telephone entrance. She was met at the door by Stompie Seipei's convicted killer, Jerry Richardson, who unfurled a placard reading "Jerry vs Winnie". Richardson has said he murdered Seipei, Sono, and Siboniso Shahlala on Madikizela-Mandela's orders.

See Pages 6 and 7
Comment: Page 13

Accusations mount for club

(252)

CT 2/12/97

ROGER FRIEDMAN
SPECIAL ASSIGNMENTS WRITER

JOHANNESBURG. It was a day of high drama and intrigue yesterday, the sixth day of the TRC's special inquiry into the criminal activities of the Mandela United Football Club, another day of shades of grey

Not for the first time, commission chairperson Archbishop Desmond Tutu was moved to remind the crowded hearing in Mayfair that Ms Winnie Madikizela-Mandela was not on trial. In reality, the commission may not be a court but the manicured "Mother of the Nation" is engaged in a desperate struggle for her integrity and political future.

Members and supporters of the club, described by former United Democratic Front president Mrs Albertina Sisulu as having

embarked on a "reign of terror" in the late 1980s, were known as "Winnie's Boys"

In another frenzied series of accusations, counter-accusations, denials, and recanting of statements yesterday

● Madikizela-Mandela was accused of attempting to intimidate a crucial witness. She denied the charge.

● A lawyer said he had received death threats two days after it was announced that he was to act for a witness who has implicated Madikizela-Mandela in the murder of Sowetan "People's Doctor",

Abu-Baker Asvat

● Zakele Cyril Mbatha, serving a lengthy prison sentence for killing Asvat, alleged

"Mrs Mandela said, if we killed Dr Asvat we would be paid R20 000, and maybe even more"

● Sisulu appeared to contradict her own statement in a recent BBC television documentary, and it was suggested by a commissioner that

she could be attempting to cover up for her old comrade, Madikizela-Mandela

● It emerged that Vlakplaas killer Eugene de Kock had murdered and then

blown up the body of a Themba Mabote, who was apparently sent to Botswana so that he could say he had seen the already-dead Seipei

Madikizela-Mandela's evidence, expected tomorrow, will be transmitted live to the world by CNN, and here by the SABC

In the meantime her advocate, Mr Ismail Semanya, has his hands full attempting to discredit witness Sisulu was the first witness he did not cross-examine.

The relationship between the Sisulus and the Mandelas is an old one. President Nelson Mandela and Mr Walter Sisulu were both convicted in the Rivonia Trial. Both wives were banned for lengthy periods

After Sisulu's evidence, a tide of allegations of intimidation began to surface, aided by the appearance at

□ Turn to Page 7



WITNESS: Albertina Sisulu, who testified at the TRC yesterday

PICTURE: THE STAR

Asvat inquiry continues to surprise

(252)

CT 2/12/97

□ From Page 1

the hearing of a knot of young men in camouflage-dress, there to support Madikizela-Mandela.

Family members of the two Asvat killers were placed in the commission's witness protection programme after a member of their legal team reported that Mbatha had noticed two disconcerting things in the audience. None of the friends who had supported him throughout last week were there, but a number of "MKs" were

The proceedings appeared to have upset Thulani Nicholas Dlamini's constitution

Scheduled to testify about Madikizela-Mandela's alleged involvement in the Asvat affair, he was excused from testifying after a correctional services officer said his charge was suffering from the effects of a stress-related bug

The Madikizela-Mandela link to

Asvat's murder was first made by Mr Katiza Cebekhulu, who claims to have heard a storming row between her and the doctor over the badly beaten Seipei

Cebekhulu claims he was asked by Madikizela-Mandela to point out Asvat's surgery to the two killers

Cebekhulu skipped bail after being charged in the Seipei matter, and was later discovered in a Zambian prison

He claims to have seen Madikizela-Mandela stab Seipei, and that she arranged for him to be imprisoned in the Zambian jail

Sisulu was Asvat's receptionist. In the BBC documentary *Winnie Mandela and the Missing Witness*, Sisulu confirmed her writing appeared on Cebekhulu's admission card dated December 30, 1988

Cebekhulu claims that it was during this visit that Madikizela-

Mandela could not persuade the doctor to note physical signs that he had been sexually abused

Yesterday, Sisulu denied it was her hand-writing

She denied ever having seen Cebekhulu, or having seen Madikizela-Mandela at Asvat's surgery at the time, or ever having been told by Asvat that he had attended to patients at Madikizela-Mandela's home

She did, however, testify that the Football Club was an issue of controversy in the community, which she and the Mass Democratic Movement wanted disbanded

She had received complaints that the Football Club was conducting a "reign of terror" and as a result, withdrew her sister's two children from the group

But she had not discussed it with Madikizela-Mandela because they were both banned at the time

Shades of grey

CT 2/12/97

TUTU WARNS DEFIANT EX-PRESIDENT

PW to be charged ⁽²⁵²⁾ if he doesn't show up _{CT 2/12/97}

THE TRC has been told P W Botha will not appear before it and will answer questions in writing. Political Writer **CHRIS BATEMAN** reports.

FORMER president Mr P W Botha could be jailed for up to two years if he carries out his threat not to appear in person before the Truth and Reconciliation Commission this Friday, the TRC's chair, Archbishop Desmond Tutu, warned yesterday.

The TRC — due to question the State Security Council's top triad this week — was told by his lawyers yesterday that Botha did not intend to appear and would answer its questions in writing.

"This response is wholly inadequate," Tutu said. "Mr Botha is required by law to appear on Friday. We are insisting that he must appear. If Mr Botha does not appear before us, we will proceed to lay charges immediately."

The penalty for ignoring a TRC subpoena is a fine and/or imprisonment of up to two years.

The two other key players on the State Security Council, former Minister of Defence General Mag-



RISKS JAIL: P W Botha

nus Malan and former head of the National Intelligence Services Dr Niel Barnard, have agreed to appear in person on Thursday.

A call to Botha's Wilderness home, Die Anker, yesterday was taken by a secretary who refused to give her name or to answer questions. She referred all inquiries to Botha's lawyer, Mr Ernst Penzhorn, in Pretoria.

Penzhorn was not available for comment.

Tutu said that he hoped Botha would appear as scheduled.

"He told me when I had discussions with him last year that he was a law-abiding citizen. We

hope he will change his mind."

Botha, 81, has been served with two subpoenas from the TRC, the most recent of these last month.

The commission waived the first, issued earlier this year, when Botha supplied a doctor's report saying he was recovering from a hip operation.

Botha has consistently refused to appear before the TRC, which is investigating apartheid-era crimes. He has also said the Afrikaner goes on his knees "only before God."

The TRC wants his help in determining whether extra-judicial killings and other abuses were ordered by government leaders or carried out on the initiative of maverick police and army officers.

Botha has said his government was fighting a communist-backed insurgency and that he "has nothing for which to apologise."

"In terms of Section 39 of the Promotion of National Unity and Reconciliation Act, "any person who — having been subpoenaed in terms of this Act, without sufficient cause fails to attend at the time and place specified — shall be guilty of an offence and liable to a fine or to imprisonment for a period not exceeding two years or to both."

Kadalie hits out at Pityana

LINDIZ VAN ZILLA

(252)

CT 2/12/97

OUTGOING Western Cape Human Rights Commissioner, Ms Rhoda Kadalie, last night lashed out at the commission's chairperson Mr Barney Pityana, citing a lack of leadership as one of the reasons for her resigning.

Speaking at her farewell function in the city, Kadalie said it had become increasingly difficult to work in an organisation which lacked leadership and management.

She said that although the two-year-old commission's vision and aims were clearly stated on paper, it was incoherent and "fizzled out" in practice.

Although her "heart and soul" was in the job, she could not work in an organisation where there existed constant "obstruction and stone-walling" and over-ruling of the commission's decisions.

Kadalie also expressed unhappiness over the fact that very often the commission was not steered. "The chairman was away for a lot of the year and everyone was just left to their own devices."

Kadalie resigned in July.

Last night's function was attended by about 60 people from various government

agencies such as police and correctional services, and organisations such as Amnesty International and the Black Sash.

Several speakers proclaimed Kadalie as a champion of human rights. During her farewell speech, an impromptu petition was drawn up, with over 50 signatories, calling for Kadalie to reconsider her resignation.

Head of Pollsmoor Prison's maximum security section, Mr John Jansen, who credited Kadalie with introducing a human rights culture in the prison, said the petition would be handed over to President Nelson Mandela, and Justice Minister Mr Dullah Omar.

Kadalie was a key figure in setting up an independent investigation into the alleged mass assault of Pollsmoor prisoners by warders during a prison raid in May this year.

Kadalie last night described her work within the prison set-up as the most satisfying of her career. However, too much money was spent on operational costs than on projects aimed at establishing human rights.

The commission's Western Cape office has been racked by controversy recently.

Legal officer, Mr Ron Paschke also resigned, days after Kadalie quit. Paschke had cited "frustration" with the commission.



WANTING FACTS: Lindiwe Hani (left) and her mother, Lympho, listen during the amnesty hearings of the killers of her father, SA Communist Party leader Chris Hani.

Gaye Derby-Lewis claims police dictated statements

(252)

CT 2/12/97

OWN CORRESPONDENT

JOHANNESBURG: Mrs Gaye Derby-Lewis, the wife of one of the men convicted of murdering SA Communist Party leader Mr Chris Hani, has denied statements made to the police in her handwriting and implicating her in the 1993 murder conspiracy

She confirmed she had made five statements to the police, but told the Truth and Reconciliation Commission in Pretoria yesterday that she had written only what the investigating officer had told her to write.

She had been under interrogation for a long period and, when she made the statements, she was disorientated from lack of sleep,

she said. She had also been under pressure to say what the police wanted her to say because Section 29 of the Internal Security Act, under which she had been detained, provided for extended detention in solitary confinement without access to a lawyer

She denied having had any prior knowledge of Hani's murder. Her statements, however, had said she and her husband had decided Hani should be eliminated "because of his particularly brutal record and because he was chairman (sic) of the communist party"

Her husband, former Conservative Party politician Clive Derby-

Lewis, and Polish immigrant Janusz Walus were convicted of Hani's murder. They are serving life sentences and have applied for amnesty on the grounds that the murder was politically motivated

Derby-Lewis said she had "departed from the truth" while testifying at the Hani murder trial.

She knew her husband had given Walus the list of ANC and communist party leaders and supporters that had been found in

Walus' possession, but told the court she did not know how Walus had obtained it. She had been trying to protect her husband, she told the amnesty committee



Wife of Hani killer denies plotting death

Sowetan 2/12/97

(262)

Mrs Derby-Lewis says police pushed her to implicate herself in the assassination

By Simon Zwane
Political Reporter

THE WIFE of Clive Derby-Lewis, who is seeking amnesty for the assassination of South African Communist Party leader Chris Hani, said yesterday that she was threatened and driven by the police to implicate herself and her husband in the killing.

Mrs Gaye Derby-Lewis, whose husband and Polish immigrant Janusz Walus have been convicted of the 1993 murder, also admitted lying during the criminal trial to protect her husband.

She denied, however, that she was involved in plotting the assassination.

Mrs Derby-Lewis stood trial for the murder, together with her husband, and was acquitted while the men were sentenced to death.

She admitted that she drew up a list of senior African National Congress members and that a revised version (of the list) was found in Walus's possession shortly after Hani's assassination.

She said the original list with about 17 names, including Cabinet ministers Steve

Tshwete, Pallo Jordan and Joe Modise and former ANC general secretary Mr Cyril Ramaphosa, was first sent to *Citizen* reporter Mr Arthur Kamp to get the addresses of the people appearing on it.

She said Kamp managed to get the addresses of nine people and it was this list, with numbers placed next to the names of President Nelson Mandela, Mr Joe Slovo, Hani, Mr Mac Maharaj, Mr Pik Botha, Ms Karen Brynard, Mr Tim du Plessis, Mr Ken Owen and Judge Richard Goldstone that was found in Walus's house.

Planning something

Walus has admitted that he numbered the list according to the importance of the people appearing on it and their enmity towards the Conservative Party.

In her statement to the police Gaye Derby-Lewis was reported to have said that her husband had informed her that he and Walus were "planning something concerning someone on the list".

She further said the list was compiled "because we had vague plans at the beginning that arrangements should be made to liquidate members and leaders of the ANC and SACP".

WINNIE 'promises' me R20 000 to kill'

(252) *Southern 2/12/97*

By Pamela Dube

CONVICTED murderer Zakele Mbatha yesterday asked the family of the slain Dr Abu-Baker Asvat for forgiveness for his murder in his surgery in 1989

"I did not know Dr Asvat. I have nothing against him and I did not even know that he was the family doctor for the Mandelas. In fact, I believed he was against the Mandelas' cause," Mbatha told the Truth and Reconciliation Commission (TRC) hearing in Johannesburg into the activities of Mrs Winnie Madikizela-Mandela and the Mandela Football Club

As Mbatha related the events that led to Asvat's death, Asvat's brother Ebrahim wept uncontrollably

Mbatha claimed he had been instructed by Madikizela-Mandela to kill Asvat after he had been promised a payment of R20 000 Mbatha struggled during cross-examination, however, to explain the contradictions in his testimony and three of his earlier statements, including one to the police in 1989, another during his trial and the one he gave to the TRC investigators

To the police and in court, Mbatha had stated that robbery was the motive for Asvat's killing. It was only when he was approached by TRC investigators earlier this year that he alleged Madikizela-Mandela had hired him and his co-accused, Thulani Dlamini, to murder Asvat

However, contrary to yesterday's testimony where he admitted to having personally carried out the killing, Mbatha had blamed the murder on Dlamini in his statement to the TRC investigators

On these contradictions, Mbatha told the TRC that he had lied all along "because I did not trust the police and courts. Also, I did not know about the TRC when they approached me and so I could not trust them. That is why I lied"

The statements also contradicted those of his cousin and co-accused Dlamini. In a prepared statement expected to be delivered today, Dlamini says that he and Mbatha met with Stompie Seipei's convicted murderer Jerry Richardson as early as December 1988 where the "contract" on Asvat's life was first discussed

Mbatha, however, claimed he only met Richardson a day after the shooting

Dlamini states that after being briefed on their job (to kill Asvat) Madikizela-Mandela told them "money was not a problem, but what is an issue was whether we have the courage to shoot a person who was an Indian male who had crucial evidence against Winnie. Further, she would then give us R20 000 after the performance of our task"

Sapa-AFP reports that khaki-clad former guerillas disrupted the TRC hearing yesterday. At least six young men wearing purple berets and former ANC uniforms caused a stir after entering the venue of the hearing

Their arrival disrupted the proceedings for about 20 minutes

Lawyer Peter Solter told the commission he had received anonymous death threats soon after he decided to represent Mbatha. Solter asked for police protection for his client's family attending the hearing, saying Mbatha feared for their safety

● See also page 7



Little Eunice Modise holds a lit candle during the World Aids Day commemoration at Odi Stadium in North West yesterday. Health Minister Nkosazana Zuma (left) and Education Minister Sibusiso Bengu are with her. ● See page 3

PIC ANTONIO MUCHAVE

'Winnie spoke to witness'

JOHN YELD

ON THE TRUTH COMMISSION

252
ARLT 2/12/97

Johannesburg - Winnie Madikizela-Mandela had a former member of her Mandela United Football Club brought to her home last Sunday, on the eve of the Truth Commission's special hearing into the club's activities, and asked him whether he was going to testify.

This was evidence today by Gift Mtombeni, who is now under the commission's witness protection programme.

His evidence contradicts directly a statement yesterday by Mrs Madikizela-Mandela's lawyer, Ismail Semanya, that his client had not approached any witnesses before the hearing.

Mr Mtombeni said he had been fetched from his home on Sunday November 23 by Zakes Mkotsho Sbilwana. "He didn't tell me straight I was being sought by Winnie. It was only when we approached her place."

Mr Mtombeni said when they had arrived Mrs Madikizela-Mandela asked him whether he was going to testify at the hearing. "And when I agreed, she asked me with whom am I going to appear, and I told her that (it would be) with Sibusiso Chili, I L (Leratodi Ikaneng) and John Morgan (Mrs Madikizela-Mandela's former driver)."

He said Mrs Madikizela-Mandela had then asked him to go to fetch Mr Morgan, but he (Mr Morgan) had refused to come.

Responding to a question, Mr Mtombeni said Mrs Madikizela-Mandela had not told him not to testify at the hearing.

Earlier he said that in January 1989 Mrs Madikizela-Mandela accused him of being an informer and took part in assaults on him. "We spent about four days inside the house (of Mrs Madikizela-Mandela), we were not allowed to go out so that our condition would improve," he said.

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Staffing boost for Western Cape courts

(252)

NORMAN JOSEPH
STAFF REPORTER

11/12/97

The Attorney-General's office has appointed 100 newly-qualified prosecutors on a year's trial to alleviate staff shortages in Western Cape courts.

As many as 520 prosecutors in the province have resigned since 1994 to pursue careers in the private sector.

Johan Slabbert, a senior advocate in the Attorney-General's office, said staff shortages and inexperience were among "tremendous practical problems" in the criminal justice system.

The new recruits would work with experienced prosecutors and would be appointed permanently after the year on the job training.

Mr Slabbert was speaking at the Security Association of South Africa annual conference at the Cape Town Civic Centre last week.

He said that while prosecuting skills took many years to develop, the average experience of Western Cape prosecutors was two years.

There were also a lot of "blockages and loopholes" in the system. The low conviction rate could be attributed to magistrates, police and prosecutors often failing to apply the Bill of Rights correctly.

Prosecutors and detectives lost many cases because evidence was obtained in an unconstitutional way.

Mr Slabbert cited the case of an Eastern Cape murder suspect who was acquitted because detectives and a prosecutor had ignored a request for legal representation.

It is entrenched in the Bill of Rights that a suspect is allowed an attorney.

attorney

Kadalie leaves a storm in her wake

LINDSAY BARNES

CRIME DESK

ARG 2/12/97
The Government is being urged to investigate the "bankrupt" Human Rights Commission in a bid to identify the deep-rooted problems that drove Western Cape Commissioner Rhoda Kadalie to quit.

The call comes from Pollsmoor Prison head of admissions John Jansen, supported by Chris Ferndale of the Western Cape Anti-Crime Forum, Democratic Party MP Dene Smuts and Secretariat for Safety and Security provincial head Omar Valley

And Ms Kadalie has called for commission chairman Barney Pitjana to resign because of his frequent absences and "tendency to overrule decisions" by the commission

At a farewell function in Cape Town last night Ms Kadalie said the commission was poorly managed and

(252)
its leadership lacked vision.

The organisation was virtually bankrupt and had only enough money to pay staff salaries

Mr Jansen called on Ms Kadalie to retract her resignation

At the function he drew up a petition which he said he would send today to President Mandela and Justice Minister Dullah Omar asking them to take drastic steps to ensure Ms Kadalie remained in her post. "She is the most competent, committed and principled person," he said

He attributed a new human rights culture in the Department of Correctional Services to her work

Ms Kadalie said she had had numerous offers of work and was considering several, including one from a private sector company, a "parliamentary job", leadership roles at the universities of the Western Cape and Cape Town and an approach by a political party

We didn't get our R20 000, says Asvat killer

Witness says cops told him to keep quiet about money during trial

ARG 2/12/89 (252)

YED

ON THE TRUTH COMMISSION

confirm the contractual amount involved as mentioned.

"In response Winnie said the money was not her problem, but what was an issue was whether we had the courage to shoot a person who was a male Indian who had crucial evidence against Winnie. Further, that she would then give us R20 000 after the performance of our task."

A few hours after shooting Dr Asvat on Friday, January 27, 1989, he and Mbatha had gone to Mrs Madikizela-Mandela's home, where football club "coach" Jerry Richardson told them she had left and would be coming back on the Sunday.

They had returned on the Sunday evening, when she had thanked them for doing a good job and promised to get the money in the morning.

Diamini said they had been arrested before they could collect the money, and although he had made a statement immediately about the R20 000, this had not been used during his trial. "When I inquired about it from Heesingla and Moodley (the investigating officers), I was ordered to keep quiet."



Embrace: Winnie Mandela hugs Jabulile Zwane, daughter of murderer Charles Zwane



Passion: a friend comforts Ibrahim Asvat, right. Winnie Mandela is accused of being involved in the murder of Ibrahim's brother

Albertina asked about 'shielding comrade'

JOHN YELD

Johannesburg - It was left to Truth Commissioner Dumisa Ntsebeza to pose the question on many people's lips but which they were too embarrassed to ask.

Was former United Democratic Front president Albertina Sisulu trying to shield her one time comrade Winnie Madikizela-Mandela at yesterday's Truth Commission hearing?

The question came after Mrs Sisulu, one of the most revered names in the liberation struggle, dropped a bombshell by contradicting her own statements during the BBC television documentary about Katiza Cebekhu in, screened in September.

In the documentary, Mrs Sisulu - the nurse at murdered Dr Abu-Baker Asvat's Soweto clinic - said she filed

in the record card showing that Cebekhu was brought to Dr Asvat's surgery by Mrs Madikizela-Mandela on December 30, 1988, a day she claimed to have been in Brandfort.

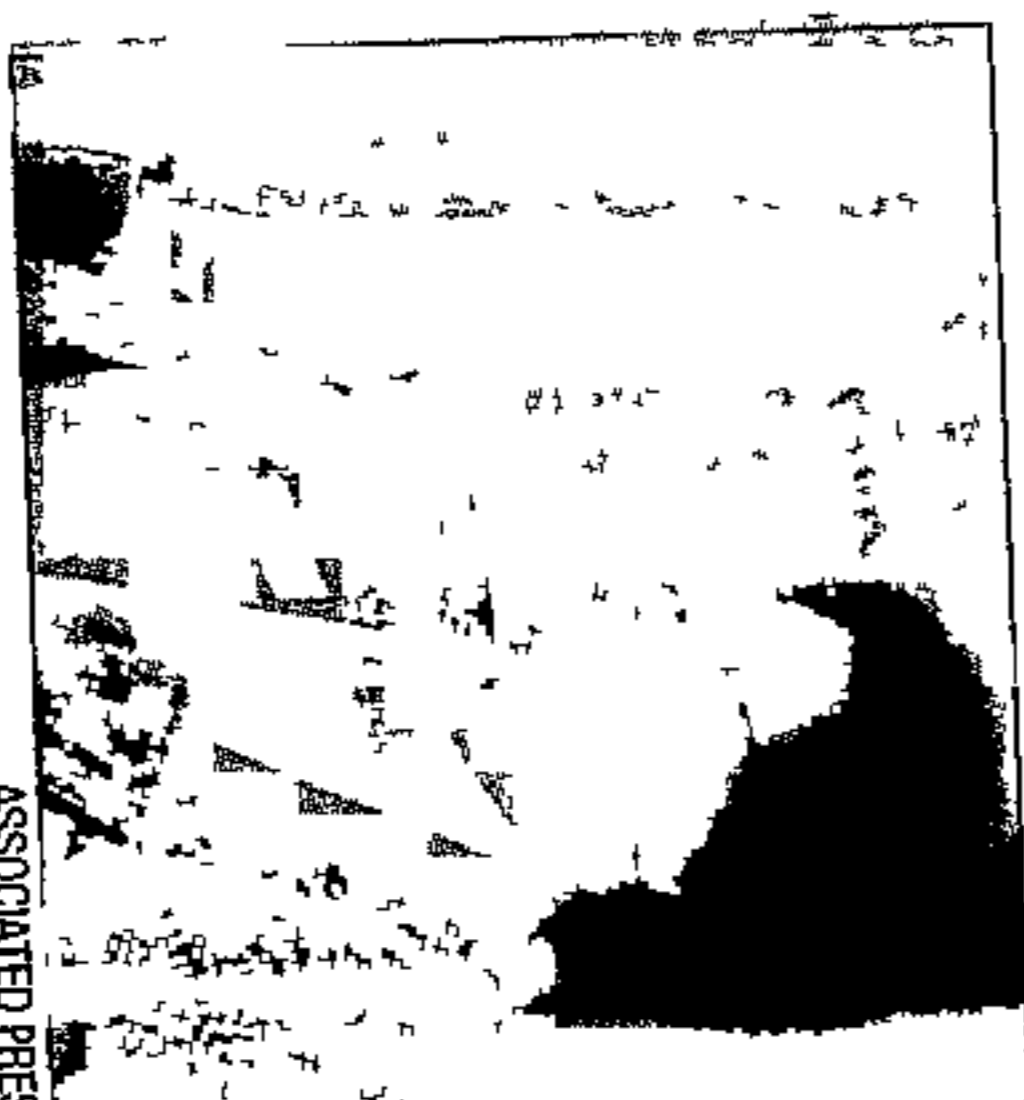
Mrs Sisulu testified yesterday that she had not filed in the card, although she later conceded that she might have been off that day.

Mr Ntsebeza told her no one doubts her "struggle credentials" but "my

initial impression is that you are trying your very best to say as little as possible about anything that might implicate Mrs Madikizela-Mandela."

Is it because she is your comrade? The Mandelas and the Sisulus come a very long way on both the male and female sides."

Mrs Sisulu replied that she was under oath and it would not be proper for her to lie.



Evidence: Albertina Sisulu

TRC suggests police were told to back off from investigating Winnie's actions

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ports of missing police docket and surprising decisions by the attorney general's office, that had truth commissioners and lawyers frustrated and openly sceptical.

The unanswered questions cropped up during testimony by two detectives charged with investigating Stompie's murder and the disappearance of Soweto youths Lolo Sono and

Sibomo Tshabalala.

Fred Dempsey said he had sworn statements from people in Brandfort that Mrs Madikizela-Mandela was not there at the time she claimed during the Stompie trial.

Also, he had obtained a statement from the driver of the vehicle in which Mrs Madikizela-Mandela was a passenger when she refused to hand

over a badly beaten Lolo Sono to his father, Nicodemus Sono.

Lolo Sono has not been seen since and football club "coach" Jerry Richardson has applied for amnesty in connection with his murder.

Superintendent Dempsey said neither statement was produced in court and he suggested that people were too afraid to testify. As soon as Mrs Man-

dela's name or that of her football club was mentioned, "It was as good as switching off a light", he said.

But commission deputy chairman Alex Boraine responded "I suggest to you that your light was switched off."

Superintendent Dempsey denied there was political pressure on him not to pursue investigations against Mrs Madikizela-Mandela vigorously.

Johannesburg - Winnie Madikizela-Mandela ordered a follower to leave South Africa and send false reports to newspapers that teenage activist Stompie Seipei was living in exile, the Truth Commission has heard.

JOHN YELD

Johannesburg - Winnie Madikizela-Mandela ordered a follower to leave South Africa and send false reports to newspapers that teenage activist Stompie Seipei was living in exile, the Truth Commission has heard.

before he could cross the border and from jail made a statement about the order. Three days later he was sent by the security police to Vlaakplaas command Eugene de Kock, who murdered him at the Penge mine in Mpumalanga and blew up his body.

Mabote's statement was never referred to during the trial in which Mrs Madikizela-Mandela and others

were convicted of kidnaping Stompie, and her football club "coach" Jerry Richardson was convicted of his murder.

It was puzzling links like these between police and activists which, combined with inexplicable gaps in police investigations into gross human rights violations linked to the Mandela United Football Club, re-

I wrote what police told me to, says Gaye Derby-Lewis

By RODNEY VICTOR

Gaye Derby-Lewis, wife of one of the men convicted of murdering SA Communist Party leader Chris Hani, yesterday denied statements made to the police in her handwriting implicating her in the 1993 conspiracy to murder Hani.

She admitted having made five statements to the police, but told the Truth and Reconciliation Commission in Pretoria yesterday that she had written only what the investigating officer had told her to write.

She had been under interrogation for an extended period and had been disoriented from lack of sleep when she made the statements, Derby-Lewis said. She had also been under pressure to say what the police wanted her to say, because section 29 of the Internal Security Act, under which she had been detained, provided for extended detention in solitary confinement without access to a lawyer, she said.

She denied having had any prior knowledge of Hani's murder, despite having said in her statements that she and her husband had decided that Hani should be eliminated "because of his particularly brutal

record and because he was chairman (sic) of the Communist Party".

Her husband, former Conservative Party politician Clive Derby-Lewis, and Polish immigrant Janusz Walus were convicted of Hani's murder. They were sentenced to death, but their sentences were commuted to life imprisonment. They are now seeking amnesty for the murder on the grounds that it was politically motivated.

Killer's wife tells TRC how Walus got list

Gaye Derby-Lewis also admitted she had "departed from the truth" while testifying at the Hani murder trial.

She knew her husband had given Walus a list of ANC and Communist Party leaders and supporters found in Walus' possession, but had told the court she did not know how Walus had obtained it. She had been trying to protect her husband, she told the TRC yesterday.

The hearing continues today.

Goldstone hands over Ntsebeza report

Mr Justice Richard Goldstone met President Nelson Mandela yesterday to hand over the findings of his probe into allegations linking TRC investigative unit head Dumisa Ntsebeza to the 1993 Heidelberg Tavern shootings.

Goldstone met Mandela for about an hour at his Houghton home in Johannesburg, along with Justice Minister Dullah Omar, presidential spokesman Parks Mankahlana said.

Omar appointed Goldstone, a Constitutional Court judge, in November to probe allegations by Cape Town gardener Bennett Sibaya, who implicated Ntsebeza in the Heidelberg Tavern attack in Guguletu, Cape Town.

Sibaya made the claims at an amnesty hearing for three Azanian People's Liberation

Army members, who have confessed to taking part in the attack, in which four people were killed.

Sibaya alleged that he had seen Ntsebeza driving a getaway vehicle used by the Apla members in the aftermath of the attack.

Later he retracted the statement, saying he had been tortured by police into implicating Ntsebeza in the incident.

Ntsebeza has maintained his innocence, while the Apla cadres - who were all jailed for their part in the fatal shootings - have denied he took part in the attack.

Mankahlana said he could not say when Judge Goldstone's report would be made public. However, as a general rule, Mandela liked to release TRC reports as soon as possible. - Sapa

Defiant PW faces jail,

Tutu warns

8 Nov 2/12/97
OWN CORRESPONDENT

Cape Town - Former president P W Botha could be jailed for up to two years if he carries out his threat not to appear in person before the Truth and Reconciliation Commission on Friday, TRC chairman Archbishop Desmond Tutu warned yesterday.

The commission, scheduled to question the State Security Council's top triad this week, was told by Botha's lawyers yesterday that Botha did not plan to appear and that he would answer the TRC's questions in writing.

"This response is wholly inadequate," Tutu said. "Mr Botha is required by law to appear on Friday. We are insisting that he must appear ... If Mr Botha does not appear before us, we will proceed to lay charges immediately with the relevant attorney-general."

The penalty for ignoring a TRC subpoena is a fine and/or jail for up to two years.

The two other key players on the State Security Council, former minister of defence General Magnus Malan and former head of the National Intelligence Service Dr Niel Barnard, have agreed to appear in person on Thursday.

A call to Botha's Wilderness home, Die Anker, yesterday was answered by a secretary who refused to give her name or answer questions, referring all queries to Botha's lawyer, Ernst Penzhorn, in Pretoria.

Penzhorn was unavailable for additional comment.

Tutu said he hoped Botha would appear as scheduled, adding: "He told me when I had discussions with him last year that he was a law-abiding citizen ... We hope that he will change his mind."

Botha (81) has been served with two subpoenas from the TRC, most recently last month. The commission waived the first, issued earlier this year, after Botha provided a doctor's report saying he was recovering from a hip operation.

Winnie interfered with witness, TRC told

In day of dramatic testimony, hearing is told how Madikizela-Mandela offered R20 000 to kill Asvat

DEBBIE YAZBE

BY ROBERT BRAND

Evidence was led before the Truth and Reconciliation Commission yesterday that Winnie Madikizela-Mandela had improperly interfered with a potential witness in the special TRC hearing into the activities of her "football club".

In other dramatic testimony, the commission heard from Zakhele Mbatha, one of two men convicted of the murder of Soweto doctor Abu-Baker Asvat, that Madikizela-Mandela had offered them R20 000 to kill Asvat, and had provided the murder weapon.

His evidence was hotly disputed by Madikizela-Mandela's lawyer, Ishmail Semanya, who said Mbatha had made several different statements about the killing and suggested he had implicated Madikizela-Mandela to strengthen his case in a possible amnesty application.

A heated row developed between Semanya and TRC lawyer Hamf Vally over allegations that Madikizela-Mandela was improperly interfering with witnesses.

The commission also heard evidence that Vlakplaas assassin Eugene de Kock had murdered a man who could have provided important evidence pointing to Madikizela-Mandela's involvement in the assault and murder of Stompie Seipei.

One potential witness, Mcebisi Mbatha, was killed in Johannesburg after he had told Mbatha that Madikizela-Mandela had sent him on a mission to convince overseas news media that Stompie was alive in Botswana.

Earlier, ANC stalwart Albertina Sisulu stunned the TRC by claiming she knew nothing about a visit to Asvat by Katiza Cebekhulu on December 30 1988, the day Stompie was assaulted.

During her trial for kidnapping and assaulting Stompie, Madikizela-Mandela claimed she had left Johannesburg for Brandfont on December 29, after Cebekhulu had been examined by Asvat. She said she

had returned on December 31, giving her an alibi for the assault on Stompie.

If the patient card shows that Cebekhulu visited Asvat on December 30, Madikizela-Mandela's alibi does not stand up.

Sisulu, widely expected to provide yet more damning evidence of Madikizela-Mandela's alleged involvement in the subsequent murder of Asvat, said she did not believe Madikizela-Mandela was guilty.

Sisulu denied previous testimony to the effect that Madikizela-Mandela had had a blazing row with Asvat at his surgery hours before he was killed.

It has been alleged that Asvat was murdered because he had refused to back up Madikizela-Mandela's claim that Methodist minister Paul Verryn had sexually molested boys who stayed at his mission.

Mbatha claimed he feared for the safety of his family because of the presence of former Umkhonto weSizwe cadres at the hearing, while his lawyer, Peter Soller, said he had received telephonic death threats soon after it became known that he was representing Mbatha.

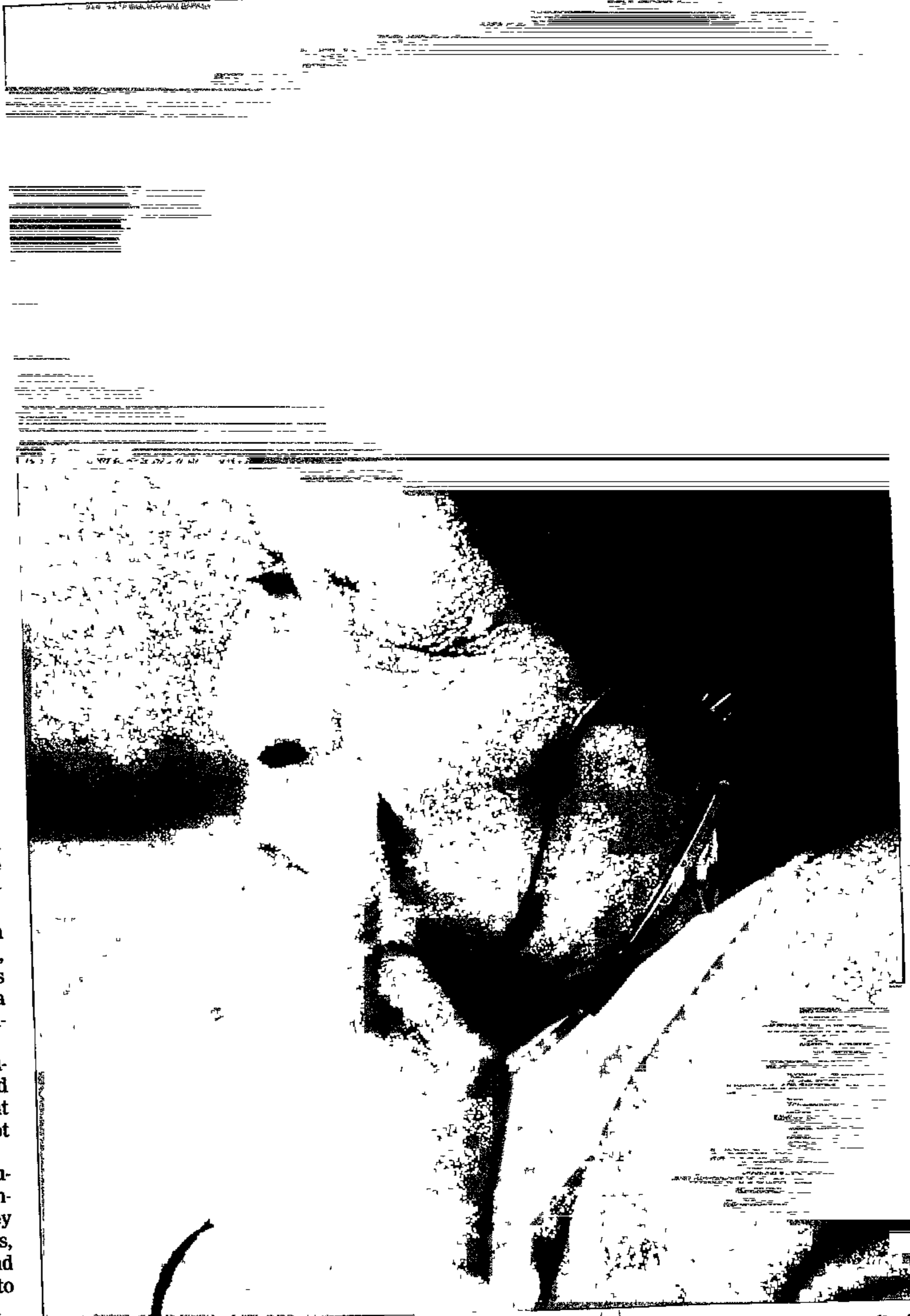
TRC investigator Piers Pigou testified that a potential witness, Michael Seakamela, had become reluctant to co-operate with the TRC after being "contacted by Mammie and Oupa".

"Mammie" is a name often used for Madikizela-Mandela, while "Oupa" was Seakamela's brother Johannes Seakamela, a household friend of Madikizela-Mandela.

Semanya denied that Madikizela-Mandela had been involved and gave an undertaking that Madikizela-Mandela would not contact potential witnesses.

Six men dressed in camouflage uniforms had earlier entered the hearing venue. They would not identify themselves, but said they were "ex-MKs and ex-SANDFs" who had come to support Madikizela-Mandela.

► Shock waves from Albertina's testimony



Unexpected ... Albertina Sisulu yesterday denied that her handwriting appeared on medical records crucial to Winnie Madikizela-Mandela's alibi that she was not in Johannesburg during the fatal assault on Stompie Seipei.

Sisulu's U-turn stuns commission

Anti-apartheid veteran Albertina Sisulu, now an ANC MP, stunned Truth and Reconciliation Commission investigators yesterday when she denied that the handwriting on a patient card for Katiza Cebekhulu was hers.

In a BBC documentary by journalist Fred Bridgland, broadcast in South Africa this year, Sisulu had confirmed that the handwriting was hers.

The card was filled in during a visit by Cebekhulu to Dr Abu-Baker Asvat's surgery in Soweto on December 30 1988.

At the time, Sisulu was Asvat's receptionist and nurse.

During her trial for the kidnapping and assault of Stompie Seipei, Winnie Madikizela-Mandela claimed she had left Johannesburg for Brandfort on December 29 after Cebekhulu had been examined by Asvat, and had returned on December 31. This gave her an alibi for the assault on Stompie, which took place on December 30.

Here is a transcription of Sisulu's interview with Bridgland - and her evidence yesterday.

■ The BBC interview.

Fred Bridgland: Is that your writing on top there? (As Sisulu is allegedly shown Katiza Cebekhulu's card).

Albertina Sisulu: That's my handwriting.

FB: And is that Dr Asvat's handwriting?

AS: Yes, it's his writing

FB: And that date there, is that the date you would have stamped in it? Was that part of your job?

AS: Yes, it was . . .

FB: To stamp?

AS: Yes. What I used to do when we admit, I take the name of the patient, the date here, and then stamp the card for that date. And I never wrote the history of the patient. He (Asvat) used to take his own history. What I did was just to dispense the cards and stamp. I put the stamp.

FB: But would the date there, as you have stamped it, that would be the correct date, would it?

AS: I should think so, because

I wouldn't just put any other date if it's not the right day. You would query it or correct it.

FB: So you're certain that's the correct date?

AS: That was the correct date if it's stamped there on that date, not unless this is a duplicate or a different card altogether.

■ Cross-examination at the TRC after being shown a copy of Cebekhulu's medical card:

Hanif Vally (TRC investigator): Do you recognise the handwriting at the top of the card?

AS: I don't recognise the handwriting noting down the particulars on Katiza Cebekhulu's card. I have never seen Katiza Cebekhulu.

HV: Would you have recalled if Mrs Madikizela-Mandela accompanied him?

AS: I don't know who was accompanying whom. Both myself and Mrs Mandela were banned, barring us from speaking to each other.

Norman Kades: (The Asvat family's lawyer) Is the handwriting at the top of Katiza's card - K569 - your handwriting?

AS: The name and address entry is not mine. I don't print when I write.

NK: Why in the TV interview did you say those two lines where in your handwriting?

AS: If I had filled in that card I would've recorded the patient's weight and urine as well. This card is not in my handwriting. Mine is more cursive, as I was taught in the Transkei.

NK: Who would've administered the date stamp?

AS: If I was there I would have, but the doctor also had one and could have stamped the card in my absence.

NK: Would you have known if Mrs Madikizela-Mandela visited the offices on 27 January, leading to a row?

AS: I would have been at the back of the house in the dispensary and wouldn't have heard anything.

Winnie's women drop their idol

Star 2/12/97 (252)

ANCWL set to withdraw support for fiery president as she battles to maintain challenge for top position

BY HOPEWELL RADEBE
Political Staff

Winnie Madikizela-Mandela's bid to become deputy president of the ANC has been dealt a severe blow - this time by the ANC Women's League (ANCWL), which is set to reverse its support for her.

Madikizela-Mandela is contesting the deputy presidency against ANC KwaZulu Natal leader Jacob Zuma, who is the ANC leadership's preferred candidate.

About 3 000 delegates will elect a new leadership at the ANC's national conference in Mafikeng this month.

The ANCWL's executive will meet this week to rethink its list of nominations for the ANC's six top positions. In September the league came out in firm support for Madikizela-Mandela, but it said yesterday that list had been intended only as a "guide".

Senior ANCWL sources said the league's executive was "highly unlikely" to continue backing her. One senior member said the league would take the decision to "avoid humiliating her".

At the weekend, the ANCWL in KwaZulu Natal dropped Madikizela-Mandela and came out in support of Zuma instead.

Yesterday, ANCWL executive member Mavivi Myakayaka-Manzini issued a statement on behalf of the league's national working committee in

Today's hearings

Thulani Dlamini	11
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which it sharply criticised Madikizela-Mandela for lambasting the Government's record in an interview with The Star last month.

"We distance ourselves from the interview and its contents," Myakayaka-Manzini said.

She disclosed that an emergency meeting of the ANCWL had been held with Madikizela-Mandela and she had confirmed that the interview "was indeed made without any mandate or consultation with the league".

She said the ANCWL would meet to "evaluate its nomination list and assess the options available for (its) candidate (Madikizela-Mandela)" at its executive meeting at the weekend.

Myakayaka-Manzini said the league had done what it could to solicit support among the ANC's provincial structures to back Madikizela-Mandela. But none of the structures, which collectively account for at least 90% of voting delegates, had responded positively.

"One of the most viable op-

tions that can allow Madikizela-Mandela a chance to contest the position lies in the hands of the delegates.

"Anyone could nominate her from the floor, but the signatures of at least 25% of the total ANC delegation must be secured and those supporters should be able to raise their hands when required," Myakayaka-Manzini said.

However, provincial delegates are unlikely to take that chance. Last week, at the KwaZulu Natal ANC provincial general council meeting, Zuma warned that provincial delegates were obliged to stay in line with their provinces' preferred candidates.

"When the province has made a collective decision on an issue, a member should not start raising the very same issue at national conference, but should rather retain it," he said.

A senior ANCWL source, who did not want to be named, said that even if a quarter of delegates risked supporting Madikizela-Mandela, it would be "wishful thinking" to imagine she could beat Zuma.

"A majority of members who have studied the political trends were unlikely to insist that Madikizela-Mandela stood for the deputy presidency. This time the (ANCWL) NEC meeting would be very reasonable and realistic about its expectations."

► More reports pictures

Sibaya faces perjury charges as Goldstone probe clears

JOHN YELD

Johannesburg - Truth commissioner Dumisa Ntsebeza has been cleared of involvement in the Apla attack on the Heidelberg Tavern in Cape Town in December 1993.

Mr Justice Richard Goldstone, the sole member of a commission of inquiry appointed by President Mandela to investigate the allegations, found that Guguletu gardener Benoit Sibaya falsely claimed to have

seen Mr Ntsebeza's car being used as a second "getaway" vehicle after the attack on the Observatory pub in which four people were killed and five seriously wounded.

His findings were handed to Mr Mandela yesterday. Judge Goldstone said Mr Sibaya, or someone directing him, had probably wanted to implicate Mr Ntsebeza in serious criminal conduct. But there was insufficient evidence to identify anyone who might have tried to conspire with Mr Sibaya.



Richard Goldstone Dumisa Ntsebeza

He recommended that Mr Sibaya be charged with common law or statutory perjury. The police should "leave no stone

turned" in investigating his motives for implicating Mr Ntsebeza and whether anyone else was involved.

Judge Goldstone criticised police for not ensuring that Mr Sibaya's original allegations were not followed up properly and, in particular, not put to Mr Ntsebeza, who heads the Truth Commission's investigative unit.

He was also critical of the Truth Commission for not immediately instituting an independent inquiry

as soon as the allegations were made. Mr Sibaya's dishonest conduct had "most serious" repercussions, he said.

"Not only has he harmed the credibility of the Truth Commission but he has caused much personal anguish for and prejudice to Mr Ntsebeza. This should in no way be underestimated."

The judge said racism and fear of perceived racism by the police and the Truth Commission might have

played a role in the delay and the inadequacy of the investigation of the allegations. He recommended that all state departments, official bodies such as commissions and appropriate non-government organisations take steps to avoid racial stereotyping.

Truth Commission chairman Desmond Tutu welcomed Judge Goldstone's findings and said the commission was "thrilled" that Mr Ntsebeza's name had been cleared. He welcomed the recommendation of a further inquiry.

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Ntsebeza

Albertina considers TRC return

JOHN YELD

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AAG 3/12/97
Johannesburg - Albertina Sisulu has told the Truth Commission she is "very disturbed" by criticism of her testimony this week at its Mandela United Football Club special hearing.

The commission responded by saying she would be welcome to testify again and she could be accommodated during the present hearing.

Mrs Sisulu was understood to be discussing this option with her family late yesterday.

She caused a big surprise on Monday when she contradicted what she said in a recent BBC television documentary, *Katiza's Journey*, which featured tough allegations against Mrs Sisulu's old comrade, Winnie Madikizela-Mandela, by a member of her football club, Katiza Cebekhulu.

Mrs Sisulu denied to the TRC she had written details on a patient card for Cebekhulu, who had been brought to Soweto medical doctor Abu-Baker Asvat by Mrs Madikizela-Mandela on December 29 1988. Her original statement to the BBC had contradicted Mrs Madikizela-Mandela's alibi during the Stompie Seipei trial.

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AUG 31/12/97
Zinzi 'egged on torture'

JOHN YELD

Johannesburg — A torture session in a shack at the back of Winnie Madikizela-Mandela's home instigated by her daughter Zinzi led to the house being burned down in revenge, the Truth Commission was told.

This was evidence yesterday by Lerothodi Andrew Ikaneng at the hearing on the activities of the Mandela United Football Club

Mr Ikaneng told the hearing he had joined the football club, which was formed in January 1987.

Club members "disciplined" members of the community alleged to have committed crimes and at one point several boys from Daluwonga High

School alleged to be rapists were abducted and taken to the shack at Mrs Madikizela-Mandela's home, where they were tortured, including being given electric shocks

Zinzi Mandela-Hlongwane had instigated these assaults, Mr Ikaneng alleged. In revenge, pupils from the school burnt the house down.

Mr Ikaneng said he was accused in October 1988 by a "very angry" Mrs Madikizela-Mandela and her daughter of preparing to give a statement to police about the murder of Kenneth Tholi Dlamini by members of the football club.

"She said she would find a hiding place for me so I couldn't give a statement to the police. She assaulted me with her hands and fists."

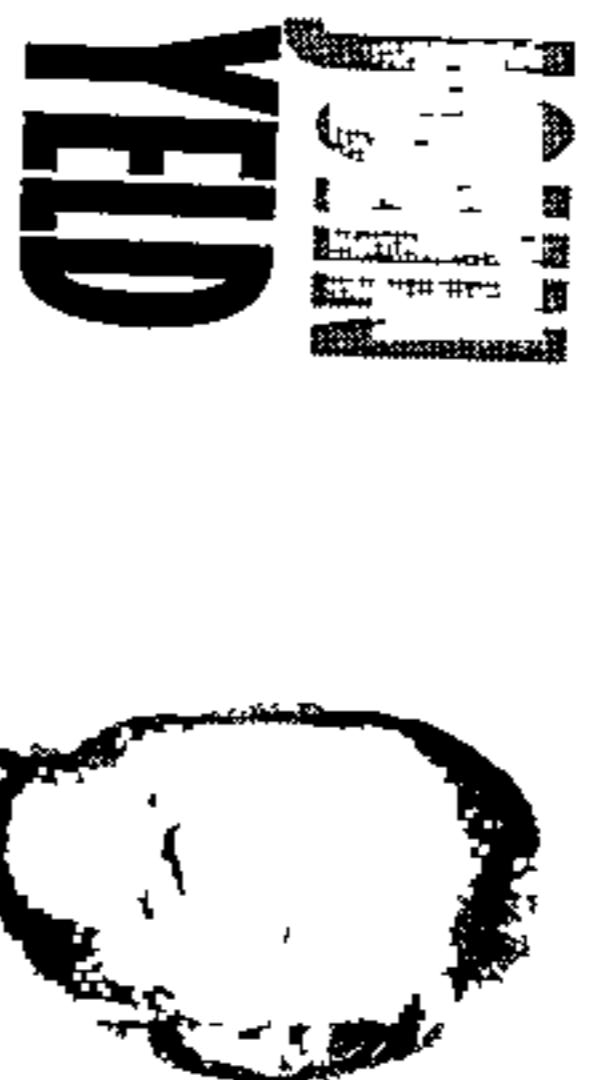
Can Mother of Winnie prepare to fight for her life?

Johannesburg – Using cold scientific terms, forensic pathologist Patricia Klepp described to the Truth

Commission how teenage activist Moekezi "Stompie" Seipei was battered during a prolonged assault that left deep and extensive bruising over his head, neck, buttocks and legs.

The person at the heart of events that led to his terrible beating in December 1988 and murder a few days later – Winnie Madikizela-Mandela – has also been subjected to repeated battering during the past eight days, although any bruises are mental and emotional.

Sitting with her two lawyers just off centre stage at the commissioner's "special event" hearing into the activities of her Mandela United Football Club, Mrs Madikizela-Mandela has endured, with apparent stoicism, dignity and occasional flashes of humour, a barrage of allegations ranging from involvement in gross human rights abuses such as murder, kidnapping and serious assault, to ver-tips of crimes, high-handedness, slander, lying, vindictiveness, lies and remarks about her sex life



ON THE TRUTH COMMISSION

Late today, she was expected to take a chair at the witness table and respond to many of the claims

Among the most damaging allegations are those of Katiza Cebekhulu, who in 1991 skipped bail while on trial with Mrs Madikizela-Mandela for the kidnapping and assault of Stompie and three other young men. He arrived from Britain to testify he had seen her stabbing Stompie twice late at night.

Mr Cebekhulu also said he saw her viciously assault a Soweto youth, Lolo Sono – since missing, presumed murdered – with a sjambok in her garage.

"Mrs Mandela was crouched close beside him with her back half-turned to me. She was beating him savagely

She had a heavy whip in her right hand (a sjambok) which she was using to hit him again and again. She didn't stop between the strokes of the whip except to raise it and bring it down on his body violently again."

Sono's father, Nicodemus, described seeing his son for the last time in the back of a minibus in which Mrs Madikizela-Mandela was sitting, and said she had accused Lolo of being a police spy.

"He was beaten up. His head was thick as though someone had beaten him up and crushed his head against a wall. He tried to speak but Mrs Mandela said to Lolo to shut up."

He had pleaded with Mrs Madikizela-Mandela, whom he had known since 1976, to allow him to take Lolo home. But she had refused, saying "This is a spy. I'm taking this dog away. The movement (African National Congress) will see what to do."

Among the most serious of the allegations against Mrs Madikizela-Mandela are those by cousins Zakhele Cyril Mbatha and Thulamani Dhlamini, who claim she offered them R20 000 to murder Soweto "people's doctor" Abu-Baker Asvat. As many of the witnesses who tes-

tified against her this week acknowledged – as she herself has shown – Mrs Madikizela-Mandela is a strong and formidable woman. But the task ahead may prove overwhelming, because of the nature and extent of the allegations against her.

The changing lines of Mrs Madikizela's still striking features over the past eight days have provided some indication of the pressure she is under. For most of the first few days her face was a composed mask, created only by an occasional frown or smile. But as the hearing wore on, the long hours and harsh testimony against her appeared to exact a toll.

On Friday there were the first few tears and during the past two or three days she has appeared increasingly grim and at times even haunted. When she takes off her tinted designer glasses, her eyes look red and tired.

Truth Commission deputy chairman Alex Boraine has described this hearing as a curious blend of "lies, half-lies, half-truths and truth". By the end of today, it should be clear which category Mrs Madikizela-Mandela has opted for in her battle to clear her name and reconcile herself with community and country.



Red alert: Winnie Madikizela-Mandela and TRC chairman Desmond Tutu during a break in proceedings at the TRC hearing

ASSOCIATED PRESS

TRUTH COMMISSION

Pathologist appears to contradict Seipei killer

Stephen Laufer

THE pathologist who carried out the post mortem on Stompie Seipei has given evidence to the truth commission contradicting an amnesty application by the "coach" of Winnie Madikizela-Mandela's football club Jerry Richardson in which he says he slaughtered the young activist like a sheep.

Dr Patricia Klepp said she identified three stab wounds on the neck of Seipei's badly decomposed body.

Two of them had been inflicted with a double-edged blade and one with a

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single-edged knife. Seipei was one of four young men abducted by the club from the Methodist manse in Soweto before being severely beaten at Madikizela-Mandela's house.

Survivors of the attack have alleged before the commission that she took part in the assault.

Seipei was killed after Madikizela-Mandela accused him of being a police spy.

None of the stab wounds had been consistent with a slit throat, Klepp said. Such an attack would have cut the oesophagus and left a large wound

across the neck.

There had been "no slaughtering of the neck".

The description of the stab wounds appears to lend credence to former Madikizela-Mandela acolyte Katha Cebekhulu's version of Seipei's death.

He told the commission last week he had seen Madikizela-Mandela stab Seipei twice with a gleaming object.

Klepp said the 1.4cm and 1.6cm large double-edged wounds had been inflicted behind the right ear.

The third 4cm-long wound had been inflicted on the left side.

Despite the advanced stage of decomposition of Seipei's body, Klepp said it had been possible to identify multiple wounds consistent with a brutal assault.

Seipei's back, buttocks, left thigh, right calf, and head had shown signs of blunt trauma consistent with assault.

There may have been more injuries, but she was unable to assess them because of the decomposition.

It had been particularly impossible to assess brain damage as the brain had "liquefied" as a result of decomposition.

Evidence

'just a 259 fairy tale'

Sowetan 2/12/98

By Simon Zwane

EVIDENCE given to the Truth and Reconciliation Commission by Mrs Gaye Derby-Lewis whose husband is seeking amnesty for the assassination of South African Communist Party leader Chris Hanu was described yesterday as a fairy-tale

This came after Mrs Derby-Lewis had told the amnesty committee in Mamelodi that she was threatened by the police and driven to write a statement implicating herself and her husband in Hanu's murder

Legal representative for the Hanu family and the SACP Advocate George Bizos showed the committee a video recording of the interrogation Mrs Derby-Lewis had with the police and it showed a relaxed Mrs Derby-Lewis freely and voluntarily telling a police officer that her husband Clive and Janusz Walus had been talking about some plan she did not know about

"I was not interested in what Kuba (Walus' nickname) had to say. Look they were talking heavy politics," Mrs Derby-Lewis said

Also, Bizos said she lied when she said she drew up a list containing names of prominent African National Congress leaders and journalists because she wanted to write an article on their "gravy train" activities

Conspired in assassination

The abridged version of the list which contained addresses of nine leaders, including Hanu's, was later found in the possession of Walus, who had conspired with Clive Derby-Lewis in the assassination

Bizos said Mrs Derby-Lewis's purpose in compiling the list was to execute one of the persons mentioned in it

"That is ludicrous" cried Mrs Derby-Lewis

She said she wanted to interview the journalists on the list in their homes to expose them for allegedly accepting bribes to afford their luxurious lifestyles which were inconsistent with their earnings

The journalists included former *Sunday Times* editor Ken Owen, *Beeld* political editor Tim du Plessis and former *Star* columnist Jon Qwelane

Goldstone

clears

Ntsebeza

Judge also advises that Sibaya be sanctioned, charged with perjury

JUDGE Richard Goldstone has cleared truth commissioner Mr Dumisa Ntsebeza of involvement in the 1993 Heidelberg Tavern killings, and has criticised the Truth and Reconciliation Commission (TRC) for not calling for an independent inquiry when the allegations first surfaced.

In a report released yesterday, Goldstone said Guguletu, Cape Town, gardener Mr Bennett Sibaya should be "sanctioned" for making the claims against Ntsebeza.

Goldstone also advised the Western Cape attorney-general to consider charging Sibaya with perjury.

He also said the police should leave no stone unturned in investigating whether anyone else was involved in falsely implicating Ntsebeza, who is the TRC's head of investigations.

President Nelson Mandela last month appointed Goldstone as a one-man commission to inquire how Sibaya came to make, and later retract, claims that Ntsebeza drove the getaway vehicle in the attack on the Cape Town drinking hole by cadres of the Azanian People's Liberation Army (Apla).

Ntsebeza was telephoned by Mandela to tell him he had received Goldstone's report.

Mandela congratulated him on being cleared by Goldstone.

"I felt vindicated three times over. From May I have been saying this is nonsense," said Ntsebeza, who has constantly maintained his innocence.

Sibaya told Goldstone two weeks ago that police, who he named, had beaten him to force him to implicate Ntsebeza, who was at the time a human rights lawyer.

Sapa

Sowetan 3/12/97

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EMOASITL EEC WIMMIE'S

day of reckonings

(252) Souwvan 3/12/97

By Pamela Dube
Political Reporter

MRS Winnie Madikizela-Mandela is expected to take the witness stand today at the special Truth and Reconciliation Commission hearing in Johannesburg to answer damaging allegations that have been made against her during seven days of intense emotional strain.

While her lawyers were silent about what the president of the African National Congress Women's League would say in response, evidence in the past suggests that she will deny having taken part in the assaults, abductions and murders of young activists in the '80s.

This is despite mounting evidence by more than 20 witnesses who accused her of being the central figure in the macabre activities Madikizela-Mandela has not applied for amnesty for all the atrocities she and her Mandela United Football Club allegedly carried out in Soweto at the height of political violence.

Denied charges

In TRC hearings in camera in September Madikizela-Mandela was said to have denied charges put to her, and predictions yesterday were that she would maintain this stand.

The murder of 14-year-old activist Stompie Seipei tops the list as she is expected to take the stand today. Madikizela-Mandela has denied taking part in the boy's assault and murder.

Yesterday the TRC heard from the Witwatersrand University forensic pathologist Dr Patricia Klepp that Seipei died of stab wounds to the neck and brain damage.

morning in 1988, disputed Seipei's conviction as murderer. Jerry Richardson's earlier testimony in 1992 that he had slashed the victim's throat "like a sheep". Instead, Klepp said, Seipei had penetrating wounds and contusions all over his body.

"It could not have been slaughtering. His wounds were canoe-like, with sharp edges, consistent with stabbing with a sharp object like a dagger."

Klepp's testimony, which went unchallenged by Madikizela-Mandela's lawyer Advocate Ismael Semanya, may throw her into the deep end, as it seemed to be consistent with fugitive Katiza Cebekhulu's testimony that he saw her stab Seipei "with a shiny sharp object". Some of the charges Madikizela-Mandela is expected to answer include:

● The murder of Dr Abu-Baker Asvat on January 27 1988. Did she hire killers to assassinate her family friend and doctor? Asvat's convicted killers Thulani Dlamini and Zakhela Mbatha alleged this week that Madikizela-Mandela promised them R20 000 to murder him because he had evidence against her.

Her former confidante, Ms Xoliswa Falati, and Cebekhulu alleged last week that the contract on Asvat's life was put out after the doctor had argued with Madikizela-Mandela over the deteriorating condition Seipei was in when he saw the boy at the Mandela home.

Cebekhulu and Falati also alleged that Asvat refused to endorse Madikizela-Mandela's claims that the youths she allegedly abducted from the Methodist Church manse had been sodomised by the Reverend Paul Verryn.

● Madikizela-Mandela is also



Winnie Madikizela-Mandela takes the witness stand today before the Truth and Reconciliation Commission. Will she deny accusations against her or ask for forgiveness for her alleged role in the abductions, assaults and murders of youth activists?

expected to say whether she kidnapped and assaulted the other three youths under Verryn's care - Cebekhulu, Gabriel Pelo Mekgwe and Thabiso Mono.

Both Mekgwe and Mono confirmed Cebekhulu's allegations that Madikizela-Mandela joined the other boys in their assaults on December 29, a day on which she claims to

have been in Brandfort.

● She is also alleged to have assaulted and ordered the murders or disappearances of youths Lolo Sono and Sboniswa Shabalala.

Sono's father, Mr Nicodemus Sono, told the commission he had last seen his badly beaten son in the company of Madikizela-Mandela, who allegedly told him the boy was a

police spy whose fate would be determined by the movement.

● The murders of Kuki Zwane, Sicele Dhlomo and S'busiso Chilo have also been blamed on Madikizela-Mandela.

She has also been implicated in the death of her daughter's boyfriend Sizwe Sithole.

● See page 4

Youth 'slaughtered like goat', says 'coach'

(2572) ARG 3/12/97



Ball boy: jailed killer Jerry Richardson

From page 1

during a discussion between Mrs. Madikizela-Mandela, a man identified as Sonwabe and others in the house

"They discussed the spot at which they were going to dump the two youths, at a very secluded spot

"Dump is a very beautiful word. This means you kill the person and dump the body where nobody can find it"

Asked who had made the decision to "dump" the youths, Richardson replied "This came from Sonwabe, and Mummy was a participant as well because she was the one who gave the go-ahead or the green light

for anything to happen"

On December 1 1988 Guybon Kubheka had announced "Today we will solve this problem" Four of them - Richardson, Guybon, Shakes and Ninya - had driven the two youths to a mine dump near a hostel

Richardson said he had seen Guybon killing one of the youths "He was slaughtering him like a goat. He just hit him once on the neck, and at that stage I left, so I did not really see him slaughtering him"

After killing the youths and burying their bodies, they had gone to "report back" to Mrs Madikizela-Mandela "We inspected ourselves to see that we didn't have any blood-stains or other telltale signs on us"

The following day, Mrs Madikizela-Mandela had instructed him to take an MK soldier, Themba, to the murder scene to ensure it was clean

"We even found traces of blood. He (Themba) told me to break a branch so he could show me what they did as guerrillas when they killed someone. "Where we saw blood, we tried to wipe it off and then put branches on top of the bloodstains"

On their return, they had found Mrs Madikizela-Mandela in the garage. "Even before I could speak, she held me in her arms and said, 'My boy, my boy' she knew our mission I reported back to her."

Earlier, Richardson described the beating of a man alleged to have been

found inside Mrs Madikizela-Mandela's house while it was being rebuilt in Orlando West after it was destroyed in an arson attack by pupils of a nearby high school

"All of us assaulted him, Mummy as well" While Mrs Madikizela-Mandela was assaulting the man, her fingers had come off her fingers.

Her daughter Zinzi had also taken part in the beating, Richardson said.

He testified that Mrs Madikizela-Mandela had been the main decision-maker in her household. "She was the one giving the orders. Mummy will give me the instructions and I will convey the instructions to the (football) team"

The hearing continues

'Damaging' Gaye videos wiped

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Pretoria - Parts of a video tape containing "damaging admissions" by Gaye Derby-Lewis about her role in the 1993 murder of former South African Communist Party leader Chris Hani were deleted last week, the Truth and Reconciliation Commission heard today.

This allegedly happened while the tape was in the possession of the legal team of Mr Hani's killers.

George Bizos, acting for the Hani family, said police legal representative John Grant had learned of the deletions last night.

The video sections which were allegedly wiped contained damaging admissions by Mrs Derby-Lewis, Mr Bizos said.

Former Conservative Party MP Clive Derby-Lewis and Polish immigrant Janusz Walus were convicted in October 1993 of Mr Hani's murder outside his Boksburg home.

They are serving life sentences for the crime and are seeking amnesty on the grounds that it was politically motivated.

Mr Bizos pointed out that two video tapes made of Mrs Derby-Lewis's interrogation by police on April 21 1993 were also viewed by her last week.

Mr Grant said the tape ended at 12.56pm on that day.

"What perturbs me is that the portions of statements you refuted had been clearly wiped."

She denied deleting any parts of the two tapes, which were later handed back to the police.

Harry Prinsloo, acting for Clive Derby-Lewis, contended that the "admissions" by her had been made before 12.56pm and that nothing from the tape had been wiped.

The amnesty committee then adjourned to study the tapes to clear up the matter - Sapa

Some AWB people crackpots, Gaye told police

By Rodney Victor

There were gasps at the Truth and Reconciliation Commission in Pretoria yesterday when recordings were shown of the interrogation of Gaye Derby-Lewis about her possible involvement in the 1993 plot to kill Chris Hanu

In one excerpt she said she considered members of the Afrikaner Weerstandsbeweging to be crackpots because they wanted to shoot blacks

"There were times when we went to functions and there were AWB members there. Not that I have anything against militancy,

but I found them to be on the wrong track. I said to them, 'You talk about shooting, but who are you going to shoot? You are going to go out and shoot six blacks, but while you are shooting them another six will be born at Baragwanath Hospital.'"

George Bizos, acting for the Hanu family, introduced the recordings to refute her claim that police had pressured her into implicating herself, her husband and Janusz Walus in the Hanu murder. Clive Derby-Lewis and Walus are serving sentences of life imprisonment for the killing, but have applied for amnesty.

The recordings show her chatting to police in a relaxed manner.

Bizos reminded her that her husband had said his involvement in the murder plot had been on behalf of the Right, of which Bizos said she had a poor opinion.

"I was talking about crackpots that went out and shot people in the street," she said

"What about people who go out and shoot people, not in the street, but in their own driveways?" Bizos asked. (Hanu was shot dead in his driveway.)

"It wasn't a senseless shooting of people. It was a political act," she replied.

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STW 3112/97

Albertina wants to testify again

Star 3/12/97
By ROBERT BRAND

ANC stalwart Albertina Sisulu, who stunned Truth and Reconciliation Commission investigators this week when she contradicted statements she made in a television interview, which could be damaging to Winnie Madikizela-Mandela, may be recalled to give further testimony.

This emerged after a two-hour "pastoral visit" to Sisulu by TRC chairman Archbishop Desmond Tutu early yesterday, during which Tutu for the first time saw the documentary in which Sisulu confirmed a visit to Dr Abu-Baker's Soweto surgery by Katiza Cebekhulu on December 30 1988

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According to testimony at the trial for the kidnapping and assault of Stompie Seipei, Cebekhulu, who had accused Methodist minister Paul Verryn of sexually molesting him, visited Asvat on December 29

Madikizela-Mandela, it was said at the trial, left Johannesburg for Brandfort on the day Cebekhulu was examined by Asvat, and returned on December 31. This gave her an alibi for the assault on Stompie, which occurred on December 30.

However, Cebekhulu's patient card shows he visited the surgery on December 30. In the BBC documentary, screened in South Africa earlier this year, Sisulu

confirmed that the writing on the card was hers. But on Monday, before the TRC, she denied that it was her handwriting.

The denial caught TRC investigators by surprise.

Sisulu is unhappy that she has been portrayed as a liar and wants to set the record straight, TRC sources said yesterday.

TRC deputy chairman Dr Alex Boraine confirmed yesterday that Sisulu had requested a return to the special hearing on the activities of Madikizela-Mandela's "football club".

► More reports
and pictures

Call to charge gardener over Ntsebeza claim

Star 3/12/97

STAFF REPORTER

Mr Justice Richard Goldstone has recommended that the Western Cape attorney-general consider pressing criminal charges against Guguletu gardener Bennett Sibaya, who had alleged that Truth and Reconciliation Commission investigative head Dumisa Ntsebeza was involved in the December 1993 Heidelberg Tavern attack, in which four people died.

Judge Goldstone's one-man commission handed in its final

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report to President Mandela yesterday and recommended that Ntsebeza's accuser, who has already confessed to lying, be "sanctioned for subverting the truth".

Sibaya made a sworn statement, shortly after the tavern attack by the PAC's armed wing, the Azanian People's Liberation Army, that Ntsebeza had driven the getaway car.

He repeated the allegation under oath before the TRC a few months ago, only to retract it and apologise to Ntsebeza

shortly afterwards.

Judge Goldstone criticised the TRC for not having instituted an inquiry as soon as the allegations surfaced and criticised the police for not probing the matter adequately.

TRC chairman Archbishop Desmond Tutu said the findings were not unexpected.

But he added that the failure of the police to investigate properly was shocking, as were the comments of senior police officers in casting aspersions on Ntsebeza.

HRC logs 'excellent performance' as Rhoda Kadalie bids farewell

LINDSAY BARNES

The Western Cape Human Rights Commission has logged an outstanding performance in spite of a pitiful budget and this may have embarrassed the commission's national office.

This was expressed by outgoing Western Cape Commissioner Rhoda Kadalie at her farewell function in the city, where glowing tributes were paid to her.

It is no secret Ms Kadalie has engaged the commission's management team in acrimonious battles to address her perception of the commission's failings.

Since her resignation two months ago, she has voiced her frustrations with the organisation's shortcomings plainly and concisely, but failed to draw any significant response from chairman Barney Pitso.

Her situation was summed up succinctly by friends Peter and Linda Biehl, parents of American student Amy Biehl who was beaten to death in Cape Town. In a written tribute to her, they said "The job may not be worthy of the woman."

While the future of the Western Cape Human Rights Commission may not hang in the balance, its effectiveness will be impaired by Ms Kadalie's retreat, as it is unlikely she will be replaced.

The provincial post, in all likelihood, probably will be handed over to an existing commissioner of another province to

run from afar, said Ms Kadalie.

Her resignation was the result of frustration over her unsuccessful attempts to improve the effectiveness of the Human Rights Commission.

Although the Government had allocated the commission a tight budget, most of the money was spent on running it and not on projects she believed could make a real contribution to the country's transformation to a democracy.

On the eve of her departure, she urged the national commission to investigate larger issues that affected the country as a whole, such as the rights of farm workers, the elderly and children.

"I find it increasingly difficult to be associated with an organisation that is not visible around those issues. As a commission, we don't pull together. That is why I am leaving," she said.

Ms Kadalie and her team in the Adderley Street office have proved their clout in the two years since they began their task.

She has provided intensive human rights training for police and monitored human rights abuses in prisons.

She produced 14 reports on prisons she investigated in the province and two on mass assaults, including the alleged attack on prisoners by warders at Pollsmoor Prison.

The commission is investigating the province's places of safety for children and

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has made it clear to the Department of Welfare that it is accountable for the abuses allegedly occurring within the institutions' walls.

Last month, she held a four-day workshop with more than 100 heads of prisons to inculcate a human rights culture.

She considered this one of the highlights of her two-year term and received verbal accolades from Correctional Services heads.

John Jansen, the head of Pollsmoor Prison's admissions centre, labelled Ms Kadalie's resignation as "one hell of a setback for human rights in the country."

"I won't deny human rights abuses still take place in some prisons today.

"But it was thanks to Rhoda we could get a human rights culture off the ground in (the Department of) Correctional Services."

Democratic Party MP Dene Smuts said the functions of the Human Rights Commission had not been defined satisfactorily by law and some of the blame for this had to accrue to the act relating to the organisation. It needed to be rewritten, she said.

It was tragic that a commissioner of Ms Kadalie's calibre was leaving when the majority of the problems within the commission were ones that could be solved.

Western Cape Anti-Crime Forum's Chris Ferndale said "It's a loss to civil society structures and non-governmental organisations who have seen Rhoda as their voice, as an activist in the process of transformation."

TRUTH COMMISSION

Walus killed Hani 'to further CP's cause'

Stephané Bothma

PRETORIA — No political party condoned murder, but the Conservative Party (CP) understood that Clive Derby-Lewis had acted to further the party cause by killing SA Communist Party (SACP) leader Chris Hani, CP leader Ferdie Hartzenberg told the truth commission yesterday.

Testifying in support of the amnesty applications of Derby-Lewis and Polish immigrant Janusz Walus, Hartzenberg said that it could be argued that Hani's assassination in April 1993 had served his party's cause.

member of the CP, had been arrested for the murder. Hartzenberg said that until the murder he had not known of Walus.

signed memoranda of understanding with the organisation.

Hartzenberg said the CP at the time considered Hani "enemy number one" of the Afrikaner. Because of Hani's popularity, the CP believed he would succeed President Nelson Mandela.

"When the CP heard of Hani's death we took note and although we saw him as the enemy, felt death was not a pleasant thing," Hartzenberg testified.

"But the CP would not, no party or person would, say they condoned murder. But when a person acts in desperation we can understand why it happens, we don't approve of it, but understand he had done it for the cause," he said.

He told the amnesty committee that the political options open to the CP were being eroded. "In 1992 we realised we had to mobilise our people to demonstrate that we were serious about maintaining our liberty as an Afrikaner nation."

Hartzenberg said that it shocked when they heard Derby-Lewis, a close friend and founder

Hartzenberg said his party had reached a point of no return after the SACP alliance was unbanned and the National Party government

Hartzenberg said that the CP had reliable information that at the time of his death Hani was attempting to build up a 10 000-strong force in case negotiations failed.

Hartzenberg will continue his testimony today.

Hartzenberg said the CP was obviously shocked when they heard Derby-Lewis, a close friend and founder

Hartzenberg said his party had reached a point of no return after the SACP alliance was unbanned and the National Party government

Hartzenberg said that the CP had reliable information that at the time of his death Hani was attempting to build up a 10 000-strong force in case negotiations failed.

Hartzenberg will continue his testimony today.

(2/72) BD 4/12/97

Winnie 'had a long-standing relationship with Erasmus' (207)

Stephen Laufer

WINNIE Madikizela-Mandela had a long-standing relationship with special branch officer Paul Erasmus, the truth commission was told yesterday.

The former "coach" of her football club, Jerry Richardson, said another police officer had later told him that Madikizela-Mandela was a "sellout", the common term for a police spy. But under intense questioning from commission evidence

leader Hamf Vally, Richardson was forced to admit he had been a special branch agent at the same time as he had been a close confidant of Madikizela-Mandela's.

His handler, special branch Sgt Stefan Pretorius, had been killed in a shoot-out with two Umkhonto we Sizwe guerrillas at his house after he had informed on their presence.

Pretorius had entered the house alone despite the presence of "enough policemen to fill Orlando Stadium", Vally said the commis-

sion had a statement from Pretorius' sister suggesting he had been silenced because he knew too much about the goings-on inside the Madikizela-Mandela house.

Cross-examined by Madikizela-Mandela's lawyer Ishmail Semanya, Richardson said Pretorius had been killed deliberately. He had been informed that the plan had been made by Erasmus and HIT Moodley, now a senior superintendent in the SA Police Service. Questioned by commissioner Du-

misa Ntsebeza, Richardson agreed that he had tried not to admit to his earlier police links because he feared for his safety at Leeuwkop prison, where he is serving a life sentence for the murder of abducted child activist Stompie Seipei.

Implying that Madikizela-Mandela had been aware of his links to the police and he of hers, Richardson said "there was this thing we were doing and kept it secret. We did not want anyone to know." Madikizela-Mandela had enter-

ained Erasmus and other police officers — including Moodley, who was later the investigating officer in the murder of Dr Abu Baker Asvat — in her bedroom.

Asked why he was testifying against Madikizela-Mandela now when he had not done so in past trials, Richardson said "I loved Mummy with all my heart, I would have done anything to please her. But now she has not visited me, I can see she is distancing herself and working with Moodley and Erasmus."



The former coach of the Mandela United Football Club, Jerry Richardson, arrives at the hearings yesterday

Picture Trevor Sampson

Seipei cries during testimony

Nomavenda Mathiane

JOYCE Seipei, the mother of teenage activist Stompie, broke down and cried as her son's murderer, Jerry Richardson, described to the truth commission how he had killed the teenager

Seipei, who has been attending the hearings since last Monday, had to be helped out of the hall sobbing uncontrollably as Richardson described how he slit the teenager's throat with a pair of garden shears.

Richardson, former coach of the Mandela Football Club, appeared for the first time to give his account of the events at the Mandela house during the 1980s and the alleged role Winnie Madikizela-Mandela played during the club's reign of terror in Soweto

During the break, Seipei said she could not take the pain of meeting her son's killer "face-to-face" and learning how he was killed.

She said that although she was satisfied with Richardson's story of how her son was killed, she found it difficult to understand who had labelled her son a police informer and why. She said she would not rest until she got to the bot-

tom of this "malicious story".

Yesterday's hearings got off to an unusual start with the arrival of African National Congress (ANC) women from Diepkloof singing praises of Madikizela-Mandela and saying Xoliswa Falati was an informer. They were joined by youths who claimed to be former football club members. The atmosphere, which had begun to thaw after Archbishop Desmond Tutu spoke strongly against witnesses being intimidated, became tense

Matters came to a head when during one of the breaks Falati got into an argument with a man who claimed to be an Umkhonto we Sizwe member. Police from the witness protection service intervened, taking Falati back into the witness room amid shouts of "viva Jerry Richardson".

A number of cabinet ministers arrived in the afternoon, under the impression that Madikizela-Mandela was about to take the stand. They included Sports Minister Steve Tshwete, Minerals and Energy Minister Penuell Maduna and Safety and Security Minister Sydney Mufamadi. Zinzi Mandela-Hlongwane did not attend



LEON WÜLLER
 to show PW Botha's place at the TRC hearing into the State Security Council remain empty after the former state president ignored a subpoena today

utu lays

charges •

against PW

Hearings ignored

JOHN YELD
 ON THE TRUTH COMMISSION

The Truth Commission today laid a criminal charge against former state president P W Botha after he ignored a subpoena to appear at a special hearing to answer questions about the State Security Council he headed.

Mr Botha's lawyer, Ernst Penzhorn, told the commission in a letter faxed just hours before the hearing's 9am start that his client did not consider the subpoena served on him at his Wilderness home two weeks ago to be valid.

This was because Mr Botha believed strongly the motivation for ordering him to the hearing was not to get information, but to punish him and even abuse him in public.

The commission laid charges against Mr Botha at the office of Western Cape Attorney-General Frank Kahn.

The contents of the letter from his lawyer were revealed by TRC deputy chairman Alex Boraine at a media conference an hour after Mr Botha had failed to appear.

Dr Boraine rejected Mr Botha's claim, saying the commission had tried to reassure him in letters and in communications to his

lawyers that he would not be humiliated or ridiculed.

"That's the furthest thing from our minds we would not do this and descend to that level," Dr Boraine said.

In Matieleng, where the African National Congress is holding its national conference, President Mandela was asked if it was a pity Mr Botha had failed to arrive, Sapa reported. He replied "Yes, as I said the matter will now be in the hands of the TRC and the attorney-general".

At Ilam, chairman Desmond Tutu - who described Mr Botha's non-appearance as "sad" and said he did not want to see Mr Botha jailed - went to Mr Kahn's office to lay the charge. If convicted, Mr Botha faces a fine or up to two years in jail, or both.

Mr Kahn confirmed that the Truth Commission had laid a charge against Mr Botha and said at a packed media conference that he had referred the matter to the police for criminal investigation.

He said Mr Botha's lawyers had faxed him today a request to make representations about facts which they claimed were not known to Mr Kahn's office.

Mr Kahn said he had given them until

TRC lays charge against PW Botha

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From page 1

January 2 to make the submissions, after which he would make a decision on whether to prosecute Mr Botha as soon as possible. He had appointed two senior state advocates to handle the case.

"I'm acutely aware that the TRC has a limited life and I want to be very careful that I am not strung along," Mr Kahn said.

He said that should he decide to prosecute Mr Botha, a summons would be issued for him to appear in a magistrate's court. Mr Botha's lawyers had undertaken that he would obey the summons.

Responding to a question, he said it would be "empty posturing" to arrest Mr Botha now.

Earlier, after waiting in vain for Mr Botha to arrive, Archbishop Tutu entered the hearing room in the commission's Addeley Street offices, accompanied by three commissioners: Dr Boraine, Mary Burton and Dumisa Ntsebeza.

Archbishop Tutu said the commission had expressed the hope all along that "good sense" would prevail and that Mr Botha would see his way clear to attending the special hearing.

"Clearly the appeals of various people, including the President of this country, have not

prevailed and Mr P W Botha has seen fit not to attend when he was validly subpoenaed. We indicated that the ball was very firmly in his court and we would let the law take its course."

At the media conference afterwards, Archbishop Tutu said Mr Botha should apologise for having referred to the commission as "a circus", and pointed out it was an offence to bring the commission into disrepute.

He said the remark angered him and brought little credit to Mr Botha.

"It's a very serious thing I may make jokes but I'm not a clown, and this is not a body which can just be dismissed. It's

people are committed to the healing of this land."

He rejected claims that the commission was one-sided and had an "anti-Afrikaner bias."

"I actually get very upset because people are impugning my integrity and the integrity of my colleagues," Archbishop Tutu said.

Dr Boraine said it would be "tragic" if Mr Botha's defiance became a rallying point for people reluctant to embrace the transition to a full democracy in South Africa.

"You link reconciliation with accountability. He (Mr Botha) is in a very strategic position to tell us the whole story."

Witness admits to trying his luck for amnesty after damning

(252) BD 4/12/97

Stephen Laufer

WINNIE Madikizela-Mandela's prospects of emerging from the truth commission hearings into her football club with a points victory appeared to improve somewhat yesterday as a key witness against her said he was "trying my luck" with an amnesty application.

The application relates to a number of murders and gross human rights violations former club "coach" Jerry Richardson told the commission earlier he carried out under orders from Madikizela-Mandela. "My hands are full of blood today, it would have been better for me to die," he said.

Richardson, the last major witness before Madikizela-Mandela takes the stand today, had been expected to provide conclusive evidence of her complicity in and responsibility for the acts committed within her orbit.

Under intense questioning, Richardson said he had been a police agent while an associate of Madikizela-Mandela. His former patron had also associated with several policemen.

The abduction of Stompie Seipei and three other young men from the Methodist manse in Soweto had been on Madikizela-Mandela's orders. She had ordered Seipei's murder, Richardson claimed.

But the dying young man's agony had been extended by 24 hours because of a visit by the Mandela Crisis Committee to Madikizela-Mandela's house, during which they had demanded to see the abducted. This had forced the postponement of a plan to kill him following a savage beating because

Madikizela-Mandela felt the house was being observed too closely. The abducted had been "tortured in the manner the Boers did", Richardson said, using a common term for apartheid government security forces. Richardson later agreed this meant the club "was like the special branch".

After what appeared to be a morning of largely coherent and damning testimony, Richardson's evidence became increasingly convoluted, under cross-questioning from Madikizela-Mandela's lawyer Ishmail Semanya.

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taken all major disciplinary decisions in the football club context. These included ordering the execution of people regarded as police informers. "She was the main decision maker. She would bring the people (to be dealt with), she was the one giving the orders."

Among those he had killed on Madikizela-Mandela's instructions were Seipei and the girlfriend of a club member, Kuki Zwane. He had also witnessed Madikizela-Mandela's involve-

ment in the deaths of Lolo Sono and Siboniso Shabalala.

A day after Zwane's murder, Madikizela-Mandela had wanted to see where her body had been dumped, and had been angry that the site was visible to passing schoolchildren. Madikizela-Mandela had also given the orders to kill Lerothodi Ikaneng, who survived an attempt by Richardson to slash his throat.

Attempts to leave the club had often been punished. Kenneth Jones Kunene was confined to a wheelchair after being shot for saying he wanted to leave.

See Page 6

Richardson said his life had revolved around football and not politics and he had been sucked into the violence as the club degenerated. Having admitted he was chancing an amnesty application — for which a political motivation is required — he was asked by Semanya if he felt that his luck would improve if he also implicated Madikizela-Mandela in his crimes.

Richardson denied the charge, repeating that Madikizela-Mandela had

Continued on Page 2

Reparation is crucial if reconciliation is to take place

That SA's 'haves' help uplift its 'have-nots' is more than an economic and social imperative — it is also a moral one, says Rabbi Cyril Harris

EARLY in the days of communism, the story is told of the party secretary who was sent to a rural area to instruct the populace about egalitarian principles. After an hour's address, he tested his listeners.

"Ivan, if you had 50 horses, what would you do?"

Ivan immediately replied: "I would keep half of them and give the other half for the benefit of the people."

"Good," said the speaker. "And you, Igor. Supposing you had a dozen cows?"

Igor dutifully answered that he would keep half of them and give the others to the people.

"Tell me, Vladimir, if you had two chickens, what would you do?" asked the speaker. There was an embarrassed sil-

lence. Vladimir scratched his head and stroked his chin. "What's the problem, Comrade Vladimir? If you had two chickens what would you do?"

"The problem, Comrade," said Vladimir, confidently in his voice, "the problem is — I have two chickens!"

Redistribution of any kind is a painful exercise and the over-the-top reaction to Prof. Sample Terrelanche's recent proposals for a wealth tax is no exception, despite the fact that many countries have been imposing it for years in the form of tax on capital gains or profits.

SA is often described as a First World country in a Third

World setting, but there is a great deal of reluctance to complete the arithmetic. When the First World meets the Third, it can easily become second rate, a result to be avoided at all costs by the white elite. However, the millions of underprivileged would rejoice at the opportunity to improve their standards.

But a series of conundrums bedevils genuine attempts at equalisation.

The free market economy is morally neutral. In order to be productive and efficient, capitalism must pursue its wealth-creating function almost impervious to anything other than market factors.

The situation at the moment in our country, however, demands intervention of some sort. The gap between the "haves" and the "have-nots" is among the widest in the world, and, instead of closing, is becoming even wider. Just two examples from many hundreds.

There are nearly 7 500 old-age homes available to elderly whites, but there are only 17 for the rest of the population. Whereas most of the private houses in Sandton have a swimming pool, the nearby Alexandra township, where hundreds of thousands live, has none.

The death of communism was greeted with undisguised elation by the free world.

That iniquitous system, which was based on the admirable objective of human equality, flattered in its lamentable failure to understand human nature.

The reverse criticism is levelled at free economies for their sheer selfishness and stubborn myopia to the transcendence of a sense of responsibility which would allow the pursuit of personal gain to join in partnership with the promo-

Some years ago, Paul Johnson coined the phrase "compassionate capitalism" to denote a free market economy with some moral purpose, that excess wealth should be siphoned off to be utilised for housing, hospitals and schools, for greater fairness of opportunity and proper access to social welfare benefits for the workforce. But he did not underestimate the "Catch 22" situation where heavy taxation frustrates the creation of wealth, ending up making everyone poorer — "killing the goose that lays the golden egg".

In any event, to achieve this will require a clean, corruption-free administration, not, as Pastor Ray Macaulay has cautioned, one in which "the gravy in the gravy train gets thicker".

Our situation is horribly compounded by crime. To ask white suburban residents — terrified of venturing outside their fortress homes — to actually help in uplifting programmes for the benefit of criminals out of which the criminal perpetrators are coming, is to ask a great deal. Set against the major socioeconomic causes of the crime wave, the request for help is nevertheless valid. A young black adult with no house, no money, no education



Prof Sample Terrelanche at the truth commission hearings

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and no prospects can be easily tempted towards crime — unless those with the power to ameliorate his desperate condition attempt just that.

A further vexed problem is that reconciliation depends crucially on reparation. The furor over the wealth tax obscures the real reason it is being demanded. For "wealth tax" read "white privilege". The recognition that the past iniquities of the apartheid era can only begin to be rectified by an acute sense of

responsibility towards reparation some of the damage has yet to emerge.

Until that realisation dawns, a number of advantageous steps can still be taken. Present incentives are all too sparse — certain limited and specific educational contributions are tax exempt — and government would do well to encourage higher levels of donation in the spheres of health, welfare and education by seriously expanding the range of exemption.

Could not individuals and corporations be persuaded to raise bonds on their properties in order to provide much-needed capital sums for development by preferential interest rates and income tax relief on their repayments?

Wealth of expertise must also be shared. Health Minister Nkosazana Zuma's insistence on compulsory community service in disadvantaged rural areas — while infuriating medical students who did not agree to it — is nevertheless the type of sacrifice which will help ensure a satisfactory future.

What had emerged from the truth commission hearings these past many months is horrendous and the horror has affected us all. We have had an appalling record of inhumanity. The worst things humans can do to other human beings.

We need to display the best that human beings can do to fellow human beings — not the hurt and the torture and the shame, but the love and the friendship and the mutual help to lift our country up.

That the "haves" must help the "have-nots" in our country at this time is not merely an economic or political or social necessity. It is a moral imperative.

□ Cyril Harris is the chief rabbi of the Union of Orthodox Synagogues of SA.

Provinces must not be scapegoat in fiscal dilemma

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THE fiscal problems being faced by provincial and central governments are merely two sides of the same coin. Should we view them individually, we will never appreciate the size of the fiscal dilemma facing SA.

The commonly mentioned causes of provincial administrative and financial shortcomings are: human skills/capacity shortages; severance packages/accelerated affirmative action, corruption, and rightsizing and restructuring. While recognising that these might be contributing factors, with the exception of corruption, they were all essential to transformation. However, these factors apply equally to all spheres of government.

We need to examine the fundamental causes by looking at national economic and fiscal policy. Here we have two paradigms, the reconstruction and development programme (RDP) and the growth, employment and redistribution strategy (Gear). They are supposedly working hand-in-hand to address social and fiscal issues, but there are questions about whether they are complementary.

The RDP was intended to aid development through government spending, while Gear curtails spending in favour of deficit reduction.

The rationale behind each strategy is separately appropriate, but the potential for conflict in implementation is worrying. Gear pleases the World Bank, foreign investors, and business, but, faced with the social demands attached to RDP-type programmes, government feels schizophrenic in trying, at the same time, to attain a 4% deficit target.

Recently, Finance Minister Trevor Manuel announced a R300m national project for social upliftment which must surely be applauded on humanitarian grounds. However, it also sends a confusing signal to people on the ground

Inherent contradictions between Gear and the RDP lie behind SA's provincial financing headaches, writes the IFP's John Aulesbrook

While the provision of essential services such as health and education is being disrupted and threatened by budget cuts, what is a *ad hoc* social upliftment grant being made? Should expenditure not be structured more carefully to ensure essential services are provided, before special projects are pursued?

Why is social spending not structured in a comprehensive and transparent way, involving provincial and central government?

These questions provide many problems for provincial governments. In areas such as education, health and welfare, the policies dictating levels and standards of provision often do not correlate with the budgets provided. Demand and supply do not meet.

With what is seen as the downgrading of the RDP in the past 18 months, provincial governments have picked up larger workloads and higher demands for service and infrastructure provision. Meanwhile, Gear has led to a stricter spending regime

Gear's belt-tightening exercise is affecting each province differently. The Finance and local formula, which is based on historic budgets, does not pick up the differences between present and past demands.

The population link to gross geographic product (GGP) is also inadequate. Neither measure takes into account the

fact that SA is undergoing massive structural change which makes budgeting on past figures blatantly inefficient. These figures are unreliable anyway, especially in a rural-dominated economy such as KwaZulu-Natal.

The link to past budgets favours Gauteng and Northern and Western Cape, while the population/GGP link favours provinces with large, underdeveloped populations, but rewards administrations which maintain this status quo.

Population age is another aspect ignored in the commission's formula. Certain provinces, such as KwaZulu-Natal, have a greater percentage of children which affects education and health provision. These provinces, however, have far less room for belt-tightening.

In past years provinces have been bailed out and I have no doubt that there are those that will need to be bailed out again. Provinces could stay within budget provided drastic action was taken such as reducing the level of social services, halting capital projects, cutting back on maintenance, and noncompliance with national standards — none of which would be in the interest of the people or government.

The dilemma provinces face is. Do they cut services now or do they overspend in the hope that they will be assisted by national government — at the risk of this year's overspend being topped from next year's allocation?

We need to consider possible solutions. Firstly, provinces would benefit from a restructuring of the commission's formula. Secondly, we need to ask whether the 4% deficit is achievable, given the current economic and political circumstances. Thirdly, there is a need to reconsider national standards, focusing on extending time frames. Fourthly, adoption of a population growth control policy should be considered. Finally, we need to commit ourselves to an economic policy that promotes growth.

We should consider a supply side economic approach. For every percentage point the economy grows, government's social costs are lowered. While government cannot be expected to create jobs directly, it can create an environment for job growth. We must be on guard against provinces, through a weak funding structure, becoming the scapegoats for a national economic policy failure.

A contributory factor to the difficult financial position provinces face is the biweekly "draw down" system which results from central government's cash flow problem. The previous "lump sum" allocation meant provinces would accrue interest on their credit balance. The new system will translate into a loss of about R300m in revenue for KwaZulu-Natal this fiscal year.

From the start of the budgeting process, the three main social service delivery departments — health, education and welfare — indicated that if they met prescribed national standards, they would not remain within budget. Government did not say what services to cut back on, but imposed a national bargaining chamber agreement on severance packages. This proved very costly, not only in monetary terms, but also in the loss of experienced manpower. It was another case of policy being implemented without consideration of its funding or other consequences.

John Aulesbrook is an Inkatha Freedom Party member of the KwaZulu-Natal Legislature and a member of its finance committee.

BUSINESS DAY, Thursday, December 4 1987

Committee explains motivation for 37 ANC amnesty decisions

Ian Fine and
Lynndam Hartley

THE Democratic Party added to its public furor over the apparent granting of blanket amnesty to 37 African National Congress (ANC) leaders, a spokesman for the ANC's amnesty committee sought yesterday to explain the nature of the committee's decisions. Amnesty committee executive

secretary Martin Coetzee said the batch of 37 ANC amnesty decisions should be understood as "de facto" rather than de jure decisions. Their purpose was not to grant amnesty to the 37 for every deed to which they have been, or may in the future, be linked. However, it was possible that, for example, cases may arise in the future where an individual claims to have committed an offence on the

general instruction of one of the 37 — say following a mass rally or radio broadcast. In such a case, any of the 37 would then be able to seek indemnity from charges of being an accessory to that offence. However, they would still have to show that they did it as a member of a political organisation and their participation fall within the definition of a political offence. Coetzee said the amnesty deci-

sions fell within section 20 of the act governing the commission DP truth commission spokesman Dene Smuts said yesterday that two of the ANC leaders were indemnified for any offences in which they might be implicated by other people applying for amnesty. She called for an urgent explanation from the commission's amnesty committee. Smuts said the amnesty application of former ANC youth

league leader Peter Mokaba asked for amnesty "for acts, omissions or offences as detailed by individual applicants who may implicate me". She said Wally Serote had also applied for, and been granted amnesty for "acts unknown to me" that might emerge in the amnesty applications of other individuals. "The formal proclamation grants the 37 amnesty for all offences associated with a political objective as de-

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fined by the act and which fall within the ambit of the act committed or authorised by him or her. The proclamation does not, as section 20 (6) requires, make known the full names together with sufficient information to identify the act, omission or offence in respect of which amnesty has been granted." Smuts said. She suggested the legal requirement of "full disclosure" had not been complied with "and the reference to

Bd 4/12/87
all offences does not draw any distinction between gross violations of human rights and other less offences for which there are two separate procedures for the granting of amnesty. "The ANC also has, on our reading of the papers, been indemnified against prosecution for all offences and they have been so indemnified without complying with the act's requirements of full disclosure," Smuts said.

Mamasela may be factor in refusing two k...

ROGER FRIEDMAN
SPECIAL WRITER

JOHANNESBURG: The Winnie Madikizela-Mandela fight-back got under way here yesterday with the startling suggestion by her legal counsel that self-confessed security police killing machine Mr Joe Mamasela was somehow involved in the deaths of Soweto youths Lolo Sono and Sibonisa Shabalala in November 1988.

The suggestion, by Mr Ismail Semanya, contradicts previous evidence that Madikizela-Mandela was behind the killings

Mandela United Football Club's former coach Jerry Richardson's amnesty application includes a graphic description of the two boys' demise at the hands of club members — allegedly on the instructions of Madikizela-Mandela — making no mention of Mamasela.

According to Richardson, the boys were killed because they were believed to have been spies who sold out to the police. Two MK cadres who were staying in his house Richardson yesterday acknowledged that he was himself a police informer, and had personally tipped

police off about the two cadres. Several other witnesses have testified at the hearing that members of the football club were responsible for the killings. These include Sono's father Mr Nicodemus Sono, who told of last seeing his badly beaten son in a minibus with Madikizela-Mandela and members of the Football Club, and of pleading with Madikizela-Mandela to release Lolo.

Richardson threatened a bombshell, and tried to deliver one by suggesting that Madikizela-Mandela was a security police informer, as he was

But the "Mamasela" witness recently Mamasela Sono at whereas the buried in Fort... confesses between have cla... and Shabalala deaths.



Winnie Madikizela-Mandela, wife of Nelson Mandela, is seen in a portrait.

'SHE WAS PRESENT DURING ASSAULTS.'

Winnie worked with police — Richardson

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JOHANNESBURG: Former Mandela United Football Club "coach", convicted murderer Jerry Richardson, said yesterday he lied in his trial to protect Winnie Madikizela-Mandela.

WINNIE Madikizela-Mandela collaborated with police and was a sell-out, the Truth and Reconciliation Commission was told yesterday.

Former Mandela United Football Club "coach" Jerry Richardson said he was told by Senior Superintendent Hoothra Moodley that Madikizela-Mandela "was a collaborator and was working with the police over sell-outs."

"She was also a sell-out," Richardson said.

Richardson said Moodley told him this when he visited Richardson in prison in 1995.

Questioned by TRC chief legal adviser Mr Hanif Vally, Richardson said he had been present at various meetings between Madikizela-Mandela and former security branch policeman Paul Erasmus at Madikizela-Mandela's Orlando West and Diepkloof homes.

At one meeting Erasmus and Madikizela-Mandela were discussing informers and, pointing to Richardson, Erasmus had said "This Transkei because Richardson was

is the one"

"Mami respected me," Richardson said "We kept it a secret. We didn't want other people to know"

Erasmus and Madikizela-Mandela had focused their discussions on informers when Erasmus came to Madikizela-Mandela's house, but had also discussed sexual matters

"I saw him in the morning leaving the house," Richardson said

Last week Ms Xoliswa Falati, one of Madikizela-Mandela's former associates, told the commission Madikizela-Mandela was having an affair with Erasmus

Yesterday Richardson said he had seen Moodley having a conversation with Madikizela-Mandela at her Orlando West home. He said the conversation was "about us" and Moodley was warning Madikizela-Mandela not to send Richardson on a trip to the Transkei because Richardson was



The great divide



SUPPORTER: Hazel Crane, close friend and benefactor of Winnie Madikizela-Mandela sits in the audience at the hearings yesterday. In the background is Joyce Seipei, mother of murdered child activist Stompie Seipei

Mum weeps at hearing

JOHANNESBURG: The mother of slain teenage activist Stompie Seipei was led weeping out of the special Truth and Reconciliation committee hearing here yesterday during testimony by former Mandela United Football Club coach Jerry Richardson about her son's murder.

Ms Joyce Seipei sobbed as Richardson described a vicious assault on Seipei which he said had taken place in the presence of Winnie Madikizela-Mandela at her home.

Richardson described how he and other football club members threw Seipei into the air and let him crash to the ground.

"We threw Stompie seven times into the air. Mami (Madikizela-Mandela) was sitting watching. We kicked him like a ball."

Proceedings were briefly disrupted as Seipei was escorted out of hearing venue by TRC officials.

Richardson appeared to be overcome, stopping his testimony to wipe his eyes with a handkerchief.

"I have not come to play with those here," he said "I do not want to cry but this has changed me, the things we did as the Mandela United Football Club were barbaric."

Richardson, who was convicted of Stompie's murder, later said "killed Stompie under the instructions of Mami."

"Mami never killed anyone but she did give instructions for us to kill a lot of people."

He complained that Madikizela-Mandela had "used us" but she never once visited them in prison. —Sapa

Car bomb threat

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JOHANNESBURG: Mandela Football Club's former coach Jerry Richardson says he informed on two MK guerrillas for R10 000. **ROBERT BRAND** and **ANSO THOM** report.

SECURITY has been stepped up for Ms Winnie Madikizela-Mandela's appearance before the Truth and Reconciliation Commission today following a bomb threat yesterday

TRC commissioner Dr Fazel Randera said two men were caught yesterday looking for Madikizela-Mandela's car. When they were questioned, they said they wanted to blow up the car.

Randera gave no further details of the incident, but said security measures would be taken at Madikizela-Mandela's house and the Mayfair venue of the hearing today.

When Madikizela-Mandela left the venue shortly after 8pm yesterday in the car the suspects wanted to blow up, she was escorted by armed bodyguards and two police vehicles.

In testimony yesterday, three policemen were questioned about their alleged reluctance to follow up evidence linking Madikizela-Mandela to four murders.

This followed an allegation by Jerry Richardson, former coach of the Mandela United Football Club, that Madikizela-Mandela was a police collaborator and a "sell-out".

Madikizela-Mandela will deny the allegation, and Richardson's claim that she had ordered him to murder four youths when she takes the stand today, her lawyer, Mr Ismail Semanya, has indicated.

Director Henk Hesslinga, who investigated the 1989 murder of Dr Abu-Baker Asvat, and Senior Superintendents H T Moodley and Fred Dempsey, who investigated the Stompie Seipei case, denied that they had suppressed evidence.

Richardson admitted for the first time in public yesterday that he had been a police informer. He gave police information which led to the death of two MK guerrillas hiding in his house in 1988 in return for R10 000.

His handler, Sergeant Stephanus Pretorius, was killed in the same incident under suspicious circumstances, the commission heard.

Richardson said he had been present at meetings between Madikizela-Mandela and former security branch policeman Mr Paul Erasmus at Madikizela-Mandela's Orlando West and Diepkloof homes.

At one meeting, Erasmus and Madikizela-Mandela were discussing informers and, pointing to Richardson, Erasmus said "This is the one".

In dramatic — and sometimes entertaining — testimony yesterday, Richardson claimed Madikizela-Mandela had instructed him to murder Stompie, Lolo Sono, Siboniso Tshabalala and Kuki Zwane because they were suspected of being informers.

He also admitted he had no political motivation in committing the crimes for which he has applied for amnesty. "I am trying my luck," he told the TRC.

During cross-examination, questions were raised about Richardson's claim that he acted under Madikizela-Mandela's instructions when he murdered his four victims.

TRC advocate Mr Hanif Vally read a statement by former football club member Mr Themba Mabota made to police during the investigation into the Stompie murder in which Mabota said Madikizela-Mandela was "upset" when informed by Richardson about Stompie's death.

According to the statement, Madikizela-Mandela demanded to know from Richardson why he had not told her he was going to kill Stompie "after I had asked you not to take Stompie away".

At first, Richardson would not deny or confirm the contents of the statement, saying he did not want to incriminate himself. After being pressed for an answer, he said "I don't have any such information".



KILLER 'COACH': Mandela Football Club "coach" Jerry Richardson takes the oath at yesterday's TRC hearing. He is serving a life sentence for killing Stompie Seipei. **PICTURE: THE**

WORLD FOCUS ON TRC

Car bomb threat

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on
WINNIE

CCB UNDER THE SPOTLIGHT

Malan, Barnard to testify about cross-border raids

MILITARY ASSISTANCE given to the former Rhodesian government and to Renamo in Mozambique, and South African involvement in the Lesotho and Seychelles coup attempts are likely to be probed.

FORMER defence minister General Magnus Malan and South Africa's one-time spy chief Dr Niel Barnard are to be quizzed about cross-border raids and the activities of the notorious Civil Co-operation Bureau (CCB) when they testify today at a special hearing of the Truth and Reconciliation Commission

Malan and Barnard, former head of the National Intelligence Service (NIS), have been subpoenaed to give evidence at the second round of the TRC's public inquiry into the activities of the now-defunct state security council (SSC) during the apartheid conflict

Former state president Mr P W Botha, who chaired the SSC at the height of the state's crackdown on political opponents, has also been subpoenaed and is scheduled to testify tomorrow

However, Botha has already made it clear that he does not intend obeying the

subpoena

TRC chairman Archbishop Desmond Tutu in turn has repeatedly warned Botha that he faces prosecution and the possibility of being fined or jailed for up to two years

Malan will be questioned about cross-border operations and other clandestine military activities, including the formation of the CCB as a special forces secret unit, according to TRC spokesperson Ms Christelle Terreblanche

She said Malan was also likely to be asked about military assistance to the former Rhodesian government and to Renamo guerrillas in Mozambique, as well as South Africa's involvement in attempts to overthrow the governments of Lesotho and Seychelles

At its first inquiry into the SSC in Octo-

ber, a TRC panel chaired by Tutu heard that the council — once described as a powerful inner cabinet — had merely functioned as an advisory body on national security policy and had no executive powers

Former law and order minister Mr Adriaan Vlok testified that words like "eliminate" had been used in official SSC documents, but denied that the body had ever issued instructions for the murder or abduction of political opponents

Others who testified at the hearing were former foreign affairs minister Mr Pik Botha and former deputy law and order ministers Mr Roelf Meyer and Mr Leon Wessels

They too denied that either the SSC or the cabinet had ever issued directives that had led to

gross human rights abuses

However, Wessels admitted he had suspected that abuses were being carried out by security force members, but had never spoken out because he was too afraid. — Sapa



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Richardson's 'cold facts' on Stompie

"WE waited there until Stompie's body was cold we told ourselves we were committing the perfect crime"

With these words, former Mandela United Football Club coach, Jerry Richardson described yesterday the scene on the lonely hilltop in Noordgesig, Soweto, where teenage activist Stompie Seipei was stabbed to death on a January night in 1989

He told the Truth and Reconciliation Commission how Stompie and three other youths were taken from the Soweto Methodist mission to Ms Winnie Madikizela-Mandela's house, how Stompie was beaten until he could not eat or walk, and how he was "finished" off on the Noordgesig hilltop.

Richardson is serving a life sentence for the Stompie murder. He has applied for amnesty for this crime and three

other murders.

The only question unanswered in connection with Stompie's death is whether Madikizela-Mandela — whom Richardson referred to as "Mami" (mother) through out his testimony — had a hand in it.

Richardson said Stompie and the three other youths — Thabiso Mono, Kenny Kgase and Pelo Mekgwé — were taken from the Methodist mission because of a complaint by Xoliswa Falati, who stayed at the mission, that the Rev (now Bishop) Paul Verryn had molested them. The allegations have since been proved false. Back at Madikizela-Mandela's house in Diepkloof Extension, the youths were

taken to a shack at the back of the property. Madikizela-Mandela was called by each of the youths was taken in hand by a member of the football club.

Kgase told Richardson that Verryn had made advances to him; the others would not admit it. In Stompie's pocket, his interrogators found a wrist watch which he could not account for. This, they said, proved he was an "impimpi" (informant).

Madikizela-Mandela, Richardson said, was looking on in the manner the Boers used to torture freedom fighters. I threw Stompie into the air and let him drop to the ground. I did this about seven times. Mami was sitting watching

us. He was tortured so severely I saw he would die. We kicked him like a football. At this point, Stompie's mother Joyce, broke down in tears. She was escorted out of the room.

Richardson said the assault went on for about two hours. Madikizela-Mandela joined in with fists and a stambok. Two days later, a decision was taken that Stompie should be killed and he and a football club member known as "Slash" (Skhumbozo Mtshali) decided to "carry out the instruction". Richardson said he and "Slash" stabbed Stompie in the neck with garden shears.

"Mami did not kill Stompie. I killed Stompie in accordance with Mami's instructions. She never killed anyone but she instructed us to kill people."

Owen Correspondent
● See Pages 6 and 7

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Old daggga laws not suited to new SA

THE VOICE of the movement in support of the decriminalisation of daggga has been growing louder and the law suit brought recently by a Rastafarian lawyer candidate against the Cape Law Society has highlighted the issue. **PIERRE DE VOS** takes an off-beat look at the matter.

NAIVELY, I had thought that smoking daggga was not going to be a big deal in the new, freedom-loving South Africa. Well, that was until I recently read of the refusal by the Cape Law Society to accept a self-confessed daggga-smoking Rastafarian into the attorney's profession.

I would have thought that the attorney's profession would welcome with open arms a person so honest and principled that he was prepared to admit to breaking the law in order to fulfil his religious beliefs and practices, despite the possible adverse consequences to himself.

Now the Rastafarian lawyer candidate, Garreth Prince, is challenging the decision in court, claiming that it is an infringement of his constitutional right to freedom of religion.

After all, he uses a drug — daggga — in his religious rituals in much the same way in which Christians use another drug — alcohol — in their holy communion ceremonies. The only difference is that possession and use of daggga is a criminal offence, while alcohol can be purchased

in liquor stores and shebeens on every second street corner.

I am not an expert on the Rastafarian religion, despite the fact that as a teenager I developed a huge crush on Bob Marley, so I am not sure whether the claims of the religious use of daggga are accurate. I have, however, taken the odd puff on a daggga zol — and, unlike US president Bill Clinton, I must admit that I did inhale.

I am baffled by the law which allows people to consume unlimited quantities of alcohol and cigarettes — two highly addictive drugs known to seriously damage one's health — while criminalising a substance which seems fairly harmless and rather pleasant.

I suspect the answer to this riddle may be found in our colonial history.

The fact is, of course, that alcohol and cigarettes were the drugs of choice for the colonialists who came to South

I am baffled by the law which allows people to consume unlimited quantities of alcohol and cigarettes — two highly addictive drugs known to seriously damage one's health — while criminalising the use of daggga.

Africa in the 17th and 18th centuries.

These drugs were also highly profitable commercial commodities which could be sold to the indigenous population.

However, at that time it was and had been part of the culture of many indigenous groups living in Southern Africa to smoke the locally grown daggga.

Given this background, it is rather surprising to discover that daggga was only criminalised in South Africa in 1928. The drug was apparently criminalised for two related reasons.

Firstly, it was outlawed for the advancement and protection of so-called "Western civilisation".



STAND UP FOR YOUR RIGHTS: Rastafarian lawyer candidate Garreth Prince

This much was admitted as late as the 1980s, when the then National Party Minister of Health and Welfare, Dr C D van der Merwe, warned that daggga was "the assassin of Western civilisation".

These days, when the idea of an "African Renaissance" is gaining credibility, I find it strange that those in power are continuing to enforce criminal laws that were put in place to advance the values of so-called "Western civilisation".

Isn't it time that we cast a critical eye

our cultural right as Africans to smoke daggga just like others have the right to drink brandy and Coke or smoke Anton Rupert's cigarettes?

The second reason for the criminalisation of daggga in 1928 can surely be pinned to the religious ideology of those in power at the time.

As strict Calvinists not well disposed towards the pleasures of life, they developed the ideology of pharmacological Calvinism still so prevalent in our society today. According to this ideology, it's OK for somebody to pump him or herself full of drugs for medical purposes, but it becomes a sin and a crime as soon as the person begins to enjoy the drugs. It is the same kind of Calvinistic impulse which made the Potchefstroom University for Christian Higher Education allow Volkspele on its campus — after all, who but an ironic anthropologist on a visit to Orania could ever enjoy it — but banned any dancing for fear that it might lead to happy times.

It therefore seems like a strange anomaly that we have rejected so many other rules associated with the Calvinistic rule of the National Party — these days students are even allowed to dance at Potchefstroom — but yet, allow laws criminalising the use of daggga to prevail. I can only hope that the present government will do away with this colonial law as soon as possible.

They owe it not only to the many loyal and honest South African Rastas, but also to those people who live in traditional communities and who can trace their cultural use of daggga back more than 200 years.

pet 4/12/97

(252)

(4)

Hani's killers acted on behalf of party, Conservatives admit

(252)

CT 4/12/97

PRETORIA: The Conservative Party accepted that the killers of SA Communist Party leader Mr Chris Hani had acted on its behalf, party leader Dr Ferdi Hartzenberg said yesterday.

He told the Truth and Reconciliation Commission here it could be argued that Hani's murder had served the CP's cause.

Hartzenberg was testifying in the amnesty hearing of former CP MP Clive Derby-Lewis and Polish immigrant Janusz Walus.

They were convicted of the April 1993 slaying of Hani outside his Boksburg home. Both are serving life sentences. They are seeking amnesty for the crime on the grounds that it was politically motivated.

Hartzenberg said the killers could have interpreted militant talk by party leaders at the time as a sanction to use violence to promote the CP's aims.

The CP viewed Derby-Lewis' act in the same way as the African National Congress reacted to the planting of a bomb by an ANC cadre in a Durban restaurant a few years ago. The explosion claimed the lives of nine people.

Hartzenberg quoted former ANC president Mr Oliver Tambo's statement on the incident which read in part: "If I have been approached by an ANC unit and asked whether they should go and plant a bomb, I would have said 'of course not'."

Tambo continued "But when our units are faced with what is happening all around them, it is understandable that some of them would say 'I am going to do this'."

The CP approached the Hani killing in the same way, Hartzenberg said. The country was plagued by violence at the time, and political murders were commonplace.

In March 1993, the CP launched a mobilisation campaign on 18 fronts to explore ways to counter what it regarded as the threat against the freedom of Afrikaners.

The option of achieving the CP's aims through political means was being eroded by agreements

between the ANC and the National Party, Hartzenberg said. There was little doubt in the CP's mind that South Africa was heading for a one-party state, governed by the ANC/SACP alliance.

"We wanted to avoid living in such a dispensation, and realised we will have to walk our own road of freedom. We were living in a violent society and knew we would have to defend ourselves."

Articles in 1992 in the CP newspaper Patriot, which spoke of the taking up of arms and other militant actions,

were a reflection of party policy, Hartzenberg said.

"I think these contributed to their (Derby-Lewis and Walus) actions. We were living in a time of high tension, and people could have argued it was the right time to act."

Hartzenberg said he believed Derby-Lewis and Walus were convinced they were acting on behalf of the CP.

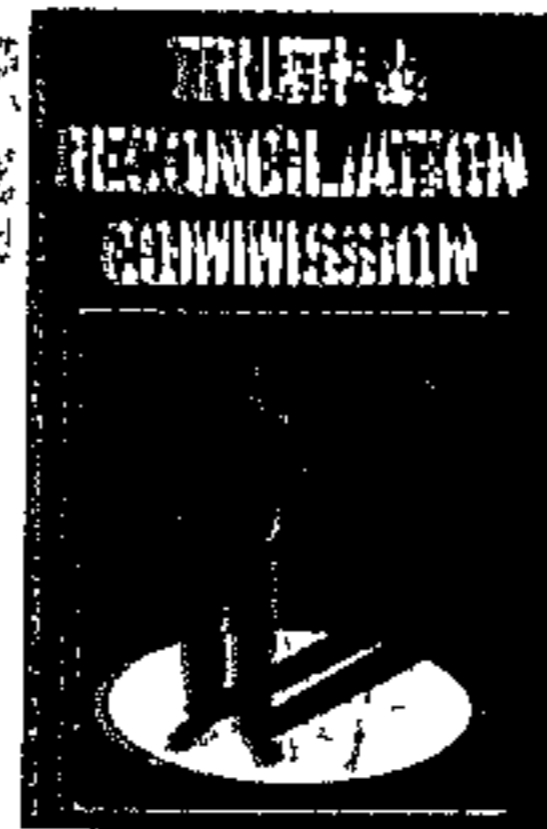
"Hani was enemy number one of the Afrikaner," Hartzenberg said. It was known that Hani earlier campaigned for the maiming of whites, and the killing of the judiciary and members of parliament.

The CP feared the failures of communism elsewhere in the world would also hit South Africa. "And Hani was the heart and soul of the SACP," Hartzenberg said.

He said Hani had obtained the second highest number of votes in the national executive committee of the ANC, and one could assume he would succeed Nelson Mandela as president.

The news of Hani's death had come as a shock to CP leaders, Hartzenberg said. So did the subsequent arrest of Derby-Lewis.

The hearing continues today — Sapa



NP, DP act on 'blanket amnesty'

CINE SAWYER (252)
POLITICAL CORRESPONDENT
ARG 4/12/97

The controversy about the blanket amnesty given to 37 ANC senior leaders and cabinet ministers deepened today with a warning that the decision could face a High Court challenge.

At the same time Leader of the Opposition Marthinus van Schalkwyk of the National Party is to meet Truth and Reconciliation Commission head Desmond Tutu next week to discuss the amnesties while Democratic Party MP Dene Smuts has asked to meet the amnesty committee judges for an explanation.

The amnesties allegedly were requested in applications couched in vague terms and without reference to specific incidents.

This has prompted claims that the applications failed to meet Truth Commission Act requirements for full disclosure of the specific deeds for which amnesty is being sought.

The controversy coincides with an application by former ANC sympathiser Muzi Lombo in the Durban High Court for R2,3-million compensation from the ANC and SA Communist Party for alleged torture and beatings during his detention in the ANC's Quatro camp in Angola.

Mr Lombo claims that among those who assaulted him were late SACP leader Chris Hani and Joe Modise, now Minister of Defence.

The TRC's amnesty committee announced last week that the 37 ANC applicants had been given amnesty after accepting "collective responsibility" for actions.

Mr Van Schalkwyk claimed this contravened the commission's founding Act, which did not provide for blanket amnesties. He has written to commission deputy chairman Alex Boraine requesting details of the alleged crimes for which amnesty had been granted.



Enough: the strain of months in the hot seat as chairman of the TRC tells on Archbishop Desmond Tutu

Conservative Party 'backed' Hanu killing'

'Afrikaner struggle' links
ARG 4/12/97
ANIS CORRESPONDENT

Johannesburg - Conservative Party leader Ferdie Harzenberg told the Truth Commission that calls he and others had made for Afrikaners to launch "the third freedom struggle" could have induced Clive Derby-Lewis and Janusz Walus to kill Chris Hani.

"I said serious things, and it is possible people could have interpreted certain things as their right or duty to do something," he told a TRC committee hearing the amnesty applications of the pair for the 1993 murder of the SA Communist Party leader.

The CP had never distanced itself from Derby-Lewis's act, Dr Harzenberg said yesterday.

"On the contrary, at our first congress after the incident we established a fund to support Derby-Lewis as far as his legal representation is concerned. We realised he was acting in the cause of the CP and the Afrikaner people, and we had sympathy for that," Dr Harzenberg said.

Asked how Mr Hani's death could have assisted the Conservative Party, he said it could have destabilised the SACP.

Derby-Lewis's lawyer, Harry Prinsloo, referred Dr Harzenberg to the bombing of a school in Pretoria by Conservative Party MP Koos Botha early in 1993, shortly after the Conservative Party had organised a rally at the Voortrekker Monument in Pretoria.



Ferdie Harzenberg Clive Derby-Lewis

"It's the same situation. In that time of high tension, where people were losing their lives on a large scale, people could have argued that the time was ripe to do things that could perhaps steer the situation in a different direction," Dr Harzenberg said.

George Bizos, appearing for the Hani family, reminded Dr Harzenberg that fellow Conservative MP Daan du Plessis had lambasted Koos Botha in Parliament over the bombing, saying he was only one of 30 000 people at the rally to have interpreted the speeches there to mean that violence was acceptable.

He asked if the Conservative Party was not being inconsistent in lambasting Botha for the bombing of the school, but supporting Derby-Lewis over the killing of Mr Hani.

Dr Harzenberg said the CP had disputed Botha's claim that the party had instructed him to commit the deed, but it had accepted that Derby-Lewis had been acting on the party's behalf.

AVIATION, says O et 'ant Winnie

Tutu warns as Stompie's mother 'intimidated'

(252) AAC 4/12/97



ON THE TRUTH COMMISSION

Johannesburg - A defiant Winnie Madikizela-Mandela has told the Truth Commission claims she was involved in gross human rights violations were "judicious fabrications", "the worst unacy" and "ridiculous".

During the tea break today, the first day of Mrs Madikizela-Mandela's testimony, two women wearing the colours of the African National Congress Women's League allegedly harassed Joyce Seipei, mother of murdered teenage activist "Stompie" Seipei.

The abduction, beating and murder of the 4-year-old activist in late 1988, allegedly on the instructions of Mrs Madikizela-Mandela, now Women's League president, is the heart of the nine-day hearing on the activities of the Mandela United Football Club in the late 1980s.

After the tea break, Truth Commission chairman Desmond Tutu said the alleged intimidation of Mrs Seipei, who was invited to the hearing by the commission, had taken place in the women's toilet, and had been seen by at least one "independent" person.

Archbishop Tutu described the alleged intimidation as "disgraceful" and "repulsive", and said the TRC would lay criminal charges if it was found to be true. "I don't want such things to categorise a hearing. It is already an emotional and difficult hearing - don't exacerbate it," he said.

Mrs Madikizela-Mandela described the allegation as "very grave" and said she greeted it "very much". Asking Archbishop Tutu for details, she said "We cannot believe that any mother, let alone a member of the Women's League, can be involved in that kind of conduct". Earlier, Mrs Madikizela-Mandela had dismissed all the numerous allegations of gross human rights violations - whir

Mandela's lips sealed

Pretoria - President Mandela could not be drawn into discussions today on former wife Winnie Madikizela-Mandela's submission to the Truth and Reconciliation Commission.

Whatever our reflections on the relationship which we had as a President and a wife, I do not have the confidence to discuss it. It is not for me to complete the Commission's mandate to handle the

included six murders and other incidents including assault and kidnapping - made against her during the past eight days.

For about 40 minutes, she responded to the allegations, which were put in summarised form to her by her advocate, Ismail Semanya, by denying any knowledge of them and also denying knowing or ever having met some of the people who had made them during the hearing.

Referring to the kidnapping and assault of Stompie and three other young men from the Methodist mission in Soweto in December 1988 - for which she was convicted of being an accessory to kidnapping - Mrs Madikizela-Mandela repeated the alibi she



Abuse claims 'ludicrous ... worst lunacy'

ARC 4/12/97
(252)
From page 1

had made at her trial, to the effect that she had been in Brandfort at the time.

Responding to the allegation by Mandela United Football Club coach Jerry Richardson that she had ordered Stompie to be killed, she said: "That is ludicrous and the worst lunacy I learnt of Stompie's death in the media about the time the whole thing exploded in the papers."

She denied knowing that Stompie and the other three young men had been kidnapped from the mission against their will, and said she had not witnessed the vicious assault on them at her Diepkloof home.

She had also not seen any sign of injury on the four later. She said she did not have any problem with homosexual acts between consenting adults and also did not have any problem with the lifestyle of Methodist minister Paul Verryn, whom she had been told by her then friend Xoliswa Falati had been abusing the young men at the mission.

Her problem had been that she believed children who had gone to the mission to seek refuge were being subjected to sexual abuse.

Mrs Madikizela-Mandela said she had had "a very close relationship" with "people's doctor" Abu-Baker Asvat - allegedly killed on her orders for refusing to treat Stompie after his assault or to issue a medical certificate to the effect that Katiza Cebekhu lu had been sodomised by Mr Verryn.

Asked about the two convicted killers of Dr Asvat, who alleged she had offered them R20 000 to kill the doctor, Mrs Madikizela-Mandela said she had seen them for the first time at this hearing.

Referring to allegations that she had been involved in a serious altercation with Dr Asvat shortly before his death, she replied: "It is one of those hallucinations I'm hearing here for the first time."

Former spy boss defends SSC role

ARG 4/12/97 (252)

JOSEPH ARANES
ON THE TRUTH COMMISSION

The former head of the apartheid government's national intelligence service, Niel Barnard, told a Truth Commission special hearing that the State Security Council had laid the foundation for peaceful negotiated settlement in South Africa.

Mr Barnard said the workings and intentions of the SSC were often misunderstood and not properly interpreted. But he said individuals had sometimes acted "outside their mandates" in perpetrating "gross" human rights abuses.

"You must remember that the African National Congress/SA Communist Party

alliance and other revolutionary forces were involved in a total onslaught to make the country ungovernable, isolated internationally and also to overthrow the government.

"The government's response and the strategies they developed must be viewed against this backdrop, and planning was done to prevent a revolutionary overthrow of power as in other African states."

Mr Barnard said bombs had been going off in cities and people had been living in fear. The responsibility for the security of the state had rested with the SSC, but as the situation deteriorated it had become clear that the security forces alone would not be able to contain the rising tide of mass resistance to government policies.

Other departments, such as social wel-

fare, had been needed to help "win the hearts and minds" of the people.

He said the National Intelligence Service together with other intelligence agencies had started playing a central role in gathering information and using it to decide how best to maintain stability in the country.

"This information was used to lay the basis for the peaceful transition to a democratic political settlement."

This process had not been without its problems, as individuals within the structures and other departments at times acted outside their given mandates.

"These actions, often very serious and at times gross violations of people's human rights, led to people perceiving the security council in a very negative light."

NP, DP act on 'blanket amnesty'

CINE SAWYER

(252)

POLITICAL CORRESPONDENT

ART 4/12/97

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THE STAR

Conservative Party 'backed' Hanı killing'

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ART 4/12/97

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Ferdie Hartzenberg Clive Derby-Lewis

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Cop told me Winnie was spy, says coach

(252)
AR 4/12/97
Richardson claims

Our police links were secret we shared

Johannesburg - In sensational evidence to the Truth Commission, Mandela United Football Club coach Jerry Richardson claimed he had been told Winnie Madikizela-Mandela was a police informer.

Richardson, who occupied a privileged position in Mrs Madikizela-Mandela's household in the late 1980s, admitted having been a police informer himself from 1987.

He also claimed to have seen Mrs Madikizela-Mandela holding intimate meetings in her bedroom with security policeman Paul Erasmus and detective H T Moodley, a former security policeman then working for the Soweto murder and robbery unit, in 1988 and 1989.

Describing one of these alleged visits, Richardson said: "The mood is jubilant and they are so much happy." His claims were made during rambling and often emotional testimony over more than seven hours.

He stopped several times and refused to continue, particularly while being cross-examined by Mrs Madikizela-Mandela's counsel, Ishaili Semanya, and was repeatedly warned by commission chairman



YIELD

ON THE TRUTH COMMISSION

Desmond Tutu to answer questions. Richardson admitted telling police that two Umkhonto weSizwe guerrillas had been brought to his home by Mrs Madikizela-Mandela in August 1988 and that they stayed with him while looking for targets to attack.

On November 9 1988 police surrounded his home and the guerrillas were killed in a shootout. At this point Mrs Madikizela-Mandela bowed her head in her hands and appeared to be weeping.

Richardson claimed that Paul Erasmus told Mrs Madikizela-Mandela about the deaths of the MK soldiers. He said at one meeting between Mrs Madikizela-Mandela and Erasmus, he overheard a conversation about informers.

"Erasmus pointed at me and said 'This is the one', Richardson said. Asked whether Mrs Madikizela-Mandela later challenged him about the allegation, Richardson replied "Mummy respected me a lot and I respected her."

"There was this thing we were doing and we kept it a secret and we didn't want anyone else to know."

In 1995, during reopened investigations into several murders allegedly committed by football club members, Senior Superintendent Moodley told him that he (Moodley) had known Mrs Madikizela-Mandela very well and she had also been a collaborator. "In other words, she was a sell-out," Richardson said.

Richardson said his police "handler" was a security branch sergeant, Stefanus Pretorius, who was killed in the shootout at his home.

Hanif Vally, leading evidence for the commission, asked Richardson to comment on the suggestion that Sergeant Pretorius was deliberately "silenced" because he knew too much as a result of information Richardson supplied. Richardson responded "I don't know what to say there are people listening to this."



Return to sender: Muammar Gaddafi



THE STAR

Revelation: murderer Jerry Richardson "There was this thing we were doing and we kept it a secret and didn't want anyone to know"

No reply to 'special' Gaddafi letter

JOHN YELD

Johannesburg - Jerry Richardson wrote to Libyan leader Muammar Gaddafi from jail using Winnie Madikizela-Mandela's Soweto address and was "surprised" he did not get a reply.

This is apparent from another letter by Richardson to Mrs Madikizela-Mandela's daughter Zinzi, also written from jail in 1991 where he was on death row for the murder of teenage activist "Stompie" Seipei. Richardson was questioned about

the second letter yesterday at the Truth Commission's hearing into the activities of the Mandela United Football Club of which he was coach.

In it, he asked Zinzi Mandela-Hlongwane to send him items "I need a personal towel, it must be a Colibri towel. I also need track suits, sports footwear and soccer boots known as Jomo Sono King (amakhosi). "Zenzi (sic) I would appreciate it if you go personally to get these things and I would also appreciate it if you bought all these items in pairs."

He said he missed all those "in the home of Madiba".

"And I am saying to you retain the 'Spirit of no surrender'. Gave my regards to Gaddafi. I wrote a special letter to him but to my surprise I did not receive any reply from him." Richardson complained that he was penniless and had no visitors.

"No one comes, even Mrs Xoliswa (Falati) and my daughter Mazende, please encourage them to come. I have many needs that they could help me with," Richardson wrote in the letter to Zinzi.

British glued to broadcast

TYRONE SEALE

FOREIGN SERVICE

London - British interest in the Winnie Madikizela-Mandela hearings before the Truth and Reconciliation Commission is so intense that one television channel will be crossing live to part of today's proceedings.

Channel 4's special broadcast will begin at 2.30pm today, when the "Mother of the Nation" is expected to take the stand and refute the claims levelled against her this week.

Newspapers here have given exhaustive coverage of the Madikizela-Mandela hearings, so much so that television producers believe a more dramatic approach is justified.

Over the past few days, media have thrust South Africa into the British limelight as attention focused on the TRC hearings and Earl Spencer's divorce case.

At the beginning of this week, the London radio station, Jazz FM, began a week-long broadcast from Cape Town, offering South African holidays as giveaways.



Witness protection the SA way

Local programme a far cry from that of the Americans but more change will come, writes David

Porogo

(252)

general, after considering all the facts, including the contribution the witness can make to the criminal proceedings, may authorise the witness' protection. The witness (and family members) participates on a voluntary basis and is entitled to leave the programme at any stage.

No person is incarcerated or detained against his or her will. Should a witness be dissatisfied with the treatment he/she receives in terms of the programme, he/she may leave at any stage. It should, however, be borne in mind that a person can be forced to testify whether he/she is being protected or not. Persons leaving the programme will still have to testify in the case. The opposite is also true. It may happen that, although a person was admitted to the programme, the attorney-general finalises the case without the evidence of that witness.

Once a person is admitted to the programme, the state assumes responsibility for the safety of that person. Witnesses are usually removed from the area where they are in danger and provided with accommodation in an area where they will be safe. Various types of accommodation are used, such as hotels, boarding houses, houses and flats. The decision as to where a particular witness

will be accommodated, is made by the coordinator for the area.

The role of the attorney-general is limited to the decision whether a person should be admitted to the programme and whether a person should be removed from it. All other issues are dealt with by the director witness protection of the Department of Justice and his staff. The actual protection of witnesses is performed by members of the Police Services allocated to witness protection. All financial decisions are taken by the Department of Justice.

While a person is on the programme, he or she is usually paid an allowance. The allowance is determined after taking into account the personal circumstances of the witness. Allowances are reviewed regularly to ensure that a person is not placed in a better position than he or she was in before being admitted to the programme. In this way suspicions of bribery of witnesses are allayed.

If possible, witnesses are encouraged to be self-sufficient while on the programme. This is not always possible as it may not be safe for the witness to work anywhere in the country.

Once a witness has testified, the protection comes to an end. Although the witness may be assisted to resettle in another area if the danger persists, he/she can no

longer be kept on the programme.

The value of witness protection cannot be underestimated. It is aimed at preserving evidence in serious criminal cases to enable the prosecution to prosecute suspects. It is therefore designed to counter threatening or intimidating actions by an accused person.

The role it has played in the successful prosecution of cases is clearly evident from the fact that in the Western Cape convictions are now being obtained in cases involving gangsters. Similarly, the North West has reported success in cases involving violence on the mines.

The number of persons under protection has over the last two years increased dramatically. In January 1995 only 40 persons were being protected. A year later the number had increased to 200. In 1996 it doubled with the result that, by February 1997, 314 persons were under protection. By October 1997 the total has increased to 550.

The value of witness protection to the criminal justice system was recognised in the National Crime Prevention Strategy (NCPS). To assist with the programme, R2,6-million was allocated to purchase vehicles, photocopiers, fax machines, furniture for safe houses etc. It is

anticipated that the total amount spent on witness protection during the 1997/1998 fiscal year will be approximately R20-million. However, this amount is only a fraction of what other countries are spending. In 1996 the US budgeted for about R768-million. The number of witnesses on their programme at the time was about 46.

The whole concept of witness protection will change in 1998. A draft bill on witness protection was approved by cab-

inet and is expected to become law in the first quarter of 1998. The role of the attorney-general changes significantly. All decisions regarding protection will be taken by a director witness protection, appointed by the minister of justice. He or she will be assisted by panels who will investigate each application and who will make recommendations to the director. The public, through participation in the panels, could play an active role in the final decision.

The scope of the programme is to be extended to also cover witnesses before other tribunals such as commissions of inquiry. The programme will, however, still be used primarily to protect witnesses in serious criminal cases.

■ David Porogo is the chief director of communication services in the Department of Justice.

PUBLIC SECTOR GOVT. - JUSTICE

1998

JANUARY

Now both cases and chaos are pending

Angry prosecutors and state advocates warn that backlog of cases at courts will get worse because of department's decision to stop overtime payments

BY CATHY POWERS, FIKILE-NTSIKELELO MOYA AND SAPA

Severe staff shortages at magistrates' courts and attorneys-general offices around the country will be compounded from today by an overtime ban by state advocates and prosecutors

This will cause more delays in an already clogged justice system

Hundreds of prosecutors in Johannesburg, Pretoria, Durban, Cape Town and Port Elizabeth and state advocates at attorneys-general offices have resolved to stop working overtime from today in protest against the Department of Justice's decision to suspend overtime payments

An angry young prosecutor said "It's ridiculous. They can't pay me, but they have the money to help the accused. I am trying to put behind bars."

He was referring to the millions paid to the Legal Aid Board to enable people who cannot afford lawyers to have ones paid for by the State.

The overtime ban action is set to further exacerbate the backlog of unheard cases, which is mainly due to staff shortages. Prosecutors have warned that cases would start late from today as they would do their preparations during

working hours, and not at home after court hours

Regional courts in Johannesburg had 4 380 cases pending at the end of December, many of which would go to trial only in March. There were 2 932 cases pending in Pretoria's 14 regional courts, and some had already been postponed to August.

District courts in Pretoria and Johannesburg had a total of 5 069 cases pending

“
**They can't
pay me, but
they have
the money to
help accused**
”

Union representatives said yesterday that state advocates worked an average of 25 hours' overtime a month, while prosecutors sometimes worked up to five hours' overtime a day and do most of their preparations during their spare time.

At the start of the new year, only three-quarters of the posts at attorneys-general offices countrywide were filled.

The Pretoria and Johannes-

burg attorneys-general offices were among the worst hit, with almost 20% of the advocates' posts vacant at each office, Society of State Advocates of SA chairman Retha Memtjies said yesterday.

"This situation will only be aggravated now," said Eduard van der Spuy, president of the National Union of Prosecutors of SA.

Justice department spokesman Paul Setsetse said yesterday many posts had been deliberately kept vacant last year to supply funds for overtime pay for state prosecutors, advocates and administrative staff after a work-to-rule in July.

He said the reason overtime funds had dried up was because money was now being diverted to filling some of these vacant posts, to offset the huge loads the courts were facing.

■ A junior advocate earning R80 000 a year was paid R50 an hour for overtime and a senior advocate earning R147 000 a year was paid R93 an hour overtime. Advocates could work up to 50 hours' overtime a month.

A junior prosecutor with two or three years' experience and earning R52 719 a year paid R33,42 an hour overtime and R55 an hour on Sundays.

► Report and picture

Page 2

Star 15/11/98

(2/7/98)

'I'm being forced to quit a job I love'

(252) Star 15/1/98

PRETORIA CORRESPONDENT

Senior Pretoria prosecutor Theresa Kannemeyer resigned from the Department of Justice after 16 years on Tuesday after hearing that the Department of Justice was not going to pay for overtime and "that the department is not prepared to negotiate any further".

"I don't know what is going to happen, because when I close my office door on February 28, I am leaving 30 case dockets behind. These are all high-profile cases which are partly heard cases or still due to be heard," she said.

Kannemeyer said these cases had taken months and even years to prepare. In one instance, a R6-million fraud case had taken her four years to prepare.

Another case she is leaving behind involves R99,6-million fraud



Theresa Kannemeyer

case. "I love my job and don't want to leave, but I have no choice. The department forced me to go to this extreme. If I don't get overtime

payment on my meagre salary, I will lose my house. I work about 75 hours of overtime a month. It is essential to put in overtime, given the complexity of the cases."

What is even more heart-breaking is that she has resigned without having another job to go to. She has an LLB degree and years of experience, and believes she will get another job soon.

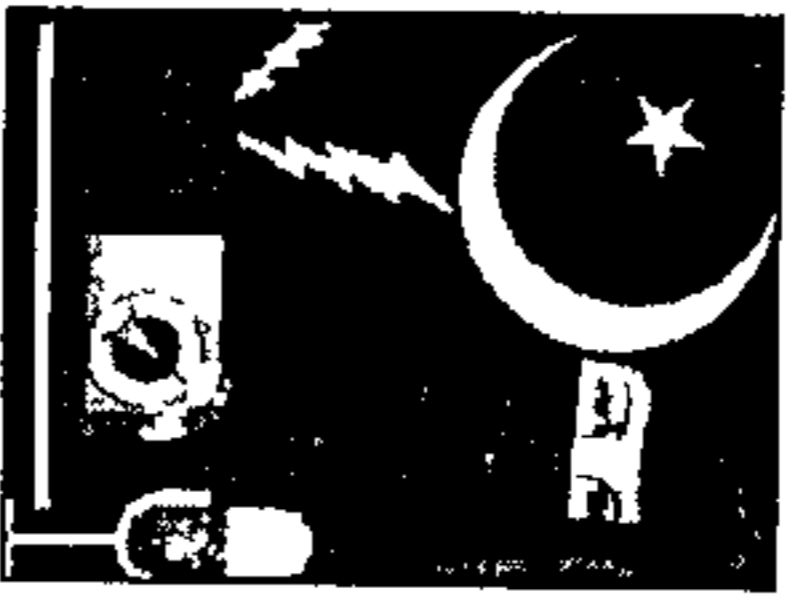
"I understand if there is not enough money to pay for our overtime, but it seems the department has more than enough money to pay the legal fees of those criminals we try to get behind bars. It is the taxpayers' money that is being used to pay for their legal aid.

"It seems it is more important to the department to pay to keep the criminals out of court, than to pay for professionals to prosecute them properly."

OPINION

One freedom versus another

Radio Islam issue pits religious rights against gender equality, writes Colleen Lowe Morna



Behind the legal gymnastics that have characterised Radio Islam's application for a new licence lies one of the most important constitutional issues of our time. Does the right to religious freedom, as enshrined in the Bill of Rights, give a religious group the right to breach the fundamental values on which our new democracy is built: namely human dignity, equality, freedom and non-sexism? If so, what hope is there that we will ever get to the root of gender inequality, so much of which is justified on religious, cultural and traditional beliefs?

The Radio Islam case was first drawn to the public's attention by a progressive Muslim group called the Youth for Islamic Enlightenment and Development (YIELD). In complaints lodged with the Independent Broadcasting Authority (IBA) and Commission on Gender Equality (CGE) last year, YIELD argued that female members of the Muslim community were being discriminated against as a result of the station barring the voices of women from being heard on air. YIELD cited Section 14 of the IBA Act which required the radio station to

"serve the interests of the Islamic community living within its broadcasting area".

A complaints committee constituted by the IBA ruled late last year that women be heard for at least three hours a day on Radio Islam programmes and that women constitute one-third of its management.

The station openly defied the ruling and used the public airwaves to issue threats against the parties who originally lodged the complaint, including a Muslim member of the CGE.

In applying for a new licence to replace its temporary licence which expired on January 10, Radio Islam sought to change the original terms of its licence - which required it to serve the interests of the whole Islamic community within its broadcasting area - to "serving the interests of the Muslims who adhere to and accept the Islamic rulings and interpretations of the Jamiatul Ulama Transvaal". By narrowing the definition of those whom it serves, Radio Islam is hoping to win its case for excluding women from the airwaves on grounds of the beliefs of this particular

Islamic group.

At what was supposed to be a hearing for a new licence on January 10, Radio Islam won itself a one-month extension to its temporary licence thanks to technical bungling by the IBA which resulted in none of the substantial arguments being heard. A new application, and objections to it, have to be lodged over the coming month. The case, which may yet find its way to the Constitutional Court, raises crucial issues.

Of the five Muslim radio stations in South Africa, Radio Islam is the only one which disallows the voices of women. Globally, with the exception of the Taliban-governed areas of Afghanistan, Muslim women are audible in the public media.

Even if there were a way of ensuring that the radio station only reaches adherents of the Jamiatul Ulama Transvaal (which in itself raises a number of practical questions), and even if we accept that this group is entitled to its views, how does one deal with the conflict of rights which this case raises?

The constitution states clearly that no rights are absolute. All rights must be balanced against each other and are subject to the limitations clause "to the ex-

tent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom". Equality in the constitution is not just a right. It is a fundamental value which both shapes and limits other rights.

If the right to religious freedom were to supersede equality, what would stop a certain ethnic group from believing that it is superior to other ethnic groups, justifying this in terms of its religion, and then proceeding to oppress other ethnic groups? Do we not find in that argument the perfect justification for apartheid in terms of the constitution of the new South Africa? And if so, how can we possibly use the right to religious freedom, as a justification for oppressing women, who constitute more than half our population?

The women in tight black veils with narrow slits allowing only their eyes to show who sit at the back of the room during the hearings convened by the IBA in the Radio Islam case cut a particularly striking visual image of the oppression of women in our society. But, as Constitutional Court judge Al-

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bie Sachs so aptly put it: "It is a sad fact that one of the few profoundly nonracial institutions in South Africa is patriarchy. Amongst the multiple chauvinisms which abound in our country, the male version rears itself with special equal vigour in communities ... Thus to challenge patriarchy to dispute the idea that men should be the dominant figures in the family and society, is to be seen not to be fighting against the male privilege but as attempting to destroy African tradition or subvert Afrikaner ideals or undermine civilised and decent British values".

One of Radio Islam's more memorable programmes was a half-hour lesson on how to beat your wife. Sadly, this is a skill in which many South African men are so proficient that they hardly require lessons, let alone any prompting. Is this what freedom of speech and freedom of religion entitle us to? How do we strike the balance between the right to believe whatever we want to, and the exercise of that right in such a way that it does not undermine the sacred right of anyone - in this case of women - to be free and equal citizens?

■ Colleen Lowe Morna is an adviser to the Commission on Gender Equality

Prosecutors resign after overtime ban

(252)

BD 15/1/98

Taryn Lambert

THIRTY-nine state advocates had resigned this year in protest against "poor pay", a high workload and the suspension of overtime payments, Society of State Advocates chairman Retha Meintjies said yesterday.

A prosecutor who asked not to be named said six colleagues, including a senior state prosecutor, had resigned as a direct result of overtime cuts. Three were from the Johannesburg Magistrate's Court and three from the Pretoria Magistrate's Court.

Justice Minister Dullah Omar on Tuesday suspended overtime pay until

the end of the financial year.

Meintjies said there were 53 vacancies in SA for state advocates. "The department suddenly announced that there were no funds available to pay our overtime. But in December we were assured that we would be paid," she said. The society had demanded to know what had become of the funds which were available in December.

Johannesburg prosecutors said they were furious at Omar's "snap decision" to cut overtime pay. "I found out about it on the news on TV. We had absolutely no warning," one said.

"We are left in a terrible situation. Some of us have bought houses and

cars and now we cannot make our payments," said another. "We are expected to act professionally but we are not paid like professionals."

Prosecutors, who all had legal degrees, cleared between R1 000 and R2 000 a month. State advocates earned between R80 000 and R145 000 a year, a state advocate said.

Most of SA's 250 state advocates and more than 1 600 prosecutors are expected to join a "go-slow" today in their individual capacities. The National Union of Prosecutors in SA and the Society for State Advocates have said they will not take action on behalf of members.

Traditional leaders oppose merging of customary law (252)

BISHO — Eastern Cape traditional leaders have opposed the harmonisation of customary and common (Roman Dutch) law.

This was said by provincial House of Traditional Leaders chairman Chief Mwelo Nonkonyana yesterday after a special sitting of the house which was held this week.

Nonkonyana said that traditional leaders would prefer to encourage "cultural borrowing" from westernised norms, as long as the elements that were adopted were not repugnant and improved the quality of life of indigenous people.

The special sitting was convened to debate a document from the SA Law Commission on the harmonisation of common law and indigenous law.

Nonkonyana said: "Traditional leaders are not opposed to the improvement of indigenous law."

He also said that traditional leaders were concerned about a resolution taken at the African National Congress's 50th national conference to abolish all customs, traditions and practices.

Nonkonyana said customary marriages, including polygamous marriages, had to be recognised and protected.

"Customary marriages are institutions which include concepts which are unique to the indigenous people of the country.

"We are of the view that we should at all times resist the temptation of adhering to the European-centred norms and values disregarding our African traditional norms and values, which are well entrenched in the minds of the millions."

The House of Traditional Leaders had agreed that a minimum set of essential requirements for customary marriages should be set out formally, including ubulawu, the custom of negotiations between two families involved in a marriage to decide on lobolo.

It was noted that lobolo should be recognised as a custom with necessary rituals, not merely the payment of a price for a bride.

The house endorsed the view that all customary marriages should be registered by traditional leaders. — ECN.

BD 15/1/98

Former guerrillas are hoping to oust Malaysian company

Michael Hartnack

HARARE — A fund set up by former guerrillas with their tax-free gratuity payouts hopes to oust the Malaysian YTL Corporation whose controversial bid to take over Hwange thermal power station has been stopped indefinitely without explanation, according to a spokesman.

There has been a notable lack of progress by YTL since letters of intent were signed with President Robert Mugabe's government in September 1996, but Tuesday's statement in Bulawayo was the first official indication the Malaysian deal might be off.

Abandonment of normal tender procedures sparked diplomatic protests from Britain, France, Sweden, Canada and the US at the time, and the resignation of the entire board of the parastatal Zimbabwe Electricity Supply Authority (Zesa).

Mugabe told western ambassadors to "go to hell" when they complained about the exclusion of their power utilities, which they believed had submitted more competitive bids for the contract to upgrade the giant thermal power station. The western European and North American tenders had contained their own finance element, while the Malaysians were given special permission to levy Zimbabwean consumers.

Chenjezi Hunzvi, outspoken chairman of the Zimbabwe Liberation War Veterans' Association, who faces possible perjury and forgery charges over processing claims for disability payouts, says the association has already invested Z\$50m in a special "Zex-

com" fund, established with state approval. Former guerrillas each received Z\$50 000 gratuities just before Christmas following revelations that politicians with dubious combat records received payouts of up to Z\$900 000, some with the assistance of Hunzvi, a Romanian-trained doctor.

Hunzvi said response to the establishment of Zexcom had been "overwhelming", particularly in the Harare area. "Assuming that all 52 000 ex-combatants who have so far received their gratuities put in Z\$500 every month, the association will collect Z\$26m every month," said Hunzvi. "This will make us a powerful organisation."

In addition to their gratuities, guerrillas who fought in the 1972-80 war to overthrow white rule have been pledged Z\$2 000 a month in tax-free pensions for life.

Hunzvi said beside controlling Hwange thermal power station in place of YTL, Zexcom might take over the parastatal Posts and Telecommunications Corporation when it is privatised. "I am meeting the president and the information minister (Chen Chimutengwende) soon to persuade them to give us enough time for our members to invest their money in Zexcom. We want to buy all shares in Hwange and PTC."

Business sources say Zexcom lacks the engineering expertise to replace YTL in the technical aspect of the Hwange deal but might be able to "warehouse" former state shares when Hwange is privatised. Protests in 1996 centred on YTL being offered a 51% stake in a utility with more than \$1bn in assets for a little over \$50m.

Harare takes steps to curb border hoppers

Michael Hartnack

HARARE — Zimbabwe's air force has deployed a helicopter to patrol the 200km Limpopo River frontier with SA to curb a spate of border-jumping that has claimed 36 lives in the past four days.

Inspector Helmand Shoko, police officer in charge at Beitbridge, and senior officers in Bulawayo, appealed to Zimbabweans not to cross illegally, especially when the Limpopo — notorious for crocodiles — is in spate after heavy rains.

Last Sunday 29 people drowned from a large group led by a member of the local "Vapostori" sect who knelt to pray on the bank and claimed to have received divine guidance

before leading them into the swollen waters at Chikwarakwara, close to the Mozambican border.

On Saturday three more Zimbabweans were lost near the same spot and four Mozambicans died the same day.

Home Affairs Minister Dumiso Dabengwa reports there are nearly half a million Zimbabweans working in SA, beside the 100 000 whites who emigrated at the end of the 1972-80 Rhodesian war.

About 40 000 are skilled professionals including black doctors, nurses, accountants and mining personnel, who earn more than six times the salaries paid in Zimbabwe and are taxed well below Zimbabwe's 43% rate on incomes over Z\$60 000 a year.

Truth body 'should grant amnesty to Heidelberg killers'

CAPE TOWN — The truth commission's amnesty committee should grant amnesty to three applicants for the December 30 1993 Heidelberg Tavern killings, counsel for the three said yesterday.

Vuyisile Madsu, Luyanda Gqomfa and Zola Mabehle, who are serving lengthy prison sentences for their part in the attack which left four dead and several wounded, are seeking amnesty for what they say was a politically motivated act.

They are former members of the Azanian People's Liberation Army (APLA) — the Pan Africanist Congress (PAC) armed wing — and maintain the attack was carried out on the instructions of the Apla high command.

Addressing the amnesty panel chaired by Judge Hassam Mail during an amnesty hearing in Cape Town, their lawyer, Norman Arendse, said the committee should consider only whether they had made a full disclosure of events or not.

He submitted that the three applicants had done so by admitting responsibility for the attack and for causing the deaths of four people, thereby being guilty of gross human rights violations and regret for what they had done.

They had all been sentenced to lengthy jail terms and it was in their interest to make a full disclosure, Arendse said.

The committee now had a full picture of what had happened and the applicants had fulfilled the requirements of truth commission legislation to tell all, he said.

He asked that the committee reach a decision, one way or the other, as soon as possible.

Truth commission evidence leader, Paddy Prior, told the committee that the attack should be seen against the background of the political situation in December 1993.

The PAC was then part of the political negotiations taking place about SA's future.

He submitted that the attack had not been sanctioned by the Apla high command, but had been made by local

APLA commanders.

It was simply an act of reprisal for what was happening in black townships at the time and did not further the PAC's political objective of regaining the land for the people.

The intention had been to cause as much death as possible, as evidenced by the nail-studded grenade launched into the tavern. It did not explode.

The applicants had also not fully disclosed their motivation for shooting one of the victims some distance from the tavern while making their getaway, Prior said.

Arendse said the applicants did not attack the Heidelberg Tavern on their own accord or for their own benefit.

He said that, at the time of the attack, the PAC had not yet renounced the armed struggle and the applicants were under the impression the tavern was frequented by members of the security forces, which unfortunately proved to be untrue.

Judge Mail said the committee would make its decision known in due course — Sapa

Leaders have opposed the harmonisation

Former guerr

Killers await decision

NORMAN JOSEPH
STAFF REPORTER

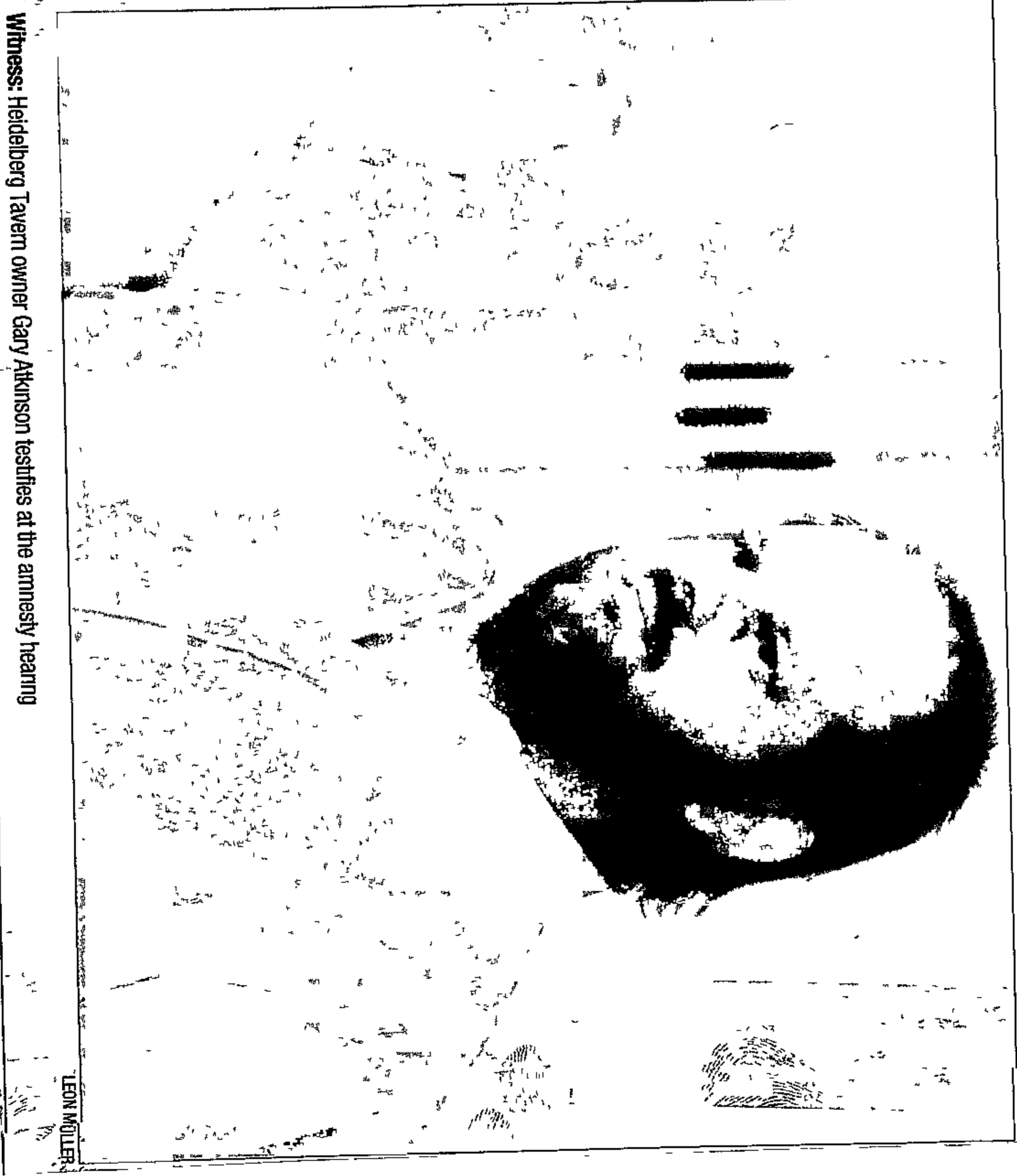
MRG 15/1/98
(252)

The Heidelberg Tavern killers should be given amnesty in line with the treatment of the likes of Dirk Coetzee, murderer of activist Griffiths Mxenge, and Trust Feed killer Brian Mitchell.

This was the argument by Norman Arendse, attorney for Azanian People's Liberation Army members Humphrey Luyanda Gqomfa, Vuyisile Brian Madasi and Zola Prince Mabala, who are applying to the Truth Commission for amnesty for murdering four people in the Observatory bar in 1993.

In a final submission to the amnesty committee yesterday, Mr Arendse said his clients' actions had to be seen in the same light as those of former policemen Coetzee and Mitchell.

Coetzee had been told by a brigadier to "make a plan" with Mr Mxenge. The crime for which Mitchell was granted amnesty was the killing in 1988 of 11 occupants of a house in Trust Feed, KwaZulu Natal. The amnesty committee adjourned yesterday.



Witness: Heidelberg Tavern owner Gary Atkinson testifies at the amnesty hearing

LEON MULLER

WAS SHE

STORY

OF ALL THE ALLEGATIONS WHICH CONTINUE TO PLAGUE WINNIE MADIKIZELA-MANDELA, PERHAPS THE MOST DAMAGING IS THAT SHE WAS A POLICE SPY, WRITES PATRICK LAURENCE

OR WASN'T SHE A POLICE SPY?

22112
RAC 15/1/88



Nelson Mandela's valedictory speech as president of the African National Congress made at the organisation's 50th national conference in Mbabane on December 14 contained an astounding allegation.

He accused unnamed members of the media of penetrating ANC ranks and encouraging the organisation to self-destruct 'with the active involvement of some who are present here as bona fide delegates to the conference of a movement to which they owe no loyalty.'

Infamed observers at the conference were convinced Mr Mandela was alluding to an interview conducted by Zimbabwean-born journalist Newton Kanhema with ANC Women's League president Winnie Madikizela-Mandela.

In the interview last year Mrs Madikizela-Mandela accused the ANC leadership of reneging on its promises to 'the masses' abandoning the vision spelt out in the Freedom Charter and attempting to prescribe to ANC members whom they should choose as their leaders.

The ANC leadership reacted sharply. Sports Minister Steve Tshwene issued a statement almost certainly with the backing of Deputy President Thabo Mbeki accusing Mrs Madikizela-Mandela of being a 'ward chameleon'.

Outgoing ANC deputy secretary General Cheryl Carolus noting Mrs Madikizela-Mandela had not had the courage to raise her criticisms at several ANC meetings labelled her

Wounded

Again one is confronted by a conundrum in seeking to explain Mrs Madikizela-Mandela's actions. Was she naive and negligent deluded by a sense of personal power and infallibility or deceived and tripped by the machinations of the police?

The reverse side of the enigma is the curious reluctance of the police to prosecute her. Apart from the examples already cited there are the strange fates that overtook two trained ANC combatants Johannes Mabothe and Sizwe Sithole. Both were part of her entourage and both suffered grisly deaths after being arrested by the police.

One of Winnie's reputed young lovers Mabothe was a member of the circle of trusted young men who surrounded Mrs Madikizela-Mandela in 1988-89. After the death of Stompie according to evidence gathered by TRC investigators he was sent out of Soweto by Mrs Madikizela-Mandela to lay a false trail by reporting that he had seen Stompie in Botswana.

Later after making a telephone call in the first quarter of 1989 to Mrs Madikizela-Mandela for money to return to Soweto he was arrested by police who threatened him though their surveillance of all calls to and from her Soweto house.

Mabothe was an important witness to the Stompie affair. According to a statement he made to the police he overheard a conversation between Richardson and Mrs Madikizela-Mandela relating to the death of Sepele whom Richardson murdered acting he now insists, on the orders of 'mummy'.

But instead of holding Mabothe as a potential state witness, Soweto security police handed him over to Eugene de Kock commander of the notorious police death squad at Vlakplaas near Pretoria. During his trial on multiple charges of murder and fraud De Kock admitted Mabothe had been executed by Vlakplaas men during 1989.

Before joining Mrs Madikizela-Mandela's entourage Mabothe had served as an assistant collaborator at Vlakplaas. He had escaped and ended up at Mrs Madikizela-Mandela's house in Soweto.

Justice as usual in W Cape as courts face overtime pay ban

LEMORE OLIVER
STAFF REPORTER

It was business as usual at Cape Town's regional and magistrate's courts today, with prosecutors saying they were not considering industrial action in protest against the suspension of overtime payments.

But there was a possibility they would stop working overtime

Prosecutors' spokesman Andre Bouwer said that at a meeting held in Wynberg yesterday, "the impression was created that the majority of prosecutors were not prepared to work overtime without pay"

Mr Bouwer said the matter was "intensely personal" and each prosecutor could make his or her own decision "It must be made clear that here in the Western Cape there is no talk of union involvement and each prosecu-

tor has to decide for himself," he said "In 1996 we embarked on a work-to-rule to ensure market-related salaries. Promises were then made and interim measures, such as overtime payments, were implemented "Now that overtime has also been taken away we are back in the same situation as in 1996 "

Farjeter, reports said State advocates and prosecutors nationwide would refuse to work overtime from today in protest against the Department of Justice's decision to suspend overtime payments

The department's order came into effect yesterday

Western Cape Attorney General Frank Kahn said there was "enormous dissatisfaction" over the decision "There is unhappiness as there would be when any privilege is withdrawn The overtime substituted for a lack of salary increases," he said

State prosecutors who work overtime and at night to try and reduce the huge court backlog now face huge pay losses A third of some state prosecutors' earnings is made up of overtime pay, according to a senior magistrate's court prosecutor

Justice Department spokesman Paul Setsetse said overtime funds had dried up because money was now being diverted to filling vacant posts to offset huge caseloads

ARKG 15/11/98 (252)

TRUTH & RECONCILIATION COMMISSION

Squabbles as deadline pressures mount

Reconciliation prospects appear to be souring amid further delays and a rekindled controversy

Desmond Tutu's Truth & Reconciliation Commission (TRC) faces intensifying pressure to meet the deadline for completing the task assigned to it under the Promotion of National Unity & Reconciliation Act

Amid continuing criticism from opposition parties and reports of disputes within its own ranks over the granting of blanket amnesty to 37 high-ranking ANC officials, including Deputy President Thabo Mbeki, the TRC must

- Submit its final report to President Nelson Mandela by July 31,
- Conclude the process of considering thousands of amnesty applications from perpetrators of human rights abuses by the end of June, and
- Sift through, and make decisions on, applications for reparations from an estimated 22 000 people claiming to have been victims of political violence by the end

of April

Any of these mandates is a tough challenge. Perhaps the most difficult is the one facing the amnesty committee, an autonomous substructure of the TRC. Under the Promotion of National Unity & Reconciliation Act, the committee must hold public hearings into all amnesty applications for actions which involve gross human rights abuses (murder, torture and abduction)

TRC spokesperson Christelle Terreblanche puts the number of these applications at more than 1 000

To improve the amnesty committee's chances of fulfilling its mandate, the Ministry of Justice has agreed to increase its size. It first raised its complement from the original five legally trained members to 13 and then, in the most recent bid to equip it for the last, grueling phase of its work, to 19. But the actual strength of the committee

at present is 12, leading to whispered allegations that the Justice Ministry (which is itself impeded by serious staff shortages) is "dragging its feet"

Even if the committee's strength is raised to 19 soon, enabling it to sit simultaneously in all of SA's major centres, it is difficult to see how it can meet the June 30 deadline and do justice to the often long and complicated arguments about whether amnesty should be granted to the applicants

The same committee has been at the centre of a controversy because of its decision to grant blanket amnesty to the 37 ANC officials late last year. Faced with criticism from the National Party and the Democratic Party — which insisted that the enabling law, the Promotion of National Unity & Reconciliation Act, does not empower the committee to grant amnesty for "everything in general and nothing in particular" — the TRC has decided to seek a declaratory order from the High Court on whether the amnesty committee's decision is consistent with the law

The TRC decision, made after a special meeting on Robben Island amid reports of serious differences within its ranks over the blanket amnesty, represents a victory for those within the TRC which favoured a pre-emptive approach by the TRC to the High Court

TRC deputy chairman Alex Boraine is said to have pressed for that course to be taken while TRC investigation chief Dumisa

Ntsebeza is reported to have wanted the TRC to support the amnesty committee

A TRC statement announcing the decision states, however, that it was taken unanimously. The TRC further declares that it is confident its decision will "quickly and effectively resolve the current impasse". If, however, the High Court advises that the amnesty committee's decision contravenes the Act, the ANC leaders concerned will have to resubmit applications giving details of what actions they are seeking amnesty for

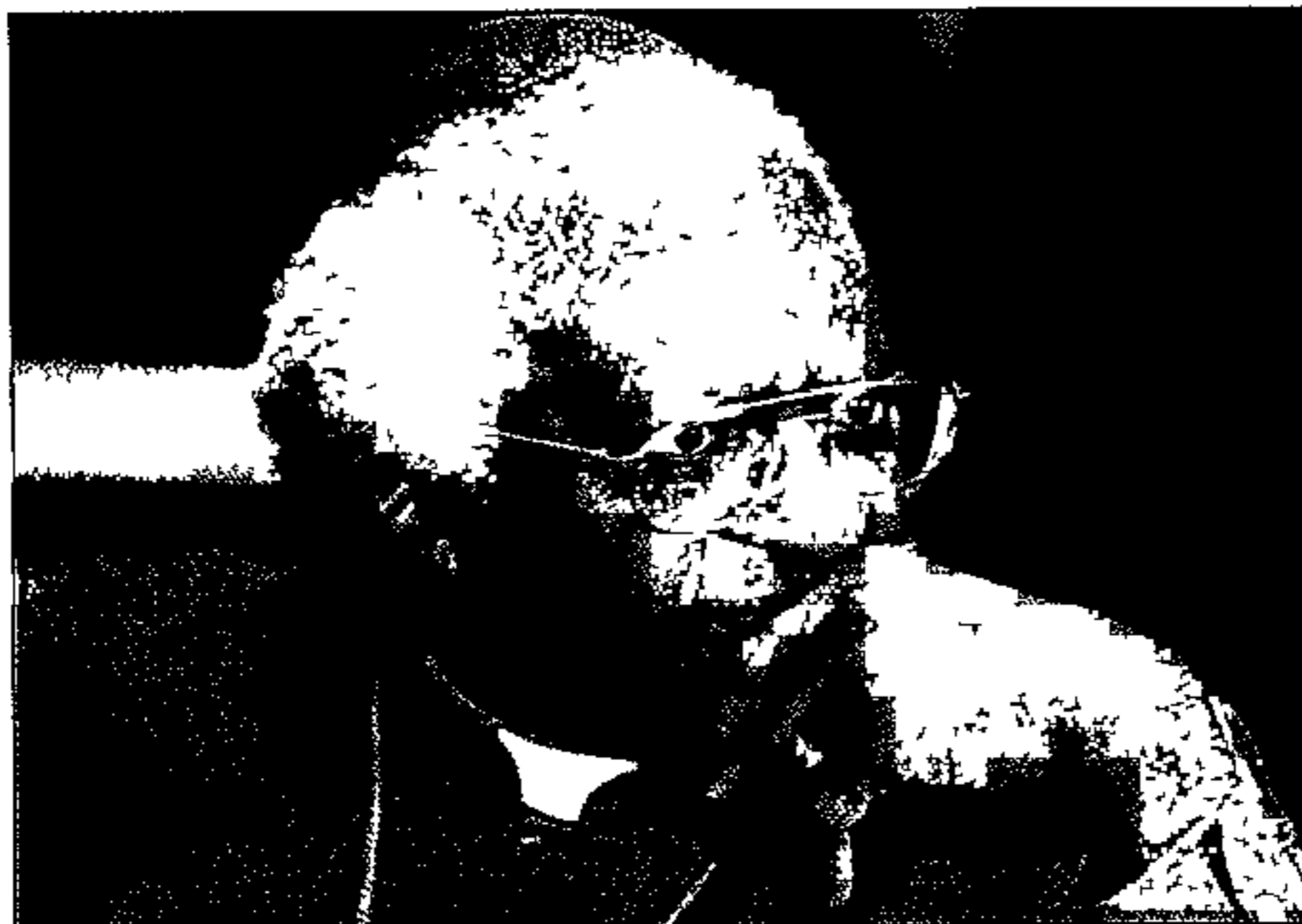
The amnesty committee, for its part, will have to reappraise their revised applications. At the very least the committee will have to divert time and resources to an issue which will certainly be scrutinised closely by opposition parties and the media

One way to diminish the pressure on the TRC is for it to approach the ANC-dominated government for another deferment. But, Terreblanche says, the TRC is loath to exercise that option. "We just want to get on with the task and finish it," she says emphatically.

Expense aside, the

TRC has been repeatedly advised by experts in the field that the process of confronting the past must be short if reconciliation is to be successful. The advice is based on the study of similar initiatives elsewhere, including post-Pinochet Chile. Once the search for truth becomes drawn out, there is a risk that it will impede rather than advance reconciliation

It is for that reason that the Promotion of National Unity & Reconciliation Act set a time frame of 18 months for the TRC to complete its work, with the option of extending it by six months. The TRC, having availed itself of that option in May last year,



Archbishop Tutu hard-pressed to salvage reconciliation

has since applied for and been granted a second six-month extension, one which required an amendment to the law by parliament

As the deadline looms once again, a testing time lies ahead. The refusal of former President P W Botha to heed a subpoena to appear before the TRC — to answer questions on the role of the State Security Council in the counter-insurgency strategies adopted by his government — has the potential to further politicise the process and thus hinder fulfilment of its objective of reconciliation

The affair has already led to acrimony, with the Pan Africanist Congress bitterly accusing the TRC of discriminating against legal counsel for its imprisoned cadres by paying them appreciably less than counsel who helped Botha prepare his written submission to the TRC and counsel who represented the family of Chris Hanu in opposing applications for amnesty by his assassins, Janus Walusz and Clive Derby-Lewis

Boraine's explanation is that the tariffs are determined not by the TRC but by the State Attorney's Act for lawyers acting for present and former State officials and the Legal Aid Board for lawyers acting for clients unable to pay for themselves. It has done little or nothing to pacify PAC anger at what it perceives to be political discrimination contrary to the spirit of reconciliation

Patrick Laurence

Cases delayed as pay for overtime is halted

Star 16/1/98 (272)

Hearings held up as prosecutors stay in their offices for part of the morning to prepare their work

STAFF REPORTERS

There were disruptions at magistrates' courts around the country yesterday after Justice Minister Dullah Omar suspended overtime pay for legal personnel from Wednesday.

Some courts in Johannesburg and Pretoria began two hours late after prosecutors refused to work overtime without extra pay. National Union of State Prosecutors president Edward van der Spuy said yesterday.

Van der Spuy said he believed there were also late starts in Durban and East London, although a clearer picture would emerge after a union management meeting today.

However, justice department spokesman Paul Setsetse said yesterday: "We have received no reports indicating any negative incidents in magistrates' courts."

Van der Spuy said prosecutors' refusal to work overtime would increase the already heavy load on courts and could eventually worsen the crisis at overcrowded prisons. "With

prosecutors working less time, fewer cases will be finalised and more will be delayed, which could have an impact on prison overcrowding," he said.

At the Johannesburg Magistrates' Court yesterday, suspects, attorneys and witnesses had to wait until the end of the morning tea-break before their

shift had ended.

The guards, who work a 12-hour, 6am to 6pm shift with four hours regarded as overtime, said they were afraid they would not be paid for the extra hours because of the overtime-pay suspension. They returned to their posts after hurried negotiations with management.

It was business as usual at Cape Town's courts, with prosecutors saying they were not considering industrial action. They did, however, say there was a possibility they would stop working overtime.

Meanwhile, Omar has appealed to prosecutors and state lawyers to continue working overtime, saying the creaking justice system could simply not afford to pay them overtime.

Sapa reports that during an interview on SABC radio, Omar said "I cannot compel prosecutors to work overtime. What I would ask of them is to ensure that the wheels of the justice system continue working and that they do nothing to undermine the system."

However, Van der Spuy said the plea would not be heeded.

“
**We've had
no reports
on negative
incidents**
”

cases were heard. Up until then, most prosecutors were in their offices preparing for cases.

A prosecutor said most of the cases on the roll yesterday were postponed.

Court security guards caused a minor stir when they decided to close the court doors just after lunch, saying their

Chaskalson backs plan for graduate internship

By EDWIN NAIDU (257)

More than 190 000 people will seek assistance from the Legal Aid Board this year, eight times more than the 25 000 who used the facility at the beginning of the 1990s, Constitutional Court president Mr Justice Arthur Chaskalson said yesterday.

Speaking at the National Legal Aid Forum conference, Chaskalson said the board was costing about R342-million annually. He said an internship system for law graduates was necessary to reduce the heavy workload and the annual cost to R200-million.

He supported the call made by Justice Minister Dullah Omar to set up a compulsory internship scheme for law students as part of their training.

Star 16/11/98

TRC may call Buthelezi

M+G 16-22/1198

(252)

Wally Mbhele and Wonder Hlongwa

The Truth and Reconciliation Commission may subpoena Inkatha Freedom Party leader Chief Mangosuthu Buthelezi to cross-examine him on the IFP's links with the apartheid government. Officials of the commission confirmed that Buthelezi would be questioned on the basis of the "Walter Felgate archives" — documents handed by his former confidant to the commission when he defected to the African National Congress last year.

How the commission will deal with Buthelezi is one of the major obstacles to an ANC "patriotic alliance" with the IFP.

The ANC this week denied it would merge with the IFP in preparation for next year's general election. But observers say even talk of a "peace accord" is premature until Buthelezi appears before the truth commission.

Buthelezi could be summonsed this year to answer questions about whether he knew about the formation of KwaZulu-Natal hit squads in the 1980s.

Suggestions of a possible blanket amnesty for KwaZulu-Natal have been rejected outright by the Congress of South Trade Unions (Cosatu), who said it would be "an abrogation of people's right to justice".

The truth commission's investigators are studying so-called "archive material" obtained from Felgate, who last year made a stunning defection from the IFP to the ANC.

Its head of investigations, Dumisa Ntsebeza, refused to be drawn on whether Buthelezi would be called to appear before the commission but confirmed that the alleged involvement of the IFP in hit-squad violence remains "one of the outstanding issues for the new year".

Ntsebeza said there has been correspondence between Buthelezi and commission deputy chair Alex Boraine, in which the IFP leader had been asked to submit answers to certain "specific" questions.

"He [Buthelezi] replied in the form of a long letter that was more argumentative than providing answers to the questions put to him," said Ntsebeza.

Another IFP leader, Phillip Powell, has been subpoenaed to appear before a closed hearing to answer questions about his role in the formation of the Caprivi Strip hit-squad unit which consisted of IFP members trained

by the South African Defence Force.

"I know he was reported to have said he'll never come. However, we're not in the business of playing cat and mouse tactics. We won't engage ourselves in this sort of political game," said Ntsebeza.

On Buthelezi's possible subpoena, Ntsebeza said: "If, against the background of the body of knowledge we have acquired we will need Buthelezi's assistance, we'll call him. If we need to persuade him, we'll consider that."

During the commission's special hearing on the Caprivi hit squad last year, evidence given under oath pointed to Buthelezi's assistance in its formation.

Buthelezi and the IFP have repeatedly said they do not recognise the truth commission as they view it as an organ of the ANC and are under no obligation to honour its activities.

The proposed special amnesty for KwaZulu-Natal warlords does not have the support of the truth commission. The ANC has not yet indicated how it intends overcoming that hurdle.

"We opposed this idea of a blanket amnesty once it was mooted. We don't believe a merger has to happen to the extent that you have to compromise the justice system forever. The reason why violence worked was because people lost confidence in the criminal justice system," said Cosatu's general secretary, Zwelinkama Vavi.

Vavi recalled how in KwaZulu-Natal people used to report "a case today and then get killed the following day by warlords who would already know that they had been reported. If they dare give a special amnesty, then Sifiso Nkabinde and others like the Kwa-Makhutha warlords' fate will all be reversed."

As it moved to dispel suggestions of a proposed merger between itself and the IFP, the ANC said all that was on the agenda was the question of how to co-operate and consolidate peace between itself and the IFP in KwaZulu-Natal.

It is understood that for the ANC to achieve this objective the party is eager to offer a blanket amnesty to various warlords in the province. Is not clear what the organisation expects from the IFP in exchange for the offer.

The ANC's dilemma was compounded by

the shock wave this week from its grassroots structures, which were apparently not briefed about the proposals. Instructions were issued to all branches and regions in KwaZulu-Natal not to provide press statements on the subject but to refer all queries to the provincial office.

IFP general secretary MZ Khumalo told the *Mail & Guardian* the suggestion of a merger emanated from the ANC. "We won't have the same brainwave at the same time. We'll have to react to something formal," said Khumalo.

He confirmed that a team of 20 people from both parties had been appointed to prepare for a peace summit between the two organisations and refused to comment on the IFP's position concerning the peace talks and the alliance.

The IFP has in the past indicated that the ANC will have to abandon Cosatu and the South African Communist Party before co-operation

between the two organisations can be considered by the party. That, according to political observers, means the ANC will have to shift to the centre-right of the political landscape.

"Cosatu wants to ensure the alliance stays on the left of the political spectrum. However, if the ANC ditches us in favour of moving to the right,

it will be a major defeat for the left and the whole progressive alliance," Vavi said.

Proponents of the alliance, according to impeccable ANC insiders, include, among others, ANC deputy president Jacob Zuma and the former party populist, Peter Mokaba, who has since shifted his allegiance to the Africanist wing of the party.

While Mokaba has been reported supporting the idea of a merger — even suggesting that it is supported by Mandela and Mbeki — sources said Zuma will "try to push it, as it will help his quest for Zulu nationalism".

If the ANC, under Thabo Mbeki's presidency, manages to pull off a peace accord that will ultimately result in whatever form of alliance with the IFP, it will be the most significant milestone of Mbeki's ANC presidency.

It will also be a watershed for Zuma in the history of the turbulent KwaZulu-Natal.

Chaskalson backs govt's internship for law graduates

(252)
Taryn Lambert
BD 16/1/98

THOSE who objected to the introduction of a compulsory internship for law graduates should offer other workable alternatives to the legal aid crisis in SA, Constitutional Court president Arthur Chaskalson said yesterday.

Addressing the justice department's national legal aid forum in Johannesburg, Chaskalson voiced support for Justice Minister Dullah Omar's proposal that law graduates do a compulsory one-year internship at legal aid clinics instead of two years of articles.

Chaskalson said the cost of legal aid had risen steadily since the Legal Aid Board was established in 1969. In the first 10 years of its existence it had spent just more than R5m providing legal services. From 1979 to 1989 this had risen to R50m, and the projected figure for this year was about R342m. The board's case load had also risen sharply. In 1990 it had taken on 24 281 new cases, while last year it handled more than 150 000 trials.

More than 100 000 people were imprisoned annually, and according to a position paper presented to the forum by the justice department, 700 000 faced serious charges which did not result in imprisonment.

Chaskalson said there were about 12 000 legal practitioners in the country. "We have to accept that there are neither the financial nor the human resources available to provide legal representation to all persons unable to afford such representation and who pass through the courts."

The constitution required the state to assign a lawyer to unrepresented accused persons only if "substantial injustice" would otherwise occur.

He said more than 2 000 law students graduated from universities each year with LLB degrees.

"Assuming that they did not handle long and complicated cases, each intern could deal with approximately 100 criminal trials a year. If 1 250 interns were assigned to handling such cases, approximately 125 000 criminal trials could be provided through the system."

Omar pleads with prosecutors to work overtime

(252)

Bd 16/1198

PROCEEDINGS in magistrates' courts in most major centres were held up yesterday as prosecutors stopped working overtime in protest against pay cutbacks.

Justice Minister Dullah Omar appealed to prosecutors to work longer hours unpaid, as the justice system could not afford to pay them overtime.

Omar said prosecutors and state lawyers should show some understanding of the financial problems facing the country.

"I cannot compel prosecutors to work overtime," Omar said. "What I would ask of them is to ensure that the wheels of the justice system continue working and that they do nothing to undermine the system."

Reports from Johannesburg, Durban and

Pretoria yesterday indicated courts started late because prosecutors and state advocates were preparing their court briefs during office hours in Johannesburg the court started sitting after 11am.

National Union of Prosecutors of SA spokesman Eduard van der Spuy said prosecutors had not embarked on a go-slow or work-to-rule action.

"It was not a union decision. It was a spontaneous action by the prosecutors in response to the decision by the department of justice," Van der Spuy said. Meetings were being held by prosecutors in courts country-wide to decide what action should be taken.

A spokesman for the Johannesburg Magistrate's Court said it was too early to gauge

the effect of the loss of court hours.

Van der Spuy said the Johannesburg Regional Court had 4 380 cases pending at the end of December, many of which would go on trial in March. The court averages 1 000 new cases a month. He said the situation had a snowball effect on the already crowded prison system, and suspects in custody would have their trials postponed.

Prosecutors and state advocates were also angered by the justice department's decision to grant magistrates hefty increases.

According to Rehana Mennhies, spokesman for the Society of State Advocates, an agreement had been reached with prosecutors and state advocates which included remuneration for overtime and filling vacant posts.

Mennhies said state advocates in the Pretoria attorney-general's office decided to support prosecutors' overtime ban. The supreme court was unaffected because it was in recess until the end of January, she said.

In KwaZulu-Natal, proceedings in the Durban Regional Court were delayed by an hour. Attorney-general Tim McNally said the Maritzburg High Court was in recess until February 2. McNally said he would meet Omar next week to discuss the filling of vacant posts in the province.

In the Western Cape's regional and magistrate's courts it was business as usual, but prosecutors warned there was a possibility they would stop working overtime.

Western Cape attorney-general Frank

Kahn said there was dissatisfaction over the justice department's decision.

The Bloemfontein Magistrate's Court said proceedings started on time yesterday.

Senior prosecutor Janne Botha said the court was functioning normally, although he was unsure how long it would continue to do so. Prosecutors would meet on Monday to discuss further action, he said.

Meanwhile, the African National Congress appealed to prosecutors and state advocates to exercise more tolerance of the financial problems facing the justice system.

A departmental review revealed that at least 19 state advocates were required to serve 4.5-million people living in 29 magisterial districts — Sapa.

Sadtu reaches agreement with

Black magistrate named for PWS's trial

ARC 16/11/98 (252)

STAFF REPORTER

A black magistrate has been assigned to preside over the Truth Commission trial of former president P W Botha. But there is a good chance the case will be postponed when Mr Botha appears in George Magistrate's Court next Friday. Talk in the corridors of the court is that his trial for failing to appear before the commission will not go ahead next week. "It's hard to say what will happen in

the trial. Witnesses had been asked to make themselves available next Friday. A spokesman for the office of Victor Lugaçu, the Western Cape Regional Court president, confirmed he would hear the case. Cape Town-based Mr Lugaçu, who is away on leave, will go to George for the hearing. Mrs Grobler said "He is the most senior

magistrate in the province." Media and political interest in the case was "enormous" and arrangements were being made to accommodate journalists and political groups in a hall near the court. "The case will be held in a court where there is limited seating so we will allow only a certain number of people into the court room," she said. An application for an ANC demonstration outside the court had been made and was being considered.

Neuropsychiatrist Frances Ames says in a letter to the Cape Times today that Mr Botha has brain damage from a stroke some years ago and could escape prosecution on the grounds of mental incapacitation. "I, as a neuropsychiatrist, would feel fully justified in furnishing him with a certificate to that effect after detailed neurological and neuropsychological assessment of his cerebral state," she said. Mr Botha needed understanding, not hounding, she said.

Legal aid system in crisis

JOHANNESBURG — The legal aid system in South Africa was in crisis, and needed to be resolved, Constitutional Court President Mr Justice Arthur Chaskalson said yesterday.

Addressing the National Legal Aid Forum in Kempton Park, Chaskalson said legal aid, particularly in criminal trials, was an integral part of a fair justice system and not a luxury.

"But it must compete with other basic needs for a share of the state's budget."

Chaskalson challenged the forum to assess whether a system of judicial care administered by the Legal Aid Board was the best way to provide legal aid or whether there were more effective ways.

He recommended that an internship for graduating lawyers — similar to the one applied to young doctors — be considered as a way to address the crisis.

These interns could be employed in public defenders' offices, law centres, university law clinics and other similar institutions.

"If this were to happen, the interns would not only gain practical experience needed to supplement their theoretical training, but would also make a valuable contribution to the delivery of legal services to indigent persons," said Chaskalson.

He said the annual budget for his model would cost the state about R200 million, resulting in a substantial saving on the current expenditure of R342m. — Sapa

Corporate law reform programme on the agenda

LYNDA LOXTON

Cape Town — The department of trade and industry (DTI) plans to reveal an outline next week of its corporate law reform programme for the next few years.

Alstair Ruiters, a chief director of the DTI, said yesterday that this would cover laws such as the Companies Act and the Closed Corporation Act and would aim to tighten up corporate governance, compliance and enforcement.

"A new and comprehensive approach to consumer protection will be a thread running through all the planned new legislation," he said.

This would be the first time the country's sometimes archaic legislation affecting companies would undergo a comprehensive review to ensure it met modern-

day needs and objectives, especially under the new government.

Ruiters said that he also hoped to fast-track the reform of the Usury Act and put in place mechanisms to help make it easier for small businesses to access development capital. This would include discussions with the Reserve Bank on interest rates and with the JSE to establish suitable venture capital funding mechanisms. The latter could include the establishment of a min-stock exchange, as had been done in the United States.

Ruiters said a new inspectorate to enforce a wide range of legislation covering companies was also in the pipeline to take the pressure off the overstretched police force and ensure greater compliance. "We will look at a number of

examples in other countries, he said, adding that one possibility was the appointment of trading standards officers who had the power to monitor and enforce a large number of acts.

The competition policy guidelines released in November had been the first tranche of the proposed overhaul of all legislation covering companies and Ruiters said that "quite a lot" of legislation would be tabled in parliament this year to put this into effect.

He said he had been pleased at the generally positive response to the competition policy guidelines, which appeared to have laid to rest many of the fears that had been expressed about the government's intentions on curbing monopolies.

A small subcommittee consisting of representatives from

the government, business and labour would be meeting soon to map out how they would feed comments about the proposed new Monopolies Act to DTI staff now drafting it. Workshops would be held in various parts of the country in March, and the bill was expected to be tabled in parliament by mid-year.

On the controversial new liquor bill, which has been sharply criticised by many interested parties in the sector, Ruiters said discussions were still under way but it was hoped that Cabinet would discuss the final draft in February.

The new gambling board should be appointed next month and will initially be provided with secretariat services by the DTI, while the evaluation of proposals for the proposed national lottery should take place by June.

ANC's man may have blocked Dulcie probe

(252) 17/11/98

By LIESL LOUW
INDEPENDENT FOREIGN SERVICE

Paris - The man who replaced Dulcie September as ANC representative in Paris - later revealed as a police spy - might have played an important role in blocking the French police investigation into the murder of September in front of the ANC office in the Rue des Petits Ecuries in 1988.

Samuel Khunyeli, better known as Solly Smith, confessed to being a police spy in 1991 and died shortly afterwards.

The former head of the French anti-apartheid movement, Antoine Bouillon, said in an interview that Smith discouraged the efforts of anti-apartheid activists who wanted to put pressure on their government to find September's killers.

"When Smith came, our hands were tied," he said. "We probably should have ignored him and gone ahead with our requests to the government."

Renewed interest in the case has been sparked by a report by Netherlands Institute investigator Klaas de Jonge last year which implicated French intelligence sources in the killing and by a visit to France by a Truth and Reconciliation Commission team to follow up the report.

But local sources say the French police and the TRC do not seem to have exchanged all their information and the French have done nothing to reopen the murder dossier, which was formally closed in July 1992.

Diplomatic sources in Paris say the French police investigation into the unsolved murder

would be reopened only if the French could be persuaded by the South African Government or the TRC that there is enough new evidence to do so.

France has denied any involvement in the assassination, but new evidence indicates that the French secret services probably knew about the presence of SA hit squads in France - something the French minister of defence, Andre Giraud, denied at the time.

There is also new evidence that September did ask for police protection shortly before her death. The French repeatedly denied this.

Ironically, Solly Smith was given a chauffeur and a bodyguard shortly after his arrival in France.

"Dulcie had no protection," said Bouillon.

Nicole Dreyfuss, the lawyer who acted on behalf of September's family at the time, also says Smith was not very helpful with the investigation.

She also believes the French police could have done more to find the killers. "No one was really very interested in the affair," says Dreyfuss.

Two suspects were identified by French police: a certain Richard Rouget, who worked with legendary French mercenary Bob Denard, and Major Joseph Klue, a South African police spy, who was also suspected of attempting to kill the ANC representative in Brussels.

The only witness who saw

two men leave September's office shortly before she was shot there at about 10am on March 29 1988 was a certain Mr De Crepy.

He didn't recognise either Rouget or Klue when he was shown photographs of them by police. The police did not find anything else and the murder dossier was closed in July 1992.

De Jonge said recently he had told the TRC to send out a warrant for the arrest of Klue, who lives in the Western Cape.

In November last year, following De Jonge's report on overseas apartheid crimes, two TRC investigators visited France

and spoke to French authorities about the assassination.

If there were to be a re-opening of the French investigation, based

on new evidence, Dreyfuss would be the likely person to ask for it. Yet she says she has not been provided with the TRC report or any new request by the family.

Sources in Paris say the French police have also not yet handed over to the TRC all the details of the murder dossier.

This could be due to the slowness of the French legal system or a deliberate attempt to prevent a reopening of the case, which might lead to more revelations about the secret co-operation between France and South Africa's apartheid government.

Recently, for example, there has been new speculation about

the possible link between the murder and French-South African arms deals at the time. September might have been killed because she knew too much about these deals.

In an article in the *Mail & Guardian* last week, Deputy Foreign Minister Aziz Pahad confirmed that September phoned him in London two weeks before her death and said she had information and felt threatened.

September might have had information about secret deals such as the planned sale of Mistral ground-to-air missiles to South Africa in 1988, according to a former employee at the South African embassy at the time.

But September could also have been killed simply because she was an ANC activist, working in France where there wasn't such a great awareness of or sympathy for the ANC.

In 1989 the alleged head of the South African hit squads in Europe, Dirk Stoffberg, told journalist Jacques Pauw that he had paid two former members of the French Foreign Legion to carry out the assassination.

Former hit squad member Dirk Coetzee told *Vrye Weekblad* that a certain Heine Human had taken part in the murder of September. Human, who fled to Harare in 1989, has also been linked to the assassination of former Swedish prime minister Olof Palme.

According to De Jonge, Human now lives under another name in Miami.

Dulcie's successor, later exposed as a spy, discouraged activists from pressurising the French to find her killer

Omar faces legal action over TV remark

By JACKIE CAMERON

A Johannesburg prosecutor has laid a charge of crimen injuria against Justice Minister Dullah Omar following a televised broadcast in which Omar allegedly implied that prosecutors had downed tools for political reasons

Many prosecutors are refusing to prepare for trials outside office hours to protest against the scrapping of overtime pay

As government funds dry up, the Department of Justice this week cancelled overtime pay for prosecutors and other court officials until the end of the financial year

Omar allegedly said it was "ironic" that prosecutors had worked tirelessly, without

overtime payment, against anti-apartheid activists under the National Party government

Prosecutor Pierre Tickner laid a charge of crimen injuria at a Johannesburg police station yesterday, an SAPS spokesman confirmed.

The president of the National Union of Prosecutors of South Africa, Eduard van der Spuy, said "Our members are irate about the statement made on national television which implies that we are racist

"Our application forms don't have a little block where you indicate race. We have members of various races.

"It is incorrect for anyone to imply that it is the white prosecutors who are disrupting

courts This is a spontaneous reaction."

Van der Spuy said the union had appointed a labour consultant to advise them on how to fight for market-related salaries and overtime pay

Prosecutors are not entitled to embark on a legal strike because they have been included in the country's essential-services sector

"At this stage there's no indication on how long the action in courts will continue," Van der Spuy added

Trials started about two hours late at many Johannesburg courts this week after prosecutors refused to prepare their work outside office hours because they were not receiving overtime pay

Star 17/1/98 (252)

Some high-profile cases still have to be heard and committee hearings might go on for two more years

No end in sight for TRC

SAW 17/1/98

(252)

By PETA THORNycroft

The truth commission's amnesty committee is not going to be able to wrap up its work on time and will have to continue for at least another year - or two. Even though more commissioners were being appointed this week, the amnesty committee will not be finished when the rest of the commission shuts up shop by June 30.

The act of parliament which governs the commission is going to have to be amended - again - and no one close to the amnesty committee is able to give any guarantees that it will be through by the end of this year.

It could go on well into 1999, say some planners working closely with the applications. Statistics provided by the commission show that during 1997 the committee heard 145 applications for amnesty in public. Of the more than 7 000 applications received to date, 2 500 were dealt with administratively because most were from serving prisoners whose crimes fell outside the commission's jurisdiction.

Of those still to be processed, perhaps half could be handled procedurally by six panels of the committee working concurrently in chambers. However, planners putting an optimistic spin on the figures say there will probably be at least 1 500 cases which will have to be heard in public, and that it will be possible to list only two per day then there are still more than 700 working days ahead for the amnesty committee.

In May, convicted mass murderer Eugene de Kock will have his chance to seek forgiveness. His hearing is set down for a month, and according to amnesty committee administrators, De Kock is admitting to 92% more crimes than he was convicted for during his trial which ended last year.

And if the controversial amnesties granted to 37 high-profile ANC leaders are declared invalid by the courts, then these will add enormously to the burden facing the amnesty committee. Some of the most prominent cases have still to be heard, including those from the South African military.

The TRC cannot sanction any kind of blanket amnesty because that would be unfair to those who have already been through the grueling process and every person with an amnesty lodged with the TRC has to be heard.

Planners say they never expected the deluge of applications - at most they expected 2 000. To date only 100 people have been granted amnesty.

While the amnesty committee is hitting new stall, the rest of the TRC administration is being scaled down and is supposed to finish its work in March. The final report is to be written and handed to President Nelson Mandela three months later.

However, strategists within the commission say there will have to be another chapter added from the amnesty committee as and when it finishes its work. TRC spokesman John Allen said there were "fundamental reasons for this. Neither Parliament, nor the commission had any idea what to expect," he said.

The committee has a challenge to meet its objectives, but no one has any illusions about achieving the target. When the legislation was amended last year it was agreed between the commission and the Department of Justice to review the situation again to see what prospects there were for completing the business on time.

TRC's amnesty committee needs a year or 2 more

ARG 17/1/98

(252)

700 working days still ahead

PETA THORNYCROFT

Johannesburg – The Truth Commission's amnesty committee will not be able to wrap up its work on time and will have to continue for at least another year – or two

Even though more commissioners were being appointed this week, the amnesty committee will not be finished when the rest of the commission shuts up shop by June 30

The Act of Parliament which governs the Truth and Reconciliation Commission (TRC) will have to be amended – again – and no one close to the amnesty committee is able to give any guarantees that it will be through by the end of this year

It could go on well into 1999, say some planners working closely with the applications. Statistics provided by the TRC show that during 1997 the committee heard 145 applications for amnesty in public

Of the more than 7 000 applications received to date, 2 500 were dealt with administratively because most were from serving prisoners whose crimes fell outside the commission's jurisdiction

Of those still to be processed, about half may be able to be handled

procedurally by six panels of the committee working concurrently in chambers

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In May convicted mass murderer Eugene de Kock will have his chance to seek forgiveness. His hearing is set down for a month and, according to amnesty committee administrators, De Kock is admitting to 92% more crimes than he was convicted for during his 18-month trial which ended last year. One month may lead to two on this case alone

And if the controversial amnesties granted to 37 high-profile African National Congress leaders are declared invalid by the courts, then these will add enormously to the burden facing the amnesty committee

Some of the most high-profile cases to date have still to be heard, among them a few from the South African military

The TRC cannot sanction any kind of blanket amnesty because, it points

out, that would be unfair to those who have already been through the grueling process

Planners say they did not expect the deluge of applications – at most they expected about 2 000. To date only 100 people have been granted amnesty

While the amnesty committee is hiring new staff the rest of the TRC administration is being scaled down and is supposed to finish its work in March. The final report then has to be written and is due to be handed to President Nelson Mandela three months later. However, strategists within the commission say there will have to be another chapter added from the amnesty committee as and when it finishes its work

TRC spokesman John Allen said there were "fundamental reasons for this"

"The exercise is internationally unprecedented. Neither Parliament, in drafting the legislation, nor the commission had any idea what to expect"

"There is pressure on the amnesty committee to move as quickly as possible. The committee has a challenge to keep itself under pressure to meet its objectives, but no one has any illusions of achieving the target"

Bitter row between Omar, A-G

ARG 17/11/98

(252)

GLYNNIS UNDERHILL

Furious Western Cape attorney-general Frank Kahn has hit out at Justice Minister Dullah Omar for accusing prosecutors and state advocates of working "very enthusiastically until late at night" during the apartheid era to put many activists behind bars.

Mr Kahn said Mr Omar had resorted to a "cheap shot" as chaos erupted around the justice department's decision to suspend overtime pay.

With hundreds of prosecutors and state advocates countrywide already resolving to stop working overtime, Mr Kahn said Mr Omar's public criticism of justice department staff would fuel the crisis.

Mr Omar said in a television interview this week "No prosecutor or state advocate refused to work overtime during the apartheid years. In fact they worked very enthusiastically until late at night to put many of the opponents of apartheid away."

An outraged Mr Kahn said yesterday that he had learned about the suspension of overtime pay in the press.

"If the curtailment was inevitable, why were the attorneys-general not briefed in advance in order to limit damage caused in the situation?"

"To compound matters, at a time when chaos is imminent the minister goes public and indicates that they should not complain, as they burnt the midnight oil enthusiastically in the old days, when prosecuting the enemies of apartheid," Mr Kahn said.

"This is cold comfort for some 44% of my prosecutors who are black, and a considerable number of others who were at school during that year and did not receive the handsome financial golden handshakes which the architects of apartheid received, with the consensus of all the political parties, including Minister Omar's," he said.

Asked to respond, Mr Omar said Mr Kahn was "wild with his statements".

"If he has anything to say, he must say it to me and not shoot from the hip. It is true that during the apartheid years not a single prosecutor complained and they worked overtime

burning the midnight oil convicting anti-apartheid opponents. The issue of payment never came up then. No one said anything or went public then," Mr Omar said.

Prosecutors and state advocates should show a degree of commitment and an understanding of the problems, especially with the severe financial problems facing the country, he said.

Mr Omar said he would appeal to them to do or say nothing which would undermine the workings of the criminal justice system. Praising those doing a good job, he said the core of the problem was that prosecutors and state advocates received poor salaries.

Overtime payments were issued on only a temporary basis a year ago and the money had run out, he said.

A black senior prosecutor in Cape Town who asked not to be named said Mr Omar should not "cloud the issue" with his statements on the overtime worked during the apartheid era.

"It is true and a fact that there are still prosecutors in the justice department who worked in the apartheid era without remuneration for overtime. But there are many prosecutors in the department who did not work in that era. The suspension of overtime hits prosecutors where it hurts most - in their pockets," he said.

Mr Kahn said that at a time when people were coming to terms with the reconciliation process, Mr Omar should "not be seen to be walking backwards into the future".

"I trust such a remark was not intended to be racist, but it can easily be construed as such and provoke further resignations in what is already a disturbing situation."

The effects of the suspension of overtime payments are expected to be felt in the courts only next week.

■ A Johannesburg prosecutor has laid a charge of *crimen injuria* against Mr Omar following the televised broadcast in which Mr Omar allegedly implied that prosecutors had downed tools for political reasons.

Many prosecutors are refusing to prepare for trials outside office hours to protest against the scrapping of "overtime pay".

Prosecutors make wa of justice grind slow Protest against overtime pay sus

Johannesburg – Magistrate's courts in major centres got off to late starts again yesterday as prosecutors, state advocates and other legal personnel continued their work-to-rule action in protest against the Justice Department's decision to suspend overtime pay.

In Johannesburg, proceedings in some courts began between 30 minutes and two hours late as prosecutors prepared for court during office hours rather than after hours.

"There is a huge amount of preparation and obviously there will be delays," said a spokesman at the Johannesburg Magistrate's Court, who did not wish to be named.

The Justice Department's deputy director-general, Simon Jiyane, said Johannesburg and Pretoria were the centres most affected by the "no overtime" action.

District courts in Johannesburg and Pretoria were running normally, but regional courts in both centres had started late. Complaints had been received from attorneys in Pretoria that cases scheduled for trial had been postponed, Mr Jiyane said.

A Pietermaritzburg prosecutor said court proceedings were delayed yesterday morning and more cases had been remanded than on other days. A prosecutor at the Durban regional court said proceedings had also started late because prosecutors had used the morning to prepare for court.

A senior prosecutor in Cape Town said courts had started between 30 minutes and an hour late on Thurs-

day and again yesterday but proceedings had not been disrupted much.

The Justice Department said yesterday that, from April, state justice officials would be limited as to the amount of overtime they may claim.

Acting director-general Vusi Pikoli said the department was doing everything in its power to resolve the issue of overtime pay and was seeking additional funding for overtime payments until the end of March.

"We urge officials to continue working overtime and to keep a proper record thereof. If we are successful

'Prosecutors can only do justice to the system if they work overtime'

in our endeavours, they will be paid.

"If not, we ask all officials to make a sacrifice in the service of our country and our people," Mr Pikoli said.

The National Union of Prosecutors said, in reaction, that the matter should be negotiated.

"We as a union are of the opinion that this should be negotiated and that these matters can most certainly not be announced unilaterally," union president Eduard van der Spuy said.

The action in the courts was a direct result of the refusal by the department to pay for overtime, he

said.

As soon as the union was informed officially of the department's proposals, the union would go back to members to obtain a response.

The union held a management meeting in Pretoria yesterday but no specific decision was taken on the decision by prosecutors not to work overtime.

"This was not a union decision," Mr van der Spuy said, "but spontaneous action taken by prosecutors after the announcement by the Justice Department that it would not pay for overtime."

Cape Attorney-General Frank Kahn said the department's decision to suspend overtime pay had caused "an enormous amount of dissatisfaction".

"But the prosecutors are acting as responsible professionals, which I appreciate. Hopefully, they will get their due," he said.

Cape Town senior prosecutor Andre Bouwer said between 90 and 95% of prosecutors in the Western Cape had indicated they would not work overtime.

Mr Bouwer, one of three spokesmen appointed for prosecutors in the Western Cape after an informal meeting yesterday, said prosecutors could only do justice to the system if they worked overtime. At present there was no time to prepare properly and consult fully with witnesses.

The National Union of Prosecutors said prosecutors in Johannesburg, Pretoria, Cape Town, Durban, Pietermaritzburg, Soweto, Port Elizabeth, East London, Klerksdorp and

(252) Tembisa, among others, had already started withholding their overtime

Society of State Advocates chairwoman Retha Meintjies said state advocates in Port Elizabeth, Grahamstown, Pietermaritzburg, Kimberley, Durban, Cape Town, Pretoria and Bisho had also decided not to work overtime.

"Feedback from these offices indicates that most state advocates are not prepared to work overtime without being paid," Ms Meintjies said.

A spokesman at the Johannesburg Magistrate's Court said the prosecutors' response to Justice Minister Dullah Omar's call for them to continue working overtime was clear.

"Most prosecutors will say they cannot do it, under the circumstances, for financial reasons."

The spokesman said the department's decision had "obviously upset" prosecutors who relied on overtime pay to supplement their salaries.

"In 1996, during a go-slow by public prosecutors, the minister made an agreement with the National Union of Prosecutors that prosecutors would be paid for overtime work until such time as they received adequate salaries. We were given the assurance that there were enough funds to pay for overtime."

"There has still not been a significant increase in salaries, yet the minister has unilaterally stopped overtime pay. Prosecutors are obviously unhappy."

Prosecutors in Bloemfontein are to meet on Monday to decide what action to take. -Sapa

Striking prosecutors could affect defence lawyers too

Defence lawyers have warned that many of their clients will be unable to afford the increased fees caused by repeated postponements of cases as prosecutors refuse to work overtime for no pay.

By CP REPORTERS

THE MAINLY-white striking prosecutors and state advocates in South Africa's major cities could cause not only more delays in an already clogged justice system, but negatively impact on the financially floundering Legal Aid Board

Due to the repeated postponement of cases, defence lawyers have warned that they will be forced to withdraw their services because their clients will no longer be able to afford the fees. Clients would be forced to approach the already struggling Legal Aid Board for assistance.

The lawyers' decision follows the declaration of a dispute by five staff bodies with the justice department over its suspension of overtime payments. The matter has been referred for arbitration.

Proceedings in most major cities were delayed by at least an hour on Thursday and Friday morning due to state prosecutors' decision not to work overtime without pay.

In some Pretoria courts this week, cases which were set for full-day trial were postponed for up to six months because the State prosecutors were not ready.

There was confusion at the Johannesburg Magistrate's Court on Friday when proceedings only started at about 11:30 am.

Some attorneys were either considering bringing an urgent interdict against the Justice Department or an order that prosecutors be allocated to continue with their cases, because they were losing income.

The system, already overloaded by one of the world's highest crime rates, could get even worse if the police take the same course.

The South African Police Union

(Sapu) pledged its support for the prosecutors. Andy Miller of Sapu said union members were in the same boat as the prosecutors. He said thousands of police members had not been paid for overtime.

He cautioned magistrates and the justice department not to victimise prosecutors who would not work overtime. "Should this occur, we may be forced to come out in support of prosecutors at the affected courts."

Justice Minister Dullah Omar appealed on Thursday to prosecutors and state lawyers to work longer hours for no extra wages, because the creaking justice system cannot afford to pay them overtime.

The original budget for overtime had been R5 million before it was revised to R28 million during the current financial year. To date, R42,5 million has been paid out.

According to the National Union of Prosecutors of South Africa (Nupsa), regional courts in Johannesburg had more than 4 000 cases pending last month and Pretoria's 14 regional courts had about 3 000 cases pending.

Omar said prosecutors and state lawyers should show some understanding of the financial problems facing the country. Money allocated for overtime pay had run out, he added.

"I cannot compel prosecutors to work overtime."

"What I would ask of them is to ensure that the wheels of the justice system continue turning and that they do nothing to undermine the system."

However, the president of the National Union of State Prosecutors warned that those wheels would instead "come to a grinding halt" because of the overtime ban.



APPEAL FOR 'UNDERSTANDING' ... Justice Minister Dullah Omar has asked lawyers to show 'understanding' about the lack of overtime money.

The ANC said in a statement the position adopted by the mainly-white prosecutors and advocates to the department's decision raised the question of commitment to the cause of administration of justice in South Africa. "The low salaries of legal workers are a legacy of apartheid. It is ironic that the majority of these prosecutors and state advocates worked under strenuous conditions with no overtime payment under the National Party government, sparing neither strength nor effort to prosecute and put anti-apartheid activists behind bars for opposing a crime against humanity," the statement said.

The ANC appealed in the interests of justice and patriotism, for prosecutors and state advocates to show tolerance and appreciate the financial problems the country faces and to constructively contribute to finding a lasting solution to the problems without undermining the administration of

justice.

A spokesman for the National Union of State Prosecutors said it was too early to gauge the effect of the action on the justice system.

He said while it was unacceptable for professionals to embark on industrial action, it was also unacceptable to expect them to work overtime without pay.

"We will go about it professionally and try not to cause too much disruption. None of us will take work home, but during working hours we will be as efficient and productive as possible, because our intention is not to disrupt the justice process," he said.

The countrywide work-to-rule by prosecutors did not disrupt proceedings at most courts in black areas, including Pretoria's townships of Soshanguve, Mamelodi and Atteridgeville.

"From my side we had absolutely no disruption," said a Soshanguve prosecutor.

CP 18/1/98

(252)

Groot Krokodil to face black magistrate, over security role

CP 18/11/78

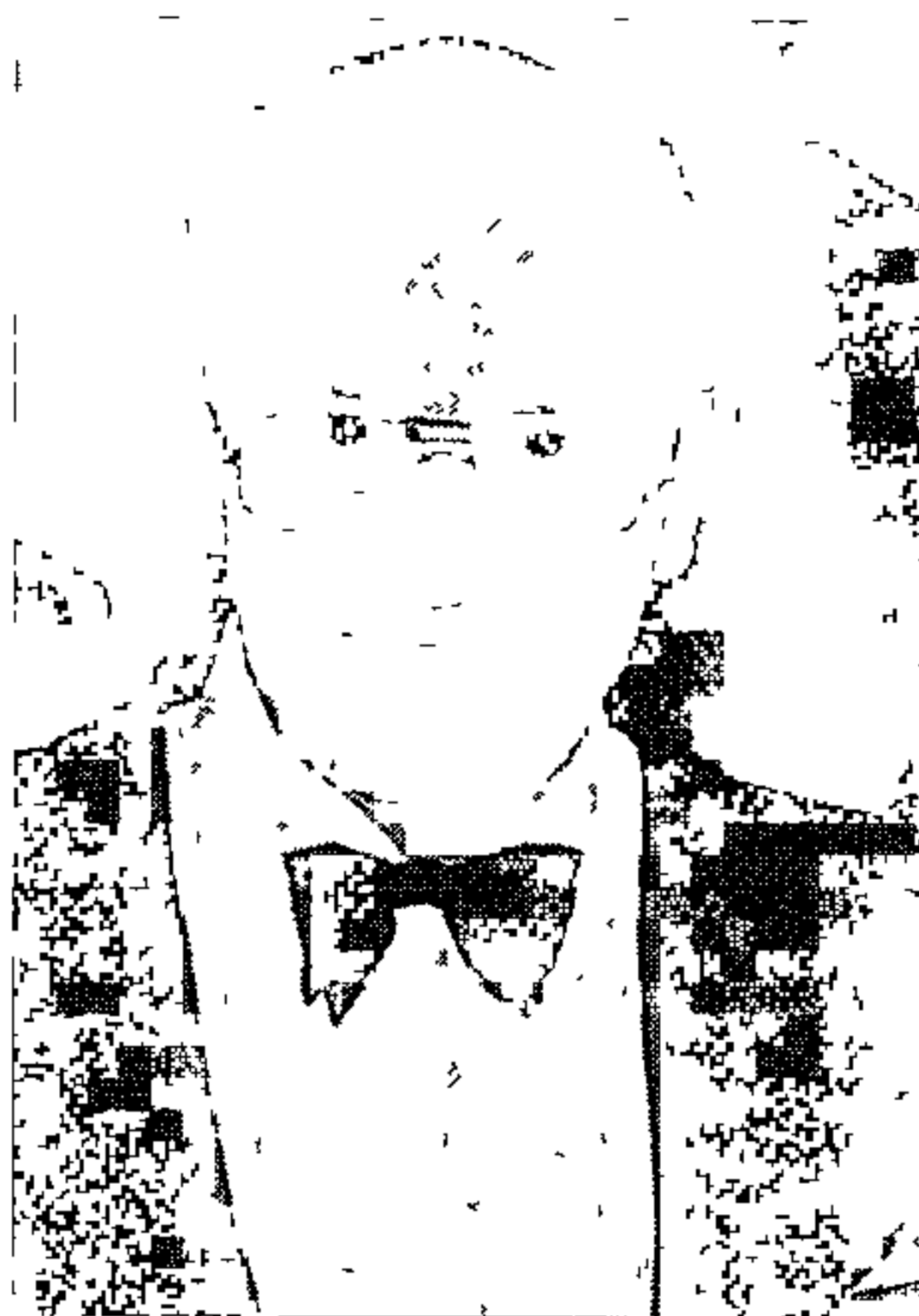
(252)

THE COURT OF APPEALS in Johannesburg today held that Groot Krokodil, a member of the Communist Party, should be sentenced to a term of imprisonment for his role in the 1976-77 student protests.

According to the court, Krokodil was found guilty of conspiracy to overthrow the government.

The court also found that Krokodil had acted as a secretary for the Communist Party during the period of the protests.

For the court to reach its decision, it should have been satisfied that Krokodil had acted in concert with other members of the party.



IS THE DOOR

Groot Krokodil was arrested in 1977 and charged with conspiracy to overthrow the government. He was found guilty by the court.

ANC protest, Botha said. Andre Smut said no other applications had been made, though he apparently had similar plans.

"Our policy is to be tolerant but we expect strong steps by the police against illegal action by other groups," Botha said.

The ANC and its allies - the Congress of South African Trade Unions and the African Communist Party - were preparing for a general strike. Botha's supporters, he said.

Botha was reported to have said that he would not accept the resignation of the state security council.

month after reportedly refusing to refer to the PPCC as a state security council - into neighbouring territories.

Groot Krokodil was found guilty of conspiracy to overthrow the government. He was sentenced to a term of imprisonment.

and it none he will appear in front of a black magistrate. He is appealing his case - is up table.

Sonn backed for Omar's post

(252)

HENRY LUDSKI

ST 18 | 11 98

A POWERFUL lobby of businessmen and key ANC branches wants South Africa's ambassador to the US, Franklin Sonn, to take over from Justice Minister Dullah Omar as ANC leader in the Western Cape.

Sources say key figures in the Western Cape Traders Association, a number of prominent businessmen and several branches in the ANC's coloured stronghold of Athlone have begun lobbying for Sonn.

They believe he is the best man to win coloured votes from the National Party — the ANC's only hope of electoral success in the Western Cape.

Sonn, who completes his four-year ambassadorial stint in Washington this year, told the Sunday Times, "I do not want to comment as I have not been approached by anyone yet." He said he could go back into business on his return. "I left a lucrative business and lots of money behind to do the job I am doing now."

The leadership race is expected to be fiercely contested, with outgoing Western Cape health MEC Ebrahim Rasool and the chairman of Parliament's defence committee, Tony Yengem, likely to be in the running.

The ANC in the Western Cape will meet on February 7 to decide how to elect a new leader.

Rasool has distinguished himself for the manner in which he has kept his health ministry afloat in the face of severe budgetary constraints.

Yengem, considered an outsider at this stage, found support at the recent ANC national conference, where he secured 29th place in the national executive committee elections, ahead of some cabinet ministers. But despite his strong national showing, he did not make himself available for an executive position at the ANC's provincial conference two years ago, and this counts against him.

Sonn, on the other hand, is said to enjoy support from a number of senior ANC people in the province and nationally.

A leading academic and a former rector of the Peninsula Technikon, Sonn has deep roots in the teaching fraternity.

But what stands most in his favour is his natural rapport with the coloured constituency, which gave the NP its victory in the province in 1994.

The ANC secured 33 percent of the provincial vote in the 1994 elections, but has been making steady inroads into the NP's constituency, having raised its support to about 38 percent in the 1996 local government elections.

Rasool said he would "gladly accept" if he was nominated. Yengem could not be reached.

Fears over President's power to name 'super' attorney

GRAIG DOONAN

ST 18/1/98

THE days of some of South Africa's provincial attorneys general could be numbered when a new law ushered in a "super" attorney general next year.

The law also affords the President powers to redeploy attorneys general or to get rid of them if they have already served a seven-year term.

But while the Minister of Justice, Dullah Omar, has

confirmed that the law will give President Nelson Mandela the final say on the future of serving attorneys general, he added that the government had no intention of sacking any of them.

"Whatever the President does is his business but, generally speaking, the attorneys general have been rendering excellent service. There is nothing sinister in that proviso (of the Bill)," Omar said.

The National Prosecuting Authority Bill, which is to be debated in Parliament this year, establishes a single national prosecuting authority led by a national

director of public prosecutions. The incumbent super attorney general — who is likely to be appointed after the Bill is passed later this year — will, together with the justice minister, be responsible for deciding prosecution policy and which crimes to prioritise.

The Bill gives the President wide-ranging powers, including that of appointing the national director as well as the director of public prosecutions in each provincial division of the High Court and the Witwatersrand Local Division of the High Court.

In terms of the proposed legislation, which is due to

be discussed by Parliament's justice committee next month, serving attorneys general will become directors at an office determined by the President, not necessarily at their existing posts. If a serving attorney general has already spent seven years in office, the decision on his next term is left to the President.

While the Bill has been hailed as an attempt to unify prosecution policy, prioritise crimes and set guidelines, it has run into criticism — particularly over the President's powers of appointment and the national director's power to stop prosecutions.

Opposition parties and monitoring groups have said the independence of the judiciary could be jeopardised unless the Bill was amended to ensure that the national director did not become a "political tool".

Victoria Mayer, legislation monitor with the Human Rights Commission, said the body was concerned about the independence of the national director and the prosecution authority in general.

"We'd like to see the President acting on the advice of a committee such as the judicial services commission or even a parliamentary committee in making the appointments," Mayer said. "It must be a transparent process that is independent. It's very important as we have to confront the legacy of political bias that attorneys general offices carried over all the years."

Mayer said the national director should also be accountable to Parliament, not the Justice Minister, as stated in the Bill.

Douglas Gibson, the Democratic Party's spokesman on justice, said his party wanted an "open and transparent process because of the vital nature of this appointment".

The PAC's Patricia de Lille said her party objected to the manner of appointment.

National Party justice spokesman Sheila Camerer said that while the NP had "no problem with the principle" of a national director, "we feel there's a tendency by the ANC to want to introduce the Bill for possible political interference in prosecutions".

general

ANC's victims aim to join mass amnesty case

BD 19/1/98

(252)

TWO victims of African National Congress (ANC) acts of terror are hoping to join the truth commission in its application to the high court to rule on the validity of the amnesty committee's granting of blanket amnesties to 37 ANC leaders

The two had asked the truth body to carry their legal costs, the Afrikaans Sunday newspaper, Rapport, said

They are Dirk van Eck, who was injured in a landmine explosion near Messina in 1985 in which several members of the Van Eck and De Nyschen families died, and Chris Barnardo, who was seriously injured in the Pretoria Church Street bombing in 1983

Truth commission chairman Archbishop Desmond Tutu announced last Tuesday that the commission had decided to refer the amnesty committee's decision to grant amnesty to the 37 ANC leaders, including deputy president Thabo Mbeki, to the high court for a decision on its validity.

Van Eck and Barnardo want to become co-applicants with the truth commission against the amnesty committee, the newspaper said

"We want to know who gave the orders for the acts. I will not be able to rest until I know. This fight is still not over," Van Eck was quoted as saying

Van Eck said the amnesty was granted unilaterally without anyone knowing the reasons why.

He pointed out that he had to go through the trauma of telling the commission his story "It was also expected

of many others. If a person's family is almost totally wiped out — just me and an 18-month-old baby survived — this thing boils in you. I needed a lot of courage to appear before the truth commission. It is traumatic for anyone, because you must tell everyone how your family was blown to bits. It is totally unfair and actually shocking the 37 ANC leaders received amnesty just like that".

Van Eck said he wanted to ask the ANC leaders who gave the order to plant the landmine. He believes it is the state's duty to carry the cost of the victims' application.

Barnardo, 37, said by granting ANC leaders amnesty collectively, his rights as a victim to be part of the amnesty application were being denied. "Other people who applied for amnesty had to make full disclosure," he said

Barnardo said the public might now never know who gave the order for the bomb to be planted. "I think the case is going to be referred back to the truth commission for a decision. If the commission wants to act honourably towards me and other victims, it must protect us and pay our legal fees."

Foundation for Equality Before the Law spokesman Gen Johan van der Merwe said the victims would have to get involved in the application or the truth commission would be able to place "anything" before the court.

The victims were entitled to make sure full disclosure was made, as in the case of the apartheid crimes. — Sapa

Omar, Kahn at odds on overtime

Business Day Reporter

BD 19/11/98

(252)

A WAR of words has broken out between Justice Minister Dullah Omar and Western Cape attorney-general Frank Kahn over the refusal by mainly white prosecutors and state advocates to work overtime without payment

Prosecutors at courts countrywide have resolved to stop working overtime from Thursday as a protest against the justice department's decision to suspend overtime payment

Afrikaans newspaper Rapport said yesterday Omar had reacted sharply to a suggestion by Kahn that his utterances on the issue would serve to fuel the crisis even further

"I can understand Mr Kahn's feelings. He is an appointment of the old apartheid regime and was the head of the prosecutorial services in the apartheid years", the newspaper quoted Omar as saying

Another Sunday newspaper, City Press, reported yesterday that the original budget for overtime had been R5m before it was revised to R28m in the current financial year. To date, R42,5m had been paid out, it said

The newspaper quoted the National Union of Prosecutors of SA, saying regional courts in Johannesburg had more than 4 000 cases pending last month and Pretoria's 14 regional courts had about 3 000 cases pending

Omar was reported as saying prosecutors and state lawyers should show some understanding of the financial problems facing the country, and money allocated for overtime had run out

The African National Congress criticised the position adopted by prosecutors and state advocates, saying it raised the question of commitment to the cause of administration of justice in SA

Sapa reports that the National Party (NP) on Saturday said Omar's attempt to blame apartheid for prosecutors' refusal to do overtime without payment should be treated with the contempt it deserved

NP justice spokesman Sheila Camerer said Omar's claim was manifestly incorrect. She said prosecutors were not all "pale males". More than a third were black and "could surely have no apartheid-related motives". Many attorneys were post-apartheid graduates

"What is worrying is the apparent total breakdown between the minister and his department's overworked, underpaid, short-staffed prosecutorial section — the crucial element in an effective criminal justice system," she said

Another war to fight

Sowetan 19/1/98

(252)

SOUTH Africans received accolades from almost every corner of the globe when they put into effect a Bill of Rights almost four years ago. But rights on paper do not always translate into a better life for all, analysts say.

On the political front, we are not doing that badly, says Anthea Jeffery of the South African Institute of Race Relations. We do have institutions to promote political freedom, although they are being put under a degree of threat.

But putting rights on paper in a Constitution does not always translate into putting them into practice and promoting socio-economic development. While we put these rights on paper, the practical reality on the ground is different, says Jeffery, who recently compiled a review on the Bill of Rights.

South Africa, once an international pariah because of its apartheid policy, has enacted significant new legislation on abortion, education, labour and land redistribution.

President Nelson Mandela's Government is also struggling to ensure economic rights, such as the right to housing and water, for the black majority.

The Bill of Rights guarantees 30 rights, including a fair trial, universal suffrage, administrative justice, privacy, free speech and the right not to be detained without trial, among others.

The Constitutional Court, which has the primary responsibility to interpret and enforce the Bill of Rights, has abolished the death penalty and juvenile whipping.

In 1996 the Choice on Termination of Pregnancy Act, allowing abortion on demand within 12 weeks of gestation, was passed and the Commission on Gender Equality Act established a body to investigate discrimination on the grounds of sex.

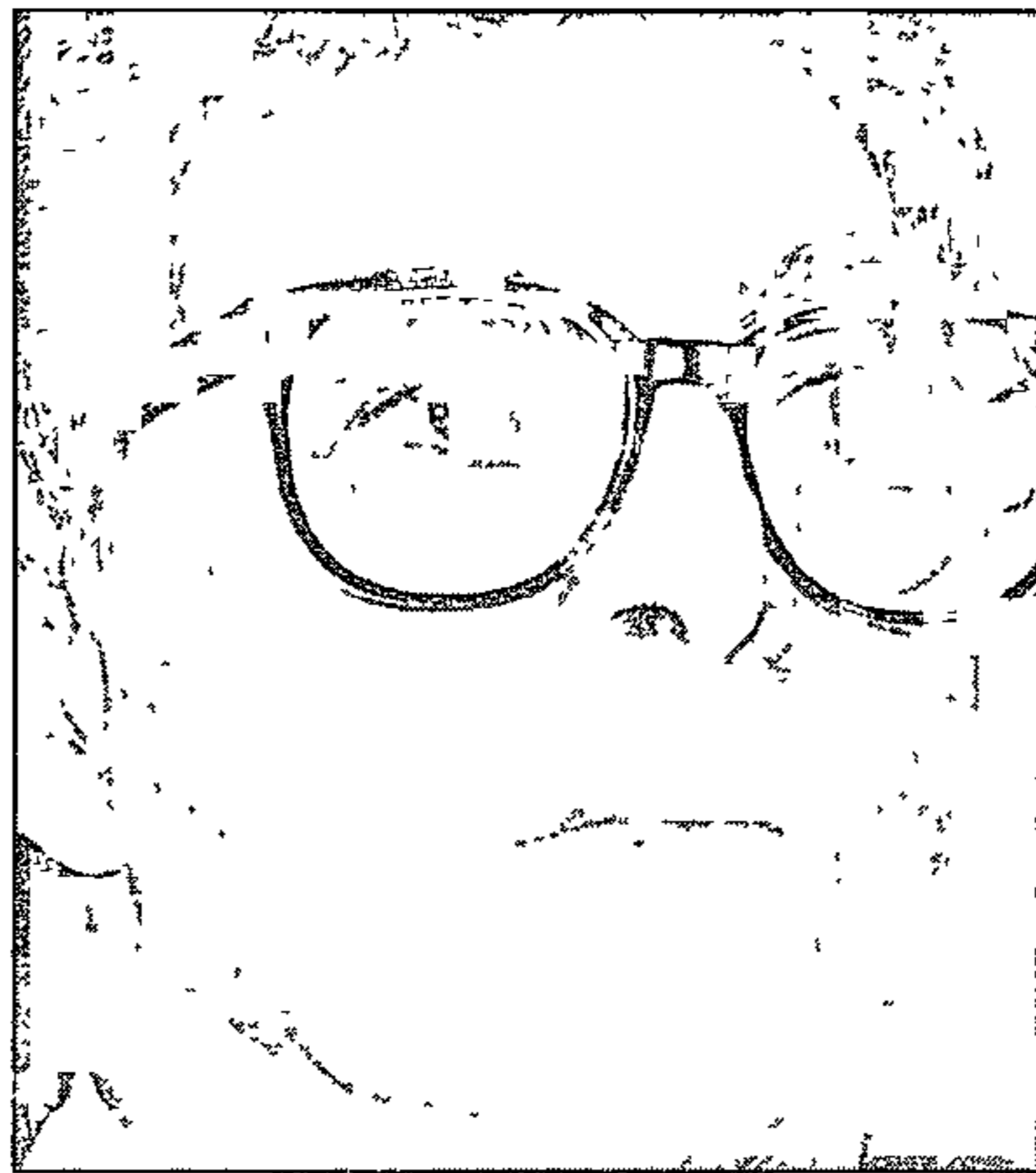
The same year, the Child Care Act of 1983 - which grants sole guardianship to the mother of an illegitimate child - was challenged, allowing Lawrence Fraser to prevent his son being put up for adoption without his consent.

As a result, the Powers of Natural Fathers of Children Born Out of Wedlock Bill was approved by Cabinet, giving legal recognition to the rights of fathers of illegitimate children.

But for the poor communities in informal settlements and former blacks-only townships, being able to exercise one's rights means having a house, food on the table and a job, all very hard to come by despite the election promises.

The Government said water is a right and my tap would not be switched off if I failed to pay my rates, but that is not happening, says unemployed Soweto activist Dimakatso Moreki.

On paper everybody's rights are protected in South Africa - now to translate it into practice. **Gumisai Mutume** considers the situation..



Judge Arthur Chaskalson - the new legal order protects the rights of those who cannot protect their rights adequately through the democratic process

More than eight million people are said to be living in squalid, sub-standard conditions in a country of 37.9 million. About 50 percent of the labour force is out of work and as many as 18 million may still lack adequate water.

We won the first war to political freedom, says Moreki. The other war to economic rights still has to be won.

According to the status report on Freedom of Expression, released last year by the Freedom of Expression Institute (FEI), the honeymoon period is indeed over, as we head towards the second elections (in 1999).

A great deal of attention is being and will be focused on whether the Government is delivering on its promises. And these debates are going to test the Government's commitment to human rights to the limit, the FEI report says.

The institute says violations of freedoms have to do with the nature of the transition we have experienced, namely the fact that institutions of the old order - and the culture in which they were steeped - were transferred, often wholesale, into the new one.

And whenever the heat is on, politicians often talk about the national interest, and that there can be no rights without responsibilities.

While we are still enjoying one of the most open societies on the continent - perhaps in the world - we cannot and must not assume that this situation will remain, the FEI says.

Gerard van Tonder, an Afrikaner businessman, points out that while South Africa may be one of the most open and progressive societies on issues like the death penalty, it has also become one of the most dangerous countries in the world.

A survey by the Human Sciences Research Council (HSRC) shows that the number of people who considered themselves safe in South Africa declined from 73 percent in 1994 to 51 percent in July 1996.

There is no way we can guarantee freedom and security in this country without bringing back the death penalty, says Van Tonder.

Capital punishment is a hot issue, especially within the white community, led by the National Party, which is calling for a referendum on the death penalty.

The HSRC survey revealed that 71 percent of South Africans favour capital punishment.

But the ruling African National Congress (ANC) is opposed, arguing that abolishing the death penalty was the first step towards establishing a human rights culture and restoring human dignity.

And according to Judge Arthur Chaskalson of the Constitutional Court, the issue of the constitutionality of capital punishment cannot be referred to a referendum, in which a majority view would prevail over the wishes of any minority.

The very reason for establishing the new legal order, and for vesting the power of the judicial review of all legislation in the courts, was to protect the rights of minorities and others who cannot protect their rights adequately through the democratic process. SA 25

Who must be silenced — the patriarch or the woman?

(252)



Ed 19/1/98

Radio Islam's policy on women has raised the issue of a conflict of rights, writes Colleen Lowe Morna

BEHIND the legal gymnastics that have characterised Radio Islam's application for a new licence lies one of the most important constitutional issues of our time.

Does the right to religious freedom, as enshrined in the bill of rights, give a religious sect the right to breach the fundamental values on which our new democracy is built — namely human dignity, equality, freedom and non-sexism? If so, what hope is there that we will ever get to the root of gender inequality — so much of which is justified on religious, cultural and traditional grounds?

The Radio Islam case was brought to public attention by a progressive Muslim group called Youth for Islamic Enlightenment and Development. In complaints lodged with the Independent Broadcasting Authority (IBA) and the gender equality commission last year, the group argued that Muslim women were being discriminated against because the

station barred their voices from the air. It cited section 14 of the IBA Act, which required the station to "serve the interests of the Islamic community living within its broadcasting area."

A complaints committee constituted by the IBA ruled late last year that women had to be heard for at least three hours a day on Radio Islam programmes and that women constitute one-third of its management. The station openly defied the ruling and used the public airwaves to issue threats against the parties who lodged the complaint, including a member of the gender commission.

In applying for a new licence to replace its temporary licence which expired on January 10, Radio Islam sought to change the original terms of its licence — which required it to serve the interests of the whole Islamic com-

munity within its broadcasting area — to "serve the interests of the Muslims who adhere to and accept the Islamic rulings and interpretations of the Jamiatul Ulama Transvaal." By narrowing its definition, Radio Islam is hoping to exclude women from the airwaves on grounds of the beliefs of this particular Islamic sect.

At what was supposed to be a hearing for a new licence on January 10, Radio Islam won itself a one-month extension to its temporary licence thanks to technical bungling by the IBA which resulted in none of the substantial arguments being heard. A new application, and objections to it, have to be lodged over the coming month. The case, which may yet find its way to the Constitutional Court, raises crucial issues.

Out of the five Muslim radio stations in SA, Radio Islam is the

only one which disallows the voices of women. Globally, with the exception of the Taliban-ruled areas of Afghanistan, Muslim women are audible in the public media.

Even if there were a way of ensuring that the radio station reached only adherents of the Jamiatul Ulama Transvaal (which in itself raises a number of practical questions), and even if we accept that this sect is entitled to its views, how does one deal with the conflict of rights which this case raises?

The constitution states clearly that no rights are absolute. All rights must be balanced against each other and are subject to the limitations clause "to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human, dignity, equality and freedom." Equality in the constitution

is not just a right, it is a fundamental value which shapes and limits other rights.

If the right to religious freedom were to supersede equality, what would stop an ethnic group from believing that it is superior to other ethnic groups, justifying this in terms of its religion, and then proceeding to oppress others? Do we not find in that argument the perfect justification for apartheid in terms of the constitution of the new SA. And if so, how can we possibly use the right to religious freedom as a justification for oppressing women, who constitute more than half our population?

As Constitutional Court Judge Albie Sachs put it: "It is a sad fact that one of the few profoundly non-racial institutions in SA is patriarchy. Among the multiple chauvinisms which abound in our country, the male version rears it-

self with special equal vigour in communities. Thus to challenge patriarchy, to dispute the idea that men should be the dominant figures in the family and society, is to be seen not to be fighting against the male privilege but as attempting to destroy African tradition or subvert Afrikaner ideals or undermine civilised and decent British values."

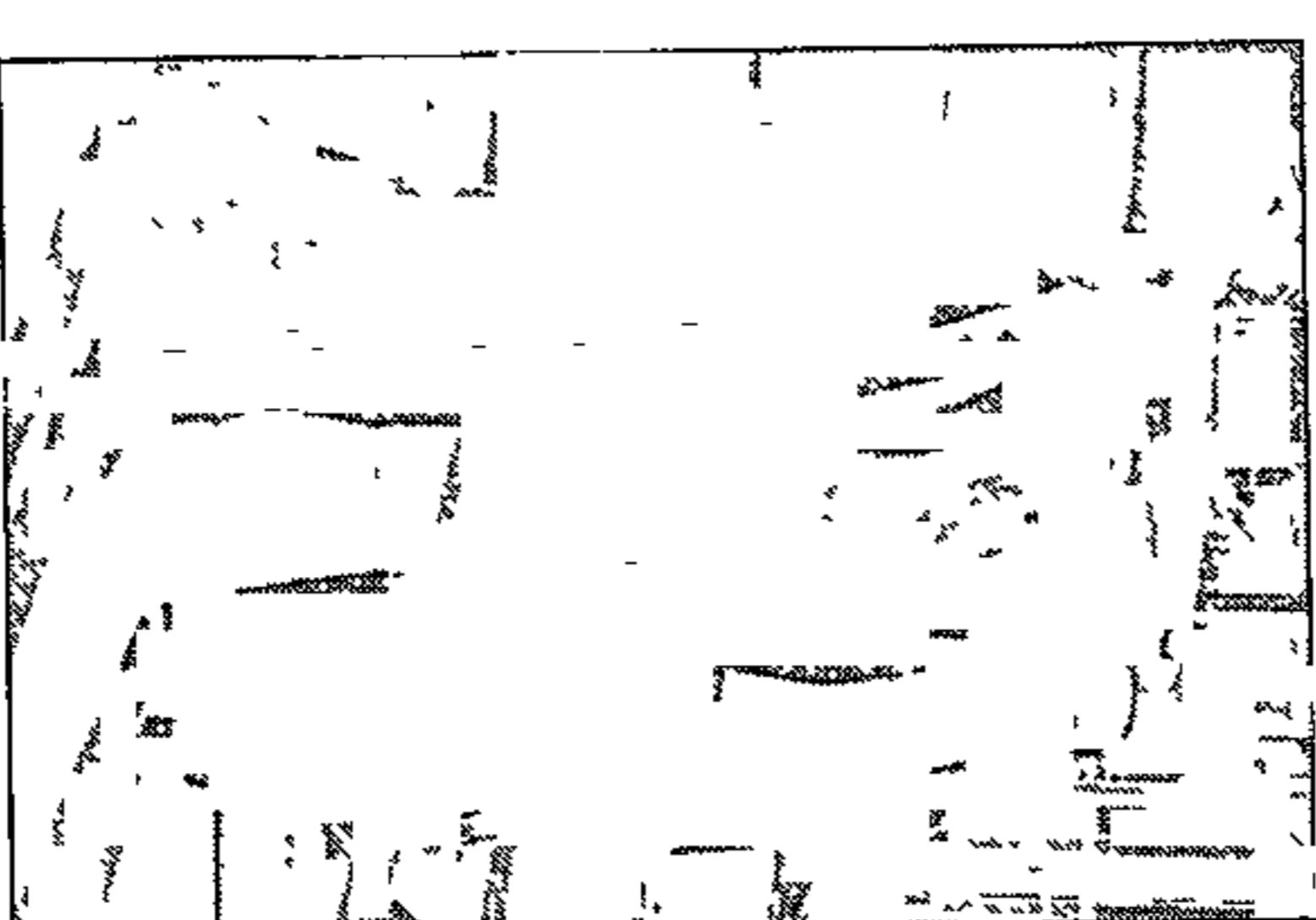
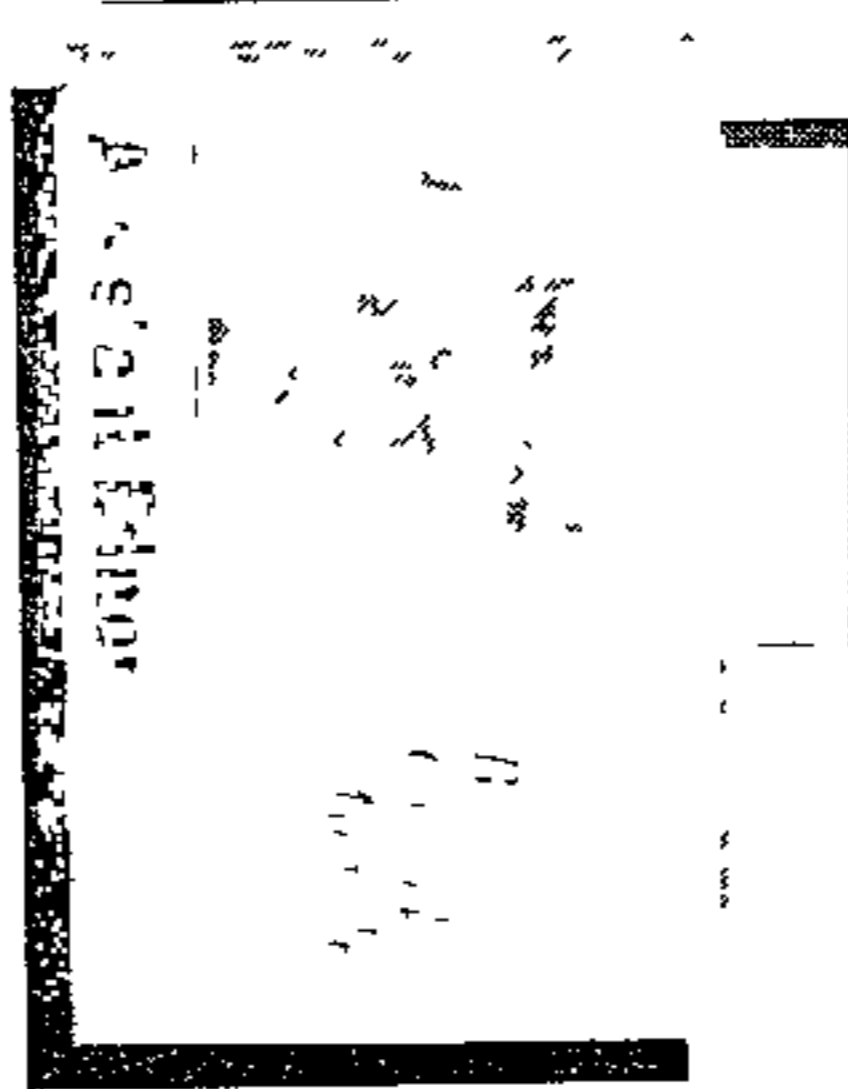
One of Radio Islam's more memorable programmes was a half-hour lesson on how to beat your wife. Sadly, this is a skill in which many SA men are so proficient they hardly require lessons, let alone prompting. Is this what freedom of speech and of religion entails us to? How do we strike a balance between the right to believe what we want to, and the exercise of that right in such a way it does not undermine the right to be free and equal?

□ *Lowe Morna is an adviser to the Commission on Gender Equality*

What a thrill for Ou Krokodi!

Finger wagger PW was right at home in the courtroom

By 25/1/98 (2/2)



GRAND ARRIVAL... PW Botha arrives at the courthouse with his young fiancée

IT WAS A day PW Botha will never forget. He came to his George a villain - a crucial twist of fate for one who was hailed the most favourite son of this Western Cape Garden Route town since being sworn in as its MP in May 1948.

On Friday morning the Ou (gen steek) Krokodi drove into the town to a hostile welcome from hundreds of screaming political foes waving placards, accusing him of complicity in horrendous apartheid-era atrocities.

As soon as the crowds spotted his BMW 318 (a far cry from his salon Benz days), they went into a frenzy, hurling jeers and abuse from behind a razor wire barricade. Botha (82), accompanied by his sweetheart, Renette de Waal (46-



HAILED... Some supporters gather to watch the arrival of their hero



AND HATED... Others gathered only to make their anger felt

February 23, when Botha will plead to charges of refusing to appear before the Truth and Reconciliation Commission. The trial itself is expected to start on April 14.

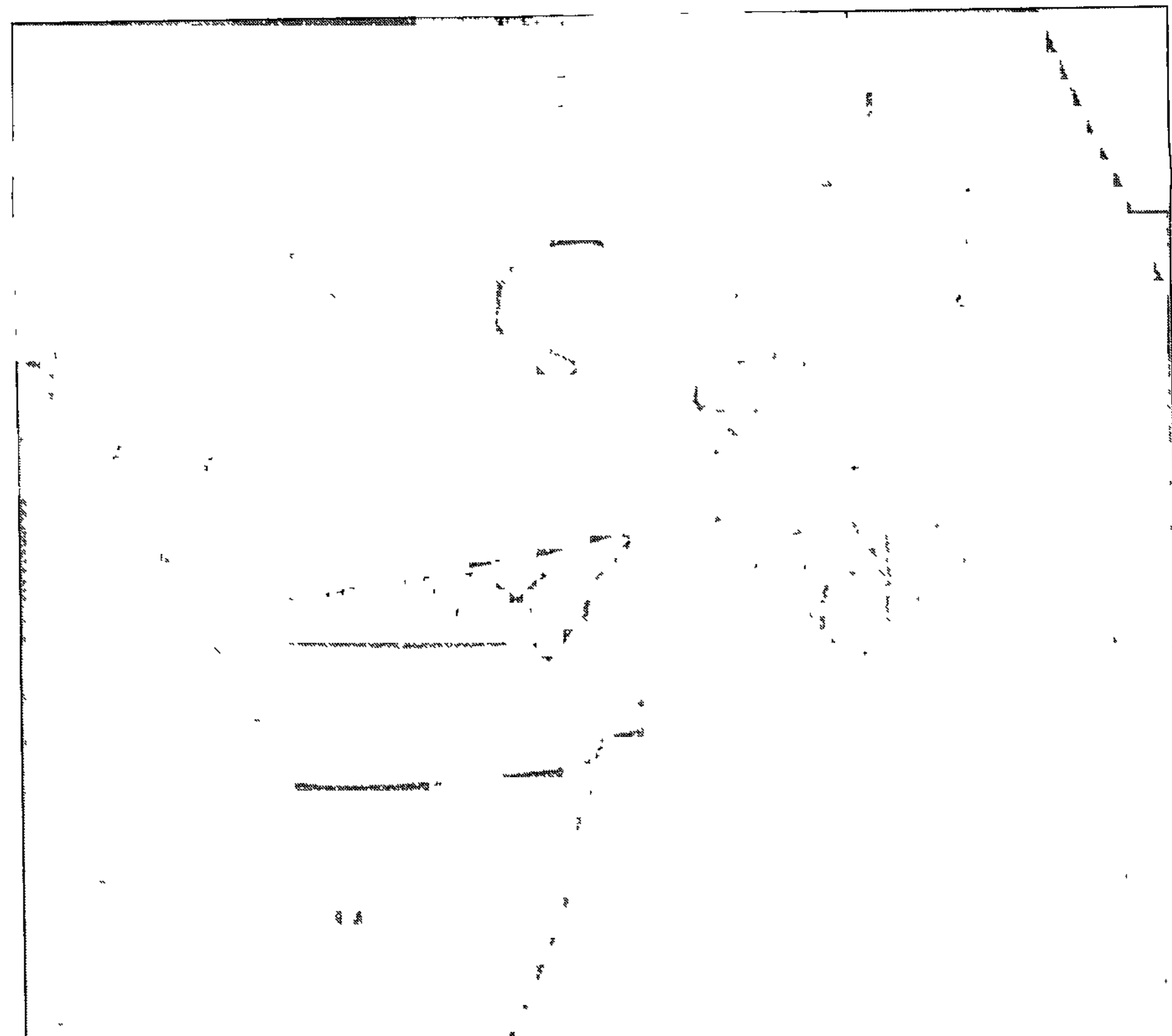
Shortly after the postponement, the real tragedy-comedy began - in the form of a press conference which left many wondering if PW Botha realized he was no longer the president.

Flanked by supporters and his legal team, he showed a bit of a

pleaded with the news hounds, jostling for vantage positions, to move back and behave. Minutes later he was back, apparently savouring every second of the attention heaped upon him.

He took to the podium and let slip some sarcastic humour borrowed from Australian statesman and author, Sir Robert Menzies.

"If you have a problem, you appoint a commission, accept its report, shelve the report, and the



GOOD OLD DAYS... PW Botha's best moment came when he got a chance to relive the old finger wagging days

Mandela, he said, was treated with respect and dignity while he was a prisoner.

"I offered to release him if he renounced violence. I will not apologise for marching under a communist flag while he was a Christian."

He claimed he had never supported racism, in fact, he had worked against it. Sick it could be, but this was humour from the "Krokodi".

of blame at the present government, accusing it of incompetence, corruption, nepotism and foulhardiness.

"Do not awaken the tiger in the Afrikaaner," he warned.

Asked how he felt appearing before a black magistrate. No problem. After all, he said, he had received President Mandela in his own home on three occasions.

very sick man. Back at The Wilderness, PW's home 16 km away, he seemed to be an object of curiosity among his white neighbours, and one of them can only afford to traverse the wilderness as labourers.

The neighbours, although refusing to be interviewed, kept themselves amused watching the battery of press cameras at Botha's gate.

The World This Week

Less than dollar a day

HEADS of state from east, central and southern Africa went into their second day of informal talks with World Bank President James Wolfensohn in Kampala yesterday, seeking consensus on development priorities in their impoverished countries. The problems are stark, with over 260 million people in sub-Saharan Africa subsisting on less than a dollar a day, half of them lacking access to clean water.

Thirty-three die in Algeria

A WAVE of bomb attacks and massacres in Algeria have left at least 45 people dead since Thursday - Sapa-AFP

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Press ombudsman is appointed

The South African Press Ombudsman's office has been established at 110...



Former president PW Botha talks to journalists outside his Wilderness home yesterday. Picture AP

time

the community health department would begin negotiations over time allocations and other

doctors not to work overtime until negotiations — Sapa

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Botha's case must not be a political football, says NP

Business Day Reporter

BD 23/1/98
(252)

THE Garden Route town of George was gearing up for what looked likely to be its biggest invasion of political demonstrators and media yesterday, in advance of this morning's court appearance by former president PW Botha.

Botha is charged in connection with his refusal to respond to a truth commission subpoena. The court appearance is expected to be very brief, as magistrate Victor Lugajo has said he intends adjourning the hearing so he can study the documents more fully.

National Party leader Marthinus van Schalkwyk yesterday appealed to African National Congress president Thabo Mbeki to halt demonstrations planned by the ANC in front of the court.

Van Schalkwyk said the protests would not contribute to a fair verdict and were an attempt by the ANC and the far right, who were planning similar action, to turn the court case into a political football.

He said the protests were a transparent effort by the ANC to put pressure on the judiciary and do all in its power to ensure a politically correct verdict.

The ANC dismissed Van Schalkwyk's call as a display of "blatant double standards" as he had not made a similar call to Gen Constand Viljoen who had mobilised former SA Defence Force members and generals to attend the hearing in large numbers.

Sapa reports Botha was in good spirits yesterday. A handful of curious journalists and photographers had gathered in front of his home, Die Anker, in the Wilderness. Asked how he felt about the case, Botha said he would want to see what happened in court.

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The disposal

Prosecutors say they will talk to Omar

DD 23 1198 (242)

PRETORIA — State advocates and prosecutors refusing to work overtime yesterday abandoned their plans to seek arbitration over a dispute with the justice department.

In a dramatic turnabout, the department is at last prepared to negotiate, and an unnecessary, time-consuming, and costly exercise in arbitration was prevented, they said in Pretoria yesterday.

A solution on the overtime issue had, however, not yet been reached, the National Union of Prosecutors and the Society of State Advocates said.

It appeared likely that prosecutors and advocates would still refuse to work overtime without pay, they said.

Staff bodies declared a dispute with the department last week after it suspended overtime payments due to a lack of funds. The five unions demand-

ed that the issue be negotiated, while the department maintained it was a matter for consultation.

The groups met again in the departmental bargaining chamber on Wednesday, during which the deadlock in negotiations was broken.

Deputy director-general of justice Vusi Pkoli emphasised that despite the progress, the department was still not in a position to negotiate on the suspension of overtime. "There is no money," he said.

What was open to negotiation, however, was what could be done to address the plight of the department's staff, who would not receive overtime payments until the end of the current financial year.

Justice Minister Dullah Omar had asked the finance department for an extra R15m for overtime payments. A treasury committee meeting scheduled for Tuesday to consider the request was cancelled, and would now be held on Monday next week, Pkoli said. The department and the unions would meet again on February 9.

Taryn Lambert reports that most of the 1 500 prosecutors at magistrates' courts were refusing to work overtime, and the backlog of cases was "growing rapidly", a Johannesburg prosecutor said yesterday.

The representative of the prosecutors' union, Joe Strauss, said as far as he knew all the prosecutors at magistrates' courts countrywide had embarked on a no-overtime policy, except in Mitchells Plain.

However, prosecutors at Mitchells Plain Magistrate's Court yesterday decided not to prepare their cases after hours, and joined the action.

Pretoria Magistrate's Court control prosecutor Vleis van Zyl said the fourteen regional courts under him were operating for about two hours a day. The unavoidable result was that the majority of cases were postponed.

Society of State Advocates chairman Reha Meintjies said the effects of the action could not be measured, at high courts because the courts were still in recess until next week.

Public Servants' Association of SA GM Casper van Rensburg said yesterday overtime payments to all occupational classes had been affected, including security personnel, state legal advisers and court interpreters.

Democratic Party Gauteng legislative member Peter Leon said the stand-off between Omar and the prosecutors was disturbing and the justice system was "on the verge of collapse".

NP call on death penalty cheap publicity, says ANC

The National Party's call for the return of the death penalty was an attempt to gain cheap publicity by riding on the corpses of the victims of crime, the ANC said.

The ANC National Congress national spokesman Ronnie Mamoepa was responding yesterday to the NP's call for the return of capital punishment following the latest in a spate of robberies of cash-in-transit security vans.

The ANC urges the Government not to concede to short-term apartheid-oriented solutions to crime, said Mr Mamoepa.

Mr Mamoepa said South Africa was a newly established democracy and was certain to experience a wave of crime similar to trends experienced abroad in countries undergoing transition. He said no empirical data existed to support the NP's "atavistic notion" that the death penalty served as a deterrent to crime.

"The danger of the imposition of the death penalty lies in its irreversibility should the accused be found not to have committed the crime upon which the penalty was imposed" - Sapa

ANC 9/23/1998
(252)

PW stands up for apartheid

Krokodil defies world again
 ARLT 23/11/98 (252)

ANDREA WEISS
 SPECIAL WRITER

George – Apartheid was really just good neighbourliness, former state president P W Botha said during an extraordinary impromptu press conference after his appearance in the George Regional Court today.

Still in the courtroom immediately after his brief appearance, he launched a diatribe against the Truth and Reconciliation Commission, which he said in the past he had called the "wraak en vergeldings kommittee" (revenge and retribution committee)

Addressing a court full of foreign and local journalists, he said institutions and people like the TRC and certain parties had conveniently forgotten the "deeds of terror" perpetrated by those he said had tried to destroy order in South Africa

And he thanked his thousands of supporters who had not turned up at court because they had decided it would be best to avoid confrontation.

During the lengthy press conference, Mr Botha engaged in several sharp exchanges with reporters, at one point refusing to answer a question from award-winning journalist Max du Preez

Mr Du Preez asked "Are you saying that you never did anything wrong?"

Mr Botha replied "No, but you are always at the forefront of wrongdoing I know that gentleman and he is one of the gentlemen I don't like"

He said he stood by all those who had



LEON MULLER

On a razor's edge ANC supporters protest outside the court during P W Botha's appearance today

carried out legal commands in the struggle against the revolutionary onslaught which would have resulted in anarchy

He was not ashamed of his actions to free South Africa of racial discrimination

In addition, he was not prepared to apologise for the struggle against those who were trying to destroy peaceful co-existence

Mr Botha said he was not a perfect person - there had only been one in history, Jesus Christ - but he believed South Africa was on

a most dangerous path The country was heading for an abyss

It was a disgrace that pensions were not being paid, and that farmers and tourists were being murdered

Earlier in his speech Mr Botha said the TRC had awakened the tiger in the Afrikaner He said unity was not created by emphasising differences but rather by searching

To page 3

PW faces court - then stands up for apartheid

From page 1

ARLT 23/11/98 (252)

for communalities. "I'm still concerned about the onslaught which I prophesied has come true. Unity and nation-building are not achieved by accentuating differences but rather by through the promotion of the common loyalty to the country."

He drew laughter when he suggested apartheid should be translated as good neighbourliness. He then demanded to know who had laughed.

Asked if he was concerned about being tried by a black magistrate, he said he grew up on a Free State farm where he played with black boys, his father spoke Xhosa and he had entered President Mandela's in his house. Why should he object?

When Mr Du Preez later asked him as a parting shot "Did you know that there are no tigers in Africa?" Botha parried "If there were, I wouldn't be one of them."

Another journalist demanded to know if he was prepared to apologise for people who had died in custody or in cross-border raids. Mr Botha said "No, I'm praying for them."



LEON MULLER

Making waves: former state president P W Botha and his fiancée Reinette Te Water Naude arrive at the George Regional Court today

Botha trial puts TRC in the dock

ANDREA WEISS
SPECIAL WRITER

(252)
ARG 23/1/98

George – Former president P W Botha appeared before the George Regional Court today at the start of a trial which has effectively put the Truth Commission in the dock

Mr Botha's defence came out with guns blazing, announcing that they intended to subpoena the TRC for state documents in its possession

They also insisted that the hearing be conducted in Afrikaans in spite of a request by the magistrate, Victor Lugaju, to hear the case in English

As Mr Botha entered the court, he turned and greeted his supporters, giving a quavering salute to General Jannie Geldenhuys, General Constand Viljoen and former defence minister Magnus Malan, among others

Lappe Laubscher, SC, said he accepted unconditionally the court's assurance that it intended to treat Mr Botha even-handedly in the trial

Neither he nor his team had any intention of dragging the trial out, as journalists had speculated in the past week

He said Mr Botha saw the crux of the case as a breach of agreement on the part of the

Truth Commission as well as "patent unreasonableness"

There was a complicating factor, however, which was that the Government had decided to end all financial assistance to Mr Botha for legal representation

He said a fair trial would be expensive and Mr Botha had yet to decide whether he should take the Government's decision on legal funding on review

If Mr Botha decided he could not risk his limited funds on that, other alternatives would have to be considered

He said that in the past week, Justice Minister Dullah Omar had accepted that a fair trial was expensive and had called on the Legal Aid Board to treat Allan Boesak, former head of the Foundation for Peace and Justice, fairly

He said Mr Omar's position pointed to a possible change of attitude on the part of the Government concerning Mr Botha

After Mr Laubscher's statement, prosecutor Chris Cilliers handed in the charge sheet and 2 500 pages of documents for the magistrate to read

He also asked that the case be postponed until February 23, when Mr Botha would be asked to plead, then to April 14 for the trial Mr Lugaju agreed

Mr Laubscher expressed his concern that

the magistrate appeared not to understand Afrikaans, which would require more time for translation. He said there were "massive massive volumes" almost exclusively in Afrikaans and asked Mr Lugaju "Are you comfortable with that fact?"

Mr Lugaju replied that he would rely on his colleagues and an interpreter if he needed help

After the proceedings a bunfight erupted when the press pack, most of whom had been excluded from the court, were let in as Mr Botha indicated he would give an impromptu media conference

A scuffle broke out between Max Ozinsky of the Western Cape African National Congress and an unidentified right-wing supporter when Mr Ozinsky raised a poster in the courtroom reading "Victoria Mxenge assassinated - PW guilty"

There were also repeated calls for photographers and journalists to step back. Mr Botha left the room for a while until things calmed down

Earlier a wall of steel went up in George's Courtenay Street to separate ANC and right-wing demonstrators who turned out for Mr Botha's appearance

Should P W Botha be the scapegoat for apartheid? Saturday Argus examines the evidence tomorrow

Justice Department takes a look at (252) overtime claims

Star 24/1/98

The Department of Justice has launched an internal investigation into overtime claims in the wake of R14,5-million over-expenditure on overtime.

This emerged following the publication of a report which stated that senior justice officials, who do not appear in court, had put in very high overtime claims.

While some Justice Department officials denied that enormous claims had been made, or paid, refuting that one chief director had claimed R160 000 in overtime in two months, they admitted their deep concern at overtime practices and the attitude of officials towards overtime.

On January 5, a task force was created to probe the issue and to investigate any fraudulent claims.

Acting director-general of justice Vusi Pikoli admitted that some staff had claimed about 225% of their salaries in overtime payments since the start of the financial year.

He also acknowledged that the department's overtime system was open to abuse because there were no proper controls.

"The majority of claims are genuine. The few fraudulent cases that have been registered would not have precipitated the problem we have now," he said.

He said departmental investigators would report directly to him. The information would then be given to Justice Minister Dullah Omar.

Pikoli said that to claim payment for 400 hours of overtime a month was impracticable.

Hassen Ebrahim, deputy director-general of corporate services, said his data on specific overtime claims was totally different from figures published.

"According to overtime records, the official who allegedly

claimed R160 000 in two months claimed a total of 530 hours in six months. His highest overtime claim in one month was about R6 000. It was absolutely false that the official had claimed 423 hours overtime in a month.

Ebrahim said there were no set criteria for senior officials claiming overtime. The department operated according to a "simple prescript. It is similar to claims in the private sector," he said.

Pikoli said there was no ceiling on the amount of overtime Justice Department officials were allowed to claim. Overtime claims of senior managers were approved by their immediate supervisors.

Suspended

The claims of state advocates and prosecutors were approved by senior magistrates and attorneys-general, he said.

The Justice Department suspended overtime payments last month for the remainder of the financial year when it ran out of funds.

It had paid out R42,5-million in overtime claims, exceeding its R28-million budget by R14,5-million. The extra money came from savings because of vacancies in the department.

Earlier Pikoli said the department had expressed concern in September about rising overtime expenditure and a lack of control.

He said "We always assumed and believed that those responsible for managing the process of overtime would manage it properly.

"It has since come to our attention that perhaps we made a mistake by not ensuring from the outset that we properly manage the situation" - Own Correspondent

Apartheid was really just good neighbourliness, says PW

By ANDREA WEISS

George W. Botha was really just good neighbourliness, former state president P W Botha announced during an impromptu press conference following his appearance in the George Regional Court yesterday.

Still in the courtroom just after his brief appearance, he launched a diatribe against the Truth and Reconciliation Commission, which he said he had previously called the "wraak en vergeldings kommittee" (revenge and retribution committee). Addressing a court full of foreign and local journalists, Botha said

institutions and people such as the TRC, and certain parties, had conveniently forgotten about the deeds of terror perpetrated by those trying to destroy order in South Africa.

During the lengthy press conference, Botha engaged in several sharp exchanges with reporters, even refusing at one point to answer a question from award-winning journalist Max du Preez.

Du Preez asked, "Are you saying that you never did anything wrong?" Botha replied: "No, but you are always at the forefront of wrongdoing. I know that gentleman and he is one of the gentlemen I don't like."

Star 24/11/98 (252)

He said he stood by those who had carried out legal commands in the struggle against "the revolutionary onslaught which would have resulted in anarchy". He said he was not ashamed of his actions to free the country of racial discrimination.

In addition, he would not apologise for the struggle against those who were trying to destroy peaceful co-existence. Botha said chaos and this order were occurring in large sections of Africa, the Middle East and countries around the Black Sea.

The former president said he was not a perfect person, but he believed SA was on a most dangerous path.

He said SA was heading for an abyss. It was a disgrace that pensions were not being paid, and that farmers and tourists were being murdered.

Earlier in his speech, Botha said the TRC had awakened the tiger in the Afrikaner. He said unity was not created by emphasising differences but rather by searching for commonalities. "I'm still concerned about the onslaught." What I prophesied has come true.

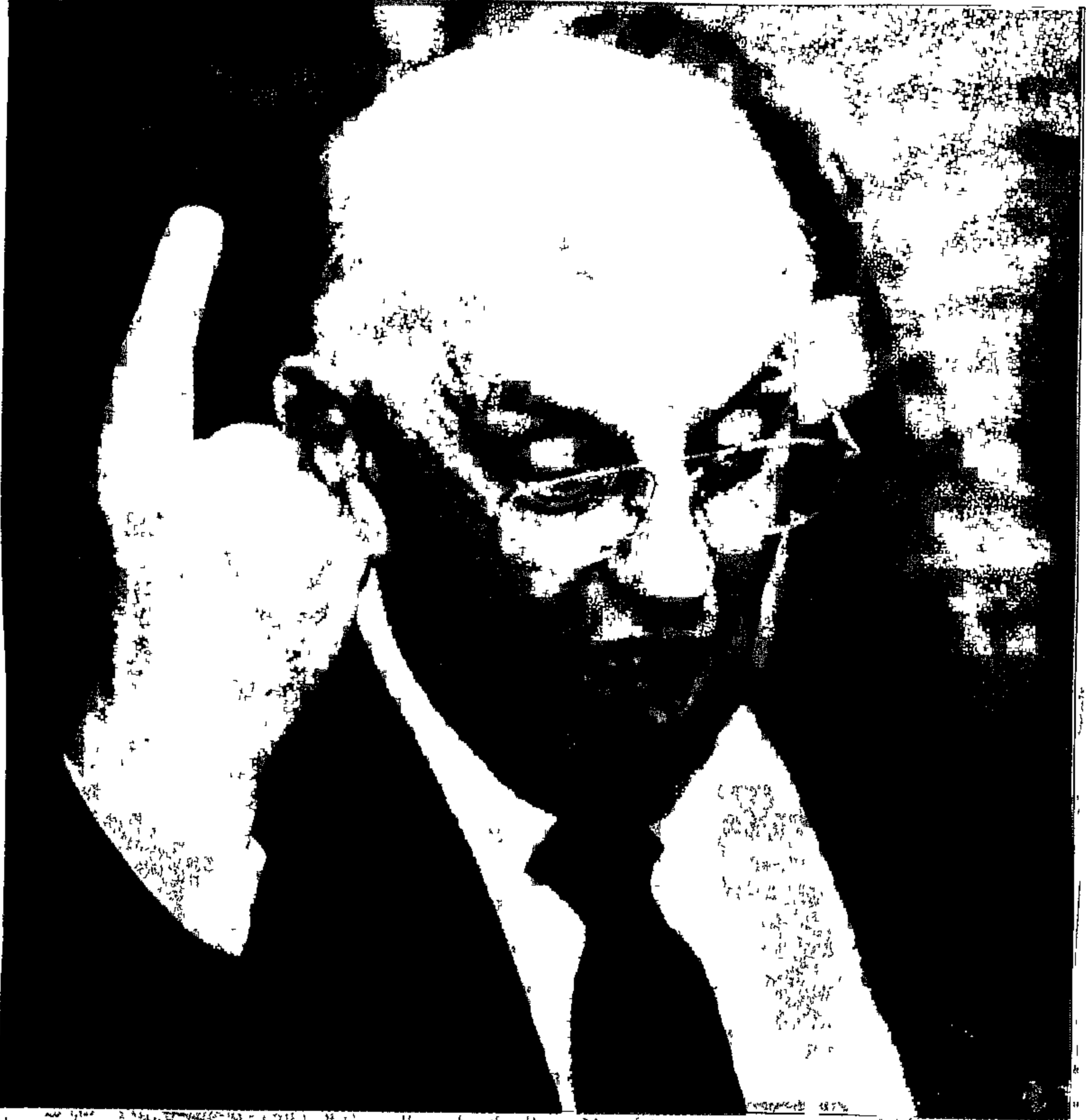
"Unity and nation-building are not achieved by accentuating differences but rather through the promotion of common loyalty to the country." He drew laughter when he suggested that apartheid should be translated as "good neighbourliness". He then demanded to know who had laughed.

Asked if he was concerned about being tried by a black magistrate, he said he had grown up on a Free State farm where he had played with black boys, his father spoke Xhosa like a Xhosa, and he had entertained Nelson Mandela in his house, so why should he object to a black magistrate?

One journalist demanded to know whether he was prepared to apologise for all the people who had died in jail and in cross-border raids. Botha said "No, I'm praying for them."

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ARCT 24/1/98



Blast from the past: former state president PW Botha talks to reporters yesterday

The crocodile shows its teeth: former state president PW

PW'S long, stubborn haul to dissidence

Ex-president may get more than his day in court

REPORT: ANDREA WEISS

PICTURES: BRENTON GEACH

There was a time when former state president PW Botha, with his homburg hat, wagging finger and mighty appearances on SABC TV, epitomised the authoritarian South African state, but now we find him cast in the unlikely role of dissident.

Once a fierce opponent of resistance politics, Mr Botha has begun to employ similar tactics, featuring as "the accused" in the matter of The State versus Pieter Willem Botha which began yesterday.

The charge - failing to obey a subpoena to appear before the Truth and Reconciliation Commission - has put him firmly on the path to becoming a *volksheid* (folk hero), creating an awkward moment as the commission wraps up its business. It could become a very



Ideologies on display: ANC supporters, above left, and die-hard right-wingers both marched through George yesterday.

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extended moment

In his written submission to the TRC, Mr Botha, 82, presents himself as a devout Christian who served his country with its best interests at heart and who is now being hounded beyond reason while the beloved country is being run into the ground. He is not without support, notably among conservatives.

Mr Botha has argued that he struck a deal with the TRC's chairman, Archbishop Desmond Tutu, that a written submission would suffice.

Archbishop Tutu, in turn, has said he was never in a position to make such a deal.

Those who suffered under the Groot Krokodil's iron fist, among them numerous leading members of today's Government, are inclined to argue that the TRC has treated Mr Botha with kid gloves and that it was his own choice to have his day in court.

They are inclined to argue that the TRC has pussyfooted around the issue of Mr Botha's appearance by meeting him in person to persuade him to cooperate, and sending out three subpoenas before getting tough.

They counter arguments about Mr Botha's ill-health and age with the reminder that it was under his regime that an ill, diabetic Oscar Mpetha stood trial at the age of 75 and subsequently served a five-year prison term.

Had Mr Botha attended a special TRC hearing into the activities of his State Security Council, the hearing would in all probability have taken little more than a day.

Now magistrate Victor Lugaju, 49, will have to wade through the written replies Mr Botha gave the commission (all of 1 700 pages, with annexures), and other documents, including security

council minutes, which the TRC sent to Mr Botha along with the subpoena.

All indications are that Mr Botha is in for a long haul, possibly weeks of court hearings, during which these documents are likely to be picked over and given the full legal treatment by the prosecution (Leonard McCarthy and Chris Cilliers) and his defence lawyer, Ernst Penzhorn. There is the prospect of Mr Botha having to spend days at a time in the witness box.

Mr Botha has argued in his submission that the TRC is not interested in what he has to say, but wishes to see him "humiliated" before the South African public.

The TRC counters that it has treated everyone who appeared before it with respect and that there are still unanswered questions around Mr Botha's role as former president - particularly whether he and the State Security Council, which he chaired, authorised any illegal activity, either directly or indirectly.

Undoubtedly, one of the burning questions the TRC would have liked to probe is around the bombing of Khotso House, the South African Council of Churches' (SACC) headquarters in Johannesburg, which were destroyed in a covert operation in 1988.

Former police minister Adriaan Vlok has submitted an amnesty application to the TRC in which he describes how Mr Botha called him aside after a State Security Council meeting in 1988 to discuss the role of the SACC in promoting the disruption of local elections scheduled for October that year.

According to Mr Vlok, Mr Botha wanted to know what the police were going to do about the situation.

"His request was that something

active would have to be done about it. He pointed out that the South African Council of Churches had a long history of opposition, including civil disobedience. He asked me to report back to him within a week," Mr Vlok said.

At the subsequent meeting, Mr Vlok said they were convinced that Khotso House and its facilities were being "misused by African National Congress infiltrators and activists".

Mr Botha was said to have remarked that it was not "a house of peace but a house of evil".

Ultimately, Mr Botha's instruction was clear: that nothing would bring the SACC to its senses, and so the building should be made unusable, with the caution - "whatever you do, make sure you don't kill anyone". Mr Vlok said he was personally congratulated for the successful operation at a subsequent meeting of the security council.

Mr Botha, in his written submission, denies that he ever instructed Mr Vlok to use explosives on Khotso House, but said it was "quite possible" that he would have expected the police to act against the building to deny "terrorists" the use of it. "I did not, however, give any instruction to Mr Vlok to destroy the building using explosives," Mr Botha wrote.

Mr Botha also denies congratulating Mr Vlok, saying it was his practice to greet members by shaking their hands, and perhaps this was interpreted as a congratulation.

Another pertinent issue the TRC might have wished to pursue is the "circumlocutions" evident in State Security Council minutes which are awash with references to "eliminating", "neutralising" or "removing" activists.

One such reference, to emerging

United Democratic Front leadership, is for them to be identified early on and "neutralised". Elsewhere there is mention that "uncontaminated places, areas and regions must be kept unaffected through policing". Later, these areas are referred to as "prof" (rotten), and again the instruction comes to "identify and eliminate the revolutionary leaders, particularly those with charisma".

Mr Vlok, in an appearance before the TRC, conceded that "I possibly used words and expressions which the people under me could have interpreted as something other than what I had intended it to be, namely as an instruction to act illegally".

Mr Botha, in his submission, contends that the expression "to eliminate" means just "what any authoritative dictionary says".

"I did not mince my words when it came to the elimination of terrorists. If the purpose of the question is to get me to admit it was murder, I deny it. That a conflict with armed perpetrators of violence could lead to the death of terrorists, and that this could be the high water mark of the meaning of 'eliminate', and that this is understood as such, is of course the case".

But, said Mr Botha, this did not mean that "innocent members of the public could be regarded as terrorists, or that the broad concept of the elimination of terrorists included the assassination of political opponents".

These suggestions, he argues, are simply an over-emphasis in the search for "sinister overtones".

But countless family members of victims who have sat through TRC hearings in the past year might beg to differ.

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ARC
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'Mistrial' feared as PW insists on Afrikaans

ANDREA WEISS

Magistrate Victor Lugaju may be a stumbling block in the trial of former state president PW Botha - not because Mr Lugaju is black, but because he is not fluent in Afrikaans.

Mr Botha's counsel yesterday insisted that they wished to conduct proceedings in Afrikaans, despite a request from Mr Lugaju for them to use English

Mr Botha, 82, who walks with the aid of a stick, did not sit in the dock, but took up a seat on a chair alongside it

He appeared in court in connection with charges arising from his failure to obey a subpoena from the Truth and Reconciliation Commission

He followed up his appearance with an extraordinary finger-wagging diatribe, in which he refused to apologise for any past actions

Mr Botha's press conference was held in the courtroom with journalists and photographers crowding around him

"Reconciliation is not achieved by the humiliation of the leaders of any group," he said "I stand with all those who carried out legal commands from my government in our struggle against the revolutionary communist onslaught."



■ PW's day in court - in our reports picture on pages 6 and 7

He said the Afrikaner "tiger" had been awakened and he would not stand the language, culture and values of the Afrikaner being trampled upon

Ernst Penzhorn, Mr Botha's attorney, told the press after the hearing that the fact that Mr Lugaju was not fluent in Afrikaans could lead to a longer hearing as statements would have to be made in both Afrikaans and English

He said the problem could lead to a mistrial

"One of the requirements of the legal profession in the old South Africa was that one had to be able to practise in both English and Afrikaans Unfortunately now we have nine official languages," Mr Penzhorn told Reuters (There are 11 official languages)

General Constand Viljoen of the Freedom Front, who is organising a trust fund to help Mr Botha pay his legal fees, said he found it unthinkable that a

magistrate who acknowledged he was not in command of Afrikaans had been appointed for a hearing that would be held mainly in Afrikaans

"The situation will have to be reconsidered," he said

The case against Mr Botha has been postponed to February 23 when he will plead,

PW insists on Afrikaans (252)

From page 1

ARG 24/1/98
and then April 14, when the trial is expected to begin

Senior counsel Lappe Laubscher said that he would translate the pertinent bits of his argument into English, but expressed his concern about whether Mr Lugaju would cope with wading through 2 500 pages of documents handed into the court, the bulk of which are in Afrikaans

Mr Laubscher said the court had received a "tremendous amount of documents, mostly in Afrikaans

"The question that I have is are you able to read the documents or must we give time for translations? I'm in your hands"

Mr Laubscher reiterated his concern, saying that the "massive, massive volumes" were almost exclusively in Afrikaans, and asked "Are you comfortable with that fact?"

Mr Lugaju's response was that if he had any problems he would get his colleagues, two assessors with him, or an interpreter, to assist The documents in question consist of former State Security Council minutes, answers to questions supplied by Mr Botha and evidence led before the TRC

Earlier Chris Cilliers of the attorney-general's office indicated provision had been made for a translator, but both legal teams elected to do their own translations.

Against the backdrop of Mr Botha's campaign for Afrikaners, it is clear that the language issue will be a recurring theme throughout the trial

National Party spokesman Jaco Maree said he believed the case was heading for a "mistrial" if the magistrate could not understand Afrikaans "I think what is happening here is suddenly the TRC is on trial and not Mr Botha From what I have gleaned here today, I think the TRC in the long run will regret what was done here," he added

A further complication, say Mr Botha's lawyers, is that the Government has decided to suspend the former president's legal aid.

Mr Botha was considering taking this decision on review

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TOO LITTLE TIME TO PREPARE CASES

W Cape prosecutors 'no' to free overtime

ET 19/1/98 (252)

WESTERN CAPE prosecutors, like their colleagues in other centres are expected to adopt a "no pay, no overtime" position this week. Crime Writer **LINDIZ VAN ZILLA** reports.

MAGISTRATES' courts in the Western Cape are on the brink of administrative chaos as an estimated 95% of the province's more than 200 state prosecutors refuse to work overtime without pay

The tough "no pay, no overtime" message from the prosecutors follows the Justice Department's suspension last week of overtime payments

The decision to stop paying for overtime was taken to curb massive expenditure on overtime worked by prosecutors, state advocates and other legal personnel

The Justice Department said at the weekend that it had originally budgeted R5 million for overtime payments. This had been increased to R28m in the present financial year — but so far R42,5m had already been paid out

Prosecutors say normal working hours do not allow them enough time to prepare properly for trials and consult witnesses in depth

Senior prosecutor Mr André Boucher — one of three spokespersons appointed by Western Cape prosecutors at an informal meeting last week — said the "only way to cope" with huge caseloads was for prosecutors to work overtime

On average, prosecutors worked two to three hours overtime every night just to prepare cases for court the next day, Boucher said

"Our courts have got a huge backlog of cases and prosecutors just barely cope working a huge number of overtime hours"

Facing a barrage of objections from prosecutors, Justice Minister Mr Dullah Omar appealed to prosecutors last week to work longer hours without extra pay, because the justice department could not afford to pay them overtime

Omar said prosecutors should show some understanding of the financial problems facing the country, as money allocated for overtime pay had run out

"I cannot compel prosecutors to work overtime," Omar said. "What I would ask of them is to ensure that the wheels of the justice system continue working and that they do nothing to undermine the system"

Prosecutors have, however, hit out at Omar's appeal, saying that "below the breadline salaries" prevented them from doing extra work for nothing

During a go-slow by public prosecutors two years ago, Omar entered an agreement with the National Union of Prosecutors that they would be paid for overtime work until such a time as they receive adequate salaries

At the time, prosecutors were given the assurance that there would be enough funds for overtime pay

A spokesperson at Johannesburg Magistrate's Court said last week: "There has still not been a significant increase in salaries, yet the minister has unilaterally stopped overtime pay. Prosecutors are obviously unhappy"

Prosecutors interviewed by the Cape Times said they could not survive financially without overtime pay. In some cases the overtime pay made up one-third of a prosecutor's take home pay

The annual salary of a junior prosecutor in a magistrate's court is R42 800

Western Cape attorney-general

Mr Frank Kahn has also criticised the department's decision to suspend overtime pay, saying it had caused "an enormous amount of dissatisfaction"

"There is unhappiness as there would be when any privilege is withdrawn. The overtime substituted for a lack of salary increases," he said

Acting Director-General of Justice Mr Vusi Pikoli said last week the department was seeking additional funding to pay prosecutors overtime, at least until the end of March

Boucher told the Cape Times yesterday that because the prosecution service had been declared an "essential service", they were prevented from embarking on any form of industrial action such as a strike or a go-slow

However, at last week's mass meeting, attended by representatives from prosecution offices as far away as George or Oudtshoorn, "90 to 95% of prosecutors in the Western Cape" had said they would, of their own

accord, not work overtime

Western Cape prosecutors are threatening to prepare their court cases during office hours rather than after hours, which would result in court delays of hours each morning

There are now fears that if carried through, this action could have a snowballing effect on an already overcrowded prison system

Boucher defended any action taken by public prosecutors. "This is not something we want," he said

"We are not doing this to spite the public, but what other option do we have? We have no choice

"Prosecutors can't make it on this salary"

'Our courts have a huge backlog ... prosecutors barely cope working a large number of overtime hours.'

Botha case 'will be treated like any other' (252)

Black magistrate says 'we dispense justice to all people in the same way'

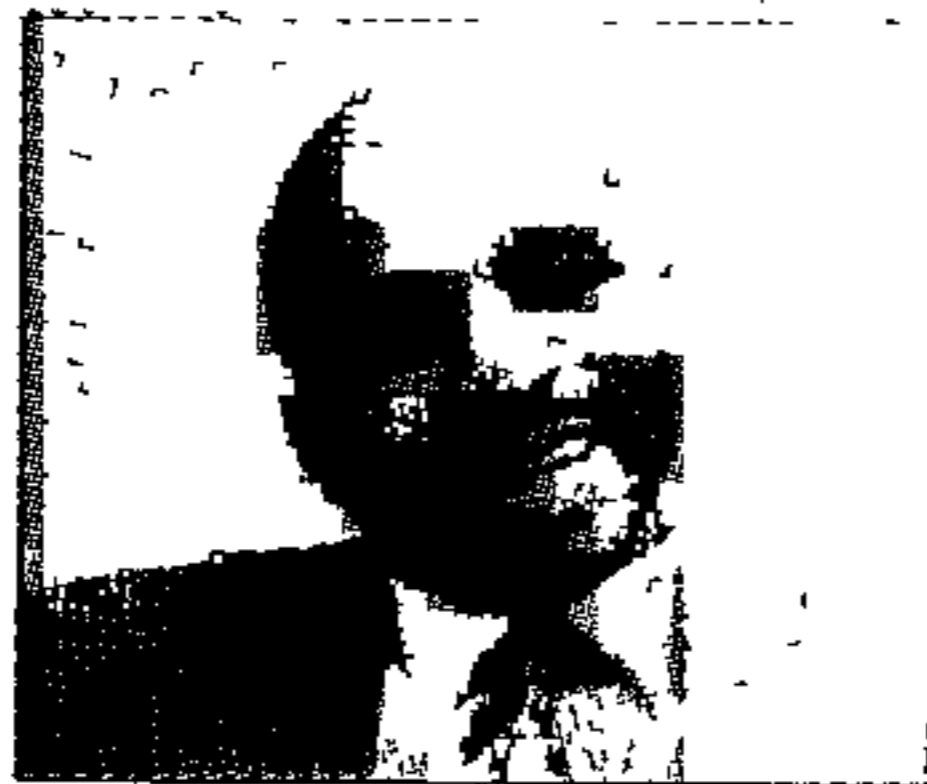
Aug 20/1/98

OWN CORRESPONDENT
Cape Town

The black magistrate who will try former President P.W. Botha, the finger-wagging Groot Krokodil, when he appears in a George court this week for failing to appear before the Truth and Reconciliation Commission, said he would treat the matter like any other case.

"We dispense justice to all people in the same way. We do not differentiate, that is our training," said Victor Lugajo, the president of the Western Cape regional court, when interviewed yesterday.

A softly spoken man who carefully measures his words,



Softly spoken ... Victor Lugajo, who will try P.W. Botha.

Lugajo said he would treat the matter "like any other case".

He seemed at pains to show that even-handed justice would prevail, a right afforded to few of the Groot Krokodil's political enemies.

Lugajo said he wanted to show that the "justice system is real in South Africa".

He said he had not been selected to try the case but had "chosen to do so".

"I can take any case. There is nothing special about it," he said.

His decision was based on the fact that other magistrates had full schedules.

Questioned about the race issue, Lugajo said he had tried many cases involving people of all races.

The father of four was born in the Eastern Cape, worked as an interpreter and magistrate, and was a law lecturer at the University of the Transkei.

He obtained an MA degree in law from the University of South Africa.

Lugajo is assisted by assessors C. Robertson of the Western Cape Legal Clinic and Professor S. van der Merwe of the University of Stellenbosch.

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Black magistrate to hear PW's case

BD 20/1/93 (202)

CAPE TOWN — A black magistrate, set to preside over the court hearing of former president PW Botha, promised yesterday to dispense even-handed justice to the man who governed apartheid SA.

Victor Lugaju, 49, will conduct the January 23 hearing where Botha is expected to be charged with contempt for refusing to appear before the truth commission.

"We dispense justice to all persons in the same way. We do not differentiate," said Lugaju.

Lugaju, president of the Western Cape Regional Court, confirmed that he chose to take the case as the senior magistrate in the Western Cape. "I can take any case. There is nothing special about it," he said. His decision was based on the full schedules of other magistrates rather than on any personal desire to handle the case.

Now 82 and in poor health, Botha could be imprisoned for two years and fined if convicted. Botha ignored three subpoenas to appear before the commission. He submitted more than 1 700 pages of written answers to its questions and accuses the panel of wanting to humiliate him by forcing him to appear in person.

George municipal officials will decide today whether to allow the African National Congress (ANC) to stage a protest near the George Regional Court when Botha's trial gets under way on Friday. It wanted to protest against Botha's reluctance to cooperate with the commission, Southern Cape ANC secretary Ismail Lavangee said yesterday.

Local authorities were asked initially for permission for 200 people to demonstrate, but Lavangee said he would ask for this to be increased to 500.

George acting town clerk Andre Smit said the ANC was the only organisation to apply to hold a demonstration in the town. However, other organisations had held unplanned protests in the past and had been accommodated.

Right-wing groups have indicated they will demonstrate in support of Botha.

George police meet today to finalise security plans during the hearing. The case is expected to be remanded after just a few minutes.

Lugaju is expected to put the proceedings on hold so he can study the charge sheet, which is more than 1 000 pages long. — Sapa-AP.

Kahn and Omar face to face amid war of words

A-Gs meet minister on overtime crisis

GLYNIS UNDERHILL
SPECIAL WRITER

Western Cape Attorney-General Frank Kahn and Justice Minister Dullah Omar meet today to try to resolve the crisis over the Justice Department's decision to suspend overtime pay.

All attorneys-general would meet Mr Omar in Pretoria to discuss the issue, Mr Kahn said yesterday. The meeting follows a war of words between Mr Kahn and Mr Omar, the latest battle over remarks by Mr Omar on television.

"I am unconcerned about what Mr Omar said about me on television. My record speaks for itself," said Mr Kahn.

The exchange between Mr Kahn and Mr Omar began last week as prosecutors and State advocates vowed to suspend overtime work, threatening to slow the wheels of justice.

Mr Kahn hit out at Mr Omar for accusing prosecutors and State advocates of working "very enthusiastically until late at night" during the apartheid era to put many activists behind bars. Mr Omar had resorted to

a "cheap shot" which could prompt further resignations, he warned.

Mr Omar hit back with a fresh salvo when he went on television at the weekend, saying in a news broadcast he could understand Mr Kahn's feelings.

"He is an appointment of the old apartheid regime and he was head of the prosecutors service during the apartheid years," Mr Omar said.

Mr Kahn said yesterday he was unconcerned by Mr Omar's "generalisation".
"My record speaks for itself. Over 30 years I have tried two political

cases. One involved a bomb threat in the Supreme Court and lasted four hours," he said.

The other involved ultra-right-wingers David Beelders, Brian Hack and Arnold van der Westhuizen.

The men were charged under the Terrorism Act with sabotage and attempted murder after a shooting at former leader of the opposition Colin Eglin's Clifton flat.

Regarded as the Cape's top prosecutor of foreign currency and corruption cases, Mr Kahn was pivotal in uncovering some of the most sensational fraud cases in South Africa.

(257) RRT 20/1/98



ASSOCIATED PRESS

Even-handed treatment: magistrate Victor Lugaju addresses a news conference yesterday

PW will get colour-blind justice, vows magistrate

ARG 20/11/98 (252)

The black magistrate set to preside over the court hearing of former president P W Botha promised yesterday to dispense even-handed justice to the apartheid strongman

Victor Lugaju, 49, will conduct the hearing on January 23 where Mr Botha is expected to be charged with contempt for refusing to appear before the Truth and Reconciliation Commission

"We dispense justice to all persons in the same way. We do not differentiate," said Mr Lugaju

As top magistrate in the Western Cape, Mr Lugaju said he had

chosen to take the case himself "I can take any case. There is nothing special about it," he said

His decision was based on the schedules of other magistrates rather than any personal desire to handle the case

Now 82 and in fragile health, Mr Botha could be imprisoned for two years and fined if convicted

Because of his age and physical ailments, a fine is considered the likely penalty

No pre-trial limit has been set on the amount.

Mr Lugaju said he was aware of Mr Botha's health problems and

would keep that in mind during court proceedings

Mr Lugaju was born in the Eastern Cape and worked as a magistrate in Umtata until 1996

He was a law lecturer at the University of the Transkei.

Mr Botha's court appearance is expected to draw huge media interest given an added twist of a former white leader being tried by a black magistrate

The hearing will take place in George, near Mr Botha's home

Mr Botha has ignored three subpoenas to appear before the Truth Commission. - Sapa AP

Rival demos planned for start of trial

George - The ANC plans to hold a "peaceful protest" when former State President P W Botha appears in the George Regional Court for ignoring a Truth and Reconciliation Commission subpoena, according to the Beeld newspaper

It said Mr Botha's supporters were also planning similar action. However, ANC regional secre-

tary Ismael Lavangee warned that it would be a recipe for conflict should rightwing groups decide to "interfere with us"

George magistrate Erna Grobler said she would make a decision soon on whether to allow the ANC protest, Beeld said

Meanwhile, acting town clerk Andre Smit said no other applications had been received, although Mr Botha's supporters apparently

had similar plans

"Our people have orders to be tolerant, but we expect strong steps from the police against illegal action by other groups," Mr Lavangee said

The ANC and its allies, the Congress of South African Trade Unions and the SA Communist Party, were prepared for any confrontation with Mr Botha's supporters, he said - Sapa

Botha can expect 'fair trial'

ET 20/1/98 (252)

ANDRE KOOPMAN
PARLIAMENTARY BUREAU

FORMER president Mr P W Botha, the feared "Groot Krokodil" who piloted the apartheid state through the turbulent 1980s, is to be tried by a soft-spoken black magistrate when he appears in a George court this week for failing to appear before the Truth and Reconciliation Commission.

"We dispense justice to all people in the same way. We do not differentiate, that is our training," Mr Victor Lugaju, president of the Western Cape Regional Court, said in an interview yesterday.

A quiet man, who clearly measures his words, Lugaju said he would approach the matter "like any other case".

Even-handed justice would prevail, he said, a right afforded by the Botha regime to few of its political enemies. Botha imposed draconian states of emergency during the repressive '80s.

It was during Botha's tenure at the helm of a securocrat government that people disappeared without trace.

Lugaju said he wanted to show that the "justice system was real in

South Africa". He had not been selected to try the case but had "chosen to do so".

"I can take any case. There is nothing special about it," he said.

His decision was prompted, not by any wish to sit in judgment on Botha, but because other magistrates apparently had full schedules.

Questioned about the race issue, Lugaju said he had tried many cases involving people of all races. He would be sensitive about the ailing and ageing Botha's health, he added. Botha recently celebrated his 82nd birthday.

Lugaju, a father of four, was born in the Eastern Cape and worked as a court interpreter, prosecutor and Regional Court magistrate in Umtata. He was a lecturer in law at the University of the Transkei and has an MA degree from the University of South Africa.

Bemused and seemingly a bit intimidated by the intense media interest, Lugaju said after the interview "I hope you are going leave me alone now".

He admitted that the media attention was "a bit intimidating", especially as he had just returned from leave, but felt he could handle it.

Botha's pending trial has prompt-

ed intense media interest and hordes of journalists are expected to descend on the quiet south Cape town. One news agency is sending five journalists to the hearing.

Lugaju will be assisted by assessors, Mrs C Robertson of the Western Cape Legal Clinic and Professor S van der Merwe of the University of Stellenbosch.

The trial arises from Botha's refusal to appear before the TRC to answer questions about the State Security Council that he headed.

Botha's security chiefs were guided by the principle that the country was facing a "total onslaught".

Lugaju is expected to postpone the matter when Botha appears on Friday so he can come to grips with the 1 000-page-long charge sheet.

After the surge of public and media interest in the pending trial, it was reported that the authorities intended hiring the town hall to accommodate the hundreds of interested parties.

However, acting Chief Magistrate Ms Erna Grobler said yesterday that the idea had been shelved because it was impractical.

None of George's seven courts can accommodate more than 60 people.

(252) CT. 30/1/98
Court overtime crisis eased

OWN CORRESPONDENT

PRETORIA The overtime crisis in South Africa's courts has been eased with an announcement by Justice Minister Mr Dullah Omar that his department has allocated R5 million to the overtime budget.

In a statement yesterday, Omar said overtime would be paid to state advocates, prosecutors, interpreters and other court staff for the rest of the financial year, starting on February 1.

The minister stressed that this amount would be for core legal staff only and that management staff would not be allowed to claim for overtime.

Omar said the R5m would only be adequate if overtime payment was limited to court staff and if the maximum amount that could be claimed was fixed. He added that the department would also strengthen control mechanisms to ensure that there was no abuse.

"As no further money is available for overtime payment, I trust that it will be possible to come to an agreement on how best to utilise the R5m available during the period February 1998 to March 1998," he said.

Omar admitted that management, including the director-general, claimed for overtime work, saying he had told management at a meeting this week that he was against their claiming for overtime.

"If as professionals they consider it to be their duty to spend extra time to complete their work, this will be appreciated. I will not compel anyone to work overtime, but I do expect managers to set an example for the rest of the department. Management accepted the decision," Omar said.

He added that he had investigated overtime claims and admitted that excessive claims had been submitted.

The Treasury Committee has also given the department the go-ahead to advertise new posts.

WATERS 922 LS VISIONS' 1000

Look now who's wagging a finger

Sowetan Reporter

THIS is Mr Victor Lugaju (49), the magistrate who will preside over former president Mr PW Botha's hearing in George in the Western Cape on Friday

Botha (82) is expected to appear before Lugaju in the George Regional Court following his refusal to appear before the Truth and Reconciliation Commission (TRC) to answer questions relating to his involvement in the state security council during his presidency

Botha instead elected to give the TRC a 1 700-page submission of written answers to the commission's questions to him

If convicted, Botha could face a two-year prison sentence

Asked by reporters how he would handle Botha's case, Lugaju, who is also president of the Western Cape Regional

Court, said "We dispense justice to all persons in the same way. We do not differentiate."

He added that there was nothing special about the case.

But hordes of local and foreign journalists are expected to descend on the town on Friday to record one of the ironies of South African history - a former white head of state appearing before a black magistrate, something that was unthinkable only a few years ago.

African National Congress supporters are expected to stage a demonstration in protest against Botha's refusal to appear before the TRC, which he has accused of trying to "get at" the Afrikaners.

Botha's supporters are also reported to be planning a demonstration.

Security is expected to be very tight.



Victor Lugaju ... ironically showing off PW Botha's trademark.

Sowetan 21/1/98

Justice Department seeks cash to fill overtime pay gap

BY CATHY POWERS

The Justice Department is angling for an extra R15-million from the treasury committee in a bid to offset the crisis over the scrapping of overtime payments, a Justice Department spokesman said yesterday

Justice Minister Dullah Omar suspended overtime pay from January 14 until March 31. Last week, prosecutors around the country embarked on a

work-to-rule in protest

However, the Justice Department's deputy director-general, Vusi Pikoli, said a meeting with the treasury committee scheduled for yesterday had been postponed to next week, leaving the question of overtime pay in the balance

Justice Department funds ran dry after it paid out R42,5-million in claims this financial year, a third more than the overtime budget of R28-million

At a meeting yesterday, Omar and attorneys-general from around the country discussed the crisis and delays in the filling of posts.

According to Justice Department spokesman Paul Setsetse, the attorneys-general wanted to become more involved in appointments and expressed concern at the rate that vacancies were being filled. He said it took an average of three months to fill a post

STW 21/1/98

(252)

Justice department, (252) prosecutors to meet

Taryn Lamberti

BD 21/1/98

PROSECUTORS, state attorneys and their trade unions will meet justice department officials in Pretoria today to discuss possible arbitration of the dispute over the suspension of overtime last week.

Prosecutors and state advocates started a "go slow" last week after Justice Minister Dullah Omar said he would suspend overtime pay until the end of the 1997/98 fiscal year due to budget constraints.

Cases were falling further behind yesterday at the Johannesburg Magistrate's Court as prosecutors used court time to prepare their cases in the fifth day of the go-slow.

Most courts began business after 11am and the majority of cases had been postponed as defence advocates and witnesses were not prepared to wait, a prosecutor said.

"Accused persons are simply staying in custody longer waiting for their cases to be finalised."

A case against a rape suspect who had been in custody since his arrest in May 1996 had been postponed as a result of the go-slow.

A theft suspect who had been in custody since November 1996, and whose trial was due to be finalised this week, was also told to return to court at a later date.

National Union of Prosecutors of SA (Nupsa) representative Joe Strauss said unions representing those affected by the overtime cuts would meet representatives of the justice department this morning to discuss possible arbitration.

However, Sapa reports that Omar said only regional courts had been significantly affected by state advocates and prosecutors' refusal to work overtime.

"The disruption has been minimal so far, except in regional courts," Omar said many black as well as white prosecutors were still working after hours to keep up with their workload.

Nupsa president Eduard van der Spuy disputed Omar's observations.

"I am not aware of prosecutors working overtime, and I cannot agree that the functioning of courts has not been significantly disrupted," Van der Spuy said.

Doctors set to declare dispute over overtime

BD 21/1/98

Pearl Sebolao

THE Hospital Personnel Trade Union of SA (Hospersa) is set to declare a dispute with the Gauteng health department tomorrow over the overtime policy for doctors, due to be implemented on March 1.

Hospersa spokesman Manfred Rothballer said yesterday that Hospersa, which represents about 800 doctors in Gauteng, would ask the province's bargaining council to postpone implementation of the policy until it had been discussed further.

Rothballer said the policy had been developed by the department without consultation with unions or employee organisations. It contained serious flaws that needed to be renegotiated.

"The department, however, has not indicated any willingness to renegotiate the policy, as they believe it is a national policy on which there has been sufficient consultation, but this is

not true," Rothballer said.

He said the new overtime policy required doctors to work a 16-hour overtime shift a week, in addition to the normal 40-hour week, to qualify for the commuted overtime remuneration.

Doctors would be required also to work overtime at different hospitals, if the hospital at which they were employed did not require overtime.

Hospersa was concerned that this would cause administrative difficulties, as the department had not stated the criteria which would be used to determine how the doctors would be chosen for work at different hospitals.

It would place an additional burden on doctors, who now had to travel extra distances to reach hospitals in outlying areas.

Rothballer said no industrial action was planned for the near future and that patient care at hospitals would not be affected by the dispute with the department.

Botha's case could 'drag on for years'

CAPE TOWN — Legal sources say the court case against former state president PW Botha, who has refused to appear before the truth commission, could drag on for years.

Lawyers raised the possibility that his legal team could drag out proceedings by pointing to the refusal by some judges last year to appear before the commission to testify about the legal system under apartheid.

His team could also hand in medical certificates and appeal to the high court, the Appeal Court and the Con-

stitutional Court, sources said.

Botha is to appear in the George Regional Court on Friday on a charge that he disobeyed a subpoena from the commission to appear before it.

Another source said there was a chance the prosecution against Botha would not be completed by the time the commission's life expired in June.

Cape Town Regional Court president Victor Lugaju, who will preside in Friday's hearing, has indicated he will postpone the case to give himself time to study the court documents. — Sapa.

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Courts defend firm bail policy

3 000 wait in Pollsmoor

ASHLEY SMITH
STAFF REPORTER

(259)

Cape Town courts have hit back at accusations by Pollsmoor Prison authorities that bail is set too high for most of the 3 000 awaiting-trial prisoners in the admission centre.

Faiek Davids, senior prosecutor at Wynberg Magistrate's Court, said the "community's mood" dictated that people suspected of committing serious crimes should not be granted bail easily.

Police spokeswoman Ciska Swanepoel agreed, adding "The community should be asked their opinion as crimes are being perpetrated against them

"The police make certain recommendations in evidence to the court, but the court comes to its own decision on whether bail is granted or not

"The court also decides the amount."

Mr Davids said court policy on bail for serious crimes would remain "very firm" and if there was no merit in granting bail, the courts would oppose it

But he agreed with the assessment by top prison authorities that overcrowding of jails was a major cause of the increase in prison escapes.

Mr Davids said the community expected the courts to keep allegedly dangerous criminals out of circulation while they were awaiting trial for violent crimes.

Mike Green, supervisor of internal security at Pollsmoor, said last week the prison's admission centre, designed to take only 1 650 prisoners, was "hopelessly over-populated and understaffed"

There were 3 300 people in the centre, 300 of them waiting to be transferred to other prisons

"The main complaint is prisoners aren't getting bail or it is set so high

that it's out of reach of many of them who have no income," he said

Mr Davids said the courts' policy was to oppose bail for people who were alleged to have committed violent crimes, but bail for "less serious crimes" was up to the courts' discretion

But if an awaiting trial prisoner told the court he could afford only R50 for bail "the court cannot be bound by that" and could set a higher amount

Mr Green said courts in greater Cape Town had left the prisons in the lurch over the festive season by processing only 25 to 50 awaiting-trial prisoners a day, compared with the normal 300

The prisoners, many of them on a hunger strike because they were crammed 60 to a cell and reportedly covered in rashes caused by lice, were being held in "inhumane conditions", he said

In November, between 60 and 80 awaiting-trial prisoners being held in Pollsmoor had their bail reviewed and only 15% had it decreased

Mr Davids said Cape Attorney-General Frank Kahn, the police, correctional services and the justice system started meeting regularly at the end of last year to discuss the "productivity levels" of Cape Town's courts.

Plans to extend court hours and work closely with correctional services to ensure prisoners were brought to court as early in the morning as possible were positive steps, he said

He rejected Mr Green's comments blaming the courts for not processing awaiting-trial prisoners fast enough over the festive season

Mr Davids said that often witnesses, defence attorneys and even the accused were unable to attend proceedings, which effectively meant postponing cases

Kriel presses on with death penalty vote

(257)
ARG 21/1/98

ANC issues challenge

GLYNIS UNDERHILL
SPECIAL WRITER

Western Cape Premier Hernus Kriel is pressing ahead with his controversial plans to hold a referendum on the death penalty in the province.

Mr Kriel was hoping to hold the referendum in the first half of the year but no date has yet been set, said his spokesman, Chris Koole

Mr Koole said the cost implications would be studied by Mr Kriel "There are ways of cutting costs on this, even if it means getting sponsorship," he said

Mr Kriel is taking legal advice on his referendum plans. The results of the poll would be placed "on the doorstep" of the Government, he said

The premier's office had considered taking a vote on the death penalty, calling on municipalities and councils to assist, but this has now been discarded in favour of a referendum.

Hundreds of thousands of signatures have already been collected by individuals in support of the death penalty.

Mr Koole said the feedback from National Party delegates around the

country was that the Western Cape should not "go it alone"

"They are saying we should try and make it a countrywide referendum but only President Mandela can call a national referendum," he said.

Cameron Dugmore, ANC head of information in the Western Cape, said plans for the referendum would meet fierce opposition

"The Constitutional Court has ruled that the death penalty is unconstitutional. It is strange that the National Party, for opportunistic reasons, continues to raise this issue. We challenge them to instead direct the resources of the province to deal with deal with crime."

The NP had up until now failed to deal with gangsterism, murder and violent crime, primarily as a result of its failure to allocate resources on an even basis throughout the province, he said.

"It will be interesting to see whether the Democratic Party, which is part of the National Party cabinet, will support the premier in his attempts to force local government to conduct a referendum. We challenge the DP to resign if Mr Kriel proceeds," said Mr Dugmore.

CASE COULD DRAG ON FOR YEARS

Everyone in court for PW's trial to be frisked

CT 21/1/98

(2/1/98)

GEORGE: Former state president P W Botha's trial for refusing to testify before the Truth and Reconciliation Commission is one of the most high-profile events to have been staged here.

G EORGE police will deploy all available staff to ensure that a potentially volatile situation is kept under control on Friday when former state president Mr P W Botha begins his trial for snubbing the Truth and Reconciliation Commission.

"We will be prepared for any scenario," police spokesman Captain André du Plessis said yesterday. The police would not be heavy-handed, but the case was extremely sensitive.

Botha's trial is one of the most high-profile events to have been staged in the southern Cape town.

George's acting chief magistrate, Ms Erna Grobler, said everyone entering the Magistrate's Court building would be searched.

Grobler said she had granted permission for about 200 ANC members to demonstrate near the building.

Acting town clerk Mr André Smit said no other applications had been received, although Botha's supporters apparently had similar plans.

ANC regional secretary Mr Ismael Lavangee warned that it would lead to conflict if right-wing groups "interfere with us".

"Our people have orders to be tolerant, but we expect strong steps from the police against illegal action by

other groups," Lavangee said.

The ANC and its Cosatu and SACP allies were prepared for any confrontation with Botha's supporters.

Du Plessis said the police would decide how to deal with unplanned protests, and try to accommodate them if they were peaceful.

Botha, 82, ignored three subpoenas from the Truth Commission to appear in person at a hearing to answer questions about the now-defunct State Security Council, which he headed.

Legal sources say the case could drag on for years.

One tactic his legal team could use to drag out proceedings would be to point to the refusal by some judges last year to appear before the TRC.

Botha's team could also hand in medical certificates and appeal to the High Court, Appeal Court and the Constitutional Court.

The TRC had been driven into a corner because certain judges had refused last year to testify before it about the legal system under apartheid.

Botha's legal team could ask that these judges recuse themselves should they be appointed to handle his case on appeal, the source said.

"There are tens of thousands of ways to let criminal cases drag on," one lawyer said.

Another said the prosecution of Botha might not be completed by the time the TRC's life expired in June.

The magistrate who is to preside at Friday's hearing, Mr Victor Lugaju, Regional Court president in Cape Town, has said he will postpone the case to give himself time to study the court documents.

Botha's attorney, Mr Ernst Penzhorn, said he and his team would not oppose this.

In a letter in last Friday's Cape Times, prominent neuropsychiatrist Professor Frances Ames wrote that it was no secret, and therefore no breach of medical confidentiality, that Botha "sustained fairly severe brain damage due to a stroke some years ago" (She was referring to a stroke in 1989 which led to his losing the presidency to Mr F W de Klerk.)

If he was finally driven into a legal corner, he could extricate himself easily by claiming defective memory on medical grounds, she wrote. "I, as a neuropsychiatrist, would feel fully justified in furnishing him with a certificate to that effect after detailed neurological and neuropsychological assessment of his cerebral state."

Ames wrote that the TRC's "expensive, time- and energy-consuming vendetta against Mr P W Botha is ludicrous" — Sapa

BID TO OVERCOME COURTS CRISIS

Omar wants R15m for overtime payments

CT 21/1/98

(252)

JOHANNESBURG: A work-to-rule protest by prosecutors has forced the Department of Justice to try to find money to make overtime payments.

THE Justice Department is to ask the treasury committee for an extra R15 million to offset the crisis over the scrapping of overtime payments, a Justice Department spokesperson said yesterday.

Justice Minister Mr Dullah Omar suspended overtime pay from January 14 until March 31, sparking a work-to-rule protest by prosecutors around the country.

Justice Department deputy director-general Mr Vusi Pikoli said a meeting with the treasury committee scheduled for yesterday had been postponed to next week, leaving the question of overtime pay in the balance.

The department ran out of money after paying out R42,5m in overtime claims this financial year — a third more than the overtime

budget of R28m, he said.

The department had increased its overtime budget from R5m in April last year to cope with average claims from legal personnel of R4m a month.

Pikoli said the department was asking for around R15m to cover overtime for the remaining three months of this financial year.

"We will put forward a very strong case because we can't afford to have the court rolls in the state they are in," he said.

Pikoli said projections for overtime pay in next year's budget would not necessarily be more than this year. "We are beginning to fill vacancies which will ease the work load and we believe that with proper management we will not have to increase the overtime budget."

The department had created no new posts over the past three years, he said, and discussions with the treasury committee next week would include the creation of at least 625 new posts.

Justice Department spokesperson Mr Paul Setsetse said the attorneys-general wanted to become more involved in appointments and had expressed concern at the slow rate at which vacancies were being filled.

● Only Regional Courts have been significantly affected by the refusal of state advocates and prosecutors to work overtime, Omar said yesterday.

He said many prosecutors had continued to work after hours.

However, National Union of Prosecutors of South Africa president Mr Eduard van der Spuy said: "I am not aware of prosecutors working overtime, and I cannot agree that the functioning of courts has not been significantly disrupted." — Own Correspondent, Sapa

Bill on courts gets nod

252
South African 22/1/98

THE Cabinet yesterday approved the Magistrates' Courts (Assessors) Amendment Bill, which proposes the compulsory use of lay assessors in court cases involving certain serious crimes.

Justice Minister Dullah Omar said last week lay assessors could in future assist magistrates to make decisions on verdicts, bail and sentencing, and might even overrule magistrates in such matters.

The Bill proposes that the use of two lay assessors be made compulsory in cases involving a crime committed against a person.

"They will have an equal say with the magistrate on all matters," Omar said at the time, adding this would go a long way to addressing the public's concerns about the justice system.

Details reserved

The office of President Nelson Mandela said yesterday the Cabinet also approved the Post Office Additional Appropriation Bill, the Department of Communications Rationalisation Bill, the Medical, Dental and Supplementary Health Service Professions Amendment Bill, and the National Water Bill.

A spokesman for Water Affairs Minister Kader Asmal would not divulge details of the National Water Bill, saying the Minister would brief the media next week.

Also approved at yesterday's meeting was South Africa's accession to an international convention on standards of training, certification and watchkeeping for fishing personnel, and the signing of a protocol with Mozambique on a joint venture for the creation of a "one-stop" border control post at Isibombo/Ressano Garcia.

The Cabinet was briefed on the White Paper on the Road Accident Fund, the Green Paper for a Minerals and Mining Policy for South Africa, the National Forestry Action Programme, and the White Paper on Affirmative Action for the Public Service. — Sapa

Kriel moving ahead with death penalty referendum

(252)
22/11/98

Cape Town - Western Cape premier Hervis Kriel is moving ahead with his controversial plan to hold a referendum on the death penalty in the province.

Kriel was hoping to hold the referendum in the first half of this year but no date has yet been set, said his spokesman, Chris Koole, who added the cost implications would be studied.

"There are ways and means of cutting costs on this, even if it means getting sponsorship."

Legal advice is being taken by Kriel on his referendum plan. The results of the poll would reflect the feelings of the people and would be placed "on the doorstep" of the central government, he said.

Hundreds of thousands of signatures have already been collected by individuals to show support for the death penalty.

Koole said the feedback around the country was that the Western Cape should not "go it alone but try and make it a country-wide referendum - but only President Mandela can call for one."

Cameron Dugmore, ANC head of information in the Western Cape, said plans for a referendum on the death penalty would meet fierce opposition.

"The Constitutional Court has ruled that the death penalty is unconstitutional. It is strange that the National Party, for opportunistic reasons, continues to raise this issue. We challenge them to instead direct the resources of the province to deal with crime."

The NP had until now been unable to deal with gangsterism, murder and violent crime, primarily as a result of its failure to allocate resources on an even basis throughout the province.

"The death penalty is a red herring. It will be interesting to see whether the Democratic Party which is now part of the National Party cabinet will support the premier in his attempts to force local government to conduct a referendum. We challenge the NP to resign if Mr Kriel proceeds with a referendum," said Dugmore.

He added that the province did not have the money or human resources, or the time to conduct what was widely regarded as a NP political ploy.

"They should not hide behind their failure to deal with crime among the province's many problems. Cape Town has become the murder capital of South Africa."

Cabinet approval for plan to appoint lay assessors

By **CECILIA RUSSELL**

Draft legislation which will compel magistrates to use lay assessors in criminal trials was approved by the Cabinet, which met for the first time this year in Pretoria yesterday.

The Magistrates Courts Assessors Bill, which has drawn strong opposition from some legal experts who claim it will undermine the independence of the courts, will be enacted during the upcoming session of Parliament which starts on February 6.

"The bill aims to increase community participation in the administration of justice, making justice accessible to the people by appointing respected people from the community to the courts," said Paul Setsetse, a spokesman for Justice Minister Dullah Omar.

The bill makes it compulsory for two assessors to sit in on trials where bodily harm has been inflicted or where the offence is such that the accused would be imprisoned without the option of a fine.

Setsetse said the bill pro-

vided for the assessors to have a say in sentences handed down by the court.

At the same time it also provides for a code of conduct, training, and for payment of the lay assessors.

Because assessors would be rendering a community service, the payment is expected to be nominal.

Other bills approved at the Cabinet meeting were the Post Office Additional Appropriation Bill, the Department of Communications Rationalisation Bill, the National Water Bill;

and the Medical, Dental and Supplementary Health Service Professions Amendment Bill.

The Cabinet was also briefed on several reports, including the White Paper on the Road Accident Fund, the Green Paper for a Minerals and Mining Policy for South Africa, the National Forestry Action Programme, and the White Paper on Affirmative Action for the Public Service.

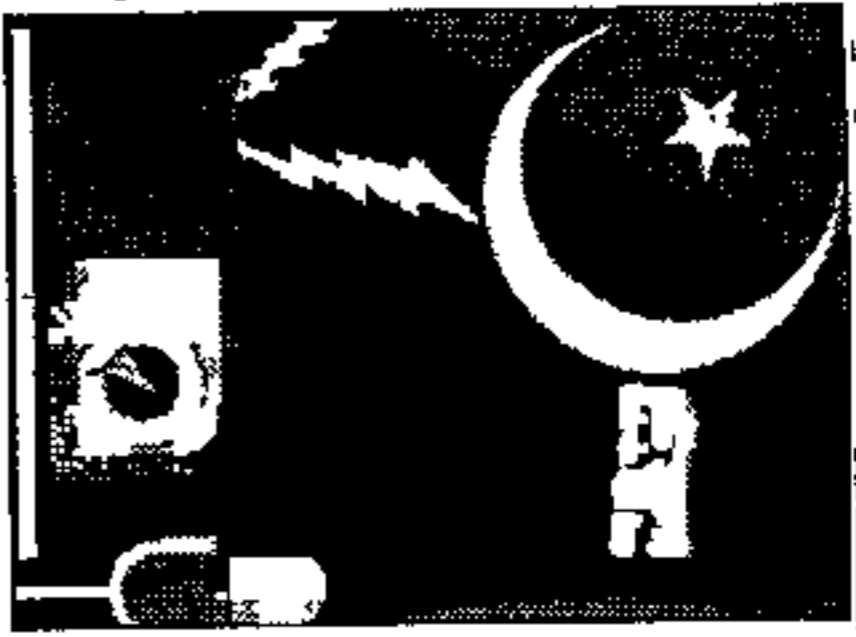
It was also informed about certain projects established in the Department of Public Service and Administration

Star 22/1/98

(252)

Balance is the key in radio

Freedom of religion should not to be sacrificed for gender equality, writes Moulana Hayder



The recent dispute between the Independent Broadcasting Authority (IBA) and Radio Islam has raised a set of complex issues. When Radio Islam lodged its first application for a temporary community broadcasting licence just over a year ago, little did it realise that it would soon get embroiled in an epic David-and-Goliath struggle on these vexed questions with two independent, statutory structures, namely the IBA and the Commission on Gender Equality.

In searching for an amicable resolution to the dispute and the underlying issues, the IBA will have to balance delicately and sensitively constitutional values such as gender equality, religious freedom and freedom of expression. Alongside this it will have to develop a more nuanced understanding of the concept of "community" in community radio stations, particularly in relation to the diverse religious communities in our country.

As the IBA asserts its independence and authority, it will have to dispel the looming image of itself as an authoritarian agency bent on shutting down young community radio stations in

breach of licences, which ironically it is meant to empower and to develop.

IBA councillors will have to address this, and any other dispute, in a non- emotive and dispassionate manner, setting aside their personal values and social preferences and keeping in clear focus the provisions of the law and our constitution. At the same time, they will have to deal with the needs of religious and cultural groups with sensitivity and understanding.

Two issues stand at the heart of the IBA-Radio Islam deadlock. The first is the elusive concept of "community" in any community broadcasting service.

The IBA simply defines "community" as a "geographically founded community or any group of persons or sector of the public having a specific, ascertainable common interest". Such a legal definition is necessarily broad. It is amorphous and nebulous, allowing for multiple interpretations of what constitutes a community with a common interest.

What exactly constitutes a community? In the ordinary sense of the word it will mean men and women in a defined

geographical area. But it could also mean a melting pot of other stakeholders such as the disabled, the youth, the clergy, the workers, the traditional leaders, the witches etc. It could mean rival organisations in civil society actively competing for support and influence. And in the religious sector it could mean multiple sects propagating differing interpretations of the same faith.

The legal definition, therefore, fails to take into account that with a community in a particular area there are likely to be conflicting and competing interests, contradictory and opposing forces who do not necessarily share the same social, political, cultural and religious values. And yet, a community broadcasting service targeting a sector with specific interests in an area is expected to serve as many, if not all, of the diverse and at times contradictory and conflicting interests in the community.

Religious communities are faced with hotly contested interpretations of faith and social reality. Different theological interpretations and religious schisms run deep in Islam. To assume that such historical diversity can comfortably be serviced via a single community-based

radio station is being idealistic.

Radio Islam argues that it serves the Muslim community in Lenasia on the basis of its interpretation of Islam which does not favour women coming on the airwaves. In advocating such a position it is technically in breach of its licence conditions. It has come up against opposition from individuals and groups within the Muslim community itself as well as the Commission on Gender Equality, all arguing that the radio station discriminates against women.

In its responses to an apparent non-compliance of Radio Islam's licence conditions, the IBA ruled that the radio station had to bring women on to its programmes within three days for three hours daily. This decisive prescription has created an impression in the Muslim community that the IBA is attempting to regulate religious practice rather than strictly the airwaves. This has become the source of intense anger among Muslims who support the policy of Radio Islam. They believe that the IBA is insensitive to the religious beliefs and practices of Muslims.

It might be opportune for the IBA to establish with certainty the nature of communities that community radio stations are meant to serve.

This brings me to the second core issue, which is the gender policy of Radio Islam. The station acknowledges that our constitution places strong emphasis on gender equality. But it also guarantees freedom of religion and belief and the right to free expression. Radio Islam has noted the gender commission and certain Muslim organisations are passionately in favour of gender equality. Radio Islam is equally passionate about

safeguarding a set of religious values. So, should the right to gender equality be exercised simply at the expense of the rights to free religious belief and free expression? Radio Islam's plea is that the IBA should not discount the latter in favour of the former.

If compelled, Radio Islam will re-examine its gender policy. But it will not be bulldozed into submission by any force that wishes to impose unilaterally western civilisation norms and values on Muslims in South Africa.

■ *Moulana Hayder Ali Dhorat is the station manager of Radio Islam.*

Battle
Ali Dhorat

No arbitration in justice dispute

Taryn Lambert

The Justice Department's refusal to arbitrate the dispute between the union and the state advocates is a setback for the meeting between the union and the state advocates.

The meeting was held in a... the possibility of arbitration... to accept... the meeting... a... the Justice Department...

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BD 22/1/98

Museum to close doors for Botha trial

BD 22/1/98

(252)

GEORGE — When former president PW Botha begins his trial for defying a truth commission subpoena on Friday, staff at the George museum will have the day off.

The museum, a few hundred meters from the George Regional Court, where the case is to be heard, has an entire wing filled with Botha's memorabilia, and police feel it would be better to keep it closed for the day in case there is any trouble.

The Botha exhibit is already a minor source of controversy in the town. Several members of the

community are in favour of scaling it down and rewriting some of the material to present a more balanced perspective of his rule.

Botha served as MP for George for nine consecutive terms from 1948 to 1984, when he took over as prime minister from BJ Vorster.

In 1991 Botha, then president, allocated state funds to build the new wing at the museum with the proviso that it be used to display his mementos. A 20-year loan agreement for several hundred items was drawn up when the wing opened in 1992.

The collection consists of such

treasures as a hand-carved ivory AK-47 presented to Botha by Angolan rebel leader Jonas Savimbi, and mounted animal heads — the spoils of the former president's hunting trips.

One poster, headed the "The Black Community" declares. "First as prime minister and then as state president, Mr Botha was closely involved in the government's initiatives to improve relations with black communities, to raise their standard of living and to accommodate them politically."

A cabinet is devoted to SA's relations with Taiwan — Sapa

Not even blindness could stop new judge getting to the top

Taryn Lambert

ADVOCATE Zakera Yacoub, the newly appointed Constitutional Court judge who will take his place with 10 other judges on the bench next month, is looking forward to the challenge of deciding the socioeconomic cases which he expects will come before the court in the next few years.

Yacoub became blind when he was 16 months old as a result of meningitis, but his disability has not stood in his way and he does not expect it to in the future.

Since the opening of the Constitutional Court almost three years ago, cases which have come before the court have largely centred on whether the provisions of an act or law were valid, Yacoub said in an interview.

He said it was difficult to predict how cases before the Constitutional Court would present themselves in future, but he believed "the more important cases which will come up in the next few years will concern socioeconomic issues". Few such issues had come before the court, the notable exception being that of Thagraj Soobramoney, a 41-year-old Durban man with chronic kidney failure who could not afford the renal dialysis treatment he needed to stay alive.

Soobramoney's application for constitutionally guaranteed treatment relied on clauses enshrining right to life and to emergency

medical treatment in the constitution. The court found, however, that Soobramoney was not entitled to free treatment at state hospitals because of the shortage of resources. He died the day after judgment was handed down.

Yacoub said the Soobramoney case had been "extremely difficult" for humanitarian reasons. However, he stressed that the court "had not begun to set out all the guidelines in terms of how socioeconomic cases are going to be dealt with in future".

Yacoub expects the issue of abortion to come before the court at some stage.

"The argument will be clear: those against abortion will argue that any law which allows abortion impinges upon the right to life, dignity and the right of people to be born. Others will argue that it is important to measure the life that is to be taken away against the life of the person who is already in the country, taking into account freedom of choice and that person's right to dignity.

"It will be a difficult decision to make. I hope that the case will be evaluated in the context of socioeconomic rights, because socioeconomic rights, I think, are going to be the most important we are going to deal with," he said.

Yacoub believes such cases should be seen in the context of people having sufficient control over their lives.

"Abortion is not only a matter

of religion. It concerns itself with the way in which socioeconomic rights are concretised in this country," he said.

While he was studying law at the Durban-Westville University in the early 1970s, Yacoub realised there was a "chasm" between justice and the law, which prompted him to become a political activist. After being admitted as an advocate in 1973 he conducted a number of political defences free.

He was involved in the Delmas treason trial between 1985 and 1988 and in 1984 represented the "Durban Six" who demonstrated against apartheid at the British consulate in Durban. Yacoub also conducted a number of commercial cases.

He took silk in 1991. Yacoub played a role in the formation of the United Democratic Front and was an underground member of the African National Congress (ANC).

After SA's democratic transition, Yacoub said, he was no longer "a thoroughly active member of the ANC".

He said: "The uniqueness which I have to add to the Constitutional Court is a combination of my experience, which arises out of my disability, my involvement in the struggle for democracy and my involvement in commercial and legal practice as a blind person. I do not think you will find another such person in this country."



Newly appointed Constitutional Court Judge Zakera Yacoub

Picture ROBERT BOTHA

5 000 late claims (252)

face TRC

ARG 22/1/98

Johannesburg - The human rights violations committee of the Truth and Reconciliation Commission said yesterday it had received more than 20 000 statements concerning violations of human rights over the past two years.

TRC spokesman John Allen said about 5 000 last-minute applications for reparations from victims in KwaZulu Natal had been received shortly before the December 15 cut-off date last year, after a softening of the IFP's stance towards the TRC.

"Only those declared victims in terms of the Act governing the TRC will be eligible for the reparations which have been suggested to the Government by the reparation and rehabilitation committee of the TRC,"

Mr Allen said - Sapa

Cabinet backs assessors bill

PRETORIA The cabinet yesterday approved the Magistrates' Courts (Assessors) Amendment Bill, which proposes the compulsory use of lay assessors in court cases involving certain serious crimes

Justice Minister Dullah Omar said last week that lay assessors could help magistrates make decisions on verdicts, bail and sentencing, and even overrule magistrates in such matters

The bill proposes that the use of two lay assessors be made compulsory in cases involving a crime committed against a person

"They will have an equal say with the magistrates on all matters," Omar said at the time, adding this would go a long way to addressing the public's

concerns about the justice system

The office of President Nelson Mandela said in a statement the cabinet also had approved the Post Office Additional Appropriation Bill, the Department of Communications Rationalisation Bill, the Medical, Dental and Supplementary Health Service Professions Amendment Bill, and the National Water Bill

A spokesperson for Water Affairs Minister Mr Kader Asmal would not divulge details of the National Water Bill, saying the minister would brief the media next week

Also approved at yesterday's meeting was South Africa's accession to an international convention on standards of training, certification and watch-

keeping for fishing personnel, and the signing of a protocol with Mozambique on a joint venture for the creation of a "one-stop" border control post at Lebombo/Ressano Garcia

The cabinet was briefed on the white paper on the Road Accident Fund, the green paper on a Minerals and Mining Policy for South Africa, the National Forestry Action Programme, and the white paper on Affirmative Action for the Public Service

The statement said an extended cabinet meeting, attended by ministers and their deputies, would be held in Pretoria today and tomorrow to identify a broad framework for the government's plan of action for the year ahead — Sapa

CT 22/11/98

(252)

Arbitration recourse off

STATE advocates and prosecutors refusing to work overtime on Wednesday abandoned their plans to seek arbitration over a dispute with the Justice Department.

"In a dramatic turnabout, the department is at last prepared to negotiate and an unnecessary, time-consuming and costly exercise in arbitration was prevented," they said in a joint statement released in Pretoria yesterday.

A solution to the overtime issue had, however, not been reached, the National Union of Prosecutors and the Society of State Advocates said.

It seemed likely that prosecutors and advocates would persist in their refusal to work overtime without pay, they said.

Staff bodies declared a dispute with the department last week after it suspended overtime payments. The five unions demanded that the issue be negotiated, while the department maintained it was not a matter for consultation.

The groups met again in the departmental bargaining chamber on Wednesday and the deadlock in negotiations was broken.

Deputy director-general of justice Mr. Vusi Pikoli stressed that despite progress, the department was still not in a position to negotiate the suspension of overtime pay. Justice Minister Mr Dullah Omai has asked the Finance Department for an extra R15 million for overtime payments.

23/11/88
Pretoria

(257)

Court overtime in the dock

Question mark over management and control of payments

PRETORIA CORRESPONDENT

Senior managers in the Department of Justice, who do not set foot in court, have been cashing in on huge overtime claims, banking hundreds of thousands of rands for long hours

One senior manager in the department managed to claim, and be paid, more money for overtime work in two months than a senior state advocate with 12 years' experience was paid in a year

State advocates and prosecutors, however, were restricted to a limited amount of claimable overtime

An investigation has uncovered allegations that at least three Justice Department managers, whose names are

known to this newspaper, claimed more than R300 000 in overtime from the department in a year. One apparently claimed R160 000 for two months' overtime.

It is understood that this manager, a chief director in the department, put in claims amounting to 423 hours of overtime in a month. For this he was paid slightly more than R80 000.

At a rough estimate this chief director would have to start overtime work every day for two months at 4pm and finish at 2am the next day, and be ready to start work again at the usual time.

A chief director's annual salary, as determined by the Department of Public Service and Administration,

ranges from R197 466 to R218 775.

Another of the senior officials allegedly claimed R19 859 overtime in May last year.

However, most of the state advocates and prosecutors in the country claim on average 20 to 30 hours overtime a month.

The highest claims put in by Pretoria state advocates amounted to slightly more than R3 000 a month. The average salary for a senior state advocate is R150 798 a year.

These disclosures emerged amid a crisis in the legal profession over the continued payment of overtime for state legal representatives, and now places a question mark over the management and control of overtime payments in the department.

(252)
A request to the acting director-general of the Justice Department, Vusi Pikoli, to explain the allocation and management of overtime was at first met with a refusal to discuss the matter.

While Pikoli was prepared to divulge that there were currently 51 deputy chief directors, chief directors and directors in the department, he said the information relating to overtime payments was being compiled for purposes of discussion with employee organisations.

He did not deem it appropriate to talk about the matter to the media at this stage.

However, when pressed, he later said he was aware of fraudulent claims. These were being investigated.

Star 23/1/98

PW to have another day in court

OWN CORRESPONDENT
AND SAWA
George

Former state president PW Botha arrived outside the regional court in George today amid mounting concern over potential clashes between right-wing and ANC demonstrators outside the court.

Police had thrown a massive razor wire cordon around the court and there was a strong police presence in the town, with roadblocks set up on streets entering the city centre.

Botha appeared briefly in court. His case was postponed until February 23, when he will be asked to plead. The case will then go to trial on April 14.

Botha's trial is for ignoring a subpoena to appear at a Truth and Reconciliation Commission hearing on December 19. He was subpoenaed to answer questions about his role in the decisions of the State Security Council.

The ANC began setting up banners and posters this morning in preparation for an anti-Botha protest. Some of them read "Slave Biko died in detention", "PW guilty", "PW Botha re-imposed Lawankamp forced re-arrests" and "PW no reconciliation without the truth". The ANC expected as many as 4 000 people to attend the protest.

A group called the Moral Supporters of PW Botha was granted permission last night to also stage a public gathering near the courtroom.

The group represented Afrikaners, said organiser Shortle van Vuuren, a Freedom Front councillor in George.

By 8am a fair contingent of toyi-toying ANC supporters were singing and dancing on the traffic island and a handful of right-wingers, mostly older men, were waiting in their cars.

"The court case has gone beyond politics it has become an Artabaner case," Van Vuuren said, claiming that the TRC had treated Botha unfairly. It was expected that the

ANC and right-wing supporters kept apart by police as Magnus Malan and Constand Viljoen fly in

(292) Saw 25/1/98

BENNY GOOL



Home, but not alone... PW Botha flies with his wife and children to his wilderness home before his court appearance today.

Hearing would be postponed largely because of the security questions from the ANC security council minutes and transcripts of TRC evidence by other former National Party ministers including former portfolio minister Adriaan Vlok and former foreign affairs minister Pik Botha.

Police appeared in the local newspaper, The George Herald, to residents of the town to show the international community they were "disciplined citizens who would act decently and responsibly".

Several high profile political figures, among them former defence minister Magnus Malan and Freedom Front leader General Constand Viljoen, arrived in George yesterday for the hearing.

ANC Western Cape caucus leader Brian Resool was expected to attend with an entourage of other Western Cape members and Phillip Dexter of the national executive committee.

The ANC had been given permission to occupy a traffic island in York Street directly opposite the court while the right-wing supporters had been told to congregate outside the George Museum in Courtney Street.

Press were restricted to a smaller area where three armoured vehicles were parked and police had a "neutral zone" in which to operate between the two groups.

There was tension over the late approval granted to the right-wingers, with ANC organisers expressing concern for the safety of their members. Razor wire was laid down the middle of Courtney Street to separate the two protesting groups.

At a press conference last night, regional organiser Lantval Rend said the ANC could not allow a situation where its supporters would be hurt. "We are concerned about the safety of our own people."

He added that Botha had become "an embarrassment to the Southern Cape" which wanted to create a non-racial society.

Van Vuuren said Botha's supporters had called from as far afield as Mossel Bay and Oudshoorn to express their solidarity. He said they hoped to converse with Botha after he emerged from court.

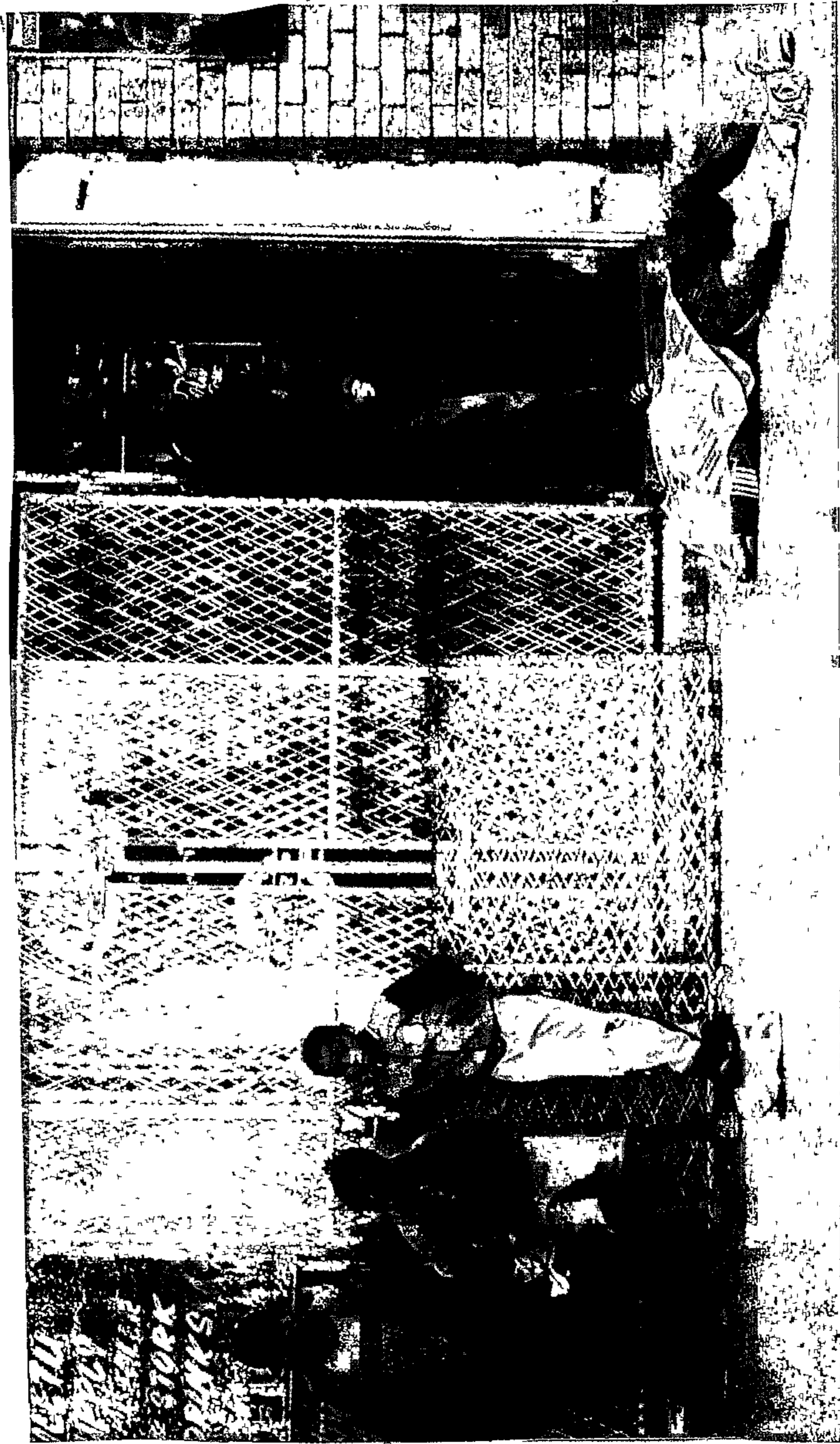
Reaction from black residents of George was the opposite, with many people expressing their desire to see him answer publicly for his role in the apartheid regime.

Botha was seen in a driver on his balcony at his wilderness home, Die Anker with his dog in the late afternoon yesterday. He was being guarded by members of the VTP protection unit from Pretoria.

A trust fund has been established by General Viljoen to help Botha pay his legal fees, with an account number supplied in Pretoria into which supporters were invited to pledge their contributions.

George has been bracing itself for what has been described as "the biggest media spectacle" the town has seen.

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SILENCE OF THE LAMBS: A murder victim, outside a Guguletu shop, awaits a mortuary van. Had he been a Constantia resident, would his death have evoked a more vigorous response?

'WHITE MURDERS GIVEN PRIORITY'

Communities 'not all equal before the law'

CT 19/1/98

(252)

THE POLICE and Prisons Civil Rights Union and community leaders rue the neglect of black murders. Special Assignments Team **ROGER FRIEDMAN** and **BENNY GOOL** report.

THE marshalling of police resources and the publicity given to the New Year killings, allegedly by a gang of car hijackers, were a measure of the tardiness in transforming the police and media in the Western Cape, community leaders and police unionists believe.

All murders are equally reprehensible, they say.

The murders of Ms Marelise Holmes of Johannesburg, her American friend, Mr Edward Keim, and Mr Mike Knott and his wife, Maggie, of Somerset West, prompted the rapid formation of a well-resourced police unit, headlines in the media and speedy arrests.

Yet the stream of black murders fails to elicit any such response.

According to the Police and Prisons Civil Rights Union (Popcru), nine people were murdered in Khayelitsha in the third week of December, 16 people in the fourth week, and seven in the week after. There were 15 murders in Mitchells Plain in the last two weeks of December, 12 in Langa and eight in Belhar.

"Do you hear anything about these cases?" said Popcru (Western Cape) deputy chairperson Mr Elliot Sinyangana.

Popcru laid the blame for the perceived "skewed prioritisation" of cases at the door of police management which, it said, comprised 27 members, 24 of them white.

Representivity remained a "dream", it said.

Sinyangana accused police management of continuing to marginalise black members while vigorously promoting whites.

Mr Irvin Kinnes, speaking for the Western Cape Anti-Crime Forum, said the forum found the recent hijackings and double murders "disturbing" and commended Violent Crime Unit head Leonard Knipe and the police for the arrests.

"In the same breath we have to question why there has not been the same action around the murders on the Cape Flats," he said.

"A message ought to be sent to all criminals that they cannot kill people with impunity, whether they are tourists or township residents. If our society is to be made safer, then every life, regardless of colour, must be seen as precious."

Kinnes said the media, in choosing to "sensationalise certain cases and ignore others", helped to legitimise the police's giving priority to some cases.

"In August, our community was being terrorised by young boys, particularly in New Crossroads, and people were dying nearly every day," Mr Mcebisi Tshandu, chairperson of the Nyanga community police forum, said.

"It was only when the community stood up that these boys were arrested. There were no special units. The crime rate has come

down and the community is proud of that. The reality is that when a case touches white people the police create special units or task teams. The media are also to blame. These latest killings have been seen to be more important than anything else."

Mr Mcebisi Skwatsha, an ANC leader in Guguletu, agreed with Kinnes that the police should be congratulated for apparently solving the double murders.

"We cannot condone the killing of any person and the police did well. They proved their abilities, which we knew they had," Skwatsha said.

"It is pathetic, in our view, that they treat communities differently. Do they ever solve the killing of black people with the same vigour?"

"Take the killing last year of KTC's Sanco chairperson Mr Milton Mbewana. We played a prominent role in taking someone with information to Knipe. He and (the national commissioner's spokesperson, Director Craig) Kotze promised arrests within two weeks. That was in September and we are now in another year."

"If a prominent white community leader was murdered, how long would the case remain unsolved?"

"The media consciously or unconsciously play into the hands of the police."

Speaking from police headquarters in Pretoria, the head of the national equity component, Assistant Commissioner Zelda Holtzmann, acknowledged that race relations in the service were not yet what they might be.

"Equity is an internal issue (and) also an external issue in as equitable service delivery is concerned," Holtzmann said.

"It is disturbing and saddening that perceptions of inequality still widely exist."

Director Mpho Mmutle, coordinator of the newly established police Black Management Forum, said he agreed with Popcru that inequalities in service delivery were due largely to the racial composition of police management.

"Its priority in the past was rendering an effective level of service to the white community — and that, unfortunately, remains the priority today."

'Police must find dad's killers'

TOTO Mbewana, 18, has a message for the police: "You should do your work. Whoever killed my father should be arrested."

"I am bitter that from the time he was killed you have not had the decency to come to the family to explain progress in the case."

Mr Milton Mbewana, 62, was one of the best-known and loved community leaders in KTC. He was shot dead by an unknown gunman on September 18. His body was found in NY5, Guguletu.

Mbewana's community involvement could be traced back to the early 1970s when he became one of the first people to defy the authorities and build a shack in Crossroads. At the time of his murder, he led the KTC branch of the SA National Civics Organisation.

"We are still demanding the police solve this crime," KTC councillor Mr Gladstone Ntamo said.

The day after the funeral, repre-



FAMILY IN DARK: Toto Mbewana

sentatives of a furniture store arrived to repossess Mbewana's television set, wall unit, lounge suite and other possessions. His three children were unemployed, broke and powerless to stop them.

All they have left is the memory of their father. And the hope that those who took his life will be brought to book.

Race 'plays no part'

WESTERN Cape police chief Commissioner Leon Wessels believes the service's efforts at transformation are not gaining the recognition they deserve.

"Race, colour and/or creed play absolutely no part in any investigation conducted by the SA Police Service," Wessels said.

"Any investigation conducted otherwise would be not only unacceptable but also unconstitutional."

"I feel it is disgraceful that the brutal slaying of citizens is being used to bring the efforts of the SAPS in the Western Cape into disrepute. I feel these attempts are nothing less than a form of racism."

"Representivity is possibly a dream," Wessels acknowledged. The Western Cape was working "aggressively" to attain it.

Mr Elliot Sinyangana of Popcru would do better to encourage union members in Khayelitsha to

deliver quality service, than to speak to the media, Wessels said. "When reprimanded for inefficient service and/or absenteeism, they conveniently cry racism."

Station commissioners, in consultation with station managers and community police forums, dictated priorities, Wessels said.

Last year, 70% of cases investigated involved groups other than whites.

"A number of specialised units have been created to (tackle) crime on the Cape Flats, for example, the child protection unit in Mitchells Plain, the visible and gang investigation units, the taxi task team, the illegal firearms tracing unit as well as the Pagad investigation team."

"One of the largest task teams assembled (investigated) the Station Strangler. There are countless other cases where speedy arrests have taken place."

PW faces jail term as Kahn prosecutes

David Greybe

CAPE TOWN — Former state president PW Botha would be prosecuted for failing to obey a subpoena to appear before the truth commission, Western Cape attorney-general Frank Kahn said yesterday.

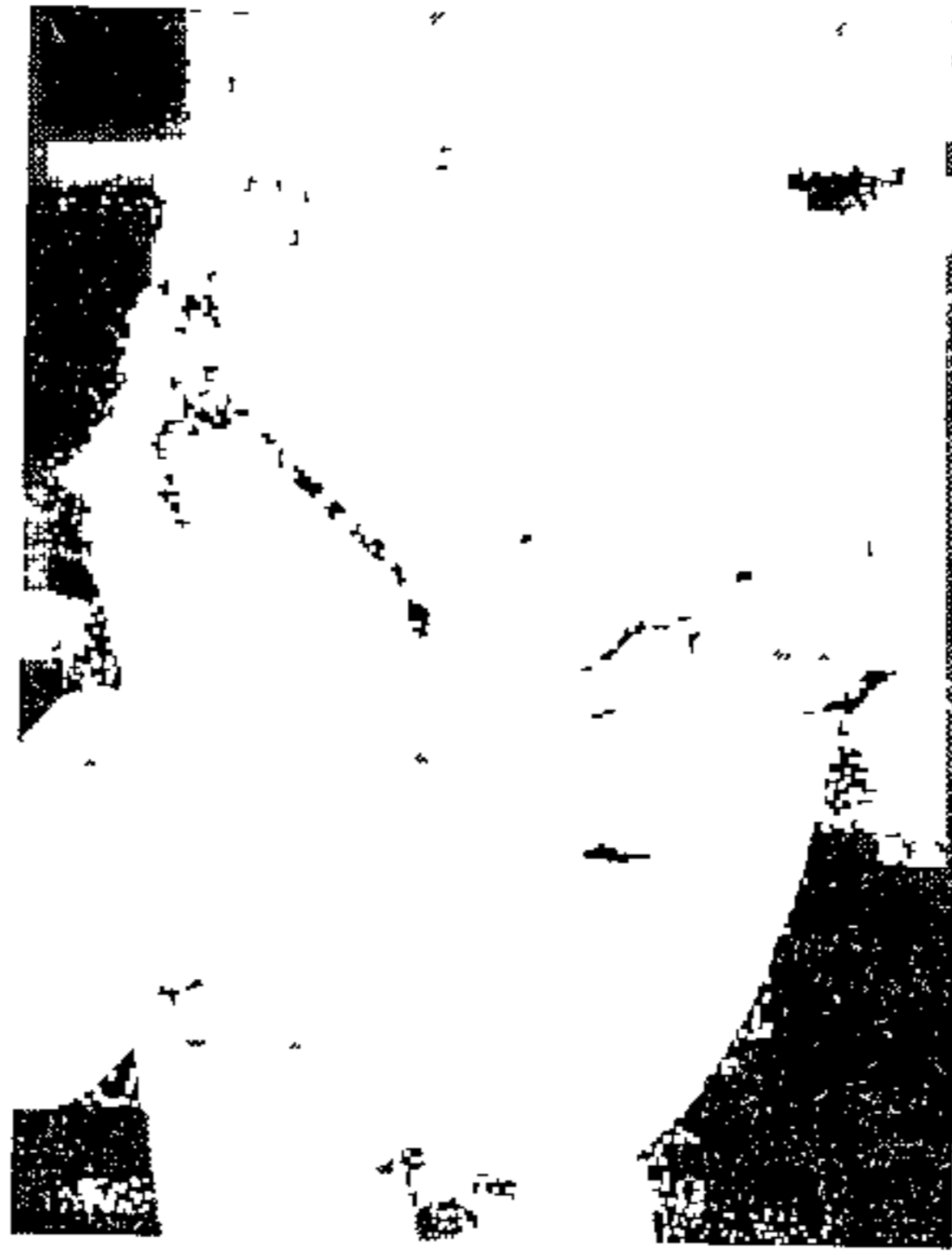
Later truth commission deputy chairman Alex Boraine issued an "11th-hour appeal" to Botha to appear before the commission.

Boraine said if Botha agreed to appear, the commission would ask Kahn to withdraw the charges. "The commission has no animosity towards the former state president," Boraine told a news conference. It was not the commission's intention to jail Botha, but if he refused to co-operate "the law must take its course. No one is above the law — neither the lowest nor the highest in the land."

Botha's lawyer, Ernst Penzhorn, said: "We do not intend to make any statements at this stage."

Reuter reports a summons to appear on January 23 was served on Botha yesterday. "He accepted the summons," police director Hans Meiring said.

Kahn said Botha's personal circum-



KAHN

stances had weighed heavily on him throughout consideration of the matter. "I do not like putting 82-year-olds in jail," he said. "No attorney-general in any civilised country lightly decides to prosecute a person of Botha's age,

especially given his medical history."

Botha had suffered medical complications following a hip replacement operation last year, Kahn said. He also suffered from high blood pressure.

Kahn said he had decided a prosecution was warranted in law and in the public interest after consideration of all circumstances, including the "voluminous documents" on which the commission wished to question Botha. At no time had he consulted anyone outside his office. His decision was purely a legal one.

He said it had been agreed after discussion with Botha's lawyers that he would be charged in the George regional court. Botha's lawyers had given him an undertaking that he would appear in court.

Botha faced two years in prison or a R20 000 fine or both if convicted on the main charge of failing to appear before the commission, he said. The alternative charge was hindering the commission in the execution of its duties.

Asked whether Botha's lawyers would not be able to extend the court proceedings beyond the commission's life span, Boraine said he was "hope-

Continued on Page 2

Botha (252)

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Continued from Page 1

ful" the court case would be completed before the commission wrapped up its work at the end of July.

He said the commission believed Botha's experience as defence minister, prime minister and state president, and the information he could give the commission, was vital for it to fulfil its mandate and "to reach an accurate portrayal of what took place". The quality of the commission's final report would suffer if Botha did not testify.

Kahn said it had been decided not to press charges against Botha in connection with reported aspersions on the standing of the truth commission.

Botha was subpoenaed to appear before the commission on December 19 but failed to appear after repeatedly saying he would not testify. He called the commission a circus and a witch-hunt against apartheid leaders.

After Botha failed to appear on three occasions, commission chairman Archbishop Desmond Tutu asked that he be charged.

Earlier, Botha's lawyers delivered 1 700 pages of documents to the commission in which he denied knowledge of killings, torture or bombings carried out by security forces.

Justice Minister Dullah Omar appealed to South Africans to respect Kahn's decision to prosecute Botha.

"It is vital that we establish the rule of law in SA," he said.

"The National Party said that in terms of the Promotion of National Unity and Reconciliation Act, Kahn had no choice but to prosecute Botha. "The NP believes that the law now has to take its course and it appeals to Botha to respect the law and courts," NP spokesman Daryl Swanepoel said.

However, the NP believed the commission had acted wrongly, and should rather have accepted the NP's proposal that it work through Botha's submission before deciding to subpoena him.

The commission's action against Botha was in sharp contrast to its accommodating attitude towards African National Congress (ANC) leaders who were granted blanket amnesty in contravention of the commission's legislation, Swanepoel said.

The ANC said Kahn's decision "put to shame" those political parties which had questioned the commission's independence and integrity.

"Kahn's decision ... will send a clear message that those who show contempt for the feelings of victims of gross human rights violations, and the truth and reconciliation commission processes, will bear the consequences of their actions."

TRC's 11th-hour olive branch to PW

Testify and we'll ask Kahn to drop charges, says Boraine

(252) ARG 8/11/98

DENNIS CAVERNELLS
STAFF REPORTER

The Truth Commission has extended an olive branch to former state president P W Botha, saying it will ask Attorney-General Frank Kahn to withdraw criminal charges if he testifies.

TRC deputy chairman Alex Boraine announced the offer at a press conference after Mr Kahn ruled that a summons be served on

Mr Botha, 81, to appear in the George Regional Court for failing to testify.

"Mr Botha has been given enough opportunity to co-operate with the TRC. The commission holds no animosity towards (Mr Botha), but we believe his experiences as minister of defence, as prime minister and as state president and the information he could give us, is vital for us to fulfil our mandate."

Dr Boraine said the commission had "hoped matters would not reach this eventuality"

"Even at this 11th hour I would appeal to Mr Botha to change his mind and appear before the commission. If he does not, the law must take its course ... no one is above the law"

Dr Boraine said he would write to Mr Botha's lawyers, "indicating to them that I have made this 11th-hour appeal in the hope that he will listen to what I believe is reasonable"

Mr Kahn said, "A prosecution is warranted not only in law but also in the public interest ... I have an

undertaking from his legal advisers that he will appear"

Police director Hans Meiring said yesterday he had served the summons on Mr Botha, who had accepted it at his Wilderness home

Director Meiring said Mr Botha appeared to be in good health and offered soft drinks to him and the policeman who accompanied him.

Justice Minister Dullah Omar said Mr Kahn's decision to prosecute Mr Botha "must be respected and accepted by all"

"It is vital that we establish the rule of law in South Africa. One of the problems of the past which is still with us is that people regard themselves as above the law," said Mr Omar.

He said Mr Botha's guilt would be decided by the court, "and I am confident that the court will take into account all relevant facts, including the seriousness of the matter as well as the personal circumstances of Mr Botha, especially his age and his state of health."

Repeat row on fees threatens to disrupt new UWC term

ARG 8/11/98

CAROL CAMPBELL
SPECIAL WRITER

A repetition of the violence and student protests on the University of the Western Cape campus in 1996 could hamper the start of the new academic year. Student leaders are angry at the

university administration's threats to exclude those who do not pay their fees, the issue that brought the campus to a standstill two years ago

Yesterday student president Ncediso Goodenough Kodwa said students owed the university R60-million, but this figure could have been reduced to about

R45-million, as fees were paid to the university during December.

"Students are willing to pay fees but there are some who are so poor they cannot pay anything," Mr Kodwa said. "If they are academically deserving they should be financially assisted"

Students have called a meeting on

January 20 to discuss the problem. "We have suggested a Masakhane campaign on campus which would be used to raise money," Mr Kodwa said

Students have also met UWC chancellor Desmond Tutu, who said he was willing to lend his name to help them raise money.

Student Representative Council secretary general Wanga Sigila said the university could create a "debt collection department" which could verify students' financial status and assess if they deserved aid

The university administration is closed and was unavailable for comment yesterday.

'OBSTRUCTIVE' ATTITUDE A PROBLEM

State may pull plug on PW's lawyers

(252)

CT 8/1/98

THE STATE has been paying P W Botha's lawyers more than anyone else's to represent their client in his dealings with the TRC. But this may soon end, writes **ROGER FRIEDMAN**.

THE river of taxpayers' money that has sustained former state president Mr P W Botha's legal team in his dealings with the Truth and Reconciliation Commission seems set to run dry

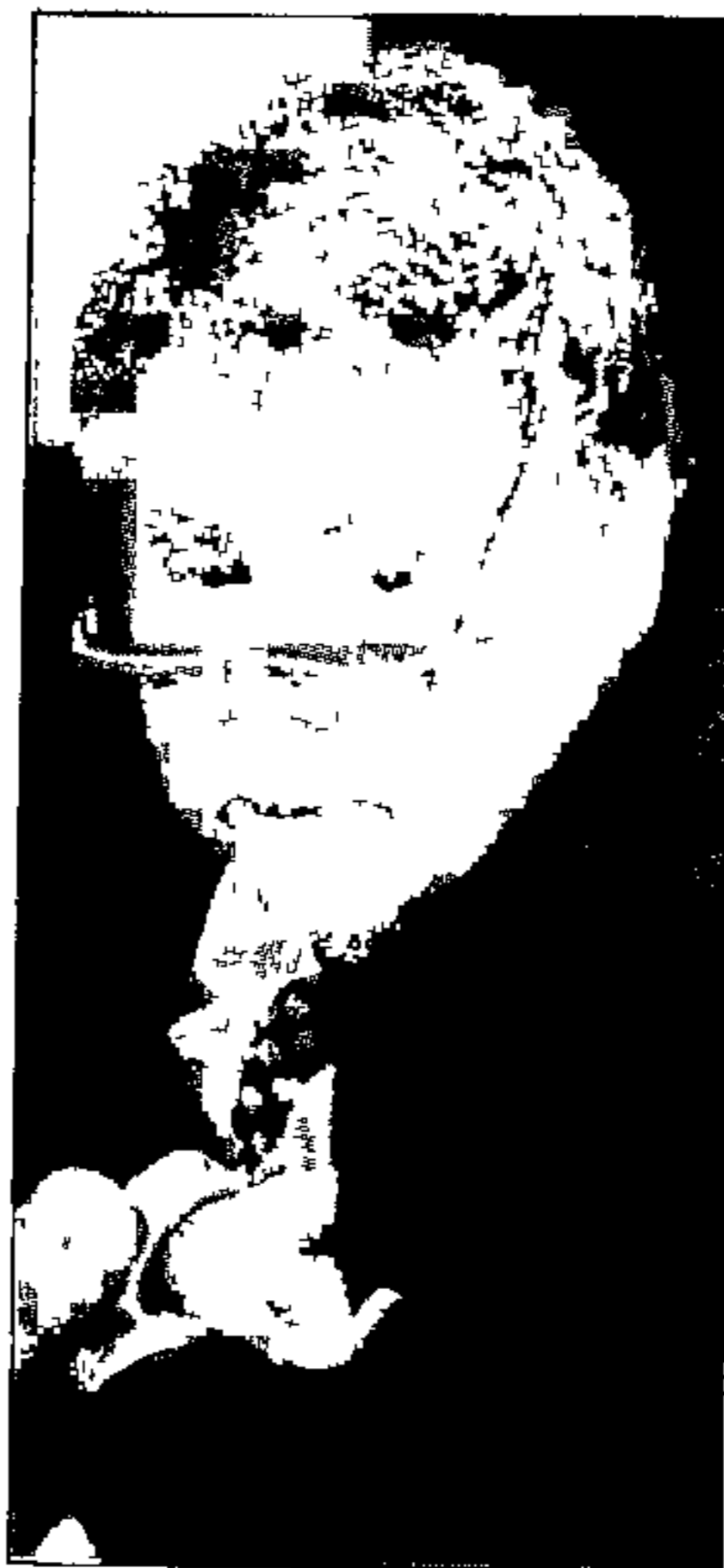
As Western Cape attorney-general Mr Frank Kahn announced yesterday that the former apartheid leader would be prosecuted for his failure to appear before the commission last month, Mr Ben Minnaar of the State Attorney's Office in Pretoria said the payment of Botha's abnormally high legal fees would be reconsidered because of his perceived "obstructive" attitude towards the commission

In a deviation from the guidelines on tariffs contained in the State Attorney's Act, members of Botha's team — which comprises a senior counsel advocate, junior counsel and attorney — are being paid inflated fees, after apparently refusing to represent Botha for less

Minnaar said the higher fees were approved by the Office of the State President to encourage Botha to co-operate with the commission. By August last year the State Attorney's Office had already paid out more than R520 000 in fees to the team for services rendered, and was expecting a further hefty account

The lawyers initially asked for the higher fees to help Botha answer a set of relatively complicated questions posed by the commission in writing

The commission evidently judged the calibre of the answers to be inadequate, and subpoenaed Botha to appear publicly before it



WILL PROSECUTE: Frank Kahn

at a special inquiry into the workings of his war chamber, the State Security Council

Botha initially ducked the subpoena on health grounds, then the commission botched a second subpoena by providing a date but failing to specify the time for Botha to appear. Finally, late last year, the commission got the subpoena right, but Botha ignored it

Botha says the commission is a "circus" that is trying to conduct a witchhunt against him specifically and Afrikaners generally. He claims to have co-operated with the commission to the best of his ability,

and that commission chairperson Archbishop Desmond Tutu gave him the assurance that if he answered the written questions he would not be required to appear at a public hearing

Tutu denied having given such an assurance, and asked Kahn to prosecute Botha under the Promotion of National Unity and Reconciliation Act. Kahn announced yesterday that Botha would be summonsed to appear in the George Regional Court on January 23

The erstwhile strongman looks likely to have to dig into his own pockets to fund his defence

"An exception was made in the case of Mr Botha because his legal representatives were not at the time willing to act for him on the basis of the approved set of tariffs," Minnaar told the Cape Times

"So either Mr Botha did not co-operate with the commission or we paid for his legal team to draw the answers (to the commission's questions). It was decided that Mr Botha's co-operation with the commission was important enough to warrant the higher fees

"The legal representation for Mr Botha was intended to assist him to assist the commission. Now that he has not appeared before the commission as ordered the legal representation will be reconsidered — and quite possibly terminated," he said

"The Office of the State President approved the legal representation, and the State Attorney will in the near future advise the Office of the State President as to whether the legal representation should continue," Minnaar said

Spokesperson for the commission Ms Christelle Terreblanche said Botha's attorney contacted the commission early last year saying the responses to the questions posed to Botha required extensive



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research, and requesting extra funds.

"We wrote a letter to the State Attorney We did not request the extra funds or OK them. The money does not come out of the commission's budget," she said.

Kahn said yesterday "Through-out the consideration of this matter, the personal circumstances of Mr Botha weighed heavily on me. He is almost 82 years of age and not an attorney-general in any civilized country lightly decides to prosecute a person of this age, especially given Mr Botha's medical history."

"I have, however, considered all the circumstances, including the voluminous documents upon which the (commission) wished to question him at a public hearing,

and have decided that a prosecution is warranted in law and in the public interest," Kahn said.

Deputy chairperson of the commission Dr Alex Boraine said yesterday Botha had been given every opportunity to co-operate with the commission, which had hoped that the "current impasse" would not lead to a confrontation in court.

"Even at this eleventh hour I would appeal to Mr Botha to change his mind and agree to appear before the commission," Boraine said.

The last laugh, however, could still be Botha's. Even if he is eventually convicted of a crime, should his lawyers drag the case out until after July, when the commission

winds up its work, the country could for ever be deprived of the fountain of knowledge the commission seems so certain he has.

The State Attorney's Act provides for legal representation for employees and former employees of the state, including Botha. People appearing before the commission who have not been in the state's employ qualify for legal representation under the Promotion of National Unity and Reconciliation Act, the legislation governing the commission.

The commission appointed the Legal Aid Board as its agent for this, with legal representatives entitled to a maximum of R750 a day. Certain legal representatives acting for former African National

Congress and Pan Africanist Congress operatives in their amnesty applications have complained that the fees are too low to enable them to represent their clients satisfactorily.

Meanwhile, Justice Minister Mr Dullah Omar said nobody was above the law, which must be applied equally to everyone, no matter how high or low, reports Justice Writer RONALD MORRIS.

"The attorney-general has examined all the information before him and has taken a decision to prosecute."

"There is no witchhunt against PW or anyone else. The TRC has not been on a witchhunt and has made a great contribution to reconciliation and truth. Where a per-

son, no matter who he is, refuses to attend (hearings), the law must take its course.

"If we say someone is above the law then there is no rule of law and we will set a terrible precedent for the country."

"I am conscious of Mr Botha's age and his state of health, even though the apartheid regime under him displayed gross inhumanity towards millions of South Africans."

Omar said the present government would not meet inhumanity with inhumanity.

"The court and the prosecutor will take the necessary factors into account so as to ensure that justice is done without resorting to inhuman matters," Omar said.

PW Botha 'set for clash with truth body'

FORMER president PW Botha says he will use his court appearance later this month to take on the Truth and Reconciliation Commission, sources close to him were quoted as saying yesterday.

Beeld quoted informed sources as saying Botha would not heed an 11th-hour plea by the commission for him to testify and escape the courts. Botha, told another Afrikaans newspaper last year he would not appear in person before the commission, which he called a "circus". His refusal to testify at the commission and his defiance of subpoenas to do so has led to his prosecution for contempt, which was announced on Wednesday.

Beeld said Botha was expected to submit that there was a silent agreement that he give written answers on a series of questions to the commission, but that it subpoenaed him before the document of more than 700 pages with the answers was studied.

Meanwhile in Cape Town, the Pan Africanist Congress (PAC) yesterday said it would reconsider its participation in truth commission proceedings if the commission failed to act evenhandedly.

The PAC was responding to reports that Botha's lawyers had been paid generous amounts of taxpayers' money for making written submissions to the commission.

The high amounts paid by the state to lawyers representing Botha and the African National Congress's lawyers in the Chris Hani amnesty application were completely unacceptable, PAC MP Patricia de Lille said.

She said before the amnesty hearings last year into the murder of American student Amy Biehl and the St James Church massacre that the PAC had raised its objections with the commission over payment of legal representatives who were appearing on behalf of Azanian Peoples' Liberation

Army (Apla) cadres.

"The legal representatives (acting for) Apla cadres continue to be paid in terms of the commission's legal tariffs," she said. These were R250 an hour for consultations up to a maximum of R1 500 and R750 a day.

De Lille said these sums were far below fees paid to lawyers representing former cabinet ministers and state presidents. "Thus for example, the senior counsel for PW Botha is paid R600 per hour and R6 000 per day and the junior counsel is paid R400 per hour and R4 500 per day."

She said lawyers representing Hamri's family in opposing his killers' amnesty applications were also paid the higher tariff.

"We are told that this is done in terms of ... of the State Attorney Act on the ground of 'public interest.' The PAC was shocked, she said, that all other amnesty hearings did not appear to be in the public interest. — Reuter, Sapa.



Kolosus Holdings Limited

(Registration number 78/00181/06)
(“Kolosus”)

Proposed Kolosus rights offer and notice of amendment of last day to register

Proposed rights offer

Proposed rights offer and notice of amendment of last day to register in accordance with the provisions of the Companies Act, 1973, and the Companies (Prospectus) Regulations, 1980, and the Companies (Takeover) Regulations, 1980, and the Companies (Amendment) Act, 1997.

Silence may smother justice for Lubowski

Christof Malatsky (252) (PPO) (BD) 9/11/98

WINDHOEK — The Namibian government's efforts to get those guilty of killing Swapo activist Anton Lubowski in September 1989 to book may be fruitless, as there is no guarantee that the Civil Co-operation Bureau (CCB) operatives or Irish mercenary Donald Acheson, detained shortly after the incident, will testify at the hearing.

With fewer than four weeks left to the opening of the second inquest, the prosecutor-general's office has yet to get a clear-cut idea of who will be there.

The operatives implicated during the first inquest in the death of Lubowski are Ferdi Barnard, Chappie Marais, Slang van Zyl, Calla Botha, Joe Verster, Staal Burger, Wouter Basson and Johan Niemoller.

However, none of them has so far indicated willingness to go to Namibia, despite being requested by Windhoek.

"We are doing our utmost to get everyone, including the CCB. We are hoping for a breakthrough but first need to make sure that people are safe to come and testify. It's not that easy," said Nico Horn, special investigator for the inquest.

The case has been scheduled to start on February 9 and is expected to last for only four days, according to the court roll.

Horn said some of the CCB operatives were currently "entangled" in the murder case of David Webster — a renowned educationalist killed under similar circumstances to Lubowski earlier in 1989 in SA.

"One or two people have already just disappeared. It's a fairly touchy issue," Horn

said, in an apparent referral to Ferdi Barnard and Calla Botha who, according to reports, are to go on trial for the May 1 1989 killing of Webster. Chappie Marais is believed to have vanished and is untraceable.

It is alleged that Barnard admitted that he had twice failed to kill Lubowski and that his CCB colleagues then flew to Namibia to finish Lubowski off four months after the killing of Webster.

At the end of the first inquest in 1995, Judge Harold Levy, now retired, found that Acheson, hired by the CCB, had assassinated Lubowski.

Levy found at the same time that former CCB managing director Joe Verster and seven other CCB operatives were "prima facie accomplices" in the murder.

In January 1996, prosecutor-general

Hans Heyman announced he had decided to reopen the inquest into Lubowski's murder as there was insufficient evidence to warrant the institution of a prosecution against any of the persons implicated by Levy.

Heyman said at the time that he would propose to the judicial officer, Judge Nic Hannah, that certain witnesses be recalled and other witnesses in SA subpoenaed.

Senior advocate Kobus Miller, the prosecutor, set aside four days for the hearing which will no doubt take longer than that.

Neither Miller nor Heyman were available for comment, but Louis du Pisani, an advocate from the prosecutor-general's office, said he was under the impression a full month had been set aside for the inquest.

Horn was reluctant to comment, but said Miller knew why he had set aside four days.



Silence may smother justice for Lubowski

Christof Malatsky

(252) PPOG BD 9/1/98

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PAC threatens to boycott TRC

CT 9/1/98

(252)

ROGER FRIEDMAN

THE Pan Africanist Congress has threatened to stop co-operating with the Truth and Reconciliation Commission unless lawyers representing its members are paid similar fees to those of apartheid-era policemen, soldiers, cabinet ministers and state presidents

Reacting to the revelation in the Cape Times yesterday that former state president Mr P W Botha's dealings with the commission had already cost taxpayers R520 000 by last August, Ms Patricia de Lille, MP, said "The discriminatory and unequal treatment by the TRC in respect of legal fees is self-evident"

Responding to De Lille's statement, commissioner Mr Wynand Malan said the state has its own rules and regulations about former and present employees

De Lille said that before the amnesty hearings about the Amy

Biehl and St James Church incidents, and again late last year, the PAC had raised objections with the commission about the "discriminatory" payment of fees to its legal representatives

The representations had been ignored, she said, and lawyers appearing for Apla cadres continued to be paid at the official Promotion of National Unity and Reconciliation Act-specified rate of R250 an hour for consultations, to a maximum of R1 500, and R750 a day spent before the commission

"This must be contrasted with the legal fees paid to lawyers representing the former security forces, ex-cabinet ministers and ex-state presidents

"These lawyers are paid in terms of the State Attorney Act of 1957. Thus, for example, the

senior counsel for P W Botha is paid R600 an hour for consultations, with no limitations, and R6 000 a day. And the junior counsel for Botha is paid R400 an hour and R4 500 a day (spent before the commission)"

De Lille said the issue was "further compounded" by the fact that the African National Congress' legal representatives in the Chris Hanu amnesty application were also paid in accordance with the State Attorney Act, although Hanu, the assassinated South African Communist Party leader, was never employed by the state

"We are told this was done in terms of Section 3 (3) of the State Attorney Act on the grounds of 'public interest'. The PAC is amazed and shocked that all other amnesty hearings do not appear

to be in the public interest

"Surely the TRC is meant to function in the public interest to promote reconciliation.

"Why are the revelations of the 'truth' in the Chris Hanu amnesty hearings and the expected revelations by P W Botha more important for truth and reconciliation than the revelations of what happened to Amy Biehl, or in the St James Church incident, or any other incident where ordinary South Africans were killed during the struggle for liberation?"

"The PAC demands the TRC acts fairly to all who appear before it. Failure to do so will immediately lead to the PAC's reconsidering its continued participation in TRC proceedings," De Lille said

● The National Party is not to proceed with its court action to contest the amnesty granted to 37 ANC members. The TRC is reconsidering the amnesty



TRC not responsible for PW's legal fees, says Boraine

(292)

Cape Town - Truth and Reconciliation Commission deputy chairman Dr Alex Boraine said yesterday the commission was not responsible for the legal fees of former state president P W Botha.

Boraine was responding to criticism from the Pan Africanist Congress following reports that Botha's lawyers had been paid generous amounts of taxpayers' money to assist him in making written submissions to the commission.

"I want to place on record that the TRC is not responsible for the legal fees of former state president P W Botha," as is alleged by the PAC," Boraine said in a statement.

Payments that had been made to Botha's legal team fell under the State's Attorney's Act of 1957, whereby the State was contractually bound to assist employees and former employees of the state according to tariffs adapted from time to time.

Boraine stressed that the TRC was not involved in this process, the matter rested with the Department of Justice.

Boraine said the Promotion of National Unity and Reconciliation Act stipulated that the commission was obliged "to assist people who are not financially capable of appointing a legal representative, and if it is in the opinion that the person be represented by a legal representative."

Earlier it was reported that the state had paid more than R520 000 to Botha's legal team. However, the State Attorney's Office announced on Wednesday that funding for Botha's legal team might be cut because of his obstructive attitude towards the commission.

The PAC on Thursday said the high amounts paid by the state to lawyers representing Botha and ANC lawyers in the Chris Hani amnesty application were unacceptable.

PAC MP Patricia de Lille said legal representatives appearing on behalf of Azanian People's Liberation Army cadres during the amnesty hearings into the murder of Amy Biehl and the St James Church massacre were paid fees way below those were to lawyers representing former cabinet ministers and former state presidents. Sapa

SAW 10/11/98

Legal slowdown showdown

Star 10/11/98 (252)

By JACKIE CAMERON

Angry prosecutors and state advocates have warned of a nationwide go-slow in the courts if the Department of Justice carries out a threat to cancel overtime pay for the rest of the financial year.

Prosecutors and state advocates received an urgent request to attend a meeting to discuss the "possible, but immediate, suspension of overtime payments between now and the end of the financial year" because the Department of Justice had a "grave" financial problem.

National Union of Prosecutors of South Africa spokesman Frikkie Botha said "We ended our last go-

slow because the minister of justice agreed to pay us overtime. Now they are threatening to break that promise.

"The Government is bargaining on the fact that we have been declared an essential service, which means we cannot embark on legal mass action.

"But they are making a big mistake. There will be spontaneous nationwide unrest in the courts as soon as they announce that overtime will not be paid."

Botha said courts would only start operating around lunchtime if prosecutors refused to prepare for trials outside of office hours.

Advocate Retia Meintjes of the

Union of State Advocates, said "Justice delayed is justice denied. There will be problems along the line. There are always people who try to prevent prosecution because they have been waiting for so long.

"We are very upset. It's not fair to expect people to work this hard. They say they have got a funding problem but they have saved money by not filling posts."

More than 39 state advocates had resigned in the past year, and more than 20 other vacant posts had not yet been filled, she said.

Prosecutors will meet with Department of Justice officials on Tuesday to discuss the matter.

Black pensioners were given younger ages to reduce payouts, welfare bodies tell TRC

By CHARLENE SMITH

Social workers under apartheid adopted the guise of spies and fraudsters and removed the children of anti-apartheid opponents from their parents, welfare agencies have submitted in documents to the Truth and Reconciliation Commission.

Apartheid divisions also placed huge financial burdens on the welfare sector from which it has still not recovered.

In the documents, which have not yet been made public, agencies stated:

■ Welfare structures were involved in state-security and "total-onslaught" practices
■ The Fundraising Act, which allowed search and seizure, encouraged secretiveness among anti-apartheid fundraisers, which led to abuses of the sort in the case of Freddie Steenkamp, who worked with Allan Boesak.

■ A policy document of 1988 that dominated welfare policy for two decades excluded black welfare workers from major structures in order to prevent them from going into white areas.
■ The secret Afrikaner organisation, the Broederbond, took an active role in managing welfare policy (which started in the previous century) from Afrikaner women's organisations and solidified around the "poor white problem" of the 1950s.

■ Abuses in pension payouts included extensive and well-documented fraud, as well as a time in the 1980s when incorrect identity documents were issued to give black pensioners a younger age and so exclude them from payouts.
■ Social workers wrote reports that saw children removed from political-activist parents. After the bombing of Khotsko House, police falsely accused and

detained Shirley Gunn, who was still breastfeeding her son. The child was removed from his mother on the basis of a social worker's report. In fact, it was the police who bombed Khotsko House, various security policemen have since told the TRC.

■ Differing racial classification norms meant that children from the same family could be classified differently, and in the case of those in need of care, separated and placed in racially different children's homes.
■ Welfare organisations were threatened with the withdrawal of subsidies if they gave help outside of their racial classification. Durban's Phoenix Child and Welfare Society (classification, Indian) was a rare example of a private organisation, which continued to give aid to mixed-race couples, black abandoned babies, and mothers of mixed-race babies, despite threats from

the House of Delegates.
The Greater Johannesburg Welfare, Social Service and Development Forum notes in its submission that "abandoned babies of uncertain race were left in institutions for lengthy periods, to the serious detriment of their emotional development, until there was some assurance about their eventual (racial) appearance."

■ In some parts of the country, the "wrong" race classification could automatically lead to children being expelled from the area - such as black children in the Western Cape.
Racial separation of SAs welfare services began long before

Police detained Shirley Gunn after the Khotsko House bombing and her still breastfeeding son was removed on the basis of a social worker's report. Later several policemen admitted they were behind the bombing

The SA Council for Child and Family Welfare reported in 1974 that the and Bantu child welfare work met separately for the first time in February 1967 and since then have met annually under the chairmanship of their own race.

A year after the Soweto students' uprising of 1976, the Indian division of Child and Family Welfare refused to remain under the SANCCFW umbrella unless it adopted a non-racial constitution, and the black and coloured affiliates followed suit. Only in 1992 did the council adopt a non-racial constitution.
The National Coalition for Social Services (Nacoss) says that by the 1990s "if, because very convenient to say that the most practical and economical way of dealing with (welfare) was to develop a good model for whites which could later be copied by other racial groups."
Its forerunner, the Welfare Liaison Committee, was heavily influenced by the Broederbond, which in 1983 succeeded "in having a matter removed from the agenda in connection with the building of prison-like institutions for African children, on the grounds that not all national councils were in favour of discussing it."
Although many welfare organisations have developed

nominal structures still remain top-heavy with white control. One senior official told the Saturday Star that the "affirmative action policies in place in business have been totally ignored in welfare structures."
Nacoss notes it often made representations to government, but it never raised issues such as police brutality or the detention of children together with hardened criminals. It never once lifted a finger in support of a staff member of a welfare organisation detained in terms of the Internal Security Act.
The racial division of welfare services proved costly and time-consuming, and led to "multiplicity of procedures, and a breakdown in effective welfare."
The Greater Johannesburg Welfare, Social Service and Development Forum noted that "vast amounts of energy had to

be continuously expended by private organisations in linking up with all the relevant state structures, and extreme internal incoherence resulted for those attempting to serve all groups simultaneously."
Salaries were also different - while welfare groups received up to three times more than black groups, and similar terms applied to pensions. In 1983 a black pensioner received R40 a month, compared to R122 for a white pensioner and R71 for Indians or coloureds.
Child welfare was at the bottom of the pile. No maintenance grants were afforded black single mothers, and foster care grants were paltry at R90 a month for white foster parents per child, R71 for coloured and Indian children and R24 for black children - and black foster parents often had to wait up to two years to be paid.

■ The SA Council for Child and Family Welfare reported in 1974 that the and Bantu child welfare work met separately for the first time in February 1967 and since then have met annually under the chairmanship of their own race.
A year after the Soweto students' uprising of 1976, the Indian division of Child and Family Welfare refused to remain under the SANCCFW umbrella unless it adopted a non-racial constitution, and the black and coloured affiliates followed suit. Only in 1992 did the council adopt a non-racial constitution.
The National Coalition for Social Services (Nacoss) says that by the 1990s "if, because very convenient to say that the most practical and economical way of dealing with (welfare) was to develop a good model for whites which could later be copied by other racial groups."
Its forerunner, the Welfare Liaison Committee, was heavily influenced by the Broederbond, which in 1983 succeeded "in having a matter removed from the agenda in connection with the building of prison-like institutions for African children, on the grounds that not all national councils were in favour of discussing it."
Although many welfare organisations have developed

Justice Department may end overtime pay until March

(252) APR 10/11/98

Pretoria - The Justice Department was considering putting a stop to overtime payments to all staff until the end of the current financial year, ministry spokesman Paul Setsetse said.

He said in Pretoria yesterday the matter would be discussed at a meeting of the departmental bargaining chamber on Tuesday.

"The aim of the meeting is to consult on the possible but immediate termination of overtime payments

from now to the end of March," he said.

The Society of State Advocates earlier expressed alarm at the department's intention, saying this would lead to more resignations.

Some 35 senior state advocates and deputy attorneys-general, disgruntled with their salaries, have resigned since the beginning of last year, said society chairwoman Reha Meintjies.

"In the Pretoria office, we have had four resignations in the first

nine days of this year," she said.

"I am led to believe another two people have resigned in Johannesburg and two in Cape Town over the same period."

About 54 of an available 250 state advocate and prosecutor posts were vacant. The attorney-general's offices were understaffed by about 30%.

"If one takes into account the savings on unoccupied posts, there must be available funds.

"What happened to this money?"

State advocates and prosecutors embarked on a go-slow in July 1996 to protest against their poor salaries.

During talks with Justice Minister Dullah Omar that month, Mr Omar undertook to formulate legislation improving their remuneration. This legislation had not yet been promulgated, the society said.

Mr Setsetse said the National Prosecuting Authority Bill had been approved by Cabinet and was expected to be passed by Parliament during its next session.

"This legislation will mean a better working environment and better salaries for prosecutors and advocates," he said.

"There is one ray of light," the society said. "The numerous escapes from custody and the possible promulgation of legislation intending to stop the incarceration of trial-awaiting suspects might result in a lighter workload for us."

"After all, we cannot prosecute escapees or those who cannot be traced" - Sapa

'Social workers took children away from apartheid opponents'

Welfare makes submissions to TRC

ARG 10/1/98

(252) (252)

CHARLENE SMITH

Social workers under apartheid adopted the guise of spies and fraudsters and removed the children of anti-apartheid activists from their parents, welfare agencies have submitted documents to the Truth and Reconciliation Commission

Apartheid divisions also placed huge financial burdens on the welfare sector from which it had not yet recovered

In the documents, which have not yet been made public, agencies admit

■ Welfare structures were involved in state-security and "total-onslaught" practices

■ The Fundraising Act, which allowed search and seizure, encouraged secretiveness among anti-apartheid fundraisers, which led to abuses of the likes of the case of Freddie Steenkamp, who worked with Allan Boesak

■ A policy document of 1966 which dominated welfare policy for two decades excluded black welfare workers from major structures in order to prevent them from going into white areas

■ The Afrikaner secret organisation, the Broederbond, took an active role in managing welfare policy which started in the previous century from Afrikaans women's organisations and solidified around the "poor white problem" of the 1930s

■ Abuses in pension payouts included extensive and well-documented fraud. There was a time

in the 1990s when incorrect identity documents were issued to give black pensioners a younger age and so exclude them from payouts

■ Social workers wrote reports that saw children removed from political-activist parents. After the bombing of Khotso House, police falsely accused and detained Shirley Gunn, who was still breastfeeding her son. The child was removed from his mother on the basis of a social worker's report. In fact, it was the police who bombed Khotso House, various security policemen have since told the TRC

■ Differing racial classification norms meant that children from the same family could be classified differently and, in the case of those in need of care, separated and placed in racially different children's homes

■ Welfare organisations were threatened with the withdrawal of subsidies if they gave help outside of their racial classification

Durban's Phoenix Child and Welfare Society - classification Indian - was a rare example of a principled organisation which continued to give aid to mixed-race couples, black abandoned babies, and mothers of mixed-race babies, in spite of threats from the House of Delegates

The Greater Johannesburg Welfare, Social Service and Development Forum notes in its submission that

"abandoned babies of uncertain race were left in institutions for lengthy periods, to the serious detriment of their emotional development, until there was some assurance about their eventual (racial) appearance

"In some parts of the country, the 'wrong' race classification could automatically lead to children being expelled from the area - such as black children in the Western Cape"

The SA National Council for Child and Family Welfare reported in 1974

'Affirmative action policies in business have been totally ignored in welfare'

that its committees "for Indian, coloured and Bantu child welfare work met separately for the first time in February 1967 and since then have met annually under the chair-

manship of their own race"

A year after the Soweto students' uprising of 1976, the Indian division of Child and Family Welfare refused to remain under the SANCCFW umbrella unless it adopted a non-racial constitution, and the black and coloured affiliates followed suit. Only in 1982 did the council adopt a non-racial constitution

The National Coalition for Social Services (Nacoss) says that by the 1980s "it became very convenient to say that the most practical and economical way of dealing with (welfare) was to develop a good model for whites which could later be copied by other racial groups"

Its forerunner, the Welfare Liaison Committee, was heavily influenced by the Broederbond, which in 1983 succeeded "in having a matter removed from the agenda in connection with the building of prison-like institutions for African children, on the grounds that not all national councils were in favour of discussing it". Although many welfare organisations have developed non-racial constitutions, management structures still remain top-heavy with white control

A senior official said the "affirmative action policies in place in business have been totally ignored in welfare structures"

Nacoss notes it often made representations to the government, but it "never raised issues such as police brutality or the detention of children together with hardened criminals. It never once lifted a finger in support of a staff member of a welfare organisation detained in terms of the Internal Security Act"

The racial division of welfare services proved costly and time-consuming and led to a multiplicity of procedures and a breakdown in effective welfare

The Greater Johannesburg Welfare, Social Service and Development Forum noted that "vast amounts of energy had to be continuously expended by private organisations in linking up with all the relevant state structures, and extreme internal incoherence resulted for those attempting to serve all groups simultaneously"

TRC is to review 38 amnesties

By JIMMY SEEPE

THIRTY-SEVEN senior ANC leaders, including deputy president Thabo Mbeki, who were granted amnesty by the Truth and Reconciliation Commission last year will know on Tuesday whether the commission plans to reverse their amnesties or refer the matter to court for a decision

The commission is expected to sit tomorrow and Tuesday after its December recess, to look into two legal opinions it has sought

A decision will also be taken on whether the Amnesty committee acted correctly when it granted amnesty to Trevor Tutu, the son of its chairperson, for making bomb threats at East London airport

The meeting follows Western Cape Attorney-General Frank Kahn's announcement that former state president PW Botha would be prosecuted for failing to respond to a subpoena to appear before the TRC last month

Kahn said he had considered all the circumstances, including the documents which the TRC had prepared to question Botha at a public hearing, and had decided that a prosecution was warranted, in law and in the public interest

Botha would accordingly be charged in the George Regional Court. He would be summonsed to appear on January 23

Opposition parties have objected to the granting of amnesty to the 37 ANC leaders for accepting collective responsibility for the actions of Umkhonto we Sizwe, the organisation's former guerilla army

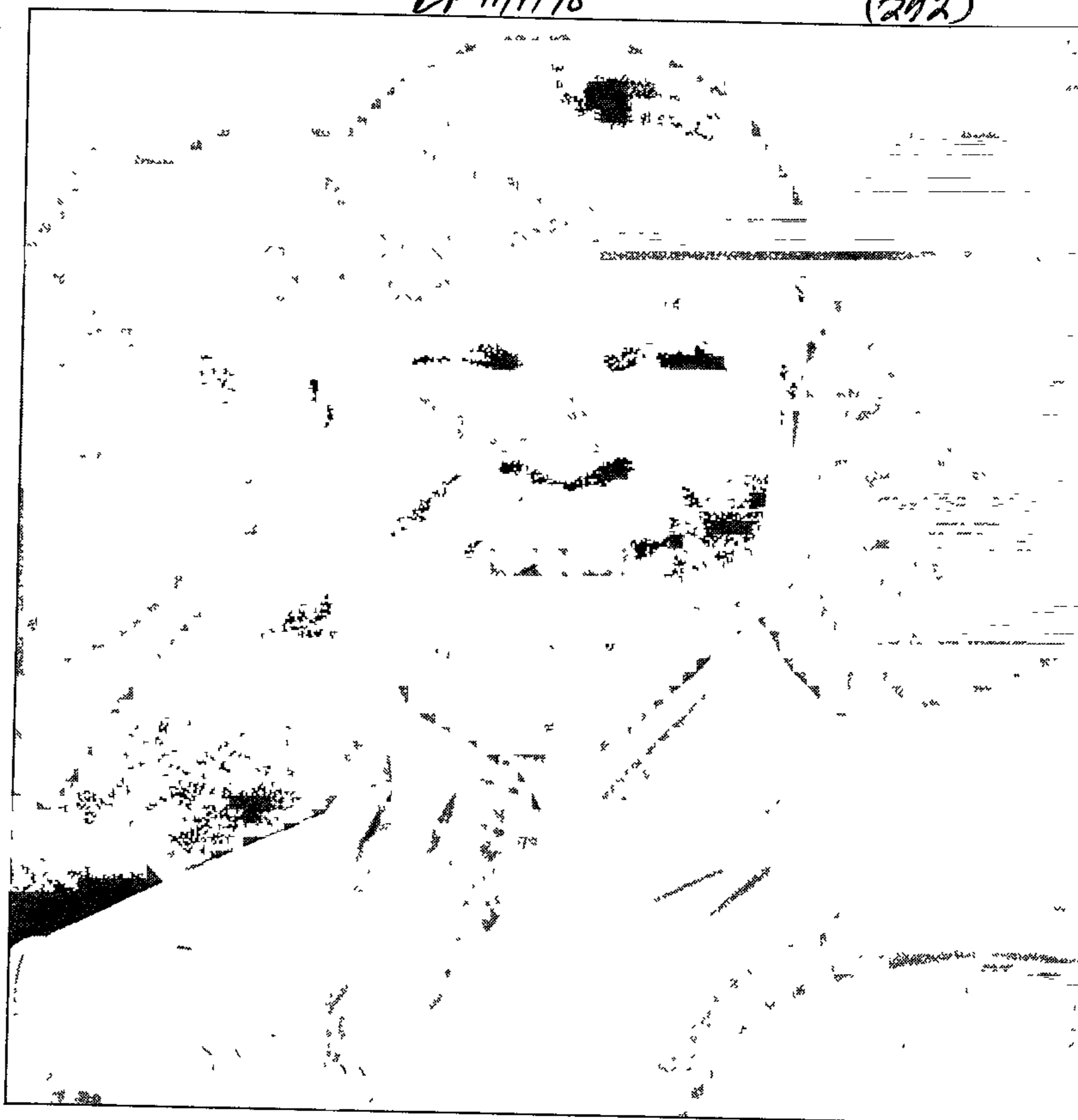
They want individual ANC members to account for atrocities committed by the ANC former security arm, Mbokodo, in the Angolan camps and in Zambia

The DP and the NP had planned to launch a High Court application to challenge the granting of amnesty to the ANC leaders

On Friday, the NP said it had temporarily withdrawn its court challenge pending a decision by the TRC on Tuesday

The DP, which has been highly vocal about the amnesty decision, wants the amnesty committee to study the Motswenyane Commission report and question some of the leaders about its details

The leaders, who include four provincial premiers and the minis-



AMNESTY OR NO AMNESTY? ... Thabo Mbeki may have his amnesty revoked

ter of Justice Dullar Omar, have been accused of failing to list specific acts they had committed

Opposition parties maintain that the TRC has two choices which it needs to look at when reviewing its decision - to withdraw the amnesties and apply the act even-handedly, or to ask for a change in the act to allow others to similarly apply for a "soft amnesty"

They question how the amnesty

committee arrived at the decision to grant the 37 leaders amnesty without them stating the actions for which they were seeking it

Amnesty committee chairperson, Justice Hassen Mall, has stood by his committee decision based on collective responsibility

The decision was supported by Justice Mall's fellow judges, Bernard Ngoepe and Andrew Wilson

The judges are said to have con-

sidered the applications in conjunction with a declaration in which the applicants assumed collective responsibility for all offences and omissions by members of the ANC structures

The committee is said to have also taken into account the ANC's submissions to the TRC on the armed conflict, and the requirements for amnesty in the TRC's founding legislation

TRC over ANC amnesty fail out

Top officials split as commissioners meet for emergency talks

ST 11/1/98

(252)

CHARL DE VILLIERS,
CARMEL RICKARD and
BOBBY JORDAN

THE Truth and Reconciliation Commission is to hold emergency talks on Robben Island today as its granting of blanket amnesty to 37 ANC officials threatens to tear it apart and wreck its credibility.

The talks will try to resolve differences between committee members led by commission co-chairman Alex Boraine, who believe the commission erred in granting the amnesties, and others, led by commissioner Dumisa Ntsebeza, who think it should defend its decision.

At the centre of the controversy is the body's amnesty chief, Judge Hassan Mall, who headed the sub-committee which approved amnesties for Deputy President Thabo Mbeki and 36 other ANC leaders.

The Democratic Party and National Party criticised the decision, saying the ANC leaders had failed to satisfy the law they had not specified the acts for which they wanted amnesty, and had not testified publicly about these deeds.

Also in the spotlight will be the decision to grant amnesty to Trevor Tutu — son of commission chairman Archbishop Desmond Tutu — who was convicted for making bomb threats against a SAA plane.

Following the public furore over the amnesties, top legal expert Wim Trengove SC was asked for an opinion and he advised the commission that the amnesties did not comply with the law.

The truth body also asked the Department of Justice for an opinion.

The legal advice has inflamed tensions within the commission, which had already been stung by Justice Richard Goldstone's criticisms of its handling of accusations that Ntsebeza was involved in the Heidelberg tavern massacre.

Boraine and Tutu have since been anxious to ensure that all the commission's actions fall within the law. They and others have favoured a pre-emptive strategy and wanted the commission to take the amnesty decisions to court before this was done by any other party.

But, according to sources close to the commission, some amnesty committee members were outraged and felt betrayed by this approach. In their view, the commission should have backed their decision unless it was overturned by a court application brought

by another party.

It is understood that members of the amnesty committee will not attend the island meeting following mixed signals from the commission.

They originally thought they had been invited, but were later informed it was a gathering for commissioners only.

Justice Minister Dullah Omar said yesterday that it was up to the commission and the amnesty committee to decide what to do, if anything.

"As the minister of justice I believe that the integrity of the TRC process is important. The law must apply equally to all. There must be no prejudice to anyone and no special way of dealing with any particular persons. My understanding is that there has been no such special treatment."

The DP's Douglas Gibson said his party was instructing counsel to launch an application in the Cape Town High Court for a review of the decision on the 37 ANC amnesties. The NP's Piet Mathee said his party would hold off its High Court challenge pending a decision at the Robben Island meeting.

Commission lawyer Hanif Vally said he knew nothing about allegations of divisions within the commission.



TRC deputy chairman Dr Alex Boraine and commissioner Dumisa Ntsebeza are said to differ over the granting of amnesty to 36 ANC leaders. The TRC is meeting this week to try to iron out the differences about the amnesty and to review its progress.

TRC meets to iron out differences

By Pamela Dube
Political Reporter

THE Truth and Reconciliation Commission started a three-day meeting on Robben Island yesterday to iron out some of the deep-seated internal differences that confront it and in the process to emerge with its integrity preserved.

Apart from the general review of its progress since starting operations two years ago, the 17 TRC commissioners are looking at resolving differences that came to the fore over the granting of amnesty to 36 senior officials of the African National

While insisting there were no divisions within the commission on the ANC amnesty, TRC spokesman Mdu Lembede yesterday confirmed there were differing views over the way the amnesty was handled.

"There is a possibility that people may not see eye to eye on the matter (of granting amnesty), but the TRC is definitely not divided. Obviously this is a controversial issue and people might differ," Lembede said.

He also dismissed weekend media suggestions that TRC deputy chairman Dr Alex Boraine and commissioner Dumisa Ntsebeza led factions within the commission which differed over the amnesty of ANC leaders. A Sunday news paper claimed that

differences over the granting of amnesty to 36 ANC leaders - who included newly elected party president Thabo Mbeki, his deputy Jacob Zuma, national executive committee members Mac Maharaj, Joe Modise, Joe Nthlanhla, Mathews Phosa and Ronnie Kasrils - threatened to tear the commission apart and wreck its credibility.

It alleged that Boraine led a faction which believed the TRC amnesty committee acted incorrectly by granting the ANC leaders amnesty, while Ntsebeza's defended the decision. Lembede denied the two commissioners were at loggerheads or were faction leaders. The TRC has been criticised by

opposition parties, particularly the National Party and the Democratic Party, for the ANC amnesty. The parties claimed the ANC leaders failed to satisfy the law in that they did not specify or publicly testify about the acts for which they applied for amnesty.

ANC NEC member Justice Minister Dullah Omar was quoted yesterday as saying the TRC should not prejudice anyone or deal in a special way with any particular persons. ANC spokesman Ronnie Mamoepa said the party would only make a pronouncement on the matter once the TRC has resolved it. On the suggestion that this week's meeting was called to resolve the cr-

sis around the the ANC leaders' amnesty, Lembede insisted it was not the case as the meeting was called to discuss the general work of the commission. "It was long planned even before the amnesty went through."

He said the meeting was to discuss the broader TRC structure, review the amnesty process as a whole and the reparations of the victims.

And also likely to come up was the subpoena of former state president P.W. Botha. Lembede, however, said that the Botha issue "might only be discussed informally as the matter is entirely in the hands of the attorney-general. If it comes up it will only be to come up with strategies of handling it after the A-C's action"

(252) Boraine 12/1/98

SAPS footing legal bill for 458 policemen facing truth body

Stephané Bothma

PRETORIA — The SA Police Service (SAPS) is footing the legal bills of 458 policemen who applied for amnesty or had been subpoenaed by the truth commission, and had to date paid out almost R4m in lawyers' fees, the commissioner of police's office said at the weekend.

Although no specific amount has yet been budgeted by the police for amnesty and other legal costs relating to truth commission hearings in 1998, sources said the amount would increase significantly as only a small percentage of hearings involving policemen had been dealt with last year.

At the same time, a department of defence spokesman said the department was aware of only five SA National Defence Force members who were granted legal representation for amnesty applications. To date, the department had paid about R900 000 in legal costs involving amnesty applications and other expenses relating to truth commission activities.

"The department is not privy to the consultation between clients

and legal advisors and it is therefore extremely difficult to distinguish on the basis of financial records only what legal representation was provided specifically for amnesty applications and what was provided for other truth commission activities," he said.

The department's policy made provision for members or former members to apply for legal representation at state cost, but the department would not necessarily be aware of the precise nature of the legal representation because of legal privilege between clients and their legal advisors.

"Therefore there may be others who have received legal representation at state cost for amnesty applications of whom the department is not aware," he said.

The spokesman for the commissioner of police, Supt Martin Aylward, said the SAPS had to date paid R3 968 987 to legal representatives. As far as amnesty applications were concerned, the SAPS paid only for legal representation and no other expenses, such as travel or accommodation.

"With regard to members and former members subpoenaed to

appear before the investigation unit of the commission, limited travel and subsistence expenses are paid by the commission itself," Aylward said.

He said the SAPS paid limited costs to lawyers, including economy class airline tickets, proven subsistence expenses to a maximum amount of R250 a day, and travelling expenses for round and about trips of more than 200km at R1 a kilometre.

Aylward said the expected cost to the SAPS of truth commission activities this year was unknown at present. "It will depend on the schedule and number of hearings to be held by the commission."

Reacting to threats by a number of police amnesty applicants to take unsuccessful amnesty applications to the high court for review, Aylward said the present legal assistance scheme did not make provision for legal assistance for such high court action.

"Any request for legal assistance in this regard will have to be considered by the state attorney in accordance with the prevailing provisions of the treasury instructions," he said.

BO 12/11/98

(292)

Commission may discuss 37 amnesties tomorrow

(252) BD 12/12 12/1/98
Stephen Laufer

THE truth commission was not likely to discuss further action on 37 blanket amnesties granted to senior African National Congress (ANC) members before tomorrow, a commissioner said last night.

Responding to a Sunday Times report that a crisis meeting of the commission on the subject had been called on Robben Island yesterday, commission sources said the gathering had been planned long ago as a retreat before the commission entered the final phase of its work, due to end midyear.

Yesterday was to be spent exploring the island before a day of silence and prayer today and a business meeting tomorrow. At least three commissioners had not planned to attend.

Two commissioners said the ANC amnesties had initially not been on the agenda for tomorrow's meeting at all, but had been due for formal discussion at the first full commission meeting on January 27. One said it was possible that public pressure following yesterday's report would lead to the issue being debated tomorrow.

At issue are 37 amnesties granted to senior ANC officials without their having supplied details of the acts or omissions for which they were requesting pardons. A legal opinion commissioned by the truth body said the amnesties were faulty and should be reviewed in a court of law.

The commission is reportedly divided on whether to follow the advice of counsel. Some members are understood to be arguing that the body should stand by the decisions of the amnesty committee.

Meanwhile, Sapa reports that Winnie Madikizela-Mandela would not be asked to testify at a truth commission hearing into her relationship with apartheid police, the commission said at the weekend. The commission also confirmed that former security policemen have been subpoenaed to appear before the hearing.

Truth commission chief legal officer Hanif Vally said Madikizela-Mandela had been invited to the hearing, but would not have legal representation and was not expected to testify. The commission will decide early next week when the hearings will commence.

TRC denies

rift on ANC

(252)

amnesty

ARG 12/11/98

The Truth and Reconciliation Commission has denied reports that it was divided over the granting of blanket amnesty to 37 African National Congress leaders and commission chairman Desmond Tutu's son.

Seventeen commissioners gathered on Robben Island yesterday for a three-day monthly retreat. Spokesman Mdu Lembede said the amnesties granted to Deputy President Thabo Mbeki and 36 ANC leaders would be discussed, but there was no tension among commissioners.

Archbishop Tutu's son, Trevor, was granted amnesty after making a bomb threat at East London airport in 1989. TRC co-chairman Alex Boraine and the commission's head of investigations, Dumisa Ntsebeza, are reportedly at loggerheads over the amnesties. — Argus Correspondent

TRC denies it is divided over ANC amnesties

(252)

ET 12/1/98

ROGER FRIEDMAN

THE Truth and Reconciliation Commission played down tensions in its ranks over the granting of amnesty to Deputy President Thabo Mbeki and 36 other ANC members as commissioners gathered on Robben Island yesterday for the start of a four-day retreat.

The granting of the controversial amnesties was one of many items on a broad-ranging agenda yesterday, spokesperson Mr Mdu Lembede said last night.

Formal discussions are to begin today

Lembede acknowledged that there were different schools of thought in the TRC about how the ANC amnesties should be handled. He described as "nonsense" and "irresponsible" reports that commissioners were split into two camps headed by the deputy chairperson, Dr Alex Boraine, and the head of the investigative unit, Mr Dumsa Ntsebeza.

The TRC's committee on amnesty adjudicates amnesty applications independently of the commission

Amnesties were granted to the 37 ANC members without their having specified the actions that prompted their applications

Following the public outcry over the "blanket" amnesties, the commission sought legal opinion and was told that the amnesties did not comply with the law

Some members of the commission were in favour of supporting the decisions and integrity of their colleagues on the amnesty committee

Other members, worried about the implications of the granting of the amnesties' being interpreted as reflecting a bias towards the ANC, would rather that the commission take the matter to the High Court for clarification

'The retreat on Robben Island was organised long before the ANC amnesty decisions.'

The National Party is considering similar action

Lembede said the Robben Island retreat had been organised "several months ago" — long before the amnesty committee had made known its decision about the ANC members' applications

The retreat was intended to allow commissioners to get together in conditions conducive to a thorough examination of the past and the way forward," Lembede said

"The amnesty discussion is one of many items on the agenda."

At the conclusion of proceedings on Wednesday, a press conference would be held at which the commission's response to the amnesty question and other issues would be made public

PW's supporters plan protests over court case

AT 12/11/98

SUPPORTERS of Mr P W Botha are planning a campaign of civil disobedience to prevent his being sentenced to up to two years in prison for contempt of court

Botha, who left office in 1989, was charged with contempt last week when he failed to appear before the Truth and Reconciliation Commission

The former president had been expected to face questions about his role as head of the State Security Council

The decision to prosecute Botha has prompted white activists to hold a "council of war" this week. They include officials of the National Party, which Botha led for 11 years, and the Conservative Party, which garnered almost one million votes in the 1994 elections

Among the proposals they are to consider is a blockade of roads around George, where the case is to be heard next week. Other supporters plan to demonstrate outside the court. Botha is expected to be consulted about "appropriate" measures in the next few days

"We will have to take action," said Mr Pieter Aucamp, a spokesperson for the CP.

"The government is trying to humiliate Mr Botha. We are prepared to go to jail with Mr Botha."



'NOTHING TO APOLOGISE FOR':

P W Botha

Aucamp said Afrikaners were fed up with being humiliated. "We have tried to be peaceful since the elections. There comes a time when we have to stand up and fight for what we believe is right."

Botha, 82 today, has kept out of politics since being replaced as president by Mr F W de Klerk

African National Congress officials have expressed scorn for a 1 800-page submission to the TRC in which Botha claims he knew nothing of atrocities against blacks during his presidency

Mr Thabo Mbeki, ANC president and Deputy President of the

(252)
country, said last week that Botha's appearance before the TRC was essential to blacks' learning "what happened to our relatives, friends and comrades, some of whom disappeared without trace"

Botha has dismissed the commission as a "circus". Even President Nelson Mandela's intervention in approving special legal aid rates for Botha's lawyers has failed to sway him to appear before it.

Afrikaners claim the TRC is being used by the ANC to persecute white politicians, thereby deflecting attention from its failure to fulfil election promises

Some privately welcome the prosecution of Botha, predicting it will make him a rallying figure for right-wingers in the run-up to elections next year

The prospect may not be unwelcome to Botha. In a recent interview with the Sunday Times, London, he showed that age had not affected his appetite for a fight

"Look," he said angrily, "I have nothing to apologise for and I have nothing to be ashamed of. I can look anybody in the eye. I was fighting against communists, anarchists and terrorists. I believe I contributed towards developing this country. Why should I apologise?"

— The Sunday Times, London

De Kock must give evidence to TRC

STAN 13/1/98 (252)

Convicted murderer and former Vlakplaas commander Eugene de Kock is one of 17 people who have been subpoenaed by the Truth and Reconciliation Commission's investigative unit for questioning on the activities of the Mandela United Football Club at a public hearing at the end of the month.

TRC spokesman Christelle Terreblanche said yesterday that two of the those subpoenaed were National Intelligence Agency agents who would not testify at the public hearing scheduled for January 28 to 30 in Johannesburg. They will testify in camera.

The hearing follows November's marathon nine-day

hearing, during which alleged victims of the football club testified ANC Women's League president Winnie Madikizela-Mandela, who was questioned on the final day, denied any knowledge of the club's activities.

Ten former members of the Soweto Security Branch, a former deputy attorney-general, a former Soweto detective and two SAPS detectives were also subpoenaed.

Terreblanche said it was decided that the evidence of the former Security Branch members would be essential to the TRC's investigations into several human rights violations.

"Madikizela-Mandela was

not subpoenaed to the hearing, but has the right to attend with her legal representatives and to question those subpoenaed," Terreblanche said.

She said the 15 former policemen would be questioned on several issues, including the alleged smear campaign they conducted against Madikizela-Mandela, whether or not she was spied upon, and their investigations into some of the alleged violations, including the death of Dr Abu-Baker Asvat and disappearance of Soweto youth Lolo Sono.

The hearings will again take place at the Johannesburg Institute for Social Studies in Mayfair. — Staff Reporter

TRC to quiz ex-cops over Mandela United

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Sowetan 13/1/95

SA Press Association

SEVENTEEN more people, including former Vlakplaas commander Eugene de Kock, have been subpoenaed by the Truth and Reconciliation Commission's investigative unit to give evidence and/or answer questions later this month on the Mandela United Football Club.

The three-day public hearing will take place at the Johannesburg Institute for Social Studies in Mayfair from January 28 to January 30.

The TRC said two of those subpoenaed were agents from the National Intelligence Agency who could not be identified and would be questioned in camera.

Ten were former members of the Soweto police security branch, one a former deputy attorney-general and

another a former Soweto murder and robbery unit member. Two other investigative officers subpoenaed were former South African Police members, the TRC said.

The hearing follows 10 days of evidence in November and December last year by more than 25 witnesses, including Mrs Winnie Madikizela-Mandela, on the activities of the Mandela United Football Club.

In the light of this evidence and further investigations, the TRC had decided the evidence of the former security branch members would be essential to the commission's investigations into human rights violations allegedly committed by the football club during the 1980s.

The TRC said Madikizela-Mandela had not been subpoenaed but had the right to attend with her legal representatives and to question those

subpoenaed.

The 15 former policemen are expected to be questioned on several issues, including the alleged smear campaign conducted against Madikizela-Mandela, whether or not she was spied upon, and their investigations into some of the alleged violations, including the murder of Soweto medical practitioner Dr Abu-Baker Asvat and the disappearance of Soweto activist Lolo Sono.

Answer more questions

The 10 former members of the Soweto security branch are Ignatius Coetzee, Wilhelm Coetzee, SP Nienaber, Hume du Toit, Jan Poigier, Anton Pretorius, Jan Augustyn, DFM Bosman, Louis Watermeyer and Louis de Jager.

The other five policemen are De Kock, who is currently serving sever-

al life sentences; Andre Kritzinger, formerly of the Soweto murder and robbery unit; Soweto Molaba, of the former SAP detective services; Norman Lemmer, investigating officer on some cases linked to the football club; and an Advocate Van Vuuren, former deputy attorney-general of the former Transvaal province.

Meanwhile, Pamela Dube reports that Mr Bennet Sibaya, the Cape Town gardener who falsely accused TRC investigation unit head Mr Dumnisa Nisebeza of being involved in the 1993 Heidelberg Tavern massacre, faces the commission's amnesty committee tomorrow to answer more questions about his motives.

The committee will also receive a report on the controversy from Judge Richard Goldstone after Sibaya's damning allegations. A special one-day hearing to con-

clude the amnesty application of three former Azanian People's Liberation Army cadres, Vuyisile Madasi, Layanda Gqomfa and Zola Mabela takes place in Cape Town tomorrow. The three were convicted for the attack in which four people were killed and six injured.

The amnesty applications relating to the massacre were postponed last October after Sibaya alleged that Nisebeza had driven the getaway car in the attack.

Sibaya's allegations threw the TRC into a crisis.

Before Sibaya withdrew his allegations, the commission was engulfed by tension as some of the investigators were accused of having a hand in the plot to implicate Nisebeza.

Some of the commissioners were accused of trying to get rid of the head of the TRC's investigative unit.

Legal pay insufficient, says Omar

(252)

Spar 13/1/98
Justice Minister Dullah Omar said yesterday he had great sympathy for prosecutors and advocates and agreed they should be paid better salaries.

The department had no choice but to suspend the overtime payments for all personnel because funds had dried up, he said in Pretoria.

The Association of State Advocates last week criticised the imminent suspension of overtime payments until the end of the present financial year, saying a go-slow could not be ruled out.

The department had diverted money for overtime payments from funds available as a result of several posts that had not been filled.

"However, we are in the process of filling these vacancies so that a lot of work pressure will diminish. As a result, the money for overtime has run out," Omar said.

Staff associations and unions would be informed about the department's position at a meeting of the departmental bargaining chamber today.

He added that the National Prosecuting Authority Bill should improve the position of state advocates and prosecutors. - Sapa.

Lawyers face a year's service

Law 13/1/98

(272)
Law students might have to complete a year's compulsory internship as part of their training, Justice Minister Dullah Omar said yesterday.

"There is a proposal on the table that all law graduates must at some time or another be required to serve a one-year period of internship," he said in Pretoria.

Proposals from some quarters, including that of Constitutional Court president Arthur Chaskalson, were that this should be made compulsory, Omar said.

Should such a proposal be accepted, it would take a number of years before it could be implemented, he said.

The issue would be on the agenda of a national legal aid forum to be held at the World Trade Centre in Kempton Park this week, said forum co-ordinator Professor Shadrack Gutto.

The forum, from Thursday to Saturday, would be attended by close to 300 representatives from among others the Government, the judiciary and the organised legal profession.

The forum's main objective would be to discuss the restructuring of the Legal Aid Board, Gutto said.

The board, set up in the early 1970s, faced many problems. It was not representative of racial or gender diversity and had to be decentralised.

Restructuring could result in lawyers having to work at slightly reduced fees, Gutto said.

He said the forum would also discuss ways to spread the public defender system throughout SA, and to set up legal advice centres.

From 1992 to 1996 the Government's contribution to the board had increased from R35,2-million to R116-million.

Omar said: "Due to the soaring demand for legal assistance, in terms of the constitution, the question is whether such a scheme will be effectively sustained if it is solely funded by the state."

Sapa

people were very, very angry.

Lay assessors may outvote magistrates - Omar

(252)

SPAN 13/1/98

Lay assessors will assist magistrates in making decisions on verdicts, bail and sentencing in certain criminal cases, and might even overrule magistrates in such matters, Justice Minister Dullah Omar said yesterday. He told reporters in Pretoria that draft legislation to make the use of lay assessors compul-

sory in all cases pertaining to crimes committed against a person would be submitted to the Cabinet this month. Describing the steps as drastic, Omar said it allowed two lay assessors to decide with a magistrate on bail and whether an accused was guilty, and if so, on a sentence.

"They will have an equal say with the magistrates on all decisions," Omar said. "They can even outvote a magistrate." Omar said programmes for lay assessors were already being put into place. - Sapa

► More reports



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De Kock, 16 others subpoenaed by truth commission

SEVENTEEN more people, including former Vlakplaas commander Eugene de Kock, have been subpoenaed by the truth commission's investigative unit to give evidence and/or answer questions later this month on the Mandela United Football Club.

The three-day public hearing would take place in Mayfair, Johannesburg, from January 28 to 30, the commission said yesterday.

Two of those subpoenaed were agents from the National Intelligence Agency who could not be identified and would be questioned in camera.

Ten were former members of the Soweto police security branch, one a former deputy attorney-general and one a former Soweto murder and robbery unit member. Two other investigative officers subpoenaed were former SA Police members.

The hearing follows 10 days of evidence last month and in November

last year by more than 25 witnesses, including Winnie Madikizela-Mandela, on the activities of the so-called football club.

In the light of this evidence and further investigations, the truth body had decided the evidence of the former security branch members would be essential to the commission's investigations into human rights violations allegedly committed by the football club during the 1980s.

The commission said Madikizela-Mandela had not been subpoenaed, but had the right to attend with her legal representatives and to question those subpoenaed.

The 15 former policemen would be questioned on several issues, including the alleged smear campaign conducted against Madikizela-Mandela, whether or not she was spied upon, and their investigations into some of the alleged violations, including the murder of

Soweto medical practitioner Abu Baker Asvat and the disappearance of Soweto activist Lolo Sono.

The 10 former members of the Soweto security branch are Ignatius Coetzee, Wilhelm Coetzee, SP Nienaber, Hume du Toit, Jan Potgieter, Anton Pretorius, Jan Augustyni, DFM Bosman, Louis Watermeyer and Louis de Jager.

The other five policemen are Andre Kritzinger, formerly of the Soweto murder and robbery unit; former Vlakplaas security police base commander Eugene de Kock, who is serving several life sentences; Soweto Molaba, of the former SAP detective services; Norman Lemmer, investigating officer on some cases linked to the football club; and an Advocate Van Vuuren, former deputy attorney-general of the former Transvaal province.

Meanwhile, the amnesty committee has scheduled a one-day hearing to-

PD 13/11/98
morrow to conclude outstanding evidence in the Heidelberg Tavern massacre matter.

The hearing of three amnesty applications relating to the massacre in 1993 was held in October last year, but was postponed after the controversy surrounding Gugulethu gardener, Bennett Sibaya, who alleged that a truth body commissioner had driven a getaway car after the massacre in December 1993.

Sibaya later retracted his evidence, leading to the commission requesting an independent inquiry to investigate the matter. Judge Richard Goldstone was appointed to the one-man commission. His report will be tabled at tomorrow's hearing.

Sibaya, as well as the three other applicants, Vuyisile Madasi, Luyanda Gqomfa and Zola Mabela, will be present at the hearing for further questioning. — Sapa.

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SA justice system facing radical reform this year, says Omar

Stephané Bothma

PRETORIA — SA's justice system is to be reformed radically this year, with the introduction of a range of measures including the compulsory use of lay assessors in magistrate's courts in cases of crimes against persons.

Announcing this yesterday, Justice Minister Dullah Omar said law students could face a one-year compulsory internship as part of government's plans for the comprehensive reform of SA's legal aid system.

Other measures to enhance access to justice through legal aid included the use of paralegals for nonlitigation work and a complete redesign of the legal aid board.

Draft legislation due before the cabinet this month would require lay assessors, drawn from the community, to be used in all lower court cases involving persons. Omar described this as a "very drastic measure".

The assessors, who would receive training, would have an equal say with — and thus could outvote — the mag-

istrate on granting bail, a guilty or not guilty verdict and on the sentence.

The purpose of the legislation was to address the fears of communities department would extend significantly its pretrial services project. This aimed to keep petty criminals out of prisons and those who posed a threat to society behind bars. There would not be a mass release of petty criminals, but each case would be assessed individually by the courts.

Of the 50 000 awaiting-trial prisoners, about 70% had been granted bail but could not pay it, Omar said.

Other measures would include a "cluster system", whereby magistrate's courts were to be divided into 14 clusters, each under a chief magistrate.

A separation of judicial and administrative functions would be effected so that courts could concentrate on their judicial responsibilities. Justice administration would be decentralised through the creation nine provincial offices of justice.

Compensation for victims of crime

was envisaged and measures at courts to ensure victims were treated with compassion were being implemented.

Legislation would review the witness protection programme, Omar said. A directorate of witness protection was being created with officers in every province.

Omar said the legal system should provide representation in civil litigation and other dispute resolution forums through a mix of the private

Justice (252) BD 13 11 98

Continued from Page 1

profession, salaried lawyers and paralegals in offices operated by the Legal Aid Board.

He said internships for law students should be introduced so it became compulsory by the time the new four-year students graduated. "Interns will receive practical training and provide public services at institutions funded by the new legal aid board or accredited for this purpose."

The structure of the legal aid board

and its staff functions would be redesigned. New skills would be needed to carry out changed functions and an aspect which required careful attention was the regionalisation of the board and of staff functions.

Omar said the judicare model chosen by the board — which relied on private legal practitioners to provide public services in mainly criminal cases — had proved costly and unsustainable. The public defender programme was about 40% cheaper than the judicare system, and should be extended.

He announced a three-day legal aid conference at which reform proposals would be discussed.

Continued on Page 2

TRC asks High Court to rule on mass amnesty

ARG 13/11/98

(252)

The Truth and Reconciliation Commission is to ask the High Court to rule on whether amnesties granted to 37 African National Congress members conformed with its governing Act.

The TRC announced its decision today after a retreat for commissioners on Robben Island

Deputy President Thabo Mbeki was

among those granted amnesty

TRC chairman Archbishop Desmond Tutu said of the amnesties: "We have carefully considered our own concerns in this regard, together with an appreciation of the clear public interest that exists

"We have also had close discussions with the (TRC's) amnesty committee (which granted the pardons), several of

whose members have been present at our meeting here."

He said the TRC would, as a matter of urgency, "approach the High Court to seek a declaratory order, or such other relief as counsel may advise, to ascertain whether or not the decision made by the amnesty committee conformed with our governing Act". - Sapa

Public to get direct say in court - Omar

'Drastic' plan for lay assessors

ARG 13/1/98

ARGUS CORRESPONDENT

Pretoria - Community representatives could soon veto a magistrate's decision, help reach verdicts and decide on sentencing.

The Magistrates' Courts (Assessors) Amendment Bill - expected to be submitted to Parliament in draft form this month - provided for greater use of lay assessors for criminal proceedings in lower courts, Justice Minister Dullah Omar said yesterday.

The bill, aimed at transforming the justice system into one more accessible to all South Africans, was one of several initiatives to be implemented this year on the Justice Department's legislative programme.

Describing it as a drastic measure, Mr Omar said the draft bill

allowed for two lay assessors to decide with a magistrate whether bail should be granted, whether an accused was guilty and, if so, on a proper sentence.

Assessors would have an equal say with magistrates on all decisions and because there were two of them they would even be able to outvote the magistrate, he said.

If the plan operated successfully, concerns expressed by the public for years on matters such as bail and sentencing would have been addressed - communities would have a direct say in courts.

Training programmes for lay assessors were being introduced and among the proposals being considered was one that local authorities compile lists of suitable assessors from the community, which would operate on a rotational basis.

The draft law would be made available for public comment once it had been taken to the Cabinet, Mr Omar said.

The Cabinet would also be asked to approve recommendations by the South African Law Commission to allow for compensation to be paid to victims of crime.

Legislation to review witness protection and support would also be placed before the Cabinet and would provide for a directorate specially for this purpose to be established in each province.

Already successfully implemented at Mitchell's Plain, the programme has been extended to Johannesburg.

It ensures that special rooms are set aside at courts where witnesses receive adequate protection and support.

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14 EX-POLICEMEN SUBPOENAED

Officers to be grilled about football club

CT 13/1/98 (1252)

JOHANNESBURG: The alleged smear campaign against Winnie Madikizela-Mandela is among the issues the TRC is to examine at a three-day hearing.

SEVENTEEN more people, including former Vlakplaas commander Eugene de Kock, have been subpoenaed by the Truth and Reconciliation Commission's investigative unit to give evidence about the Mandela United Football Club later this month.

Two of those subpoenaed would be questioned in camera at the three-day hearing as they were members of the National Intelligence Agency and could not be identified, the TRC said yesterday.

Ten were former members of the Soweto branch of the security police, one a former deputy attorney-general and one a former member of the Soweto murder and robbery unit.

Two more had been investigating officers in the South African Police, the TRC said.

It said Ms Winnie Madikizela-Mandela had not been subpoenaed, but that she and her legal representatives had the right to attend and to question those who had been called to give evidence.

The three-day hearing arises from evidence given to the TRC during a 10-day hearing last year about the activities of the Mandela United Football Club. More than 25 witnesses, including Madikizela-Mandela, appeared at



CALLED TO GIVE EVIDENCE:
Eugene de Kock



MAY QUESTION WITNESSES:
Winnie Madikizela-Mandela

the hearing in November and last month.

The TRC has continued its inquiries. It says that in the light of these and of earlier evidence, the testimonies of the former security branch members are essential to its investigations into human rights violations allegedly committed by the football club during the 1980s.

The 14 former policemen would be questioned about several issues, including the alleged smear campaign against Madikizela-Mandela, whether she was spied on, and their investigations into some of the alleged human rights violations, including the murder of Soweto medical practitioner Dr Abu Baker Asvat and the disappearance of young Soweto activist Lolo Sono.

The 10 former members of the

Soweto security branch are: Mr Ignatius Coetzee, Mr Wilhelm Coetzee, Mr S P Nienaber, Mr Hume du Toit, Mr Jan Potgieter, Mr Anton Pretorius, Mr Jan Augustyn, Mr D F M Bosman, Mr Louis Watermeyer and Mr Louis de Jager.

The former policemen are Mr Andre Kritzinger, formerly of the Soweto murder and robbery unit, former Vlakplaas security police base commander De Kock, who is serving several life sentences, Mr Soweto Molaba, formerly of the detective branch, and Mr Norman Lemmer, a former investigating officer in some of the cases linked to the football club.

The former deputy attorney-general is a Mr Van Vuuren who served the then-Transvaal.

The public hearing is to be held at the Johannesburg Institute for Social Studies in Mayfair from January 28 to 30 — Sapa



PUBLIC TO HAVE 'DIRECT SAY'

Omar's drastic (252) ET 13/1/98 new justice laws

PRETORIA: Draft legislation to be placed before the cabinet, described as "drastic" by Justice Minister Dullah Omar, will give communities a direct say in bail and sentencing.

LAY assessors are to help magistrates decide on verdicts, bail and sentencing in certain cases, and could even overrule them in such matters, Justice Minister Mr Dullah Omar said yesterday.

He told reporters that draft legislation to make the use of lay assessors compulsory in all cases pertaining to crimes committed against a person would be submitted to the cabinet this month.

Describing the legislation as drastic, Omar said it allowed for two lay assessors to decide with a magistrate whether bail should be granted, whether an accused was guilty, and if so, on a proper sentence.

"They will have an equal say with the magistrates on all decisions," Omar said. "They can even outvote a magistrate."

Among the proposals being considered was to make local

authorities responsible for compiling lists of potential assessors from the community.

Omar said training programmes for lay assessors were already being set up.

"If this system operates successfully, it will mean the public's concerns about matters relating to bail and sentencing will have been addressed," he said. "Communities will have a direct say."

In an attempt to relieve prison overcrowding, the department would implement a pre-trial services project aimed at keeping petty criminals out of prison.

Many of the 50 000 people

awaiting trial in South African prisons were only there because they could not pay their bail.

"Where a court has the fixed address of a suspected petty criminal and is confident he will stand trial, and where he poses no threat to society, he should not be incarcerated while awaiting trial," Omar said.

He should rather be released under strict supervision or on his own recognisances.

"The pre-trial services project ensures that the full information is speedily placed before the prosecution, defence and the court, so that

□ To Page 3

Safety is the 'prime consideration' (252) ET 13/1/98

□ From Page 1

bail assessment is as accurate as possible," Omar said. Each case would be individually assessed and the discretion of the magistrates would not be taken away.

"When it comes to serious crimes against a person, the primary consideration is the safety of the public," Omar said. The department was implementing a cluster system in terms of which magistrate's courts were being divided into 14 clusters, each under a chief magistrate. This would result in better court management at local level, Omar said. Also, judicial and administrative functions were being separated to allow courts to concentrate on their work.

On victim support, Omar said Parliament would be asked to approve legislation allowing for compensation to be paid to victims of crime. Also, legislation would be placed before Parliament to review the witness protection system.

"A directorate of witness protection is being created with witness protection officers in every province," Omar said.

"Victims of crime have never been taken into account, except that they are regarded as witnesses. As soon as they have testified they are forgotten."

The department would, furthermore, seek to implement programmes aimed at diverting some cases away from the court system, such as traffic offences and petty juvenile crimes.

Omar said magistrates had done an outstanding job over the past year, although he did not always agree with their decisions.

Magistrates, he said, were often made the scapegoats for faults in the justice system.

"There is room for improvement," Omar said. "The problem is not with the magistrates — we need better administration and evaluation." — Sapa

Omar's justice reforms elicit mixed reactions

Star 14/11/98

(252)

By NORMAN CHANDLER

Pretoria Bureau

Lawyers say a proposal by Justice Minister Dullah Omar that magistrates be assisted by lay assessors could result in miscarriages of justice "no matter how well-meaning the idea sounds"

Omar disclosed this week that he would soon ask the Cabinet to consider draft legislation to make the use of two lay assessors in magistrates' courts compulsory in all cases pertaining to crimes committed against a person

He disclosed last year that the laws would be among a number he would take to Parliament.

Omar said assessors would have the power to overrule a magistrate and would have an equal say in all decisions. The proposed legislation would allow the assessors and the magistrate to decide whether bail should be granted, and also whether an accused was guilty and, if so, decide on a proper sentence.

Advocate Shadrack Mothibe, representing the Black Lawyers' Association, said yesterday: "The association has not heard of this. It is new to us,

and we are trying to obtain details for our membership."

Lawyers for Human Rights believes that Omar's proposal is "essentially a good idea as it is an African solution to the jury system with participation by the general public"

LHR director Dr Vinodh Jaichand said it would give the community a vested interest in the outcome of cases in the lower courts, but he identified problems with assessors overruling a magistrate with matters being decided not in terms of the law, but popular belief.

He said it still had to be ascertained "whether both fact or law would be assessed by assessors in their right to overrule the magistrate".

Advocate Johan Moorcroft said it would have been ideal to have had an opportunity to comment on the draft legislation, "particularly as it is dangerous to place a person's freedom in the hands of people untrained in law, no matter how well-meaning the idea may sound".

"In principle it sounds good to have people from the community sitting in judgment, but it can easily turn into a witch-hunt. It is quite dangerous," he said

While others are doing time, state advocates won't be doing overtime

State advocates and prosecutors announced yesterday they would stop working overtime as a result of the Department of Justice's decision to suspend overtime payment.

"The wheels of justice will barely roll, and might even come to a grinding halt," the Society of State Advocates of SA and the National Union of Prosecutors of SA said in a joint statement.

"With no prospect of being paid for overtime performed during January, February and March, prosecutor and state advocates have spontaneously indicated that no overtime will be performed."

Society of State Advocates chairman Retha Memfries said about 230 advocates and 1,500 prosecutors were expected to take part.

Memfries said it took about nine months for a case to come before the Regional Court. If no overtime is done, the situation could get worse, she said.

Five staff bodies earlier in the day declared a dispute with the Justice Department over a technical issue relating to the department's suspension of overtime payments.

The department said the matter would be submitted for arbitration.

A special meeting of the departmental bargaining chamber was called to discuss the reason for the suspension.

The department intended discussing proposals for the resolution of the matter.

The matter which was tabled by the department was seen by the employee organizations as a negotiable issue and not as a matter for consultation as the department upheld the statement said.

The department expressed regret at the turn of events, saying staff had been denied the opportunity to be informed about the reasons for the suspension. — Sapa

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Mixed reaction greets Omar's plan to change

Taryn Lamberti

MEMBERS of the legal profession have greeted the justice system changes announced by Justice Minister Dullah Omar this week with reactions ranging from fears of overly harsh sentences to praise.

The changes, announced this week, include a possible compulsory one-year's internship for law graduates with the aim of making legal aid more accessible to suspects who are constitutionally guaranteed the right to a defence.

Omar also announced a compulsory use of lay assessors in magistrate's courts in

cases of crimes against people. The assessors would be drawn from the community in which the crimes were committed.

Law Society of the Transvaal president Piet Langenhoven said Omar's decision to introduce lay assessors was a good idea because "the community should have some interest in the criminal process especially in cases involving crimes against the person."

The problem with Omar's proposal was that sentences could become very harsh. "The judicial restraint that has been built up over the years could come to nothing," Langenhoven said. The sentence should fit the criminal as well as the crime, he said.

A senior Johannesburg advocate who did not want to be named said the introduction of lay assessors was a compromise between a full blown jury system and one with no lay participation. The proposal had "certain attractions" because it incorporated an article of faith or "a trial by one's peers" but avoided the pitfalls of a jury system.

The advocate said US juries did not have to give reasons for their decisions and they were therefore potentially irrational.

Wits University's Dean of Law, Prof Carlo Lewis, supported Omar's announcement of a possible one-year compulsory internship for law graduates. Lewis said the

proposed internship would take the place of the current two years of articles.

The internship — which had been proposed by Constitutional Court Judge President Arthur Chaskalson and Lewis — would provide cost-effective legal aid, training for graduates, jobs and solve innumerable other problems, she said.

However, Langenhoven said compulsory service for candidate attorneys "could never be accepted". Interns would need supervision and the needs of the accused had to be taken into account, he said.

Meanwhile, Stephané Bothma reports that Omar said yesterday that government

was aware there was a strong demand for the reintroduction of the death penalty, but would not go against the decision of the Constitutional Court on the issue.

"It would have far too many implications for this government to go against a Constitutional Court decision," Omar said at the launch of a guide on how to protect families and homes from crime.

Omar stressed that the death penalty did not deter criminals. "The only deterrent is that people know that they will be arrested, that the crime will be well investigated, that effective sentencing will take place and they will serve their sentence."

Omar said a "terrible culture of violence and a terrible breakdown of moral fibre" existed in SA. Its root was domestic violence, which conveyed a message to children that violence was a norm. "If we can stop domestic violence, we can start turning the culture of violence around."

On crimes committed by foreign nationals, SA had applied to become part of Commonwealth and European Union extradition schemes. Extraditions from neighbouring countries were also being addressed.

Omar said that the overcrowding of prisons was an indication that the police and courts were doing their jobs.

Justice System (252) DD 14/1/98

Truth body to ask for amnesty review

Stephen Laufer

THE truth commission is to ask the high court to review urgently amnesties granted to 37 senior African National Congress officials, including ANC president Thabo Mbeki

The move follows criticism of the amnesties and legal advice to the commission that the amnesties could be faulty in terms of the act governing the truth body's work

Archbishop Desmond Tutu said after a commission retreat on Robben Island yesterday that the truth body had considered its own and public concern over the amnesties. In discussion with the amnesty committee, it had been agreed to follow the advice of advocate Wim Trengove that the amnesties should be referred to the high court.

BD 14/1/98 (252)
The decision had been unanimous despite differences of opinion late last year over how best to respond to criticism of the amnesty decisions

The high court is to be asked for a declaratory order defining whether the amnesties comply with the law governing the commission. This means that the court will review a unanimous decision by three judges — amnesty committee members Hassan Mall, Bernard Ngoepe and Andrew Wilson.

One committee member, advocate Sisi Khampepe, said that if the court found the amnesties to be faulty, they would be referred back to the amnesty body. The applicants could then be asked to furnish further details before their applications were reprocessed.

Khampepe said any of the 37 amnesty applicants could oppose the

court action, but the ANC responded by welcoming the commission's move.

The amnesty applications are understood to have given no detail on the acts or omissions for which individuals sought pardons. They referred instead to the detailed submission by the ANC on all its anti-apartheid-era activities, which could have involved the gross violation of human rights. Critics pointed out that the law required acts or omissions for which amnesty was being requested to be detailed.

The commission also said yesterday it had decided not to take further action on the amnesty granted to Tutu's son, Trevor, for making a bomb threat at an airport. Sapa reports that commission deputy chairman Alex Boraine said the body was satisfied all provisions had been taken into account.

Justice department faces overtime dispute

Stephané Bothma

PRETORIA — Staff organisations declared a dispute with the justice department yesterday over its decision to hold "discussions" on the suspension of overtime payments, rather than full negotiations.

Justice Minister Dullah Omar has announced that overtime payments in the department will cease today because "funds have dried up".

State advocates claim an average of 25 hours' overtime a month while pros-

BD 14/1/98 (252) (183)
ecutors claim between 30 and 40 hours.

The dispute was declared at a special meeting of the departmental bargaining chamber and would now be submitted for arbitration, justice department chief communications director David Porogo said

Although the situation now prevented state advocates and prosecutors from embarking on official protest action, Association of State Advocates spokesman Rheta Meintjies said prosecuting staff had indicated they would refuse to work any overtime without

pay from today.

Five employee organisations attended the meeting, including the Public Servants' Association, the National Education, Health and Allied Workers' Union and the Association of Interpreters. Porogo said the department had called the meeting to discuss the reasons for the suspension of overtime pay for the rest of the financial year and proposals for resolving the matter.

Before any discussion could take

Continued on Page 2

Overtime

Continued from Page 1

BD 14/1/98
place, the organisations had opted to declare a dispute over the department's standpoint that the resolution of the matter was not one for negotiation but for consultation. Meintjies said the attempt by the department to force staff organisations into "consultation" as opposed to negotiation, was not in the interest of staff members.

Porogo said a dispute over a tech-

nical issue had denied employees the opportunity to be informed on the matter and to influence events.

He said the department would continue to seek the necessary funding to resume overtime payments, if possible before the end of the financial year.

Omar said that until now, the department had been able to afford overtime pay, as many positions had been vacant and money had been available. "However, we are in the process of filling these vacancies so that a lot of work pressure will diminish and the need for overtime will reduce."

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Provinces in overdraft of R2bn at FNB

BD 14/1/98

(252)

Greta Steyn

FIRST National Bank (FNB) is profiting handsomely from the provinces' financial woes, charging high interest rates with virtually no chance of losing its money.

The provinces owe about R2bn in overdrafts to FNB, which is the banker to seven of them. The figure was obtained from the banks' October returns to the Reserve Bank, which showed total credit extended to the provinces by monetary institutions stood at R2,3bn. FNB said yesterday there had been no material changes since October.

The debt, believed to be at the prime overdraft rate of 19,25%, is significantly more expensive than the rate at which governments normally borrow, currently below 14%. The main borrowers have been KwaZulu-Natal and the Eastern Cape.

The overdrafts carry no government guarantee and FNB theoretically faces the prospect of a big default if the provinces run out of money. But this is unlikely as central government makes weekly transfers to the provinces.

FNB MD Viv Bartlett said. "Where credit has been created, we are 100% sure that payment will be enforceable." He declined to comment on difficulties in payments so far, or on talks with central government about an unofficial guarantee. It is understood Bartlett and Finance Minister Trevor Manuel have been in contact on the issue.

The overdrafts present a dilemma for Manuel as central government wants to avoid a bailout at all costs but cannot allow a default on huge provincial debts. Government has little choice but to repay the provincial debt

At the same time, it needs to do so in a way that avoids sending signals that it condones overspending financed by bank credit. "Officially, there will be no bailout," one official said.

Other sources said Manuel was trying to find a way to deal with the problem which would discourage cash-strapped provinces from resorting to bank credit. "There has to be some price to pay, otherwise other provinces will climb on to the bandwagon and the situation will get worse," one said.

Government has tried to make it difficult for provinces to borrow by refusing to guarantee their debt and prohibiting them from being in permanent overdraft. However, these measures failed to stop the provinces from incurring substantial debts as they struggled to make ends meet. The absence of a government guarantee has also not deterred banks from making available substantial amounts of cash.

Manuel's desire to avoid the appearance of caving in to provincial demands for extra finance is said to be behind his decision not to join Welfare Minister Geraldine Fraser-Moleketi today in announcing that cash has been found for Eastern Cape pensions payments.

Provincial spending financed by overdrafts is not included in the monthly Exchequer statement. Excluding spending on overdrafts, government already looks set to exceed its deficit. Total provincial spending could reach about R4bn. However, officials cautioned against pessimism on fiscal policy, saying the deficit as a percentage of gross domestic product would not exceed 4,5% against the budgeted 4%. This is still well below the previous fiscal year's 5,4%.

Tenders to manage govt vehicles sought

Robyn Chalmers

THE transport department is seeking bids from the private sector to manage more than 6 000 government vehicles.

The move is a first step in revitalising government garages, whose operating costs total about R1bn a year.

Transport Minister Mac Maharaj said yesterday the departments of health, labour, transport, correctional services and water affairs and forestry would go the outsourcing route as part of a pilot project.

"If the pilot project is a success, we will see how it can be replicated. I envisage all the national government departments participating and some provincial departments as well ... but this will depend on the provinces."

The government garages employ 3 000 staff who oversee a fleet of 36 000 vehicles, of which 10 000 belong to central government. This excludes the fleets of the SA Police Service and the SA National Defence Force.

The annual fuel bill amounted to R390m, with maintenance swallowing R227m and capital replacement costing R150m. The total cost to government was estimated at R1bn a year.

Maharaj said government had inherited an inefficient system which was open to abuse, and it was generally agreed that radical reform was needed.

It had been decided that the five national departments would assess their needs, which would form the basis for judging private sector bids. "We need the departments to be treated as customers who need a service. A pricing mechanism will be worked out carefully to meet these needs."

The ultimate aim was that national government would not own any vehicles, but the way to achieve this would be negotiated.

Transport department deputy director Mark Ashworth said it was unlikely that a single local entity would be able to provide the full service. It was expected that consortiums would be formed to bid for the contract. International bids would be accepted.

Analysts said candidates to bid for

Continued on Page 2

Move on ANC 37 welcomed

JERMAINE CRAIG AND EDWIN NAIDU
STAFF REPORTERS

Political parties and organisations have praised the Truth and Reconciliation Commission's decision to refer the controversial amnesties for 37 African National Congress leaders to the High Court.

Lawyers for Human Rights, the National Association of Democratic Lawyers, the African National Congress, the National Party and the Democratic Party welcomed the decision announced by commission chairman Desmond Tutu yesterday.

But the commission will not take any action on the amnesty granted to Archbishop Tutu's son, Trevor

TRC deputy chairman Alex Boraine said the amnesty was in accordance with the commission's governing act and the matter had been laid to rest.

ANC spokesman Ronnie Mamoepa said: "We hope the courts will lay the matter to rest once and for all."

National Association of Democratic Lawyers spokesman Krish Govender said the decision indicated the TRC wanted to prove it was impartial and not unaware of criticism when the amnesties were granted.

The Lawyers for Human Rights national director, Vinod Jaichand, felt that the decision to turn to the courts would help the commission to retain its credibility.

Robben Island strikers suspended

Twenty-one contract workers on Robben Island have been suspended after an illegal strike over working conditions.

Allegations of corruption, racism, favouritism and incompetence levelled against the Robben Island Museum management committee have been "strongly rejected" by André Odendaal, the island's interim administrator. No member of staff has put their name to the allegations and today a spokesman for the group said they had "no comment", although a press conference would be held later. — Staff Reporter



LEON MULLER

PAC comfort: Patricia de Lille briefs John Palm, father of victim Roland Palm, at the resumption of the hearing into the amnesty application of three Apla cadres

Top cop threatened to kill me, says Sibaya

ART 14/1/98

NORMAN JOSEPH (252)
STAFF REPORTER

The gardener who linked the Truth Commission's Dumisa Ntsebeza to the Heidelberg Tavern attack told the TRC's amnesty committee today that policeman Des Segal threatened to kill him and his family if he did not stick to his statement.

A nervous Bennett Sibaya told the committee police had also threatened to burn down his house.

Azanian People's Liberation Army members Humphrey Luyanda Gqomfa, Vuyisile Brian Madasi and Zola Prince Mabala are applying for amnesty for the 1993 attack on the Observatory tavern in which four people died.

Mr Sibaya, who asked for a brief adjournment because he was feeling ill, told the committee that Superintendent Segal, who died in a car accident last May, wanted to implicate Mr Ntsebeza in the killings.

Mr Ntsebeza, who was present during Mr Sibaya's testimony today,



Apla applicants: from left Vuyisile Madasi, Humphrey Gqomfa and Zola Mabala

is head of the TRC's investigative unit.

Mr Sibaya said Superintendent Segal posed as a buyer when he (Sibaya) and a friend were poaching

crayfish on January 4, 1994.

Mr Sibaya said that he and his friend were arrested and taken to the Bellville South offices of the police Murder and Robbery Unit, where

they were shown photographs of Mr Ntsebeza and his car's registration number.

Mr Sibaya testified that Superintendent Segal had said "he knew" Mr Ntsebeza had been involved in the incident "and they wanted enough information to implicate Mr Ntsebeza".

Mr Sibaya said Superintendent Segal showed him a device in a car boot and said if he did not keep to his statement, he would be killed by "this long rifle".

Mr Sibaya said he and his friend were never charged for poaching crayfish.

He alleged that Superintendent Segal, detectives Johan Etsebeth and Sandile Fulani severely assaulted him and his friend.

Mr Sibaya claimed he was forced to run for his life when two policemen confronted him on December 17 or 18 last year demanding to know why he had not continued to implicate Mr Ntsebeza.

The hearing continues today and tomorrow.

TUTU DENIES SPLIT WITHIN TRC

Court to rule on amnesty

CT 14/1/98 (252)

TRC chairperson Archbishop Desmond Tutu has slated the press for insinuations that the commission was split over the granting of amnesty to ANC leaders. **ROGER FRIEDMAN** reports.

THE Truth and Reconciliation Commission is to ask the High Court to adjudicate whether the amnesties granted by its committee to 37 ANC leaders, including Deputy President Thabo Mbeki and five cabinet ministers, falls within the ambit of the law

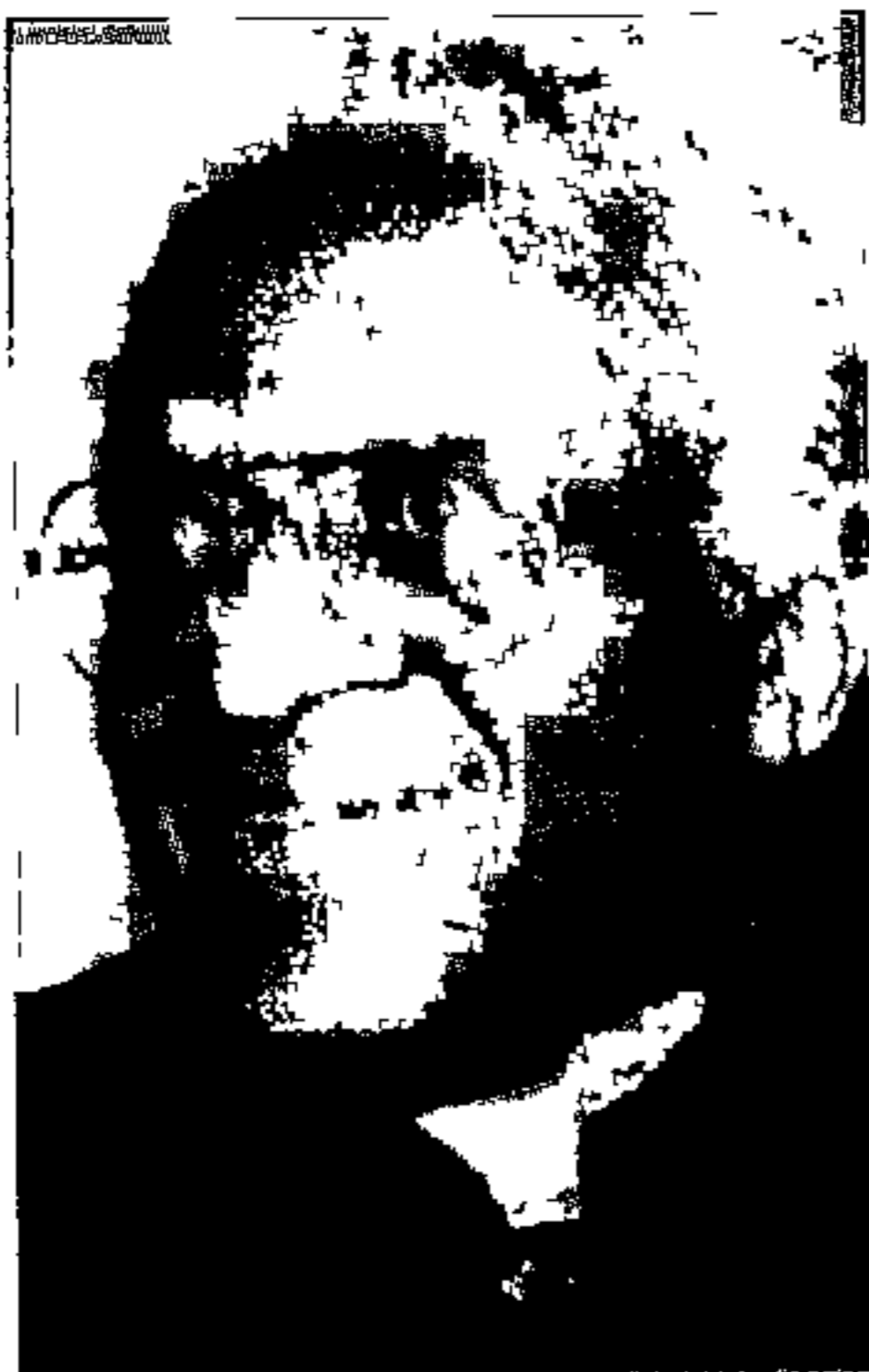
It may appear strange to some that the commission is taking itself to court.

But the committee on amnesty reaches decisions independently of its mother body, some members of which were concerned over the committee's interpretation of the Promotion of National Unity and Reconciliation Act

Should the court find that the amnesties do not comply with the provisions of the act, the ANC leaders' amnesty applications would be reconsidered by a different panel of the committee on amnesty, which could request further information from the applicants, it was announced yesterday

The applications were granted in chambers by a panel comprising three of the most senior members of the committee on amnesty led by chairperson Mr Justice Hassen Mall

At a press conference held on Robben Island yesterday — at the conclusion of a three-day retreat



LASHING OUT AT THE PRESS: Desmond Tutu

for commissioners and committee members — chairperson of the commission Archbishop Desmond Tutu lashed out at media reports last Sunday projecting that the commission was in crisis and split into two camps over the granting of the ANC amnesties

Flanked by the men said to be at the head of the two camps, deputy chairperson Dr Alex Boraine and head of the investigative unit Mr Dumisa Ntsebeza, Tutu termed the reports as "some of the most irresponsible journalism I have seen in a long time"

Tutu acknowledged that there had been "strong differences of opinion" over the granting of the amnesties, but added that the decision to go to the High Court had been a unanimous one, reached



GRANTED ANC AMNESTY APPLICATIONS: Hassen Mall

after a 30-minute discussion

The ANC leaders' amnesty applications were apparently not made in respect of specific acts, as required by the Promotion of National Unity and Reconciliation Act, and the commission was advised by a senior advocate last month that the decisions may not comply with the act

The granting of the amnesties was criticised by the National Party, the Pan Africanist Congress and the Democratic Party

Tutu said the commission would, as a matter of urgency, approach the High Court to obtain a declaratory order, or such other relief as the commission's counsel may advise

"The Amnesty Committee has been kept fully informed of our dis-



'TRC BUCKLING UNDER PRESSURE': Patricia de Lille

cussions and this decision The committee supports this course of action and both we and they will, of course, abide by the decision of the court," Tutu said

His announcement was welcomed by the NP and the DP, which had both stressed that their objection to the amnesties having been granted was based on the principle of equality before the law The ANC also welcomed the move, committing its members to respect and abide by the decision of the court.

The PAC was less reconciliatory — with spokesperson Ms Patricia De Lille accusing the commission of buckling under political and public pressure, and "desperately trying to regain its credibility"

Justice staff put brakes on overtime

BD 14/1/98 (252)

PRETORIA: State advocates and prosecutors have announced that they will stop working overtime as a result of the Department of Justice's decision to suspend overtime payment.

"The wheels of justice will barely roll, and might even come to a grinding halt," the Society of State Advocates of SA and the National Union of Prosecutors of SA (Nupsa) said in a joint statement yesterday.

"With no prospect of being paid for overtime performed during January, February and March, prosecutors and state advocates have indicated that no overtime will be performed,"

the statement said.

Society of State Advocates chairperson Ms Retha Meinjies said about 230 advocates and 1 500 prosecutors were expected to take part.

Meinjies said it took about nine months for a case to come before the Regional Court. "If no overtime is done, the situation can only get worse," she said.

Five staff bodies earlier declared a dispute with the Justice Department over a technical issue relating to the department's suspension of overtime payments from today.

The department said the matter

would be submitted for arbitration.

A special meeting of the departmental bargaining chamber had been called to discuss the reason for the suspension, which was to remain in force until the end of the current financial year.

The department also intended discussing proposals for the possible resolution of the matter.

"The matter, which was tabled by the department, was seen by the employee organisations as a negotiable issue, and not as a matter for consultation as the department upheld," the statement said.

Before any discussions could take place, staff bodies had opted to declare a dispute over the department's view that the matter was not open for negotiation. The dispute would be submitted for arbitration.

Departmental spokesperson Mr David Potogó said this would be treated as a matter of priority. He said the parties have not yet agreed on who would be approached to arbitrate.

Sapa

State lawyers react strongly over overtime

Sowetan 15/1/98

(252)

Prosecutors and advocates warn that the wheels of justice will come to a grinding halt

HUNDREDS of state prosecutors in magistrates' offices countrywide have indicated they will stop working overtime from today, the National Union of Prosecutors of South Africa said yesterday.

They would be joined by state advocates in the office of the Pretoria Attorney-General, said Society of State Advocates chairperson Ms Retha Meintjies.

Many more were expected to announce the withdrawal of their overtime services in reaction to the Department of Justice's decision to suspend overtime payments, the two bodies said.

Nupsa president Mr Eduard van der Spuy said delays in court proceedings could be expected as soon as this week.

"The prosecutors will now do all their preparations during office hours, something they usually do at home," he said.

"I think many courts will not be able to start at 9am tomorrow as usual."

He said prosecutors in Johannesburg, Pretoria, Durban and East London had indicated they would refuse to work overtime from today.

Prosecutors in Cape Town and Port Elizabeth met yesterday to discuss the issue,

but the outcome is not yet known.

Van der Spuy said regional courts in Johannesburg had 4 380 cases pending at the end of December, many of which would only go to trial in March.

There were 2 932 cases pending in Pretoria's 14 regional courts, and some had already been postponed to August. District courts in Pretoria and Johannesburg had a total of 5 069 cases pending.

"This situation will only be aggravated now," Van der Spuy said.

'Grinding halt'

State advocates and prosecutors warned on Tuesday that their refusal to work overtime could result in the 'wheels of justice coming to a grinding halt'.

Their decision follows the declaration of a dispute by five staff bodies with the Department of Justice over its suspension of overtime payments.

The matter has been referred for arbitration.

State advocates worked an average of 25 hours overtime a month, while prosecutors sometimes worked up to five hours overtime a day, Meintjies and Van der Spuy said - *Sapa*

PW seeks to stave off summons

OWN CORRESPONDENT

Cape Town - Former state president P W Botha's 1 700-page submission to the Truth Commission is not his last word - his lawyers are delivering a fresh submission to Cape Attorney-General Frank Kahn today

"They are making a representation on his behalf and they say they are presenting me with facts I don't know about," Kahn said

Botha failed to turn up for a special hearing on the State Security Council he once chaired, and the commission laid a criminal charge against him. Kahn gave his lawyers until today to

make representations to him

Kahn said he expected to make a decision on whether to summons Botha in "a week or two" Indications from Botha's lawyers are that he will appear if summonsed by Kahn

"I will make a decision as soon as I can, but this will depend largely on what they tell me They are playing their cards close to their chests," Kahn said

Botha's run-in with the TRC began when he ignored a subpoena to appear at the special hearing to answer questions on the State Security Council

His lawyer Ernst Penzhorn said Botha did not regard the subpoena served on him at his

Wilderness home in early December as valid

Botha believed the motivation for ordering him to the hearing was not to obtain information but to humiliate him and even abuse him in public

TRC deputy chairman Alex Boraine rejected Botha's claim, saying the commission had tried to reassure him in letters and in communications to his lawyers that he would not be humiliated or ridiculed

Botha also alleged he had struck a deal at a one-on-one meeting with Archbishop Desmond Tutu that he would not have to appear before the commission if he replied to questions in writing

Star 2/1/98

(252)

Editor of Die Burger and TRC chairman Tutu clash over newspaper's policies

By PIETER MALAN

A heated row has erupted between TRC chairman Desmond Tutu and *Die Burger* editor Ebbe Dommissie after Archbishop Tutu threatened that the newspaper would be "crushed" for its negative stance towards the TRC.

In a series of letters between Dommissie and Tutu written between October and November and published this week, Tutu accused *Die Burger* of misleading its readers and marginalising them from the new South Africa.

Dommissie countered that the problem lay with the TRC anticipating its own findings and by "dishing out collective guilt to Afrikaners".

The shimmering tension between the newspaper and the TRC burst out in the open in October after Tutu severely chastised *Die Burger's* TRC reporter Christo van Staden.

Tutu took Van Staden to task after the paper published

a leader-page article criticising the commission

According to reports, Tutu apparently said to Van Staden "Did you read yesterday's leader and the cartoon? What is going on with your people? You are going to lose. You are going to get crushed."

The next day Dommissie wrote to Tutu in Afrikaans "In the light of increasing government threats against the press, we view your remark (yesterday) in a very serious light. We must also accept that threats like these against an institution like *Die Burger* has become part of the TRC agenda."

A week later Tutu wrote back "The spirit in which I said to Christo that your newspaper would be crushed is reflected at the end of a speech I delivered in the 1980s."

The extract of the speech, which was attached, read: "You may be powerful indeed (But) you have already lost! We are inviting you to come and join the winning side. You are defend-

ing what is fundamentally indefensible. Therefore, you will bite the dust comprehensively!

"You will see that I am addressing you in much the same terms as I used in addressing the apartheid government, since I believe your newspaper's policies reflect a nostalgia for the past."

"Neither I nor the commission have any intention of threatening the freedom of the press. The constitution for which I and many others fought and made sacrifices guarantees your freedom of thought as well as mine."

Dommissie answered it was "complete hogwash" that *Die Burger* longed for the past, as it was for years a leader with innovative thought that eventually led to the transformation of the country.

"Afrikaans-speakers are being alienated by continuous pronouncements by TRC leaders like yourself which are anticipating your findings before they have been made."

TRC spokesperson Christelle Terreblanche said this week that as far as Tutu was concerned, the debate was "in a dead-end street".

George Claassen, head of the journalism department at the University of Stellenbosch, said the debate was a continuation of the age-old struggle between the media and the instruments of the state. "Ebbe (Dommissie) was correct, however, in taking issue with Tutu over the issue of 'crushing' the newspaper. As chairman of the TRC he should know better than to say things like this."

It is not the first time *Die Burger* and the TRC have clashed. Last year a number of *Die Burger's* staff members signed a submission to the TRC, against the wishes of their editor, in which they apologised for the role *Nasionale Pers* publications played in maintaining apartheid through its support for the NP.

Each of the journalists who signed this statement received a letter of thanks signed by Tutu.

Tutu, Die Burger row over paper's TRC coverage

PIETER MALAN

A heated row has erupted between Truth and Reconciliation Commission chairman Desmond Tutu and Die Burger editor Ebbe Dommissie after Archbishop Tutu said the newspaper would be "crushed" for its negative stance towards the commission.

In a series of letters between Mr Dommissie and Archbishop Tutu, written between October and November last year and published this week, Archbishop Tutu accused Die Burger of misleading its readers

and marginalising them from the new South Africa. Mr Dommissie countered that the problem lay with the TRC anticipating its own findings and by "dishing out collective guilt to Afrikaners".

The tension between the newspaper and the TRC emerged in October last year after Archbishop Tutu, in a private conversation, severely chastised Die Burger's TRC reporter, Christo van Staden, after the paper published a leader page article criticising the commission.

According to reports, Archbishop Tutu, apparently said to Mr Van Staden: "Did you read yesterday's

leader and the cartoon? What is going on with your people? I began to think you are irredeemable. You are going to lose. You are going to get crushed."

The following day, Mr Dommissie wrote to Archbishop Tutu, in Afrikaans: "In the light of increasing Government threats against the press, we view your remark in a very serious light."

"We must also accept that threats like these against an important Afrikaans institution like Die Burger have become part of the TRC agenda. So much more so as you yourself have dispensed collective guilt to the

Afrikaners (and thereby anticipated your own findings)."

Archbishop Tutu wrote back: "The spirit in which I said to Christo that your newspaper would be 'verpletter' (crushed) is reflected in the end of a speech I delivered in the 1980s."

Part of the extract of the speech, which was attached to the Archbishop's letter, read: "Your cause is unjust. You are defending what is fundamentally indefensible (apartheid), because it is evil. It is immoral. It is immoral without question. It is un-Christian." Archbishop Tutu also accused

Die Burger of misleading its readers. "As a result you are denying them a wonderful opportunity to become part of our rainbow people, asserting the Afrikaner identity and the Afrikaans language as an integral component of our nation. This makes me both angry and sad."

Mr Dommissie answered that it was "complete hogwash" that Die Burger longed for the past as it had been a leader with innovative thought for years.

TRC spokesperson Christelle Terlanche said this week that as far as the Archbishop was concerned the debate was a dead-end street.

AR 6 3/11/98 (252)

High Noon nigh as PW sticks to his guns for TRC showdown

A-G set to announce what action will be taken

LINDSAY BARNES

A South African drama akin to a John Wayne Western is about to enter its next episode.

Western Cape Attorney-General Frank Kahn is to announce his decision this week on whether or not to prosecute former State President P W Botha for disobeying a subpoena to appear before the Truth and Reconciliation Commission.

Mr Kahn told Saturday Argus yesterday he had met representatives from Mr Botha's legal advisor Ernst Penzhorn and would

make a decision "not later than January 9"

Pretoria advocate Piet de Jager and Mr Penzhorn spent more than an hour in the attorney-general's office yesterday morning, but the contents of the discussion have been kept secret.

"They made the representations they wished to make, the contents of which I will not disclose. It is confidential and will be treated as such," said Mr Kahn.

He is to call a press conference during the week in which he will announce his decision.

Mr Penzhorn, who is based in

Pretoria and is on holiday in Cape Town, declined to discuss the content or length of his submission.

"We had the discussions with Mr Kahn and are awaiting his decision," he said.

The TRC, led by Archbishop Desmond Tutu, would cherish the opportunity to question Mr Botha on his role as leader of the notorious State Security Council.

Last year, 81 year-old Mr Botha became engaged to a much younger woman.

He has made no secret of his opinion of the commission, having described it as a "circus" intent on

publicly abusing and humiliating him. He has dug in his heels in a last stand of defiance.

He reportedly does not wish to be submitted to the grilling that Mr F W de Klerk and Mrs Winnie Madikizela-Mandela had at the hands of the TRC.

Mr Botha has said he would appear in court voluntarily if required to do so.

In December, Mr Kahn said he had given Mr Botha's legal advisor until January 2 to make written representations to the attorney-general's office on "facts unknown to me" and on why criminal

charges should not be laid against Mr Botha. Mr Kahn would decide on prosecution during this week after receiving the submission.

Should he choose to summons Mr Botha to court in terms of the Criminal Procedure Act, Mr Botha would have 14 days in which to comply, which Mr Botha indicated through his lawyer he would do.

It is likely the representations centred on Mr Botha's claim that he had struck a deal with Archbishop Tutu at a meeting at his Wilderness home last year.

Mr Botha contended that Archbishop Tutu gave an undertaking

that Mr Botha would not have to appear before the TRC if he answered the commission's questions in writing, which he did.

In response to this claim, Archbishop Tutu has said he had no mandate to make any such deal with Mr Botha who faces three possible charges.

■ Failing to appear before the TRC

■ Hindering the commission.

■ Contempt of the commission. The legislation under which the TRC was established makes allowances for fines and and for a prison sentence of up to two years

(959) 3/1/98

Bennet Sibaya reveals all to investigators

Former villain of the TRC is set to reveal Stratcom secrets

By JIMMY SEEPE

CP 4/1/98

(252)

STARTLING NEW REVELATIONS have been made to the Truth and Reconciliation Commission's investigators by alleged gardener, Bennet Sibaya. The revelations could unravel aspects of the apartheid security machinery in the Western Cape, City Press was informed this week.

Sibaya shot into national prominence last year when he claimed that a car belonging to Truth and Reconciliation Commission (TRC) head of investigations Dumisa Ntsebeza was used by Apla operatives during an attack on the Heidelberg tavern in which several patrons were killed.

He later retracted the accusation and alleged that he had been paid by cops to implicate Ntsebeza.

Ntsebeza, who took time from his holiday vacation to speak to City Press, said Sibaya had informed two TRC investigators about certain "sensitive information" which was being dealt with at the highest level by investigators.

The TRC is now even considering putting Sibaya - once regarded as a villain by the commission - in the witness protection programme.

Ntsebeza said TRC investigators were currently conducting a high-level investigation regarding information passed on to them by Sibaya.

TRC investigators are said to be baffled by the type of sensitive information Sibaya possesses about apartheid security matters in the Cape.

They are also baffled that the man who was once presented to the media as an ordinary gardener and spoke through an interpreter has a good command of the English language and has travelled to many parts of the world.

What is said to be emerging is Sibaya's knowledge of and alleged possible dealings in certain apartheid Stratcom activities in the Western Cape, including the former Transkei homeland.

Ntsebeza said the information that Sibaya had presented to them could not at this stage be made public since investigators had to follow up on each of the allega-

tions that were made.

Asked whether Sibaya had now turned into a good source of information for the TRC, Ntsebeza said. "He is forthcoming. We are however checking whether the information we are presented with is the truth and whether it can be verified."

But it is understood that investigators are still concerned that Sibaya has not given them an account of his history regarding his possible past activities with the apartheid police. "We need an open book on the man," said Ntsebeza.

TRC investigators are said to be beginning to gather information about the wealthy gardener who stunned the country by alleging that Ntsebeza's car was used as a getaway after the Pan Africanist Congress military wing attacked the Heidelberg tavern in 1993.

Investigators are amazed at the gullibility of some of their colleagues within the TRC and the police, who took as fact the allegations Sibaya first made against Ntsebeza.

At the time that Sibaya first made the allegations, the TRC was rocked by the sudden resignation of its chief investigator, Glenn Goosen.

There were suspicions that his resignation could be linked to the controversy within the TRC on how to deal with Sibaya's allegations against Ntsebeza concerning the Heidelberg massacre.

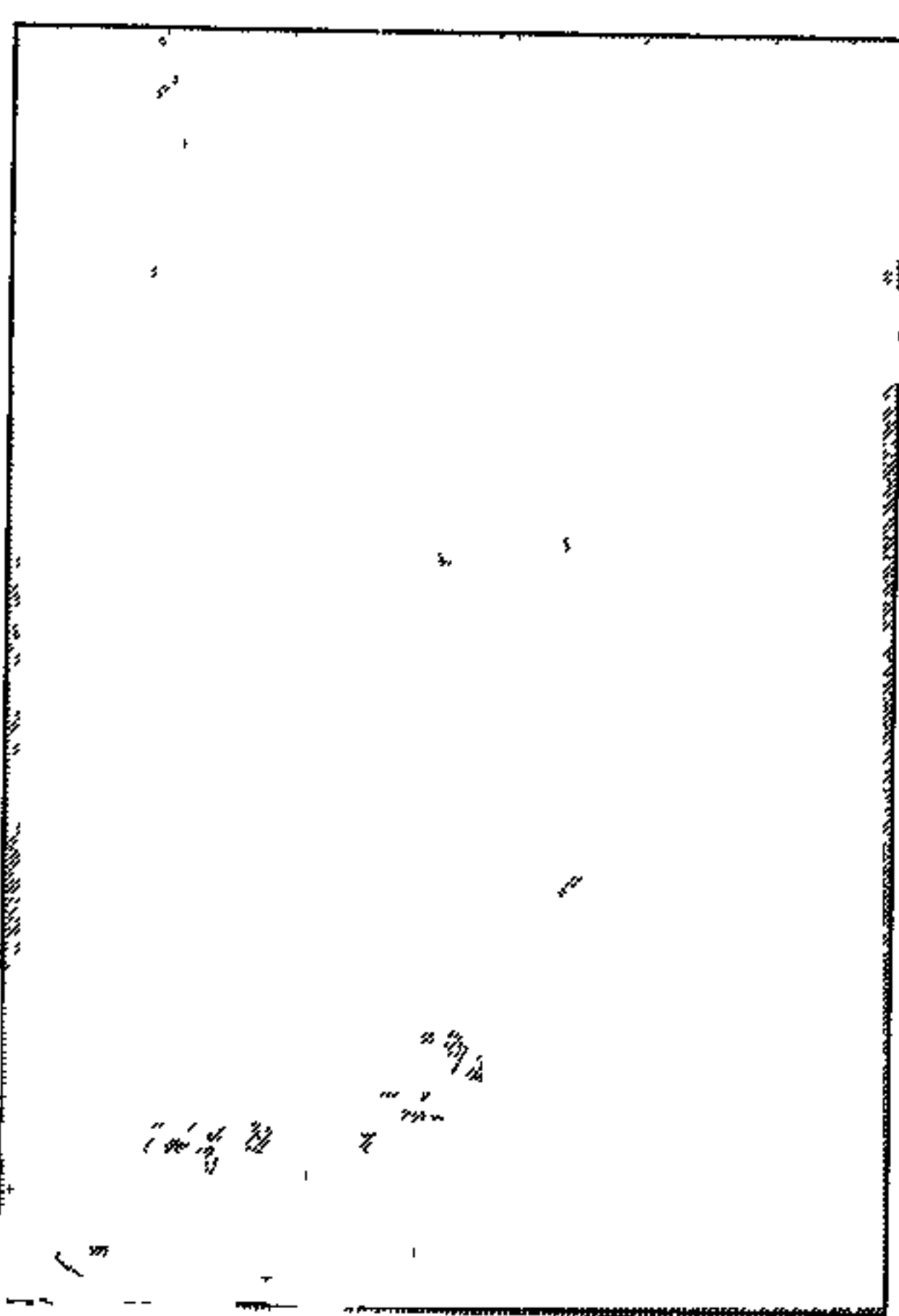
The TRC had even gone to the extent of serving a Section 19 notice on Ntsebeza informing him that his name was going to be mentioned in the amnesty application of former members of the Azanian People's Liberation Army (Apla) cadres.

It is understood that Goosen had contemplated serving notice on Ntsebeza.

Sibaya, who pointed out Ntsebeza at the TRC hearing during the Heidelberg amnesty hearing, later retracted his allegations and told its chairperson, Archbishop Desmond Tutu, that he had been asked to lie.

He later appeared before a media briefing with Ntsebeza and publicly apologised to him.

Ntsebeza said he had still not decided whether to take civil action against Sibaya for having implicated him in the Heidelberg tavern massacre.



HE WHO LAUGHS LAST... The TRC's Dumisa Ntsebeza says that Bennet Sibaya has turned the tables on his former bosses

PW Botha may face two-year jail term

Sowetan 5/1/98 (252)

By Ido Lekota
Political Reporter

FORMER state president PW Botha may face a two-year jail sentence by the end of this week following his refusal to appear before the Truth and Reconciliation Commission

According to TRC media liaison officer Mr Mdu Lembede, Cape attorney-general Frank Khan will make a decision "by the end of this week" whether to prosecute the "Ou Krokodil"

Botha failed to appear before the TRC for a special hearing on the State Security Council which he once chaired and the commission laid charges against him

If charged, he could face a two-

year jail sentence or a fine or both

Last Friday Botha's lawyers made a representation to Khan apparently in support of the view that a written submission to the TRC was enough. On his part, Botha has made a 1 700-page submission to the TRC

Khan then said he would consider the information presented by the lawyers, which apparently included facts he never knew about, and make a decision

The Botha-TRC saga began when he ignored a subpoena served on him in November after his lawyers had declared the order invalid

The subpoena had been signed by a guard at Botha's Wilderness home after he had refused to accept it personally

Another subpoena was then served on Botha through his lawyers but he once more refused to cooperate

According to Botha, the motive to have him testify before the TRC was not to obtain information but to humiliate him

Meanwhile, Botha's apparent lack of cooperation with the TRC drew flak from President Mandela

During an SABC-TV interview Mandela said Botha was not above the law

Mandela said the Government and the TRC had gone out of their way to accommodate Botha, but he was bent on trying to demean such efforts

"The law will take its cause in view of such behaviour," Mandela said

Botha accuses TRC of having knife in for him

SA 5/1/98 (252)

Former president P W Botha yesterday accused the Truth and Reconciliation Commission of having the knife in for him.

In an interview with the Afrikaans Sunday newspaper Rapport, Botha was quoted as saying that he was still not prepared to appear before the commission.

He had done nothing wrong, he claimed. He said he went to great lengths in an 1 800-page document to give a written reply to all questions put to him by the

TRC concerning the former State Security Council

"I have done nothing to them but they have started prosecuting me," Botha said.

He said if he was charged because it was held that his failure to personally appear before the TRC was a criminal offence, he would make his appearance in court because he had respect for the law.

He claimed to have received a great deal of support for his stance,

including support from former generals of the old SA Defence Force, who had told him they had started a fund to assist him

Legal advisers representing Botha on Friday held confidential discussions with Western Cape Attorney-General Frank Kahn before whom the TRC laid its complaint concerning Botha.

Kahn indicated that he could make a decision on whether or not to prosecute Botha during the coming week. - Sapa

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Amnesty's gory catalogue

(P22)

LoweJan 6/1/98

President Nelson Mandela was one of the first leaders to sign the organisation's pledge books

By Oliver Burkeman

AS 50TH BIRTHDAY presents go, Human Rights Watch's World Report 1998 makes a particularly unwanted gift.

On the 50th anniversary of the signing of the Universal Declaration of Human Rights, the international monitoring group offers a catalogue of censorship, detentions, executions and denials of basic freedoms.

The report would have appalled the optimists who, horrified by the atrocities of Nazism, put the names of 48 states to the ground-breaking document in San Francisco on December 10 1948.

"Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind," the signatories agreed

They looked forward to "the advent of a world in which human beings would enjoy freedom of speech and belief and freedom from fear and want"

Idealistic dreams

However, as the London-based campaign group Amnesty International points out, half the world's countries still imprison people for their beliefs – and a third of those torture them, too

It is difficult to imagine how much further the human race could be from realising the idealistic dreams of a document that includes "periodic holidays with pay" among its list of inalienable rights

Ngawang Sangdrol is one of many hundreds of human rights campaigners who is unable to celebrate the golden jubilee A Buddhist nun supporting Tibet's independence from China, she was jailed for three years in 1992 after staging a peaceful demonstration in Lhasa.

Her sentence was increased to nine and then 18 years – including several months in solitary confine-

ment – for expressing her views in prison

Her case is one of several highlighted by Amnesty as it begins a year-long campaign to breathe new life into the Declaration

"The public will not stand by for another 50 years of broken promises," Amnesty general secretary Pierre Sané said at the launch of the "Get Up, Sign Up" campaign in Johannesburg recently

President Nelson Mandela of South Africa and Myanmar's opposition leader and Nobel laureate Aung San Suu Kyi were among the first to sign the organisation's pledge books – vowing active support for the Declaration – which Amnesty hopes will contain millions of signatures when they are presented to the United Nations on December 10 1998

Criticism

But while campaigners seek to renew the Declaration, it faces a sustained and high-profile barrage of criticisms

Malaysian prime minister Mahathir Mohamad has proposed a review of the document, arguing that freedom of expression and association is sometimes inapplicable to "the Asian context"

And in Geneva, the head of the Beijing delegation to the UN's Human Rights Commission told a British newspaper "The Western countries act like school teachers, handing out marks to their pupils. They are targeting developing countries. Is that fair?"

Cultural relativism is rejected by most campaigners "If ideas and beliefs are to be denied validity outside the geographical and cultural bounds of their origin," writes Aung San Suu Kyi, "Buddhism would be confined to north India, Christianity to a narrow tract in the Middle East and Islam to Arabia"

Malcolm Smart, of the anti-censorship organisation Article 19, "which takes its name from the clause protecting freedom of speech, points

out that the Declaration was not "some set of maximal long-term objectives", but a statement of basic minimum rights

He says "Without access to information and the right to express oneself, individuals are not in a position to determine what is in their best interests"

"For governments, especially those without very impressive democratic credentials, to be calling for a renegotiation of core universal rights can only be seen as the self-serving attempts of elites to perpetuate their hold on power"

Nevertheless, there is increasing pressure to broaden the application of human rights to include economic realities such as the right to food and shelter. Obligations to feed the hungry, says ethicist Onora O'Neill, should be a matter of justice rather than beneficence

Even aside from these issues, the complex machinery established by the UN to implement the Declaration – the treaty-monitoring commissions, their sub-commissions and working groups – is looking increasingly rusty

And the appointment of a High Commissioner for Human Rights, a position created in 1993 to coordinate UN action, has yet to bear fruit

The first commissioner, Ecuador's Jose Ayala Lasso, was condemned by human rights groups for his self-styled "quiet diplomacy" approach



President Nelson Mandela ... he was among the first to support the Amnesty International human rights campaign launched recently.

According to Amnesty, he "delivered speeches which seemed simply to praise the (violate) government's efforts and bury the human rights violations that were on everyone's minds"

His successor, former Irish presi-

dent Mary Robinson, has pledged to bring "moral authority" to the post. Non-government organisations have welcomed her appointment but, like many UN member states, she will find it difficult to turn words into reality in 1998 – *Gemma News*

Law may limit jail time for less-serious offenders

Star 6/1/98 (252)

Awaiting-trial prisoners are expected to benefit from new legislation which will put pressure on prosecutors and police

POLITICAL STAFF
Cape Town

Thousands of awaiting-trial prisoners could be released if Parliament passes legislation this year to set a limit on the amount of time those held in custody for less serious offences are required to spend in prison.

While parliament has already passed justice legislation which gives courts little discretion to provide bail to those charged with serious offences such as rape, armed robbery and murder, the new measure is expected to place pressure on prosecutors and the police to speedily bring cases to trial.

The legislation, amending the Correctional Services Act, is expected to be presented to Parliament in the first quarter of this year, according to the Ministry of Correctional Services

The Justice Ministry is also looking at ways of imposing heavier sentences on escapers.

Speaking on behalf of Correctional Services Minister Sipo Mzimela, Bert Slabbert said 30 000 of the 130 000 prisoners at present in jails were awaiting-trial prisoners

While Slabbert declined to indicate just how many awaiting-trial prisoners the department wanted to release, he said a significant reduction was needed

He said the limits to be set on the custody period had to be established by parliamentarians.

Slabbert said the legislation would have to be refined by the correctional services portfolio committee to ensure that a limit was placed on the period for which a prisoner in custody could be held for serious crimes.

~~Star~~
"If the police can't solve the case and the awaiting-trial prisoner is clogging the system, then he must be released," Slabbert said.

Justice Minister Dullah Omar said yesterday that the intention was not to release dangerous prisoners. He said that many had been granted bail but had not been able to pay it.

His department, in conjunction with the police and correctional services, was looking at ways of reducing the prison population, not by releasing people who were a threat to the community, but by releasing those who ought not to be in prison.

SA Prisoners Organisation for Human Rights deputy president Derrick Mdluli guardedly supported the releases but said prison escapes were the result of corruption

Finger pointed at corrupt prison officials

Star 6/1/98

BY GILL GIFFORD
Crime Reporter

Corrupt prison officials probably helped six high-profile awaiting-trial prisoners escape from the Pretoria Local Prison on December 5, the task team assigned to investigate the jail-break has found.

Anti-corruption unit head Director Stefan Grobler, specifically tasked by President Mandela to get to the bottom of the escapes, said yesterday the team had passed its conclusions, along with specific recommendations to Mandela and the office of Justice Minister Dullah Omar.

The six escapers, all still at large, are: Oupa Seane and Den-

nis Ngobese, arrested in connection with the R17-million armed robbery near Bronkhorstspruit, Colin Chauke, a former MK soldier and one of four men arrested in October following an R18-million robbery at a Pretoria cash-clearing depot; Siphon "Killer" Nkuna and Salashe "Lassie" Sibiyi, suspects in a multimillion rand car-theft syndicate; and Abdul Kafoor-Kalla, arrested after police shut down a major mandrax manufacturing plant.

The findings of the report could not be made public until they had been handled by the relevant ministries. Grobler said, but detectives had discovered that corruption was involved.

~~Star~~
"We have strong evidence of corruption, and are moving on to the next step which is to recapture the six men. I am confident we will do this - I just cannot give a time frame," Grobler said.

"We plan to prove the corruption and in order to do this we need to rearrest the six fugitives and, through questioning, get them to reveal their inside contacts - people either in correctional services or the police," said Grobler.

Responding to the report, presidential spokesman Parks Mankahlana said: "The report is also related to criminal investigations, so we cannot make the findings public without jeopardising the case."

TRC is soft on Botha - PAC

Sowetan 7/12/98 (252)
7/1/98

By Saint Molakeng

THE Truth and Reconciliation Commission has been called upon to stop being "soft" on former South African president PW Botha, who has been refusing to appear before the commission

Pan Africanist Congress general secretary Mr Mike Muendane said the party believes the TRC was "unduly bending over backwards" in handling Botha's case

"The commission has even visited Botha at his residence (where subpoenas, which he refused to receive, were served on him last month) Why was that the case while a wheelchair-ridden African National Congress member had to appear before the TRC Is it because Botha was president of a racist state and an (alleged) murderer?" Muendane fumed

"The TRC must charge Botha immediately, drag him to court, try him and if found guilty, sentence him to jail and throw away the keys"

The Democratic Party said Botha owed it to apartheid-era security force members who had made appearances before the TRC, to appear as well

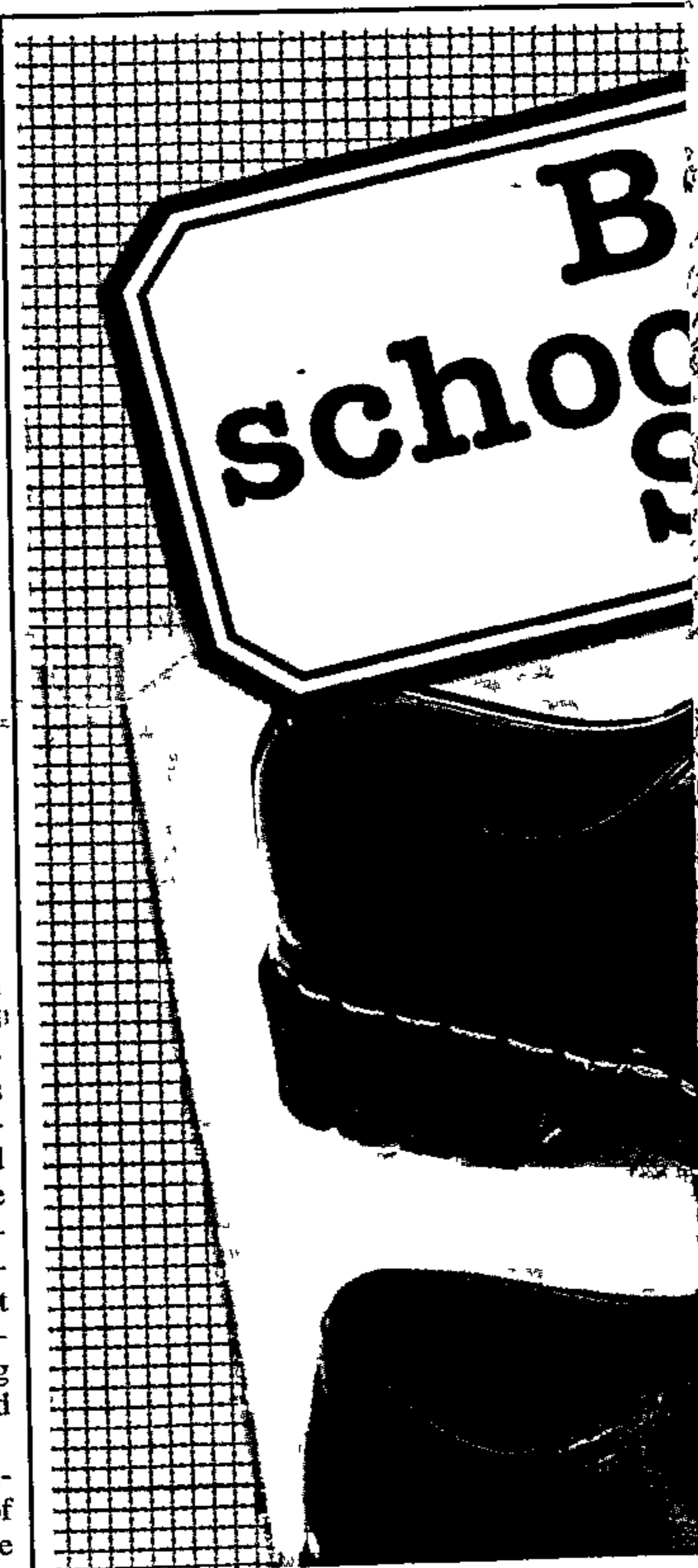
Claiming that it would "do South Africa no good" if a transition that started with President Nelson Mandela's release from jail, ended with Botha's imprisonment, DP spokeswoman Ms Dene Smuts said "Perhaps TRC chairman Archbishop Desmond Tutu should try to hold the hearing at Botha's residence and have tea together - since having tea at Tuynhuys started the transitional ball rolling between Mandela and Botha a few years ago"

Unless Botha responded positively by the end of this week, Western Cape

attorney-general Frank Kahn might prosecute him for having disregarded the subpoenas

ANC spokesman Mr Ronnie Mamoepa said the party would not "pre-empt the process" by passing comparative judgment because it had "absolute confidence" in the TRC's observance of the rule of law relating to Botha's case

"The commission is sensitive to not creating the unfortunate impression that it is treating people unequally with regard to them appearing before it," Mamoepa said.



Justice bills to change court powers this year

Jacob Dlamini

BD 7/11/98

(252)

THE justice department is to introduce bills that aim to improve witness protection, allow community participation in criminal cases and give magistrates powers to impose stiff sentences, as part of the legislative programme for this year.

Chief among the pieces of legislation to be introduced this year is the National Prosecuting Authority Bill, which provides for the creation of a single, integrated prosecuting system for SA.

The bill provides for the appointment of a national director of prosecution, whose job will be to oversee the functioning of prosecutors around the country.

The bill is likely to come under attack from opposition parties and the legal fraternity.

They fear that the director's office will undermine the independence of the judiciary, as it will be a political appointment by the justice minister.

Another piece of legislation to be introduced this year is the Magistrate's Courts Assessors Amendment Bill, which is designed to allow communi-

ties to have a say in cases in which they have a direct interest.

The bill makes provision for the use of assessors drawn from communities in cases such as rape and robbery.

The assessors will work together with magistrates to decide on verdicts and sentences.

The Judicial Matters Amendment Bill will increase the penal jurisdiction of regional courts to 15 years and that of district courts to three years.

The ministry will unveil plans for improved witness protection as laid out in the Witness Protection Bill.

Other legislation is designed to enforce maintenance orders and to reduce delays in the payment and collection of maintenance fees.

Justice ministry spokesman Paul Setsetse said this year would see the introduction of legislation to rationalise the sheriffs' profession and restructure the legal profession.

Rules governing debt collection would also be introduced.

Setsetse said the ministry was working on legislation providing for the compensation of crime victims as well as the combating of domestic and sexual violence.

Khan to charge PW after truth hearing snub

(252)

DENNIS CAVERNELIS

STAFF REPORTER

ARG 7/11/98

Former State President PW Botha will be summonsed to appear in the George Regional Court on a criminal charge of failing to appear before the Truth and Reconciliation Commission.

Cape Attorney-General Frank Kahn said today Mr Botha would be summonsed to appear on January 23.

He said he had been given an assurance by Mr Botha's attorneys that he would turn up on that date. If he is convicted he faces two years' imprisonment or a fine.

Mr Kahn said that in making the decision to prosecute, "the personal circumstances of Mr Botha weighed heavily on me."

"He is almost 82 years old and no attorney-general in any civilised country lightly decides to prosecute a person of this age, especially given Mr Botha's medical history."

He said Mr Botha had a vascular condition, had recently had hip replacement surgery which affected his mobility and had hypertension, "which is not uncommon for men his age."

Mr Kahn said he had decided it was in the public interest and was warranted in law for Mr Botha to be prosecuted.

He said the TRC would not pursue charges against Mr Botha for comments he made about the commission.

"(The commission) is above petty insults," he said.

On whether it was likely Mr Botha would appear before the TRC, Mr Kahn said his only interest was in Mr Botha appearing in court. "Anything else is the business of the TRC." There had been no political consideration or influence in the decision.

"I consulted no one outside this office, it was a legal decision."

The trial would be held in George so Mr Botha could be close to his personal doctors. Mr Kahn said his concern about the trial was "swift justice. I decided to prosecute him, not to harass him."

TRC Island talks will seal fate of ANC amnesties

ARL 7/11/98 (252)
GLYNIS UNDERHILL
SPECIAL WRITER

The Truth and Reconciliation Commission will hold a "bosberaad" on Robben Island where it will be decided whether to ask the High Court to review the blanket amnesty granted to 37 senior African National Congress members.

The amnesty granted to the ANC leaders, including Deputy President Thabo Mbeki, is an extraordinary item on the agenda of the two-day gathering beginning on Monday

Christelle Terreblanche of the TRC said the Department of Justice had been asked to give legal opinion on the blanket amnesty. The opinion was being studied and details could not be released.

A political storm broke out after the amnesty was granted to the top ANC figures and five cabinet ministers, who were not required to provide details of their actions.

The TRC has acknowledged that Wim Trengrove, SC, advised it that the amnesty granted on grounds of "collective responsibility" could be successfully challenged in court.

Mixed reactions from political parties over decision to prosecute PW

BY XOLISA VAPI
Political Staff

The National Party has appealed to its former leader, P W Botha, "to respect the law and the courts" after Western Cape Attorney-General Frank Kahn announced yesterday that Botha would be charged for refusing to appear before the Truth and Reconciliation Commission.

NP media director Daryl Swanepoel said Kahn "had no other choice but to prosecute Botha" but he said the NP believed the TRC had "acted wrongly in forcing this issue to the current point".

While TRC deputy chairman Alex Boraine made a last ditch appeal for Botha to change his mind and appear before the commission, several major political parties welcomed the decision.

"We would have preferred that the current impasse between Botha and the commission did not end up in a court of law," Boraine said.

Swanepoel said that while his party respected Kahn's decision, Botha's fate could have been avoided had the TRC considered his 1 800-page document of answers to questions about his activities as a former head of state and those of the State Security Council, which he chaired.

It is clear that the TRC is not facing with even-handedness when it comes to treating the role-players of the past while at the same time it gave an illegal blanket amnesty to the ANC leadership," he said.

Welcoming the decision, ANC spokesman Ronnie Mamoeba said it would reinforce the confidence of the majority of people in the TRC process, and Kahn's decision underlines the principle that no one is above the law irrespective of status in society and that all citizens are equal before the law.

"Kahn's decision in this regard will send a clear message that those who show contempt for the feelings of victims of gross human rights violations and the TRC process will bear the consequences of their own actions," Roelf Meyer, who was deputy minister of law and order in the Botha cabinet, said it was a pity that Botha's confrontation with the TRC had developed to this extent, adding that he had warned the former state president about the show down if he did not cooperate with the TRC process.

Pan Africanist Congress secretary-general Ngila Mhlonane said Kahn's resolve had been long overdue because of the TRC's reluctance to lay charges against Botha.

"Botha has shown that he is not only recalcitrant, but obdurate in his racist position and defiance of the law," Democratic Party spokeswoman Dene Smuts said Botha's predicament had always been a political one rather than a legal one since top ANC leaders were granted amnesty.

Freedom Front leader General Constand Viljoen accused the TRC of engineering the current standoff between it and Botha.

Kahn has summoned Botha to appear before the Cape Town High Court on January 23.

More accusations against Motshekga

By ALI MPHAKI

BELEAGUERED Gauteng premier Mathole Motshekga has been linked to a Section 21 company in Midrand which was awarded a R2 million tender under questionable circumstances

The company, called MidDev, is said not to have adhered to tender requirements as stated in an advertisement on a previous tender but was still awarded the contract

Midrand local council officials were this week tightlipped about the matter, with town clerk Hans Jooste promising to reply to City Press inquiries, which he still had not done at the time of going to press

The Democratic Party said it would be submitting questions to the Midrand council about the tender, as well as to the MEC for Local Government, Sicelo Shiceka.

DP councillor Mike Waters, of the Khayalami Metro, said serious allegations had been brought to his attention concerning possible nepotism and jobs and contracts for pals

Waters said the R2 million tender was first awarded to another company, WK Projects, at an executive meeting in November

1997. He was perturbed when there was a withdrawal of the decision by the executive at its next meeting in December when it was decided the contract be awarded to MidDev

He also questioned why the tender was not awarded to the lowest tenderer

Gauteng premier Motshekga was emphatic that he had resigned from MidDev as a director when he became premier-elect of the province and as a result he was not party to any of the decisions made

Waters said the DP was taking these concerns very seriously in the interest of ratepayers and would be pursuing all the issues at both local and provincial levels

He said questions they would like to have answered include

- Why Midrand Local council was subsidising MidDev to the tune of R750 000
- Why MidDev, as a Section 21 non-profit making company should be tendering on capital projects, when its stated objective was to uplift the local disadvantaged community through community projects
- Who, in the event of MidDev going insolvent, would be liable for its debts, in the light of a clause in MidDev's Memorandum of Association which binds all its directors to the amount of only R2 each.

dum of Association which binds all its directors to the amount of only R2 each.

Waters said if Midrand councillors are above suspicion, they would answer all the questions readily and put "our minds at rest"

Meanwhile, the task team of four, set up last weekend to investigate growing controversies around Motshekga, was dissolved at a meeting of the provincial executive committee on Thursday. The decision came after a meeting of the national executive committee when the body asked for the report on the allegations to be handed to the national office-bearers

Leader of the task team, Paul Mashatile said they will be reporting on Monday, the little that they have done, to the PEC, which would then pass the information to the national office-bearers

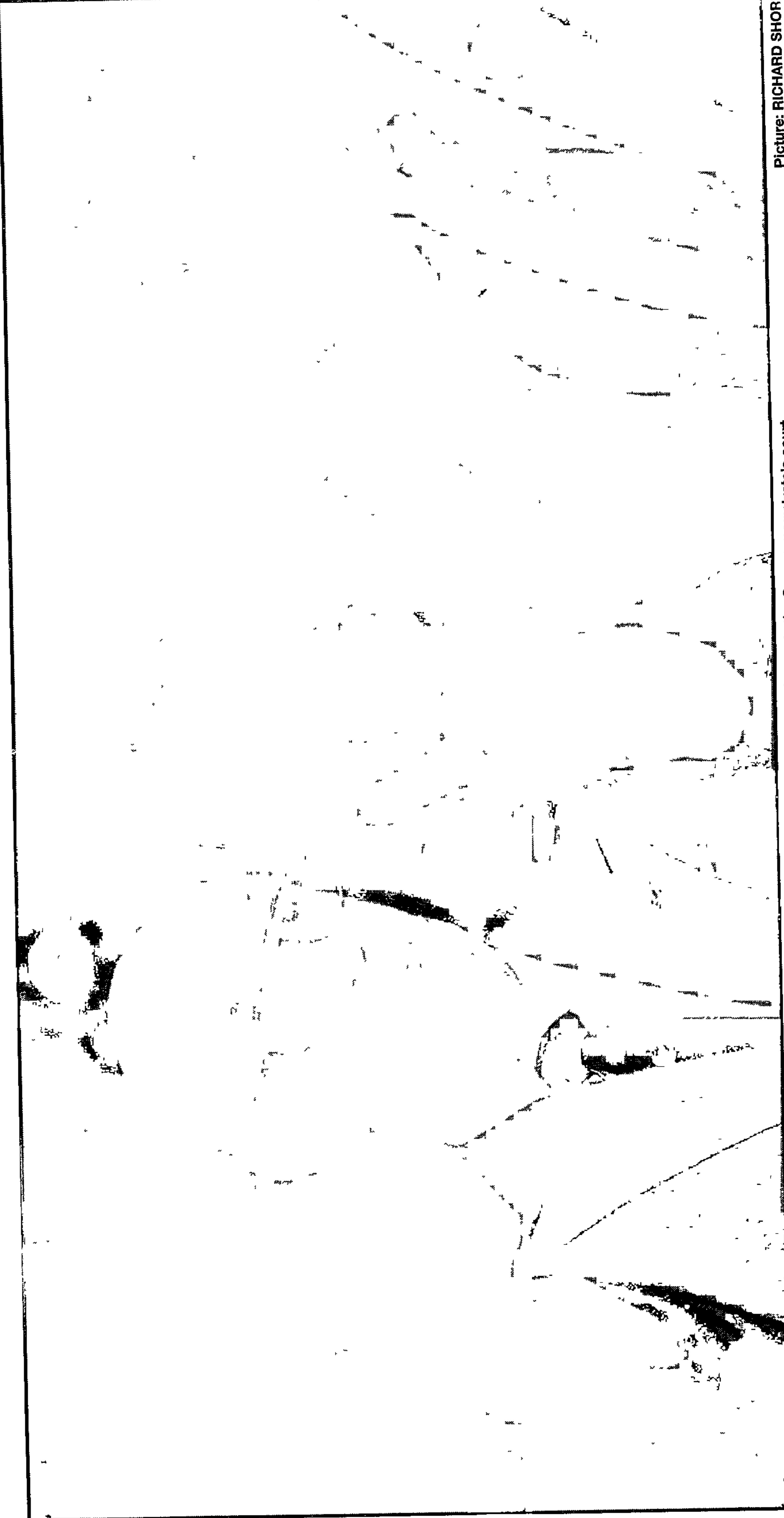
ANC spokesperson, Ronnie Mamoepa said the national office-bearers would consider the report and decide on the appropriate course of action

Mamoepa emphasised that the ANC wanted to get to the bottom of the allegations, but had complete confidence in the Gauteng provincial leadership

Back to the future for

(252)

Court action sparks fears that apartheid-era president will inspire a right-wing revival
ST 25 1/98



CHARGE OF THE WHITE BRIGADE. P. W. Botha, flanked by former government spokesman Leon Mellet, addresses the media inside the George magistrate's court

Picture: RICHARD SHORI

ST 25 | 1198

(252)

FORMER president P W Botha spent a decade in the wilderness. Emerging from isolation this week, he showed that he still had the political skills that he used to fight his way to the top of the National Party in the 70s.

His appearance before a black magistrate in George was meant to be about his refusal to appear before the Truth and Reconciliation Commission. But, displaying an uncanny awareness of his former white constituency's concerns, he turned his court appearance on its head.

By the end of the week, he had emerged as the political hero of disaffected white South Africans, having put President Nelson Mandela and his government in the dock over crime and collapsing administration.

Outside the court, on the streets of the town, whites expressed support for Botha's

defiant stand as more than 1 000 ANC supporters danced and chanted their anger at the apartheid president from the other side of a barbed-wire barricade.

Among Botha's supporters in George was a local woman working in an antique shop, who said she was scared to be identified. Although she had not voted for Botha in the past, she said she believed he was standing up for her 'values' when no one else had the courage to do so.

She said that not too long ago, most of the people who bought Afrikaner antiques in her shop spoke Afrikaans.

"But now just as many English-speaking South Africans want to try to hold on to what they see as a disappearing white culture.

"Old oxen yokes, Boer kitchen utensils, old pictures of pioneers in particular — they are being snapped up, and I think it's because people are scared about the future, so they are looking back to the past."

Steve Landman, a former mayor of George, said he remem-

bered when everything in the garden town was orderly and efficient — and P W Botha was largely responsible.

Landman, 71, did not join the small group of whites who turned up at the court to support Botha in his legal battle with the truth commission, but he said he counted himself as one of the his growing band of supporters.

He and many of his fellow white townsfolk pointed to the growth of the local municipal debt to around R60-million as evidence of the collapsing ANC administration.

"The truth commission is a fiasco which is costing the taxpayers a fortune. P W has done wonders for George, and should be given credit for it," he said.

Some observers said they feared this week's court action could see Botha catapulted to a new prominence — installed as a focus of passive resistance by disillusioned whites afraid of where South Africa is headed.

Speaking to the Sunday Times shortly after his court appear-

ance, Botha was blunt about where he thought the country was going.

"We are heading for anarchy," he said. When?

"When Mandela goes," came the quick answer. In court, Botha underlined his defiant stand by refusing to enter the dock, instead sitting on a chair hastily provided beside it.

In the packed gallery, his new fiancée, Renette Te Water Naudé, smiled her support, and a quartet of apartheid-era generals were there to back him.

Outside, ANC supporters resumed the singing they had stopped when Botha arrived, and jeered at the handful of whites standing under the flag of the old South Africa.

It was no surprise when the case was postponed. But when Botha said he would address journalists, reporters jostled for space in the tiny courtroom.

Faced with a mostly hostile press, Botha's eyes narrowed, and his mouth turned up at the edges in the belligerent pose once so familiar on TV screens.

Clearly relishing his task, he launched his attack.

First he refused to speak until the cameramen got themselves into order. Then, wagging his finger, he unleashed a tirade that dispelled suggestions he was senile or mentally incompetent.

Quoting from the late Australian Prime Minister Sir Robert Menzies, he lambasted the quality of political reporting in South Africa, saying reporters were turning more to criticism of people than of ideas, because to criticise an idea "one must first understand it".

Botha refused to apologise to anyone short of God for his actions. Instead, he accused his accusers of leading South Africa toward chaos.

Again, he knew which chords to strike. "Pensions of the poor are not being paid, farmers are being murdered almost daily, civilised people of all groupings are becoming the victims of hijacks, rapes and robberies, and unemployment is increasing by the day. All this is constantly

blamed on so-called apartheid, and reasonable people are no longer prepared to accept this empty excuse," he said.

Botha swore he would "stand by my principles", and urged "all those opposed to the forces of chaos, communism and socialism" to do the same.

"I stand with all those who executed lawful commands from my government in our struggle against the revolutionary communist onslaught against our country. I deplore the vilification of brave soldiers and policemen," he said.

"South Africa is on a dangerous road, and President Mandela must not waken the tiger in the Afrikaner nation. But I am afraid they are busy doing it."

It was vintage P W.

Outside the courtroom, NP spokesman Jaco Maree said that if Botha's trial went ahead, the truth commission would be put in the spotlight, and would end up being put on trial itself.

"Questions will be asked about whether the truth commission

was properly constituted, and about whether it was fair and impartial," he said.

"People will want to know why Botha was treated like he was, and 37 senior ANC members were just given amnesty."

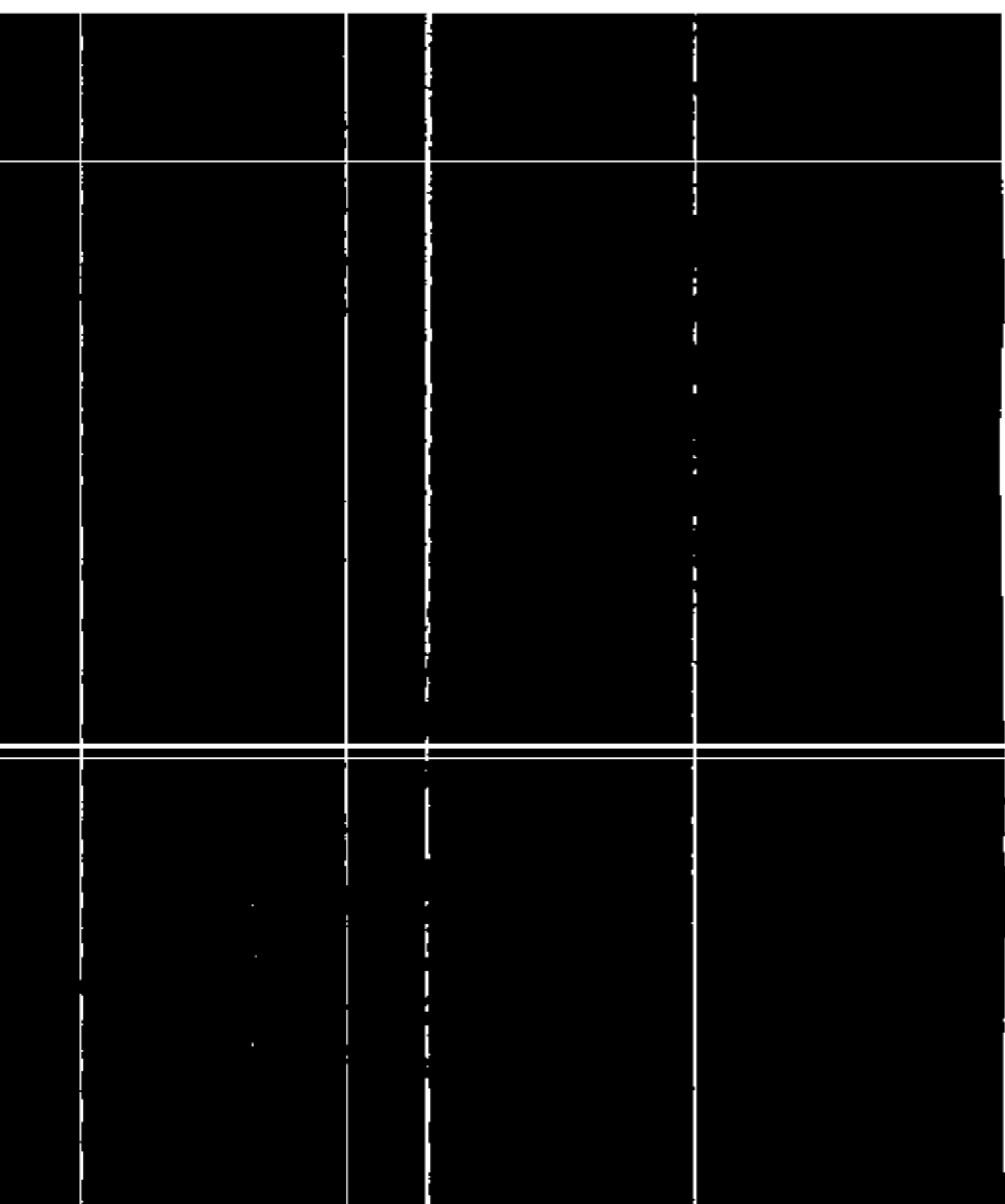
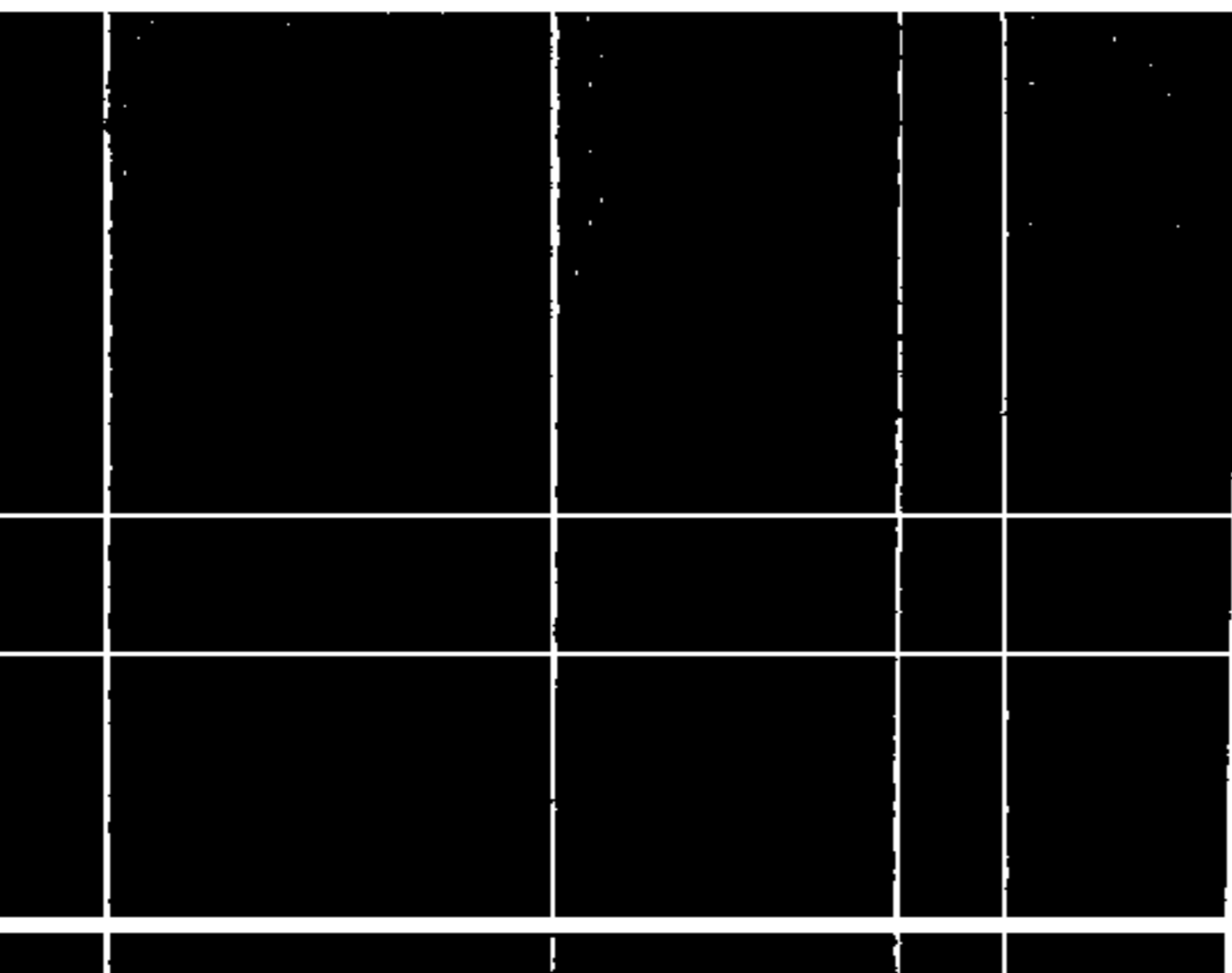
Back at his Wilderness home, a relaxed and confident Botha admitted he had purposefully raised the stakes in the political game that he believed was behind his court appearance.

"I felt I had to make a stand for the values of good people and against the truth commission. I had to make a stand for orderly administration and hard work."

He said that since the news had broken that he was to be dragged to court, he had been inundated by "thousands" of calls from people aghast at what was happening in South Africa.

But asked if he was positioning himself to become the symbolic leader of disillusioned people, he replied that he had "retired from party politics."

"I have no unfulfilled political goals," he added.



Truth Commission still waits for PW's lawyers

SAF 26/1/98

(252)

By Tefo MOTHIBELI AND SAPA

The Truth and Reconciliation Commission is awaiting formal correspondence from PW Botha's lawyers on their plans to summon commission chairman Archbishop Desmond Tutu to testify in the case against the former president next month.

Weekend reports said lawyers have summoned Tutu to appear when the case against Botha resumes on February 23.

Should Tutu fail to appear, he would be liable to a R300 fine or a three-month prison term.

TRC spokesman Phila Ngqumba said: "We have not heard anything from Mr Botha or his lawyers, except what we have read in the media. So it will be difficult to make a comment because that might preempt the whole thing."

In an annex to the summons, Botha asks the TRC to provide him with a host of transcripts of its hearings, including those of FW de Klerk, Botha's successor; former cabinet ministers Pik Botha, General Magnus Malan, Roelf Meyer and Leon Wessels, and

former intelligence chief Dr Niel Barnard

Transcripts are also requested of the commission's questioning of, among others, President Mandela's former wife, Winnie, and the former ruler of Ciskei, Oupa Gqozo.

Botha claims he reached an "agreement of co-operation" with Tutu during a meeting in George in November 1996, under which he would supply the commission with written answers in exchange for a guarantee that he would not have to make a personal appearance.

Botha provided the TRC with a reply of 1 800 pages late last year and claims that the TRC is being malicious in demanding he appear in person before the commission. He is being prosecuted for failing to appear before the commission to testify on the State Security Council, which he headed.

He made a brief appearance on Friday in the George Magistrate's Court. Magistrate Victor Lugaju adjourned the hearing until February 23, when Botha will formally be charged and asked to make a plea.

The trial begins on April 14

26/1/98
**Tutu gets
 summonsed
 by Botha to
 George court**

FORMER president PW Botha has summonsed Truth and Reconciliation Commission (TRC) chairman Archbishop Desmond Tutu to appear in person in the George Magistrate's Court when the case against Botha resumes on February 23.

Sunday newspaper Rapport said the summons warned Tutu that failure to adhere to the summons could render him liable to a fine of R300 or three months' imprisonment. The date given on the summons is January 23.

TRC spokesman Phila Ngqumba said: "The matter is out of our hands now and in the hands of the court."

In the annexure to the summons, Botha requests that the TRC provide the court with, among others, the commission's concept reports of December 5 and December 19 1997 and transcripts of the questioning of former president FW de Klerk, former cabinet ministers Pik Botha, Gen Magnus Malan, Roelf Meyer and Leon Wessels and former intelligence chief Niel Barnard.

Transcripts are also requested of the TRC's questioning of, among others, African National Congress Women's League president Winnie Madikizela-Mandela and former Ciskei military ruler Oupa Gqozo.

Botha appeared in the court on Friday after he refused to appear before the TRC to testify on the apartheid-era state security council, which he headed.

He has insisted he reached an "agreement of co-operation" with Tutu during a meeting in George in November 1996. He claims he undertook to provide the TRC with written replies to questions posed in writing.

He provided the TRC with his replies, amounting to about 1 700 pages, last year.

Botha claims he has kept his side of the agreement and that the TRC has been malicious in summonsing him to appear in person and in charging him for refusing to do so. — Sapa.

26/1/98
Media confirms watchdog role

Trevor Bisseker

THE SA National Editors' Forum (Sanef) responded to President Nelson Mandela's recent harsh criticism of the media at its inaugural conference in Midrand yesterday by saying that it would never shirk its watchdog role.

Sanef, made up of senior journalists and media educators, is a result of the "marriage" of the Conference of Editors and the Black Editors' Forum.

In noting Mandela's remarks at the African National Congress (ANC) conference last month as well as other criticism of the media, Sanef said it was "committed to transforming our industry to represent fully the communities we serve". SA's constitution granted the media a historic role to be critical watchdogs, "especially over those who wield power in our society", Sanef said.

Interim chairman Mogensien Williams described Mandela's criticism earlier as a calculated attempt, with an election looming, to influence the me-

dia and gain advantage for the ANC. The conference committed itself to developing and defending the credibility of its industry and instructed the incoming council to take these issues further in preparation for a meeting with Mandela on March 13.

The council elected Sowetan editor Mike Siluma as chairman, with Williams — editor of the Cape Argus — as his deputy. Judy Sandison, the SA Broadcasting Corporation regional editor in KwaZulu-Natal, was elected general secretary.

Sanef called on Western Cape attorney-general Frank Kahn to withdraw subpoenas on two photographers, to give evidence in the forthcoming murder trial following the public killing of gang leader Rashaad Staggle in 1996.

It rejected Kahn's assertion that they were called as ordinary citizens, not journalists, and described it as "an attempt to circumvent the use of Section 205 of the Criminal Procedures Act, generally accepted as unjust".

Agri-Eco chairman 'may be suspended'

Pule Molebeledi

THE chairman of the board of Agri-Eco faces possible suspension following his abrupt walkout from the public hearing of the provincial standing committee on agriculture, and safety and security, on Friday.

B du Toit, the development parastatal's chairman, was held in contempt by the committee after his refusal to give testimony and account for

activities of Agri-Eco, which is funded by the provincial agriculture department. Du Toit asked for, and was granted, legal representation. However, the committee refused to speak to him through his lawyers. He and his lawyers walked out.

Committee chairman Neo Masithela is meeting with provincial director-general Bethuel Setai today and agriculture MEC Cas Human to discuss the matter.

Crime

Continued from Page 1

assault between 1993 and 1997, while only 1,3% of whites and 4,6% of Asians were assaulted.

The contrast is even more marked when it comes to murder, with 16,9% of blacks experiencing a murder within the household compared with only 0,6% of whites.

The disparity between fears of crime and the statistical possibility of becoming a victim suggested that a separate strategy to address perceptions was necessary, Shaw said.

Police attitudes can make a marked difference, the survey suggests. Many victims said they wanted to be treated more courteously in charge offices, and would like follow-up calls to indicate police concern.

In Durban, a majority indicated that they thought police responded slowly and inadequately to crimes, that they treated victims badly, and that they were corrupt. Only 9% of victims thought the police were efficient, but hampered by poor resources.

The Johannesburg survey, which examined the same period, showed that when it came to crime aimed at property, those living in the suburbs were more at risk. The use of violence in the course of these property crimes was more of a threat to blacks. Violence was used in 20% of all burglaries reported to the survey. Twenty-five percent of black victims experienced violence compared with only 9% of white burglary victims.

The Johannesburg survey found that as many as 73% of hijack victims were black. Blacks were also more exposed to violent interpersonal crimes such as assault, rape and murder.

PEANUTS

By Charles Schulz



PW summonses Tutu

(2/2) CT 26/1/98

JOHANNESBURG Former state president Mr P W Botha has summonsed Truth and Reconciliation Commission chairperson Archbishop Desmond Tutu to appear in the George Magistrate's Court when the case against Botha resumes on February 23, a Sunday newspaper has reported

Rapport said the summons warned Tutu that failure to appear in person could render him liable to a fine of R300 or three months' imprisonment

TRC spokesperson Mr Phila Ngqumba said in response "The matter is out of our hands now and in the hands of the court

We, as the commission, will be directed by the court as to what the next step will be "

In the annexure to the summons, Botha asks the TRC to provide the court with, among others, the commission's concept reports of December 5 and December 19, 1997, and transcripts of the commission's questioning of former president Mr F W de Klerk, former cabinet ministers Mr P W Botha, General Magnus Malan, Mr Roelf Meyer and Mr Leon Wessels, former intelligence chief Dr Niel Barnard, as well as ANC Women's League president Ms Winnie Madikizela-Mandela — Sapa

Justice Ministry plans to make punishment fit crime

Star 27/1/98 (252)

Magistrates will have more discretion over the granting of bail, and minimum sentences for certain types of serious offences could soon be on the way

By Anna Cox

It is important for communities to take an interest in what happens in criminal courts so that when an accused person appears in court on a serious charge, residents can assist police and prosecutors to place appropriate evidence before the court, said assistant to Deputy Justice Minister, Blenwyn Williams

In response to a memorandum from Alexandra residents calling for more stringent bail and sentencing conditions following the release on bail of four child rape suspects and the acquittal of one, he said the involvement of community organisations in Alexandra in the recent rape cases was "very encouraging"

Major changes were to take place in the granting of bail and sentencing, he said

The justice minister had requested the SA Law Commission to comprehensively

review sentencing in South Africa. Sentencing guidelines, mandatory minimum and maximum sentences, compensation for victims of crime and victim empowerment, formed part of this investigation

Williams said the granting of bail, which had long been criticised, had emphasised the need that victims of crime and the community had to be protected against the possible consequences of granting bail too easily

The new Criminal Procedure Act of 1995 provided for the courts discretion in respect of bail applications, but criticism remained. To further regulate the hearing of bail applications, the Criminal Procedure Amendment Act was approved by Parliament towards the end of 1997 and would be put into operation soon, he said

The new act would empower magistrates to postpone bail proceedings for up

to seven days at a time if the court was of the opinion that it had insufficient evidence to reach a decision on the bail application. The court could also refuse to grant bail if there was a likelihood that the accused would endanger the safety of the public, he said.

The act also provides that where an accused is charged with serious offences such as murder and rape, the court must order that he or she be detained in custody until dealt with in accordance with the law. In such cases, the accused would have to satisfy the court that exceptional circumstances exist why he or she should not be released

"As far as sentencing is concerned, there has been an outcry from the community both for more stringent punishment and that an offender should serve a more realistic portion of the sentence. There appears to be general dissatisfaction with the leniency of sentences. The department

has submitted to cabinet interim provisions on minimum sentences for certain serious offences. These have been approved by Parliament and will be put into operation soon," he said

A high court must now sentence a person to jail for life if he has been convicted of serious offences such as premeditated murder, death of a victim caused by attempted rape or robbery, multiple rape, rape of a person under 16, or rape of the physically or mentally handicapped.

Murder or rape in other circumstances will carry minimum sentences ranging between 10 and 25 years.

A new policy to make prisoners serve a longer period before they become eligible for parole and the extension of the powers of the court to direct that a compulsory minimum period must be served prior to parole would further strengthen the criminal justice system, said Williams

Legal action planned over Rapport claims that ANC tried to mislead the TRC

John 27/11/98 (252)

BY ROBERT BRAND

The ANC is to take legal action against the Afrikaans Sunday newspaper Rapport over the paper's claims that the ANC had tried to mislead the Truth and Reconciliation Commission by giving it a "sanitised" version of the Skweyiya Commission report on atrocities at ANC detention camps.

In a series of articles late last year, Rapport detailed atrocities allegedly committed by top ANC members, including present cabinet ministers. The articles were based on what Rapport described as the "full" Skweyiya Commission report, which now appears to be a fabrication.

The ANC yesterday described Rapport's claims as "libellous" and said it had instructed its legal department to "institute such steps as may be necessary against Rapport to seek relief".

The TRC said there were "serious questions about the motives of whoever produced the document and of those who then supplied it to Rapport.

"We will therefore approach Rapport and invite them to assist us, without asking them to reveal the identity of possibly confidential sources, in identifying

'Serious questions about motives'

persons who can give first-hand testimony as to the accuracy of the information contained in their document."

The ANC said it welcomed the TRC's finding, which put paid to "malicious and libellous claims by both the Democratic Party and Rapport that the ANC had submitted a sanitised version of the Skweyiya

Commission report to the TRC.

"Both the DP and Rapport have not only misrepresented the facts but have misled the TRC and the public regarding the truth about the ANC's Skweyiya Commission report into conditions of imprisonment of those suspected to have been agents of apartheid infiltrated into the ranks of the movement.

"Clearly, by these actions, the name, reputation and integrity of the ANC, its leaders, members and supporters have been slighted by the Democratic Party and Rapport's article."

ANC spokesman Ronnie Mamoepa would not elaborate on the type of legal action envisaged, but legal sources told The Star the ANC itself, or individual members of the party, could sue the newspaper for defamation. The party could also ask the Press Ombudsman to investigate.

CAPE ARGUS, TUESDAY, JANUARY 27

Amnesties: TRC set to play for time

(252)
JOHN YELD

ON THE TRUTH COMMISSION

Star 27/1/98
The Truth Commission is expected to announce it will ask the Government to extend the period for processing amnesty applications beyond June.

It is also expected to unveil some of the high-profile amnesty applications which will be heard this year. These are understood to include cross-border raids - such as the bombing of the African National Congress offices in London in March 1982 by former security policeman Craig Williamson and his colleagues - and the car-bomb attack by ANC guerrillas on the SA Air Force headquarters in Church Street, Pretoria, in May 1983, in which 19 people died.

Another is the amnesty application by former minister of police Adriaan Vlok for the bombing of Cosatu House in 1987 and Khotso House, the headquarters of the SA Council of Churches, in 1988.

The Truth Commission's initial two-year mandate was to have expired on December 15, but the Government agreed late last year to a request by the commission to extend its life to the end of June, with its final report due to be handed to President Mandela by the end of July.

But the commission warned at the time that its semi-autonomous amnesty committee was battling to process the huge number of amnesty applications and that the committee might not have completed its work by the end of June.

Overtime funds still (252) hit snags

South African 20/1/98
By Simon Zwane
Political Reporter

ATTEMPTS by the Justice Department to get R15 million from the treasury to pay overtime allowances to prosecutors have failed following the treasury's refusal to bail it out of its financial woes

Justice Department spokesman Mr Paul Setsetse was, however, optimistic that the department would be able to pay overtime in its next financial year which begins in April

"We are hopeful that prosecutors and other personnel will show understanding and will not render courts ungovernable or chaotic," he said

The department's request for emergency funding was the second that the treasury had to deal with so far this year. The treasury recently came to the rescue of the Eastern Cape welfare department when it made R80 million available for the payment of pension grants

Setsetse complimented the prosecutors who had not taken part in the two-month overtime ban embarked upon by their disgruntled colleagues

"We appreciate their degree of understanding and their commitment to their jobs," he said

He also emphasised his department's commitment to fill existing vacancies

"The question of vacancies contributes to people having to work overtime. By appointing more people we will be able to counter the problem of people having to work overtime," he said

Vacancies within the Justice Department are estimated at more than 600 and include posts for magistrates, prosecutors, interpreters, clerks and other personnel

De Kock set to spill the beans

(252)

Sowetan 28/1/98

from the former Soweto murder and robbery unit

The former policemen will be questioned on several issues, including the alleged smear campaign they conducted against Madikizela-Mandela

They will also be questioned about whether or not she was spied upon and their investigations into the death of Dr Abu-Baker Asvat and the Football Club in Johannesburg today

At a previously held nine-day hearing into the activities of the club, De Kock was implicated in the disappearance of an askari who had infiltrated Madikizela-Mandela's household

It is alleged that the askari, who is believed to have acted as a link between Madikizela-Mandela and the African National Congress in exile, was handed over to De Kock by the Soweto security police after he had been captured

The TRC is hoping that De Kock, who is bitter that his apartheid mas-infiltrated the club

Madikizela-Mandela, who gave evidence in the nine-day hearing held last year, has not been subpoenaed and it was not clear yesterday whether she would attend

She has a right to attend and put questions to the witnesses

The subpoenaed policemen are Ignatius Coetzee, Wilhelm Coetzee, SP Nienaber, Hume du Toit, Jan Potgieter, Anton Pretorius, Jan Augustyn, DFM Bosman, Louis Watermeyer, Louis de Jager, Andre Krizinger and Norman Lemmer

The latter was the investigating officer on some Mandela United-linked cases

Director Soweto Molaba, a former Umkhonto we Sizwe commander, has also been subpoenaed for his role in the investigations, including those into the murder of Stompie Seipei.

Shed light

By Simon Zwane
Political Reporter

CONVICTED mass murderer and former Vlakplaas commander Eugene de Kock is expected to expose police dirty tricks against Mrs Winnie Madikizela-Mandela at a Truth and Reconciliation Commission special hearing into the Mandela United Football Club in Johannesburg today

At a previously held nine-day hearing into the activities of the club, De Kock was implicated in the disappearance of an askari who had infiltrated Madikizela-Mandela's household

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TRC has huge backlog of amnesty bids

BY ROBERT BRAND
AND MIKE MASIPA

(2/17/98)

A number of ANC members have applied for amnesty for the 1983 Church Street bomb in Pretoria, a wave of bomb attacks at Wimpy restaurants during the 1980s, and atrocities committed in ANC camps in Angola, the Truth and Reconciliation Commission has revealed.

Among them is a top ANC member and government official, sources told The Star.

Their applications are among more than 1 300 amnesty applications the commission's overburdened amnesty committee still has to hear in public, according to TRC chairman Archbishop Desmond Tutu.

The committee would not be able to complete its work before the June 30 deadline, and the commission was investigating the possibility of extending the committee's lifetime, he added.

Another option would be to replace the amnesty committee

Star 28/1/98

with a new mechanism to hear and rule on outstanding amnesty applications.

The commission was originally scheduled to complete its work in June last year. It has been extended twice, mainly because of the unexpected flood of amnesty applications.

Tutu said the amnesty committee still had to deal with 4 471 amnesty applications, of which 1 387 required public hearings in terms of the amnesty legislation.

Tutu revealed for the first time that the commission had received amnesty applications from several ANC members who confessed responsibility for actions committed by the organisation's military wing Umkhonto weSizwe, including the Church Street attack, in which 19 people died when a car bomb exploded outside the South African Air Force headquarters.

The blast also killed the bombers, identified at the time as Bakayi Maseko and Freddy Shongwe. In its submission to the TRC last year, the ANC accepted political

responsibility for the attack.

Late ANC president Oliver Tambo ordered the bombing to avenge a cross-border raid into Lesotho by South African security forces in which 42 ANC supporters were killed, the ANC told the TRC in its written submission made in May last year.

The ANC said the operation was planned by its special operations command, then under the command of Umkhonto weSizwe general Aboobaker Ismail, now a member of the Defence Secretariate, the body responsible for policy and planning in the SA National Defence Force.

Sources told The Star that Ismail was one of those who applied for amnesty for the Church Street bomb. Contacted for comment last night, Ismail said: "I have applied for amnesty but I'm not saying for what."

Tutu also said former security force members were seeking amnesty for cross-border operations, including the June 1985 Botswana raid.

Amnesty committee forced to seek new ways of processing

Wynndham Hartley

CAPE TOWN — The truth commission has been forced to seek alternative options for the amnesty process as the number of applications — including requests from African National Congress (ANC) members for the Church Street bombing and Inkatha Freedom Party (IFP) members for hit-squad activities — could take years to complete, chairman Desmond Tutu said yesterday.

He said there was no way the amnesty committee could complete the outstanding 4 471 applications before the commission's lifespan ended on June 30. A committee report showed that only 36% of the applications had been completed and 1 387 hearings, some from high-profile applicants, still had to be held. It was impossible to determine how long it would take to complete the hearings.

Commissioner Dumisa Ntsebeza pointed out that the application of convicted Vlakplaas commander Eugene de Kock alone ran to 4 000 pages, involved 141 incidents and included the 13 000-page court record.

Stressing that the commission was committed to completing its report and meeting the June 30 deadline, Tutu said the commission had two options. One was to change the law so the committee could remain in existence after the commission had closed down, and the second was to replace the amnesty process with another mechanism which would operate along the same lines but would not be a formal part of the commission.

Tutu announced for the first time that a survey of amnesty applications had shown that ANC members had applied for amnesty for human rights violations in its camps in Angola, Botswana and Zambia, for assassinations in SA, land-mine operations, the Church Street bombing, the bombing of Wimpy Bars, the killing of IFP members, involvement in the KwaZulu-Natal violence and the Shell House shootings.

It was also announced that IFP members had broken ranks with the official party attitude towards the commission and had applied for amnesty for hit-squad killings and for weapons supplied to IFP-aligned operatives.

Members of the Pan Africanist Congress had applied for amnesty for various attacks on farms, an attack on the Crazy Beat Disco in Newcastle, and on the Yellowwoods Hotel in Fort Beaufort.

Members of former state structures had applied for amnesty for cross-border raids, assassinations outside SA and the bombing of the ANC's offices in London.

(2572) 80 28/1198

requests

Huge backlog set to prolong life of amnesty process

Thousands still to be heard

ARG 28/1/98

(252)

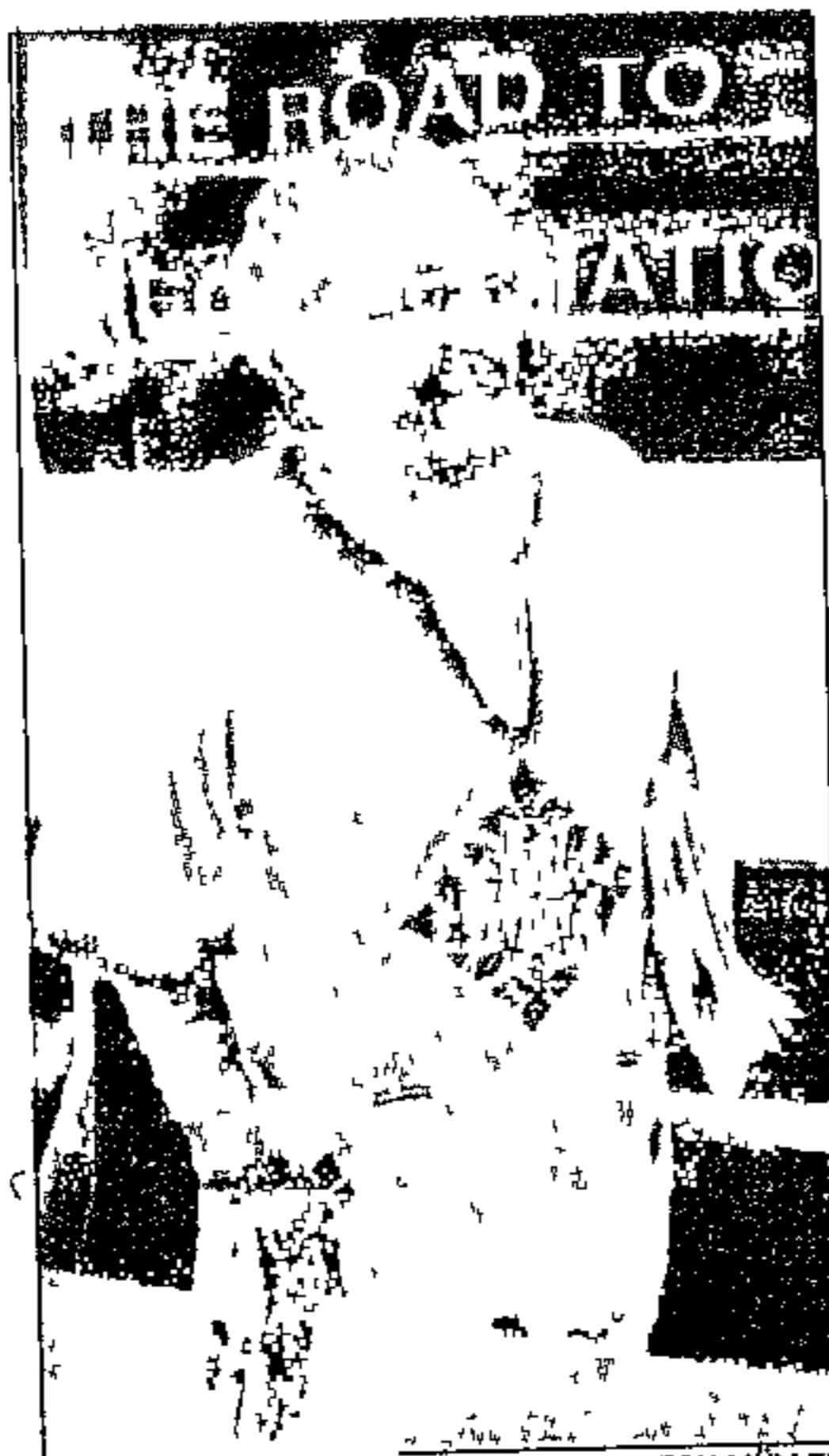
JOHN YELD
ON THE TRUTH COMMISSION

The Truth Commission's amnesty committee has dealt with just 2 575 amnesty applications from a total of 7 046 - about 36%.

And it must still hold public hearings to consider another 1 387 applications involving around 7 000 different incidents

These include high-profile gross human rights abuses committed across the political spectrum, such as

- Human rights violations in African National Congress camps in Angola, Botswana and Zambia
- The ANC's car-bomb attack on the SA Air Force headquarters in Pretoria in May 1983, in which 19 people died
- Attacks by ANC guerrillas on Wimpy Bars in the mid-1980s (which the ANC leadership had previously denied were being committed by their members
- "Cross-border" raids by apartheid government security forces, including the infamous Botswana raid in June 1985
- The March 1982 bombing of the ANC's offices in London by then security policeman Craig Williamson and his colleagues,
- Assassinations by apartheid security forces and ANC cadres
- Necklace murders and the burning of alleged informers and



LEON MÜLLER

Desmond Tutu: seeking new deadline

community councillors by people acting in the name of the liberation movements

- "Hit squad" killings and weapon smuggling by Inkatha Freedom Party members
- The purchase and smuggling of weapons by right-wingers
- Robberies committed by Azanian People's Liberation Army (Apla) "repossession units"
- Attacks by Apla units on the

Crazy Beat disco in Newcastle and the Yellowwoods Hotel in Fort Beaufort, as well as on farms

At a press briefing yesterday after the commission's two-day monthly meeting, chairman Archbishop Desmond Tutu said the semi-autonomous amnesty committee wanted to complete its work as quickly as possible, but was "highly unlikely" to do so before the TRC's June 30 deadline

Two tentative options would be discussed with the Ministry of Justice amending the law to keep the amnesty committee in existence after the commission closed after submitting its final report on July 31, and replacing the amnesty committee with a similar but entirely separate legal body, completely divorced from the commission

Amnesty applicants had a constitutional right to be heard, Archbishop Tutu said

The head of the TRC investigative unit, Dumisa Ntsebeza, said victims and survivors also had a legal right to be heard, and that because of this it was impossible to say how long the amnesty process might last

Commission deputy chairman Alex Boraine said provision would have to be made for an appendix to the final report

The appointment of another eight members to the amnesty committee was expected "within the next week", Dr Boraine said

P.T.O.

Winnie was untouchable in 1980s, says ex-security cop

Johannesburg – Winnie Madikizela-Mandela was “untouchable” in the 1980s because of her high political profile, a former security policeman said today.

Andre Kritzinger was testifying before the Truth and Reconciliation Commission hearings in Mayfair here on human rights atrocities allegedly perpetrated by the notorious Mandela United Football Club, a gang of youths who acted as Mrs Madikizela-Mandela's bodyguard

At a previous hearing, TRC witnesses described the activities of Mrs Madikizela-Mandela and the football club in Soweto in the 1980s as a “reign of terror” During that hearing Mrs Madikizela-Mandela shrugged off evidence from several witnesses linking her to atrocities

Superintendent Kritzinger today said charges of high treason against Mrs Madikizela-Mandela had been investigated by police during the apartheid era

More information about the

high treason charges is expected during the two-day hearing

Superintendent Kritzinger said Mrs Madikizela-Mandela's high political profile prevented security branch members from interrogating her about, among other cases, two alleged murders at her home

“During my career in Soweto, experience taught me that when you went to Mrs Madikizela-Mandela's house to attempt to investigate an issue, she would have actually shown you the door,” Superintendent Kritzinger said under cross-examination by TRC chief legal officer Hanif Vally

Superintendent Kritzinger, a former captain in the security branch, said that in spite of the seriousness of the offences allegedly committed at the Madikizela-Mandela home, no statements were taken from her

“She was a person that you needed to deal with carefully, and one would have needed instructions from head office before one could arrest her,” he said – Sapa

Tutu may not appear at trial

JOHN YELD

Despite being subpoenaed in connection with P W Botha's next court appearance in George on February 23, Truth Commission chairman Desmond Tutu may not be required to appear personally.

Archbishop Tutu confirmed at a press briefing yesterday that the subpoena had been served on Monday and that the commission's legal team was studying it

He said the subpoena required minutes of discussions at commission meetings relating to Mr Botha's subpoena by the commission which he had allegedly ignored, leading to his court appearances It also involved transcripts of some commission hearings, such as the Winnie Madikizela-Mandela hearing in Johannesburg in December

However, it appeared that the subpoena was of a type which did not require his personal appearance, Archbishop Tutu said

Gay marriages to become legal

DONWALD PRESSLY
PARLIAMENTARY BUREAU

SAME-SEX marriages look set to be recognised in legislation expected to be presented to Parliament this year.

Government sources said the legislation would be in line with the Constitution, which outlaws discrimination on the grounds of sexual orientation (252)

It also follows legislation passed last year giving fathers of children born out of wedlock the right to apply for custody and guardianship

Legislation giving "the equal right to marry for people of the same sex" was supported by the ANC at its conference in Mafikeng last December.

The party also gave the government the mandate to address custody, access, maintenance, immigration and adoption rights for homosexuals

Gay and lesbian families were also given the nod

The legislation is likely to provoke an outcry among certain religious and conservative political groups

● Gay police officers have called for the recognition of gay partnerships for the purposes of joint membership of medical aid schemes and pension benefits.

The proposed legislation would obviate this problem if gay partners were allowed to marry

CT 28/1/98

An open letter to all Muslims

CT 28/1/98

(292) (292)

Radio Islam's refusal to allow women on air has brought the issue of sexism within the Muslim community to the fore
FARID ESACK, acting CEO for the Commission for Gender Equality, responds with an open letter to all Muslims

A *28/1/98*

Radio Islam and the Voice of Islam in Afghanistan are the only Muslim stations, among thousands in the world, which do not allow women on air.

DEAR brothers and sisters May the peace, mercy and blessings of Allah be upon you

South Africa under a democratic, non-racial and non-sexist Constitution poses a number of serious challenges to religious communities, including the Muslim community. Responses from within our community have been diverse and often alarming. In this respect the most recent controversy around Radio Islam is particularly significant and has brought to the fore the need for me to address you too.

This need was highlighted when MP Dr Ebrahim Moosa and Hafiz Dr Shu'aib Manjra contacted some Muslim MPs in Gauteng to examine the possibility of their mediating with the management of Radio Islam. Both spoke to some of these MPs and, other than the issue of Radio Islam, it was also apparent that some MPs have a number of problems with me and with positions which I seem to have taken or statements which I am supposed to have made.

Moosa, to whom I am deeply grateful, took the opportunity to raise with me a number of these issues along with my general public conduct, my rough edges and the rather arrogant manner in which I conduct myself.

I want to address you on some of these issues. In the final analysis, the ideas which we believe in will suffer if we do not address the questions which cloud our relationship and prevent us from effective support for each other in our various terrains of struggle for a progressive appreciation of Islam.

I want to address and clarify some of the issues before commenting on some of the underlying problems.

The Abortion Question

Last year, when the debate raged in the ANC on whether to allow a free vote or otherwise, I wrote an article in the Cape Times wherein I stated my support for the Abortion Bill. I also suggested that ANC MPs opposed to it should resign their seats given that this was a part of its election manifesto.

While the matter affected a number of Muslim MPs, it also affected others and the article was not in any way directed at Muslim MPs.

The issue of abortion in Islam is complex. Many of us adopted the more conservative positions without acquainting ourselves with the intricacies of the issues at an Islamic jurisprudence level. There is a need to earnestly reflect and read up on the developments in Islamic philosophical and legal thinking before hastening to adopt conservative and sometimes reactionary positions.

The TRC presentation

On Thursday November 13, last year, I received a call from Manjra informing me that the religious communities were making submissions to the TRC the following week and that Mawlana Ebrahim Bham from the Jamiatul Ulama of the Transvaal, the managers of Radio Islam, would be the sole Muslim making presentations.

According to Manjra, some leading progressives had had a week's prior knowledge of this, but had not intervened to ensure that the voice of progres-

sive Islam was also represented. I strongly opposed the idea that a group that had displayed consistent contempt for the struggle against apartheid, be the only Muslim voice at the TRC.

I called a number of TRC commissioners to express my dissatisfaction and argued forcefully for Imam Abdurrahid Umar and Ebrahim Rasool and I to be allowed to make a representation.

The following day commissioner Piet Meiring told me they had discussed the matter and given, a) the lateness of the hour and, b) that each community had only one spokesperson, they could not let the Muslim community have four representatives. However, they agreed to allow me to make a submission. I faxed this information to Rasool, Manjra and Umar and indicated that I would let them have a copy of my proposed presentation for scrutiny.

Due to work pressures I ended up at the TRC without any written submission. I did, however, consult at length with Naeem Jeenah of the Muslim Youth Movement, on my input and incorporated all his points. I rather belatedly informed Omar, Rasool and Manjra about the reasons for never getting back to them.

On Tuesday, the day of the presentation, Bham informed Meiring that due to illness he would no longer be present at the hearing. On the same day the Muslim Judicial Council (MJC) whose president, Shaikh Naeem Mohammed, had originally agreed to Jamiatul Ulama Transvaal making a presentation on behalf of the United Ulama Council which he heads, succumbed to internal and external pressure and withdrew his approval of the Jamiat's presentation.

The MJC, in response to this pressure, intervened with the TRC to secure a slot. Thus, contrary to newspaper reports, MP Imam Hassan Solomon's intervention was not secured in response to my presentation, but before it.

Two points regarding my presentation: a) In my introductory remarks I made it clear that there was no person who could really speak on behalf of any religious community. I made it clear that I had no organisational or community mandate, but that what I would be saying would find broad agreement among Muslims who identified and were committed to the struggle for a non-racial and democratic South Africa.

b) Contrary to hearsay, I believe that I delivered a balanced, but passionate, pre-

sentation. In addition to speaking about the betrayal of the struggle by the established Muslim religious leadership, I also spoke about the enormous suffering of our people.

Radio Islam

Whatever one's position on women on the airwaves may be, many of us, including myself, are constitutionally bound to defend the equality of women.

I do, however, wish to place the following on record:

- Despite the highly personalised campaign against me by Radio Islam, I wish to make it quite clear that I have no personal axes to grind with the Jamiatul Ulama (Transvaal), the station managers, or any of their members. I have dealt with the issue in a professional manner, and at a CGE level other commissioners are dealing with the issue.

- I have never called for Radio Islam to be closed. I did say that, if they persist on their present course, then, in terms of their licence agreement, they are inviting their own closure.

- My own personal position is more nuanced, whereby I often have doubts about whether "these people" should not have their radio station the way they want it?

After numerous calls from friends to react to the interminable invective and slander which Radio Islam heaped on me as a commissioner on gender equality, and several death threats, I did listen to some tapes.

Other than the funny parts about my being a paid up member of the Jewish Board of Deputies and so forth, I really felt sad at the fear which Radio Islam and their numerous callers-in displayed for an open society.

Victor Frankl — no apologies for citing a Jew — made some profound observations about his fellow prisoners in the Nazi concentration camp at Dachau. Some of those prisoners despite having yearned desperately for their freedom, had been held captive for so long that, when they were eventually released, they walked into the sunlight, blinked nervously and then silently walked back into the familiar darkness of the prisons to which they had been accustomed for such a long time.

- The CGE does however, have a firm position and one which I am under obligation to uphold. I am, however, not and have never been the driver of this position. I do not believe that the CGE is the terrain to fight essentially Muslim theological battles.

- I am of the opinion that Radio Islam should abide by its agreement and then have women on the air on every alternate day. On the "women days" they can instruct their male listeners to switch off. Quite simply their slogan can be, "If you get turned on, you turn off".

If they believe that their listeners are truly committed to their theological position and that it is really what Allah wants from them, then there is no doubt that they would comply and that the plan will work. If the plan is rejected as absurd, then the Jamiat has to reflect on the real depth of their support or lack of it.

- Many of you have encouraged me to take action against Radio Islam for, in terms of Section 18 (d) of the Commission on Gender Equality Act of 1996, it is a criminal offence to defame a commissioner. I am not convinced that this is the best option, for I understand where these people come from. (Incidentally, I studied in the same Karachi seminary as Radio Islam's station manager.) I am not sure that dragging fearful prisoners of the past through the courts is the best way to persuade people of the benefits of living in a democratic society.

The final decision on this though, rests with the CGE. The CGE has subpoenaed the relevant tapes of Radio Islam in order to arrive at a decision.

- I have never said that the Jamiat holds that "women are lower than pigs", nor anything to that effect, as Radio Islam alleges and claims to have a tape recording to this effect. Regrettably some have assumed that these claims are correct. I am not going to go through the hassle of getting the tapes from the "Afrikaans SAfm" (whatever that may mean) which the station manager, Mawlana Haider Dhorat alleges he has, to prove my innocence.

- Of the seven Muslim radio stations currently broadcasting in South Africa and the many thousands in the world, Radio Islam and The Voice of Islam in Afghanistan are the only two in the world adopting this position.

It is rather like the mother watching an army regiment at a parade and saying that the entire regiment is out of step, except her son.

Furthermore, their position is a minority one within the Hanafi school of legal thought and a position found only within that school. While, on the one hand, Radio Islam insists that it continues along its present path because "the majority" or "ninety-nine percent" of our listeners approve of our position, on the other hand it insists that "the entire community of Muslims", (which it blissfully ignores) is not synonymous with Islamic shari'ah.

Here too is a case where those among us who take Islam seriously need to look at the issue in a studied and scholarly manner before being tempted to jump into bed with the most reactionary forces among us simply because their noises are the loudest, their financial clout the most or because the elections are around the corner.

Some underlying issues

I frequently come across as unnecessarily confrontational, harsh and arrogant. I recognise the truth and the seriousness of this, and the damage that it does to one's message. I believe that I have a responsibility to urgently and earnestly cultivate a more gentle way of speaking, both in private and in public.

I do not believe that being a commissioner on gender equality allows you to turn your back on your community and to spit on its organisations. Often the combination of simply being overworked on CGE commitments and the aforementioned problems lead to the perception that this is, in fact, the path that I have taken. I sincerely regret this and I will work to redress this.

During the eighties we did not hesitate to break ranks with large sections of our community on the question of racism. Why should we preserve ranks on the question of sexism? (And if one is not convinced of the gravity of the latter then one needs to openly engage those who are so convinced.)

Lastly, I sincerely believe that many of us continue to live in two worlds: the political and the religious, and that we have failed to understand the full implications of progressive political views for our theological beliefs. Far too many of us take positions on theological issues inconsistent with our political views.

We cannot talk about empowering the masses when we effectively disempower ourselves. At the very least we should attempt to study the views and works of those who do attempt to take both their commitment to Islam and to the vision of a just society seriously.

I remain Your Brother in Allah

Farid Esack

Married women losing themselves in red tape

ET 28/11/98 (252)

WOMEN ARE NOT obliged to adopt their husbands' surnames when they marry, but a bureaucratic labyrinth seems designed to dissuade them from exercising this right. Political Writer **KARIN SCHIMKE** reports.

FOR a few months my colleague Troye Lund did not exist. There was no trace of her in the mystical machinery of the Department of Home Affairs.

In a grim little room in downtown Johannesburg, home affairs officials broke the news to her as they scowled beneath the folds of disapproving foreheads.

"You know how intimidating these officials can be," she said. But through the haze of puzzlement that follows the discovery of your non-existence, Lund suddenly hit on an explanation for her apparent disappearance from Big Brother's memory bank.

"When I got married I kept using my maiden surname. I didn't know it was changed automatically to your husband's surname when home affairs got a copy of your marriage certificate. My passport had been issued in my husband's surname."

She was ushered out of the room and asked to fill in an identical form three times (there was no carbon paper) to explain why she wanted to "change" her name.

A frowning face told Lund in grave tones "Lady, we take the matter of name changing very seriously."

That's the irony of the married surname debacle: you have to apply to have your name changed to what it was when you did not ask anyone at home affairs to fiddle with it in the first place. The cost, by the way, of reclaiming what is yours is R260.

"I think if you want to have your surname changed to your husband's, that's when you should apply for a name change."

"We're on the brink of the 21st century and women's rights are taken very seriously."

"But this just proves what a paternalistic society this is," Lund said.

Countless women have had the same annoying experience, but there are few who can claim to match the bureaucratic expertise of Ms Thandi Davids, a reluctant and unsung heroine of the right of women to retain their maiden names after marriage.

"I can't even begin to calculate what keeping my maiden surname has meant for me in terms of money, travel, time and schlepp. It's just become a part of my daily existence. I suppose I've just got used to it."

Instead of taking the cop-out route most professional women use to change their surnames, Davids decided not to put a tick in any of the three boxes which serve to classify a woman's reasons for wanting

to revert to her maiden name.

The form gives three options: divorced, widowed, business.

Davids said "I wrote down 'other', which wasn't an option they supplied. It ended in a huge cat fight in the home affairs hall. Eventually the woman I was arguing with took my form, turned around and I saw her scratch out 'other' and tick one of the other boxes. I almost had a fit."

For more than a year now Davids has fought the same fight on an almost daily basis. Requests for marriage and birth certificates, an application for a passport, bank business and medical aid claims are her waking nightmare.

"My dentist is threatening to sue me because he says I haven't paid his account. I paid it nine months ago with a cheque in my name, but my husband's medical aid has me registered as Thandi Fuchs. People virtually swear at me every

time this name thing comes up."

She didn't pay the R260 to have her name changed back to Davids. "I was told to, but I kicked up such a fuss I think they just wanted to get rid of me as soon as possible."

The question of the R260 for a name change is a little confusing.

Four separate inquiries at three different home affairs offices yielded two different answers.

One was to pay the R260 and the other was to pay only R4 to apply for a new identity document.

It seems that not even home affairs officials are completely au fait with this murky territory.

In Volume 16 of the *Law of South Africa* it is stated that a woman "is entitled, although not obliged, to assume her husband's surname."

An official inquiry to the foreign affairs media department revealed the following: "Nobody may assume or describe him or her self, or pass under any surname other than that under which he or she is included in the Population Register, unless the director-general of home affairs has authorised such an assumption."

The response also states that a married or divorced woman may assume a double-barrel surname by adding to her married surname any other surname she previously bore, also without having to apply for approval.

It's all very confusing, really, because home affairs also says that a woman may use her maiden surname if she wishes to.

"She can therefore not land in trouble if

she has failed to request retention thereof," continues the statement in bureau-speak. "Passports, however, are issued in the surname recorded in the Population Register, which would be her married surname, unless she has changed it back to her maiden name."

You figure it out.

But here's some advice for women who plan to marry but retain their surname. Davids says "Find out from the marriage officer when he plans to submit the marriage certificate to home affairs and then get there before it arrives and tell them not to change your name."

And, despite what home affairs officials tell you on the day of your application, you do not have to pay R260 after all. Just R4.

I have that on the authority of the Department of Foreign Affairs in Pretoria.



HEROINE: Thandi Davids

ANC seeks amnesty for atrocities

CT 28/1/98

(252)

IT COULD TAKE YEARS for the amnesty committee to complete its work and alternatives are being considered as the June 30 deadline approaches **ANDRE KOOPMAN, ROBERT BRAND and MIKE MASIPA** report.

ANC members have applied for amnesty for the 1983 Church Street bomb in Pretoria, a wave of bomb attacks at Wimpy restaurants during the 1980s and atrocities committed in ANC camps in Angola, the Truth and Reconciliation Commission revealed yesterday.

But the process of hearing the thousands of outstanding amnesty applications seems set to drag on indefinitely, with senior commission officials announcing for the first time that the body's amnesty committee would not be able to meet its June 30 deadline. "It could take months, it could take years," said commission deputy chairperson Dr Alex Boraine.

The TRC announced that it was investigating the possibility of extending the committee's lifespan, while another option being considered was to replace the amnesty committee with a new mechanism. The commission was originally scheduled to complete its work in June last year.

Commission chairperson Archbishop Desmond Tutu told a news conference in Cape Town yesterday that the committee had processed only 36% of the 7 046 amnesty applications received, and that 4 471 applications were still to be considered. Of these, 1 387 would have to be heard in public because they involved gross human rights abuses.

Member of the amnesty committee and commissioner Mr Denzil Potgieter said any alternative structure would have to have "roughly the same character as the existing committee", but would have to be "delinked from the TRC". The work of the TRC would go on but it would not be named

the TRC, Tutu added. Another option was for President Nelson Mandela to name a panel of judges to continue the work.

Tutu revealed for the first time that ANC members had applied for amnesty for the bombing of the South African Air Force headquarters in Church Street, Pretoria, in May 1983. Nineteen people died when a bomb secreted in a stolen car detonated prematurely, killing the two bombers identified by police at the time as Bakayi Maseko and Freddie Shongwe.

According to the ANC's written submission to the TRC last May, its former president Mr Oliver Tambo had ordered the bombing to avenge a cross-border raid into Lesotho by South African security forces in which 42 ANC supporters were killed.

The ANC said the operation had been planned by its Special Operations Command, then under the command of uMkhonto weSizwe General Aboobaker Ismail, now a member of the Defence Secretariat of the SA National Defence Force.

Ismail has confirmed applying for amnesty, but has declined to reveal for what incidents.

Tutu's statement is also believed to be the first confirmation that ANC members were behind the attacks on Wimpy Bar restaurants in the mid 1980s, which the ANC had previously suggested were false flag operations carried out by apartheid agents to discredit the organisation.

ANC national executive committee member Mr Mac Maharaj

told the TRC last year that the organisation had initially accepted that MK operatives could be responsible for the Wimpy Bar blasts, but later began to suspect that the apartheid government had been responsible.

Tutu further announced that ANC members were seeking amnesty for human rights violations in ANC camps in Angola, Botswana and Zambia, assassinations within South Africa, landmine operations in the former Transvaal, the bombings of Wits Command and the Johannesburg Magistrate's Court, attacks on policemen and police stations, the killing of IFP members by ANC self defence unit members on the East Rand in the 1990s, involvement in KwaZulu-Natal violence, and the Shell House shootings in 1994.

Members of former state structures had applied in connection with cross-border operations, including the June 1986 Botswana raid and the December 1985 Maseru raid, assassinations outside South Africa; and the bombing of the ANC's London office when its leaders were in exile.

Tutu said members of the PAC had submitted applications for attacks at the Crazy Beat Disco, Newcastle, and the Yellowwoods Hotel, Fort Beaufort, attacks on farms in the Tzaneen, Grahamstown and Maritzburg areas, robberies at businesses by Apla Re-Possession Units, and attacks on policemen.

IFP members had entered applications concerning hit-squad killings and weapons supplies to IFP-aligned operatives in the 1990s.

Right-wing operatives were applying in connection with the purchase and smuggling of illegal weapons.

In line with the provisions of the Promotion of National Unity

□ Turn to Page 3

'It could take months, it could take years'

— Alex Boraine

ANC seeks amnesty

□ From Page 1

and Reconciliation Act, and with its normal practice, Tutu said the TRC would not disclose further details of the above mentioned amnesty applications before they were heard.

But former security police agent Mr Cfang Williamson and jailed former Vlakplaas commander Eugene de Kock are known to have applied in connection with the bombing of the ANC offices in London in 1982.

The ANC applicants are believed to include a high-ranking member and government official.

Head of the TRC investigative unit Mr Dumisa Ntsebeza said at the press conference that it was "impossible" to predict how much time the commission needed to complete its mammoth task.

He said that De Kock's amnesty application contained 4 000 pages covering 141 incidents, and that his court record consisted of 13 000 pages.

His application alone could take two to three months to process.

Sapa reported yesterday that a senior TRC official was expected to meet Justice Minister Mr Dullah Omar in Pretoria today to discuss ways of expediting the payment of grants to human rights abuse victims in need of urgent interim relief.

The head of the TRC's reparation and rehabilitation committee, Ms Hlengiwe Mkhize, will present the case to Omar.

"The minister has indicated that if we are able to provide him with the names of people who qualify, he thinks it will be possible to circumvent normal procedures (for grant payments)," Boraine said.

"For a very long time we have felt an enormous pressure on us, because many of the victims in need of relief appeared before us a year or so ago and are still waiting for some tangible response from the commission."

The commission hoped that today's meeting with Omar would help to cut through red tape and allow payments to be made within weeks, Boraine added.

CT 28/1/98

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Esack receives
(252)
death threats

CT 28/11/98

MUSLIM theologian and acting chief executive officer of the Commission on Gender Equality, Dr Farid Esack, is being protected by two VIP bodyguards and calls to his cellphone are being monitored

His voice-mail message warns callers not to leave malicious messages as they will be traced.

The heavy security measures are in response to several death threats, apparently emanating from Radio Islam supporters after Esack demanded that the community radio station allow women on air

"Whatever I have done, I have done as Farid Esack of the Gender Commission and not as Farid Esack the Muslim theologian," he said yesterday

Esack told the Cape Times that he was not the only person who had been threatened over the women-on-air issue

Radio Islam's application for a broadcasting licence states that there are three women on its management board and 15 on its programming committee. However, the station is still not adhering to an IBA ruling last October that it must have women on air for at least three hours a day

● See Page 6

Same-sex couple fights police for medical aid

(252)
(251)
(250)

CT 29/1/98

PRETORIA • In a ground-breaking case, a gay captain in the South African Police Service yesterday took on the medical aid scheme of the South African Police Services (Polmed) to have her lover of more than 11 years registered as a dependant

Captain Jolande Langemaat, who attended the court proceedings with her lover, Ms Beverley-Ann Myburgh, brought the application against the Minister of Safety and Security, the national Commissioner of the South African Police Services and the chairman of the South African Police Medical Scheme (Polmed)

She said in court papers that she has been a member of Polmed since she joined the police service in 1982. In an application for the registration of a dependant to her medical aid, she described Myburgh as her partner and said they had had a same-sex relationship since 1986. However, she was denied permission to register Myburgh as a dependant

Langemaat said her lover did not belong to a medical aid. She said that on Myburgh's current salary she was unable to afford to join a medical aid in her private capacity

Langemaat said in her application "I am committed to Beverley and to my relationship with her. I believe she should be entitled to the benefits that would be accorded her if she were married to me in a recognised civil marriage

"I believe that the refusal by the chairman of Polmed to register her as my dependant under their scheme,



'DISCRIMINATION': Jolande Langemaat (left) at court yesterday with her partner, Beverley-Ann Myburgh

PICTURE: PRETORIA NEWS

violates rights to which I am entitled in terms of the Constitution

"The failure to recognise my relationship constitutes unfair discrimination on the basis of marital status and sexual orientation, within the meaning as described in the Constitution. It also infringes my right to equality in terms of the Constitution"

The fund manager of Polmed, Mr Eduard Otto Boersma, said in an affidavit the Langemaat-Myburgh relationship was "no more and no less" than a love relationship and could not

be termed a marriage or a common law marriage

He said the relationship did not appear to be one of dependency, but one of friendship as a result of a love affair. According to Boersma, Myburgh did not "constitute" a dependant

He said Langemaat could not seek the protection of the Constitution, because she was not married to Myburgh, either in the legal, strict or natural sense of the word. Judgment was reserved — Own Correspondent

Lesbian police officer tackles medical aid scheme

The traditional legitimacy afforded to civil marriages and the consequent prejudice against other forms of conjugal relationships, including gay and lesbian relationships, was discriminatory, the Pretoria High Court was told yesterday

Captain Jolanda Langemaat, an SAPS finance officer, said regulations of the police medical aid scheme, Polmed, which denied her partner Beverley-Ann Myburgh's admission as a dependant or member of her family, were unconstitutional

The court was asked to set aside a decision by the com-

(252)
missioner of police not to register Myburgh as Langemaat's dependant and to direct Polmed to register her as such

Judgment was reserved by Mr Justice J P Roux

Langemaat applied for her partner's registration in March last year but was refused. She said this violated her rights as it discriminated against her and her partner on the basis of sexual orientation or marital status.

The couple have known each other since 1986 and formed an intimate relationship in June of that year. With the exception of five months, they have lived to-

gether and are living in a house in Alberton bought by Langemaat with a police subsidy

Langemaat's counsel, Paul Jammy, said that although, under South African law, lesbians were not permitted to marry, the two lived as a married couple, operated joint finances, were financially co-dependent, make joint decisions and were the listed beneficiaries in each other's insurance policies.

He pointed out that Polmed's regulations singled out individuals who made lifestyle choices, such as common-law relationships and lesbian and gay cou-

ples, and denied them equal access to medical care.

Jammy criticised the attitude of Polmed's fund manager Eduard Boersema, who described the couple's relationship as in no way comparable to either civil or common-law marriage, on the basis of the absence of a duty to support

Jammy said Langemaat did not have the choice of marrying because same-sex marriages were not recognised in SA law. Even if such a choice were available, her decision not to marry could not justify such unequal treatment, he said - Sapa



Determined ... Captain Jolande Langemaat (left) regards her relationship with Beverley-Ann Myburgh as equal to any marriage.

Omar lays ⁽²⁵²⁾ down the law on overtime

SAW 29/1/98
PRETORIA CORRESPONDENT

Justice Minister Dullah Omar has cracked the whip on the senior management in his department and told them that they are under no circumstances allowed to claim overtime.

This move follows reports this month that some senior managers in the Justice Department have put in overtime claims amounting to hundreds of thousands of rands.

At the same time, overtime payments to prosecutors, state advocates and their administrative staff was curbed because the overtime budget had been exhausted.

Omar's spokesman Paul Setsetse said yesterday an investigation into these claims had been completed and that the minister met senior management this week to discuss the issue.

The investigation made it clear that senior managers in the department had claimed overtime but the minister has since made it clear that he disapproves of these claims.

He also told them that under no circumstances would senior management claim overtime in future, Setsetse said.

He said Omar was far more concerned about the salaries of prosecutors and advocates and that an announcement about this would be made soon.

Setsetse said the issue of senior managers claiming overtime was still being investigated.

In the meantime, the department promised state advocates on Tuesday that several of the vacant senior positions at attorneys-general offices countrywide would at last be filled by the end of this week.

The department promised that an announcement would be made tomorrow.

Retha Meintjes, spokesman for the Society of State Advocates, said they were looking forward to this announcement because it would help to ease their workload.

Same-sex marriages to get the nod

(252) Star 29/1/98

Same-sex marriages look set to be recognised by the state in legislation which is expected to be presented to Parliament this year. Government sources indicated that the legislation would be in line with the constitution which outlaws discrimination on the grounds of sexual orientation.

It also follows on legislation passed last year giving fathers of children born out of wedlock the right to apply for custody and guardianship. Legislation giving "the equal right to marry for people of the same sex" was supported by the ANC conference in Mafikeng in December last year.

Substantive equality for all South African citizens is the policy of the ANC, which has

stated its support for the "ideals of equality, dignity and freedom" The party also gave the Government the mandate at its national conference for it to address custody, access, maintenance, immigration and adoption rights for gay men and women Gay and lesbian families were also given the nod

The legislation must be piloted through Parliament by Home Affairs Minister Mangosuthu Buthelezi, or if he opts to oppose it, by his ANC deputy Lindiwe Sisulu-Guma. Buthelezi has previously avoided piloting through legislation about which he has disagreed with the ANC

The controversial legislation is likely to provoke an outcry among certain religious and conservative political groups

The African Christian Democratic Party opposed the clause outlawing discrimination on the grounds of sexual orientation

Gay police officers are at present calling for the recognition of gay partnerships for the purposes of joint membership of medical aid schemes and pension benefits This legislation would obviate this problem if gay partners were allowed to "marry" in terms of the law

Just when the legislation will be tabled is not known, but it would have to go through public scrutiny at public hearings of the Home Affairs portfolio committee of the National Assembly before being passed by Parliament. - Parliamentary Correspondent

Attorney-general 'failed to act against Winnie'

DO 29/1/98 (252)

Stephen Laufer

THE Soweto security branch regarded Winnie Madikizela-Mandela as "untouchable" during the late 1980s after the then Witwatersrand attorney-general Klaus von Lieres und Wilkau failed to act on a police docket containing "sufficient evidence for a prima facie case of high treason", the truth commission was told yesterday.

Appearing before a special hearing into police activities around Madikizela-Mandela and her football club, several former special branch officers said they had documented incriminating evidence against her, but that prosecutors and murder and robbery squad investigators had disregarded it.

Following last November's hearing with Madikizela-Mandela and others, this sitting is meant to expand the commission's understanding of her activities and those of the club during late 1988 and early 1989, when several youths were beaten and murdered or disappeared. But the commission has apparently failed to call Von Lieres or anyone else from the attorney-general's office to give evidence.

SA Police Service superintendent Andre Kritzinger, who was a captain in the Soweto security branch in 1989, said he had forwarded a docket with "about 30 charges" against Madikizela-Mandela to Von Lieres in April 1989. But Von Lieres had never instructed him to obtain a statement from Madikizela-Mandela — possibly because it would have been politically

problematic to do so. At the time, secret talks between the previous government and the African National Congress were under way.

Questioned by commissioner Dumisa Ntsebeza, Kritzinger denied that Madikizela-Mandela might have enjoyed de facto immunity because she was co-operating with the police, or because it was useful to the police to have her in place, where they could observe Umkhonto weSizwe guerrillas "streaming to her house".

The policeman in charge of telephone tapping in Soweto, Daniel Bosman, said Madikizela-Mandela had been taped talking from her house during the weekend in which four youths, including activist Stompie Seipei, were abducted from a Methodist manse and taken to her residence. Madikizela-Mandela has maintained she was in Brandfort that weekend and could not have assaulted them.

She was acquitted in 1992 of assaulting Seipei, but was convicted of kidnapping him. The court accepted her alibi that she was in Brandfort when he was beaten.

Bosman said taps ran from Friday evening to Monday morning. However, Madikizela-Mandela says she returned to Soweto early on Sunday evening, and Bosman was not asked if she could have been recorded then.

All the policemen who testified yesterday denied knowledge of any disinformation campaign against her.

Picture: Page 2

Judgment reserved in case on SAPS medical aid

(252)
29/11/98
JUDGMENT

Langemaat was reserved in the Pretoria High Court yesterday in an application brought by a lesbian police officer, who wants the police medical aid scheme to accept her partner of 11 years as a member of her family and to allow her benefits from the medical aid scheme.

Capt Jolanda Langemaat has challenged the constitutional validity of medical aid scheme regulations which prohibit her partner, Beverly Myburgh, from being admitted as a member of the scheme.

Langemaat has asked the court to declare Polmed's rules to be in conflict with the constitutional guarantee of equality.

Court papers show that Langemaat's application for the registration of Myburgh as her dependent for the purpose of Polmed's benefits was refused in May 1996.

The Police Act, which allows "dependants" to be admitted to the scheme, defines the legal spouse, widow, widower or dependant child of a member.

According to her affidavit, Langemaat and Myburgh have been involved in an intimate relationship since June 1986 and have lived together in a house bought by Langemaat using her subsidy from the SA police service.

They operate joint finances, are financially co-dependent, have commitments to one another and are the listed beneficiaries in each others' policies.

Langemaat's counsel highlighted yesterday the principles laid down in the constitution for the interpretation of the Bill of Rights. "When interpreting the Bill of Rights, a court ... must promote the values that underlie an open and democratic society based on human dignity, equality and freedom."

Langemaat's counsel argued: "Unfair discrimination on the ground of sexual orientation is the same basic feature as discrimination on the grounds of race or gender." Langemaat's Labour Relations Act case also relied on the which defines discrimination on the grounds of sexual orientation as an unfair labour practice.

THURSDAY, JANUARY 29, 1998

ARG 29/1/98

Plan by Winnie to fool press on Stompie, TRC hears

Johannesburg - On his arrest in 1989, an associate of Winnie Madikizela-Mandela was found with documents in her handwriting which claimed that murdered Soweto activist Stompie Seipei was alive in a Botswana refugee camp, the Truth and Reconciliation Commission was told today.

Former security policeman Colonel Hume du Toit was testifying before the TRC hearing into human rights atrocities allegedly perpetrated by the Mandela United Football Club, a gang which acted as Mrs Madikizela-Mandela's bodyguards.

Mrs Madikizela-Mandela was implicated in the atrocities at a previous TRC hearing.

Mrs Madikizela-Mandela denied the allegations, one of which was that she was involved in killing Seipei.

Mr Du Toit said today that Johannes "Themba" Mabothe was arrested in Groblersdal on February 22, 1989, because he was an askari (a turned ANC cadre) who had mutinied.

Police found documents in his possession in Mrs Madikizela-Mandela's handwriting.

These were to be faxed to South African newspapers from Botswana.

"The message was that Stompie Seipei was in a refugee camp in Botswana," said Mr Du Toit.

Seipei was killed by football club coach Jerry Richardson in 1989.

"After arresting him (Mabothe) we took him to Marble Hall and informed Vlakplaas hit squad commander Eugene de Kock," said Mr Du Toit.

He later read that Mr Mabote had been blown up by explosives.

Yesterday former Soweto security policeman Daniel Bosman told the TRC that a tape recording from a telephone tap showed that Mrs Madikizela-Mandela was in Soweto during the weekend of Seipei's death.

Mrs Madikizela-Mandela said during her trial that she had left Soweto for Brandfort the day before Seipei was seriously assaulted - Sapa.

NP hands list of alleged ANC abuses to TRC for probing

(252)
ET 29/1/98

A NATIONAL PARTY list of alleged African National Congress human rights abuses, released yesterday, includes the 1986 murder of KwaNdebele cabinet minister Piet Ntuli — a crime for which several former apartheid security policemen are seeking amnesty

"Who killed him (Ntuli) and who gave the orders?" the NP asked in a submission to the TRC, while its former security operatives were telling the commission that Ntuli was assassinated because he had become a political embarrassment to the NP during the apartheid era

Former Vlakplaas hit-squad commander Brigadier Jack Cronje has told the TRC that Ntuli was assassinated in a car-bomb explosion after the NP government lost control of him and he became a political embarrassment

Cronje, who has applied for amnesty for Ntuli's murder, said the one-time home affairs minister was targeted for

assassination after he formed a personal army called Mbokotho which conducted a reign of terror in the region

He said Mbokotho's activities were perceived as an obstacle to KwaNdebele becoming independent and Ntuli came to be suspected of being a double agent working for the ANC

In its list of alleged ANC abuses forwarded to the TRC yesterday, the NP said the ANC had claimed responsibility for Ntuli's death in Radio Freedom broadcasts from Addis Ababa, Ethiopia, in 1986 "Who killed him and who gave the orders?" the NP asked

Among the other incidents the NP wants the TRC to investigate is the 1986 Magoos Bar bombing, necklacings, torture and deaths in ANC exile camps, as well as the alleged involvement of senior ANC politicians such as Mr Joe Modise, Mr Jacob Zuma, Mr Alfred Nzo and Mr Ronnie Kasrils in human rights abuses

Explaining the decision to forward the list to the TRC, the NP's Mr Jacko Maree said the ANC had recently launched an unprecedented attack on the "old National Party" about alleged human rights abuses

"They have assumed a 'holier than thou' attitude, presumably in an attempt to cover up their own bloody and violent past"

In a letter to TRC chairperson Archbishop Desmond Tutu, Maree asked for reassurance that ANC violations would receive the same attention and prominence as security forces human rights abuses had received — Sapa



Ex-security cops plead ignorance

(252) Sowetan 30/1/98

By Claire Keeton

BLANKET denials and claims of ignorance marked the first day of testimony by former policemen about the activities of Winnie Madikizela-Mandela's football club before the Truth and Reconciliation Commission this week.

Although the Soweto security branch had about 100 policemen attached to it and had powers to tap Madikizela-Mandela's telephone and keep her house under surveillance, the former policemen said they had limited knowledge of what took place under her roof.

Take the following cross-examination of former Warrant Officer Norman Lemmer as an example.

A detective in Soweto from 1985 to 1991, he claimed to have almost no information about police investigations into Madikizela-Mandela and activists in Soweto.

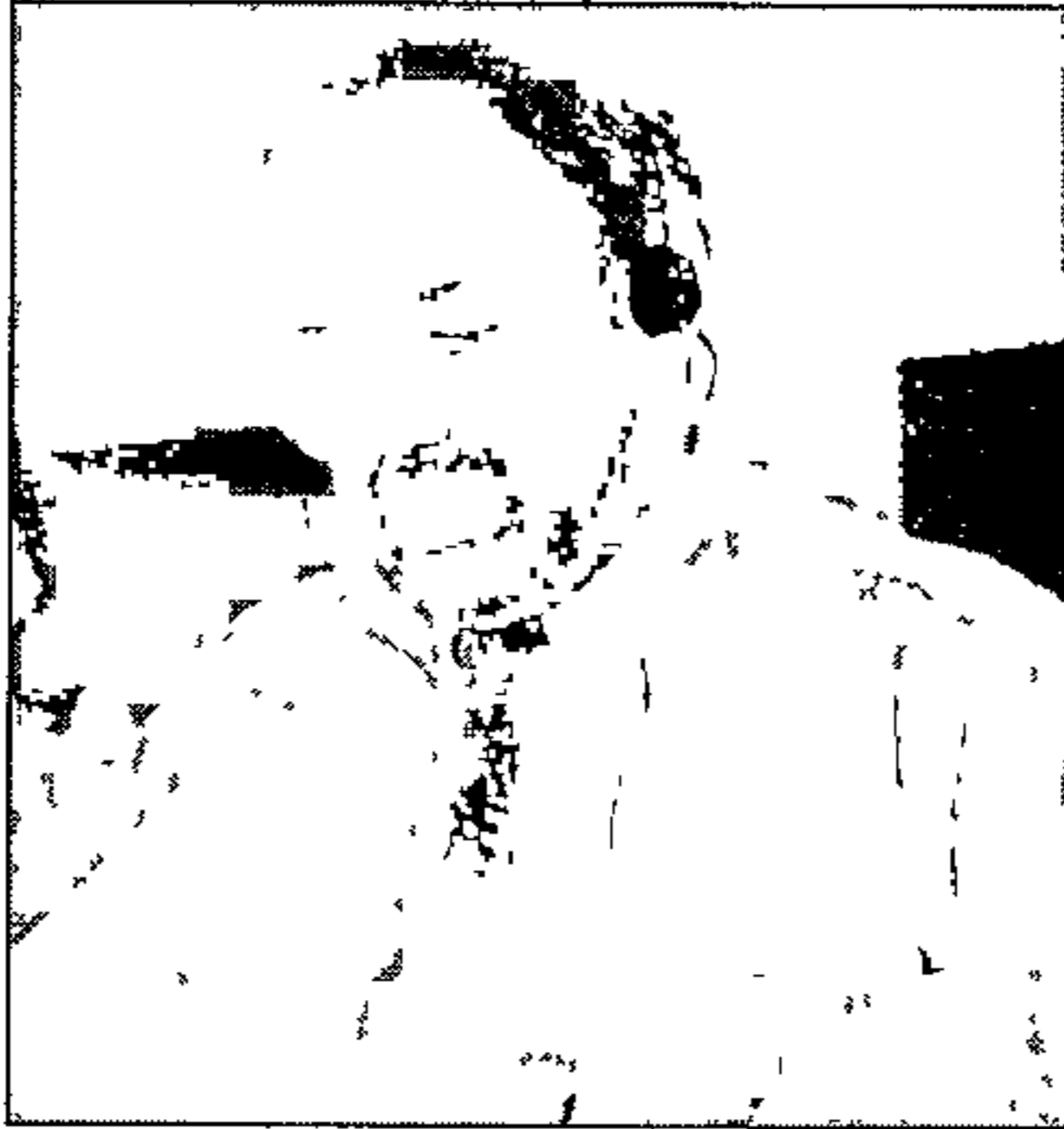
Asked about the alleged suicide of Sizwe Sithole in detention - following interrogations conducted by Lemmer himself - he said "I have no information about the interrogation and death of Sizwe Sithole."

Asked about informers in the Mandela United Football Club, Lemmer replied "I at no stage handled informers for the club."

When questioned about relations between the Soweto security branch and the National Intelligence Agency, he replied "I have no specific knowledge of cooperation."

Asked about the surveillance of Madikizela-Mandela, he said "At no stage was I involved with any bugs or the tapping of phones and I have no knowledge of Madikizela-Mandela or the club being monitored."

About the deaths of two Umkhonto we Sizwe cadres and a policeman at the house of police informer and Mandela United coach Jerry Richardson in November 1988, he said "I was not personally involved and cannot supply specific details in this regard."



TRC chief legal adviser Hanif Vally.

PIC LEN KUMALO

‘At no stage was I involved with any bugs or the tapping of phones’

Lemmer said he did not make any connection between this incident and the disappearance later that week of Lolo Sono, who was accused of being a police spy, after the two MK cadres were allegedly betrayed and killed at Richardson's house.

Richardson has admitted he killed Soweto youth activist Siboniso Shabalala who went missing at the same time as Sono.

"You were an investigating officer in Soweto. Why did you not make the connection (between the Richardson incident and Sono's disappearance)?" asked TRC investigator Piers Pigou.

"If you had been aware of this, Sono and Shabalala could be alive now."

Asked why he took no action after Nicodemus Sono reported that

he saw his son, injured and trembling in the presence of Madikizela-Mandela and members of the club, Lemmer said "I simply received instructions."

He did not explain why he took statements on the deaths at Richardson's house as late as March or April the following year.

Lemmer also denied that he had refused to accept a subpoena to appear before these TRC hearings and had told the messenger "I will not accept a statement from a kaffir."

In fact, he was unable to assist the TRC with virtually any of its inquiries, prompting commissioner

Yasmin Sooka to say "Throughout your evidence you have shown a peculiar disregard for the conduct in investigations. The way in which you've (almost) shrugged your

shoulders does not leave a good impression."

Lemmer's attitude was representative of the other police witnesses on Wednesday.

One former Soweto policeman after another painted an unlikely picture of a police force with limited powers, that was poorly coordinated and ineffective.

Superintendent Louis Hendrik Watermeyer, a security policeman in Soweto during the late 1980s, said "(Our information) did not read like a storybook. It was like a puzzle, that would form a picture at the end of the day perhaps."

Former policeman André Kritzinger claimed that he could not investigate allegations concerning alleged atrocities by Mandela United and Madikizela-Mandela, since she was "untouchable" and "would at no stage speak to the police."

TRC chief legal adviser Hanif Vally questioned this, referring to the vast powers of apartheid security police under the states of emergency.

TRC commissioner Di Khoza Mgojo was also sceptical of the policemen's claims that they had not been involved in nor knew of, any torture. "Many people were badly tortured by police in detention and some are still carrying the scars. It was a common thing," he said.

At the end of the testimony, Vally said it appeared that there had been "cruel collusion" between witnesses.

Convicted mass murderer Eugene de Kock described to the TRC yesterday how he killed Umkhonto we Sizwe cadre Johannes 'Themba' Mabotha in October 1989. He was testifying at a special hearing on the alleged human rights atrocities committed by Winnie Madikizela-Mandela and members of the Mandela United Football Club. De Kock has applied for amnesty.

De Kock contradicts former cops

Ex-Vlakplaas boss says Mabotha beaten, tortured; Du Toit says he cannot remember

Sowetan 30/1/98
By Claire Keeton

FORMER hitsquad commander and convicted murderer Eugene de Kock contradicted the testimony of two other former policemen at the Truth and Reconciliation Commission hearing in Mayfair, Johannesburg, yesterday.

De Kock said trained guerrilla Johannes "Themba" Mabotha had been interrogated by himself and five Soweto policemen - this in direct conflict with the testimony of retired colonel Joseph Hume du Toit.

De Kock's account was supported by another Vlakplaas operative Chappies Klöpper and Mabotha's girlfriend, who had seen him after the assault. De Kock threatened to divulge the name of a policeman present at Mabotha's beating (and at the hearing) who had taken pleasure in torturing Mabotha.

De Kock also said he had been following orders from Colonel Jan Potgieter, when he killed Mabotha, a claim Potgieter has denied.

A dozen former policemen were subpoenaed to appear before the TRC in connection with the alleged human rights abuses committed by the Mandela United Football Club and

Mrs Winnie Madikizela-Mandela

Although they shed little light on this matter it became clear that a number of policemen had been involved in atrocities similar to the treatment given to Mabotha.

A member of Umkhonto we Sizwe, Mabotha became a police agent but soon deserted Vlakplaas. He was arrested on his way to Botswana to lay a false trail regarding the death of child activist Stompie Seipei, a trail which would have deflected suspicion away from Madikizela-Mandela and her football club.

De Kock said for about seven hours Mabotha was brutally beaten, strangled and hung upside down while naked, and was left "a tired, broken and hurt man". Despite this he said Mabotha refused to cooperate and maintained he had been a "sex slave" of Madikizela-Mandela, a story De Kock did not believe. Du Toit claimed he "did not remember" much about Mabotha.

Testifying on his birthday in a green prison uniform, De Kock said Potgieter delivered Mabotha to him in October for "elimination". De Kock shot Mabotha. His body was blown up, he said.

Justice Department finds R5-m to pay court staff overtime

By CATHY POWERS

The Justice Department has come up with R5-million to reinstate overtime pay for the rest of this financial year, the department announced yesterday.

Preference would be given to state advocates, prosecutors, interpreters and other court personnel, a statement said.

Minister Dullah Omar was compelled to resolve the overtime payment issue after state

(252)
advocates and attorneys embarked on a work-to-rule this month. Their action resulted in backlogs and delays.

They were told by the department that there was no money to pay overtime until the end of the financial year.

Yesterday, justice deputy director-general Vusi Pikoli said the money was being transferred from departmental projects not related to personnel because the treasury committee could not commit any

more funds for overtime.

Pikoli said he expected the Department of State Expenditure, which needs to approve the move, to view the move in a favourable light.

"The problem was not with the overall departmental budget, it was with the personnel budget," he said, adding that low salaries were the central issue.

The Justice Department has called for an urgent meeting on Monday of the Departmental

Star 30/1/98
Bargaining Chamber to discuss various controls on overtime claims to prevent abuse.

According to the department, the R5-million would be adequate only if payment were limited to those specific categories and if a ceiling were put on claims.

Pikoli said the department would continue budgeting for overtime from April 1, but if the next salary negotiations were successful in raising salaries, this would be unnecessary.

Killer De Kock praises Winnie

Star 30/11/98

TRC told she contributed more to liberation than some current MPs

By Robert Brand

(252) DEBBIE YAZBEK

Winnie Madikizela-Mandela received praise from an unexpected quarter yesterday - apartheid assassin Eugene de Kock, who described her as a courageous freedom fighter who had contributed more to the liberation struggle than "some people now sitting in Parliament".

Testifying during the second leg of the Truth and Reconciliation Commission's hearing into the activities of the Mandela United Football Club during the 1980s, De Kock said Madikizela-Mandela was considered a priority by the security forces because of her high-profile role in the struggle.

"She was at the forefront of the struggle, with an attitude and courage which infuriated the politicians. She was literally a thorn in the flesh of the security forces."

"Whenever her name was mentioned in security circles, a shudder went through the ranks," said De Kock, who looked gaunt and pale in an olive-green prison uniform.

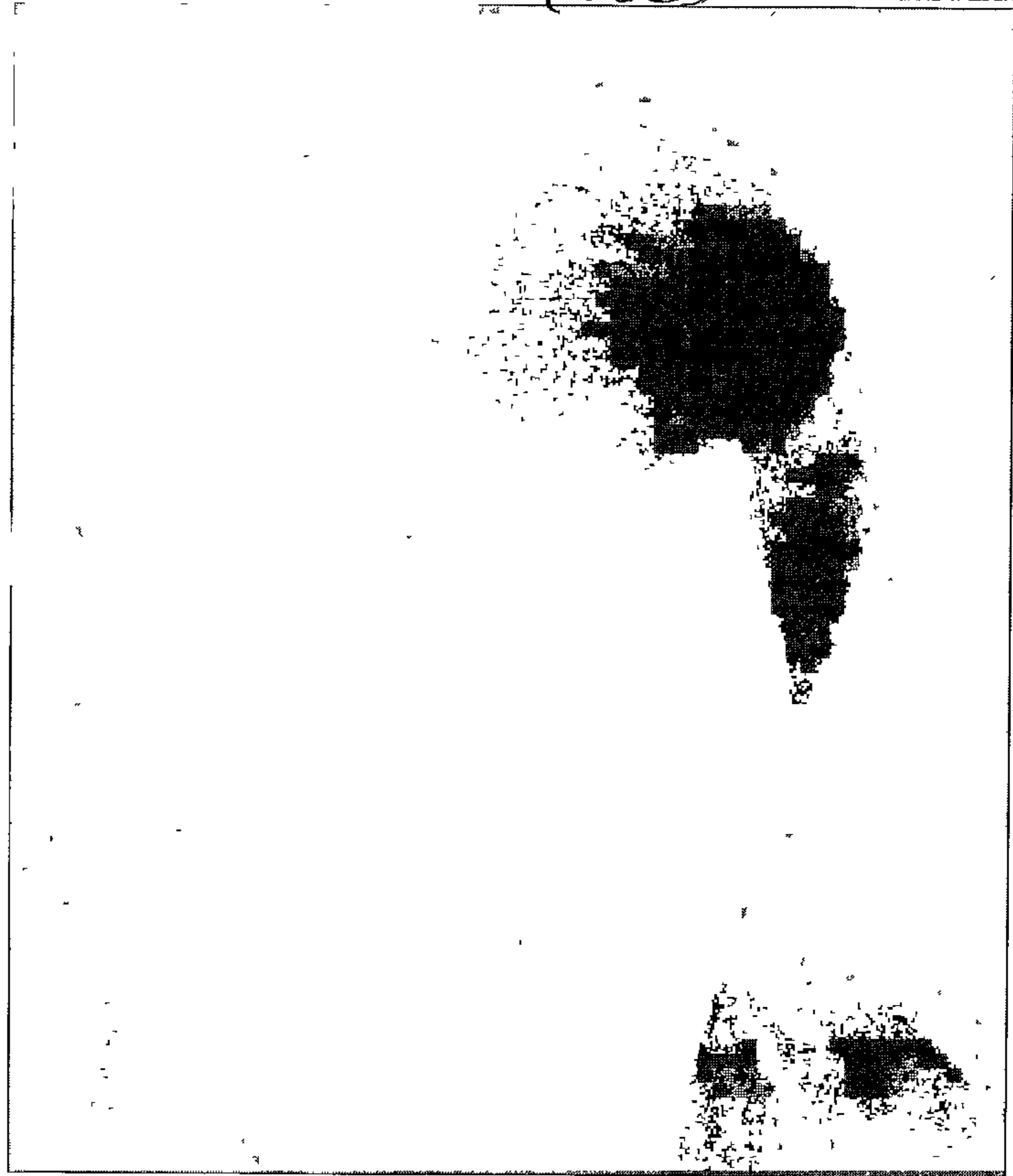
He is serving a sentence of 212 years for the murders of several anti-apartheid activists and a range of other crimes. He is currently incarcerated in the maximum-security C-MAX section at Pretoria Central prison.

Madikizela-Mandela was not present to hear De Kock's words of praise.

The commission is probing allegations, made during the first leg of the hearing in November, that she was a police agent and that the Soweto security branch "sabotaged" the investigation into her role in the death of Stompie Seipei.

De Kock was testifying about his role in the murder of Johannes Themba Mabotha, an informer at De Kock's Vlakplaas unit who had deserted and joined Madikizela-Mandela's "football club".

Mabotha made a statement to police in which he said Madikizela-Mandela had ordered him to spread disinformation to newspapers about Stompie's whereabouts, creat-



Seeking amnesty ... convicted assassin Eugene de Kock, looking pale and thin, shortly before starting his testimony before the Truth and Reconciliation Commission yesterday.

ing the impression that the teenage activist was not dead but had left the country.

After his release from detention on October 4 1989, he was shot dead by De Kock at a disused quarry, and his body blown up with plastic explosives.

De Kock has applied for amnesty for the murder, along with at least two other former members of the Vlakplaas unit.

He alleged that Colonel Jan

Potgieter, then a section head at the Soweto security branch, had requested him to kill Mabotha.

Potgieter denied this, saying he had handed Mabotha to De Kock "for safekeeping" because he regarded him as a potential witness in a criminal case against Madikizela-Mandela.

The commission said yesterday that former Witwatersrand attorney-general Klaus von Lieres might be called to

testify following testimony by security policemen that he had declined to prosecute Madikizela-Mandela although enough evidence was available for a successful prosecution under security legislation.

Potgieter said Von Lieres was given a docket detailing the charges against her. However, he had declined to prosecute her because he regarded the matter as "too sensitive", Potgieter said.

Bizarre twists in 'Winnie' hearings'

MPG 30/1 - 5/2/98

David Beresford

Was police officer Fanie Pretorius set up for killing by his colleagues to protect Winnie Madikizela-Mandela? And was her alleged lover murdered by "Prime Evil", Eugene de Kock, to prevent him testifying against her?

Those questions represent the latest bizarre twists in the attempts by the truth commission to get to the bottom of the scandal surrounding the one-time "Mother of the Nation".

The resumption of the "Winnie hearings" in Johannesburg this week was marked by fresh sensation when it emerged that security branch wiretaps made nonsense of Madikizela-Mandela's alibi in the Stompie Seipei murder case — but that the police withheld the crucial evidence from the supreme court.

A former member of the security branch who was in charge of phone bugging in Soweto said on crucial days in 1988, when Madikizela-Mandela claimed she was in the town of Brandfort, she was in fact in Soweto. Madikizela-Mandela produced her Brandfort alibi at her trial in 1991 to back her denials of responsibility for the kidnapping of four youths from a Methodist manse and the vicious assault on 14-year-old Seipei which led to his death. The judge accepted it.

But the former police captain who was in charge of the unit monitoring her telephones, Daniel Bosman, told the commission transcripts of her calls showed that she had been in Soweto on the relevant days, between the evening of Friday, December 29, and Sunday, December 31 1988.

He also confirmed that this information had been passed on to the Soweto murder and robbery squad, but it was withheld from her trial. Bosman said he had not heard the original tapes of Madikizela-Mandela's conversations at the end of 1988, but had read the transcripts "From the Friday to the Sunday there were conversations on the telephone where she spoke".

He had been told the wire-tap evidence was not raised at Madikizela-Mandela's trial, because it was "too sensitive to be used". The transcripts had been destroyed in the general purge of secret government documents in advance of the 1994 elections.

Even more startling, however, Madikizela-Mandela's alibi through the deaths of two fringe characters in the saga, Themba Mbootha and Sergeant Fanie Pretorius.

In his evidence about the wiretaps on Madikizela-Mandela's phones, Bosman disclosed that they had overheard conversations which showed



Prime Evil: Eugene de Kock (centre) consults his lawyers at this week's hearings. PHOTO: GREG MARINOVICH

she was having an adulterous affair with Mbootha — a former Askari based at Vlakteplaas who had "deserted" from the police. In one transcript Mbootha had fallen out of bed and Madikizela-Mandela could be heard expressing concern as to whether he had hurt himself.

Evidence is she sent him to Botswana after the murder of Seipei, to try to plant a story in the media that the teenager had fled the country. Mbootha was picked up by police, taken to a police farm in Marble Hall, horribly tortured and handed back to the security branch. Some months later Potgieter handed him over to Vlakteplaas commander Eugene de Kock, who shot him dead and blew up

his corpse with explosives.

De Kock, who is serving 212 years for a string of murders and other crimes, claims he was asked to kill Mbootha by the Soweto security branch commander, Colonel Jan Potgieter. But Potgieter claims he wanted De Kock to hold Mbootha in detention, because he planned using him as a witness in prosecutions against Madikizela-Mandela.

Equally intriguing questions were raised about the circumstances in which Pretorius was killed during a shoot-out between police and two African National Congress guerrillas in November 1988.

Pretorius was the "handler" of Jerry Richardson, a police informer

who was "coach" of Madikizela-Mandela's gang of young thugs, the Mandela United Football Club. In November 1988 Richardson tipped off police that Madikizela-Mandela had sent two ANC guerrillas to stay at his house. Pretorius, who was off-duty at the time of the tip-off, was called in by police to help arrest the guerrillas. Evidence at this week's hearings was that Richardson's house was surrounded by riot police when Pretorius inexplicably ran into the house and was shot dead.

The dead man's family apparently suspect he was "set up" to be killed — because of trouble he was causing in the police force over their failure to act against Madikizela-Mandela.

Truth commission tries to unravel story of

Winnie and police

(2/2) 0030/1198

Stephen Laufer

THE truth commission battled yesterday to get a coherent picture of the relationship between Winnie Madikizela-Mandela, her football club, and the security branch policemen most closely involved in tracking her and her team during 1988 and 1989. Commissioners and lawyers struggled for hours to unravel conflicting evidence on the murder by police of former askari Thamba Mabothe, who had sought refuge in Madikizela-Mandela's house after deserting the Vlakplaas killer unit.

Behind many questions put by commission lawyers was an attempt to discover whether Mabothe was killed because he

was threatening to expose the Soweto special branch's allegedly close relationship with her.

He was said in evidence to have been a lover of Madikizela-Mandela's, with an intimate knowledge of her activities.

Mabothe, described by his former commander, Eugene de Kock, as a low-level informer of little consequence, was killed and his body blown up eight months after his arrest in Potgietersrus.

Police said he had been sent by Madikizela-Mandela to Botswana at the height of the crisis surrounding the abduction of four youths from the Soweto Methodist manse with instructions to tell the media that one of them, Stormpie Seipei, was alive in an

African National Congress camp Seipei was later found murdered.

His confessed killer, football team coach Jerry Richardson, has told the commission he killed the youth on the direct order of Madikizela-Mandela.

Testifying officers agreed that Mabothe had been tortured in what De Kock described as one of the most vicious assaults he had ever witnessed. However, they were at odds over who had taken part in the assault.

After hours of evidence, former special branch colonel Hume du Toit — he was in Potgietersrus at the time of Mabothe's arrest, but denied assaulting him — was asked by commissioner Yasmin Sooka

whether he had applied for amnesty in connection with the matter.

He was warned also by commission legal head Hanif Vally that he could be charged with perjury because he appeared to have lied to the commission.

The head of the "court-orientated investigations unit" of the Soweto special branch, Jan Potgieter, directly contradicted testimony by former Vlakplaas killer unit commander Eugene de Kock on the reasons for Mabothe's murder.

Potgieter said he had detained Mabothe for six months as a possible witness in a case of treason and terrorism against Madikizela-Mandela.

However, he had decided to release him

for reasons of discipline within his unit. Sapa reports that De Kock said "It was a service rendered. He was dead before he hit the ground. I shot him twice, directly in the heart."

Von Lieres said he was prepared to appear before the commission if obliged to do so. Commission investigation head Dumisa Ntsebeza said allegations that Von Lieres had not prosecuted Madikizela-Mandela for political reasons were sufficient grounds to call him to testify. Von Lieres said at the time that, in his opinion and that of his colleagues, there was not enough evidence to prosecute Madikizela-Mandela. He did however succeed in prosecuting her in the same case later.

to De Kock for safekeeping after Witwatersrand attorney-general Klaus von Lieres and Wilkau declined to prosecute her, apparently for political reasons.

De Kock said Potgieter had asked him to "make a plan" with Mabothe, generally understood by the police to mean he should be executed.

De Kock said the Soweto special branch had safe houses where they could have kept Mabothe, and a call to him was a clear request for execution.

He had no motive related to Vlakplaas for the killing, as other askaris who had absconded had survived.

Potgieter said he had no motive for the murder, but assumed De Kock had done it

group be dismantled and sold. Directors of the century-old company were grilled at a stormy annual general meeting yesterday, with some stakeholders suggesting that the group could be rebuilt.

not opposed the proposed sale of JCI's gold mines, HJ Joel and Western Areas, to Anglo American Corporation.

Vaughan Bray, who is standing in for Mzi Khumalo following his resignation as chairman on W

arties had agreed on a press analysts said. However, analysts deep in their dealings and the shareholders have ever since taken up negotiations and the company are reported to mean he should be executed.

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Former Vlakplaas commander Eugene de Kock arrives at the truth commission hearings in Johannesburg under police escort yesterday. Picture: TREVORSAMSON

Endgame

Truth or consequences in commission's

(252)

THE truth commission is in trouble over amnesty — and not only because it is taking itself to court over the granting of amnesty to 37 African National Congress (ANC) leaders in a way that is possibly against the law.

The problem is that there are many more amnesty applications than originally anticipated — a little more than 7 000. Some of these can be resolved in chambers and others can be simply rejected because they do not cover actions with a political motive.

Even after this weeding-out process, of about 4 000 cases waiting to be resolved more than 1 300 will need public hearings. These cases alone cover more than 7 000 incidents and crimes for which amnesty is sought. Convicted Vlakplaas murderer Eugene de Kock's 4 000-page application alone covers more than 140 incidents. It is a mammoth task, particularly when the right of those applying for amnesty to be heard, plus the right to cross-examine anyone else implicated in the applications, are taken into account.

It was announced this week that processing amnesty applications could take months or even years beyond the June 30 deadline. Political Correspondent **Wyndham Hartley** looks at some of the implications

For example, if, as many expect, De Kock implicates some senior people from the old order, the amnesty committee is legally obliged to allow them to attempt to refute the allegations.

On one level the backlog of amnesty applications is simply testimony to the horrifying number of human rights abuses that have occurred in SA over the past 30 years. This has been compounded by the fact that the amnesty procedure was slow in getting under way and that the whole issue of cutoff dates, for both applications and offences, was bungled a number of times.

Suggestions by some opposition politicians that it is poor truth commission administration that is causing the delays is an opportunistic cheap shot. When the act was designed no-one knew what was involved.

The truth commission was initially perceived as a legal instrument which would have a limited lifespan of two years. The idea was that it would hear evidence rapidly and compile a report on what happened, grant amnesty to those who qualified and identify those deserving reparations. Among the sources at its disposal for formulating the report would be the testimonies of victims and the information contained in the amnesty applications. The testimony of victims, which was to be untested in hearings, would provide the broad brush strokes, while the detail would come from the amnesty admissions and the investigations resulting from them. Information contained in amnesty applications could be absolutely vital to the truth commission drawing correct conclusions in its final report.

The commission is now in a terrible dilemma. It has successfully petitioned government for an extension of its lifespan. Its new cutoff date is June 30. But it is

patently obvious the amnesty committee cannot complete its work by then even with its new expanded structure. This has prompted the commission to look at about 1 000 of the unprocessed applications to try to get an idea of what information necessary for the final report is in them.

The information contained in them has been found to be vital. For example, for the first time Inkatha Freedom Party members have, in defiance of the official party boycott, applied for amnesty for hit squad killings.

ANC members have also applied, for involvement in the KwaZulu-Natal violence and in Pretoria's Church Street bombing. As a result, the commission is asking for a priority list of amnesty proceedings. This would allow this information to be used in the final report. But, as commissioner Dumisa Nsebeza said, the De Kock hearing alone would

would also not provide the vital testing of information which amnesty hearings provide. Surely a move that would not stand up to constitutional scrutiny, should it be considered.

The country can ill afford an amnesty process that will keep reopening the wounds of the past for years to come. Even less can it afford changes to the process which is in place. It is obvious the life of the amnesty committee must be extended, and that it must really get cracking so it wraps up work as soon as is humanly possible.

Also unwelcome will be a truth commission report that is written before high-profile amnesty hearings, such as those of De Kock and the Church Street bombings, have been heard. Even if the detail in the hearings will not influence the report a great deal, the perception that there is unfinished business not included has to be avoided at all costs. The high-profile hearings which have clear political implications must be completed before the commission's life ends on June 30.

Winnie was courageous — De Kock

OWN CORRESPONDENT

(252)

CT 30/1/98

JOHANNESBURG Ms Winnie Madikizela-Mandela received praise from an unexpected quarter yesterday — apartheid assassin Eugene de Kock — who described her before the Truth and Reconciliation Commission as a courageous freedom-fighter who had contributed more to the liberation struggle than “some people now sitting in Parliament”

Testifying at the second leg of the TRC's hearing into the activities of the Mandela United Football Club (MUFC) during the 1980s, De Kock said Madikizela-Mandela had been considered a priority by the security forces because of her high profile in the struggle

“She was at the forefront of the struggle, with an attitude and courage which infuriated the politicians. She was a thorn in the flesh of the security forces

“Whenever her name was mentioned in security circles a shudder went through the ranks,” said De Kock, who looked gaunt and pale in an olive-green prison uniform

He is serving a sentence of 212 years for the murders of several anti-apartheid activists and a range of other crimes

He is imprisoned in the C-Max section at Pretoria Central Prison

Madikizela-Mandela was not present to hear De Kock's praise

The commission is probing allegations, made during the first leg of the hearing in November last year, that she was a police agent and that the Soweto security branch “sabotaged” the investigation into her role in the death of Stompie Seipei



The commission said yesterday that former Witwatersrand attorney-general Mr Klaus von Lieres might be called to testify following testimony by security policemen that he had declined to prosecute Madikizela-Mandela although enough evidence was available for a successful prosecution under security legislation

Potgieter said Von Lieres had been given a docket detailing the charges against her

However, the controversial attorney-general had declined to prosecute her for political offences because he regarded the matter as “too sensitive”, Potgieter said

Commissioner Mr Dumisa Ntsebeza said yesterday “I think it will be a great failure of justice if the commission will not call Von Lieres by way of Section 29 (to appear in camera) or public hearing”

Massive overtime claims (252) probed

Star 31/1/98
By JACKIE CAMERON

The public protector has stepped in to investigate allegations that top Department of Justice officials have been claiming overtime from funds earmarked for making courts more efficient

The astonishing allegations which are up for investigation include

■ An official at the top ranks of the departmental structures in one month alone claimed an overtime payment of more than R78 000 – almost double the annual salary of an entry-level prosecutor

■ An executive director involved in transforming the department into a more business-like organisation has allegedly made overtime claims. Directors of other key branches of the department have all put in large claims for overtime payments

■ A director in the personnel section allegedly claimed more than R195 000 in overtime payments for nine months, and another director allegedly claimed an average amount of more than R7 000 each month. Directors earn an annual salary in excess of R150 000.

■ A total of 22 staff members at the head office personnel division allegedly each claimed an average of 89 hours in overtime each month, while regional court and specialist prosecutors at the Pretoria Magistrate's Court each claimed an average of 38 hours.

■ An administrative director allegedly claimed more than R18 000 for overtime which accrued in the first 13 days of this month

Overtime payments are calculated on a salary-based formula. Officials get double pay for working on Sundays and after 8pm.

The investigation by the public protector's office follows a spontaneous go-slow in the courts after prosecutors and advocates were told this month that they would not be paid for work done outside court hours because funds had dried up

State prosecutors and advocates were promised overtime in lieu of market-related salaries, as an interim measure while the ministry of justice worked on proposals to transform their employment conditions and salaries.

A number of complaints were filed with the public protector's office this week because court officials were dissatisfied that the Department of Justice was conducting an "internal investigation" into allegations that more than R14-million had been "misspent" on overtime.

Dr. Tinus Schutte, a spokesman for the public protector, said his office had this week asked Minister of Justice Dullah Omar's office for all the information pertaining to the claims.

"We are looking into complaints that there are financial irregularities. It might be corruption or unethical dealings, or we may find that there is nothing wrong at all"

The Department of Justice yesterday refused to answer specific questions, but chief director of communications David Porogo confirmed that senior officials had received hefty overtime payments "because we are entitled to do so"

Porogo said Omar had approved one senior official's overtime claims

Massive overtime claims

All the other officials needed the signature of their immediate superiors.

"This is all very, very ethical. My boss knows I claim overtime. We (administrative staff) are also public servants and we are entitled to claim, just as the prosecutors and advocates are entitled to make claims

"We work a lot. There's a lot of work to be done," Porogo added. He refused to divulge why the personnel department was required to put in an inordinate number of hours for administrative work conducted last year.

He said he did not believe that the overzealousness of top management in their overtime claims set a poor precedent for the work ethic within the organisation.

An angry Porogo told the Saturday Star last night that he did not believe the public protector had been called in to investigate, "because I would be the first to know".

Go-slow

He refused to answer any more questions "because you are putting us in a corner", before turning off his cellular telephone

A spokesman for Omar's office said no comment would be forthcoming from the Ministry of Justice because Omar was out of the country.

On Thursday, the Department of Justice announced that an additional R5-million had been found to pay advocates and prosecutors for overtime in an effort to end the go-slow which has affected many courts around the country

National Union of Prosecutors of South Africa spokesman Vleis van Zyl said the Department of State Expenditure still had to approve the reshuffling of the budget to ensure that overtime payments for court officials would again kick in.

"We are shocked by the alarming information regarding excessive claims for overtime by some senior officials of the departmental head office. We've heard rumours all along but we didn't know it had gone this far.

"The Society of State Advocates has a mandate to lay a formal complaint at the public protector's office to restore the public trust in the untainted and effective administration of criminal justice," he said.

Top justice men in overtime claims row

Public Protector to probe

JACKIE CAMERON

The Public Protector has stepped in to investigate allegations that top Department of Justice officials have been lining their pockets with funds earmarked for making courts more efficient.

The astonishing allegations which are up for investigation include that:

■ Director-General Jasper Noeth in one month alone claimed an overtime payment of more than R78 000 – almost double the annual salary of an entry-level prosecutor

■ Hassen Ebrahim, former Constitutional Assembly executive director now responsible for transforming the department into a more business-like organisation, made overtime claims

■ Director of Labour Relations H S Goosen, Chief Director of Personnel Nick Grobler and Director of Personnel N Hendricks all have put in large claims for overtime payments

■ A director in the personnel section claimed more than R195 000 in overtime payments for nine months, and another an average of more than R7,000 each month. Directors earn an annual salary in excess of R150 000

■ Twenty-two staff members at the head office personnel division each claimed an average of 89 hours in overtime each month, while regional court and specialist prosecutors at the Pretoria Magistrate's Court each claimed an average of 38 hours

■ An administrative director claimed more than R18 000 for overtime which accrued in the first 13 days of this month

Overtime payments are calculated on a salary-based formula. Officials get double pay for working on Sundays and after 8pm

The investigation by the Public Protector's office follows a go-slow in the courts after prosecutors and advocates were told earlier this month

they would not be paid for work done outside court hours because funds had dried up

State prosecutors and advocates were promised overtime in lieu of

market-related salaries as an interim measure while the ministry of justice worked on proposals to transform their employment conditions and salaries

A number of complaints were filed with the Public Protector's office this week because court officials were dissatisfied that the Department of Justice was conducting an "internal investigation" into allegations that more than R14-million had been "mis-spent" on overtime

Tinus Schutte, a spokesman for the Public Protector, said his office

had this week asked Minister of Justice Dullah Omar's office "for all the information pertaining to the claims"

"We are looking into complaints that there are financial irregularities. It might be corruption, unethical dealings, or we may find there is nothing wrong at all."

The Department of Justice yesterday refused to answer specific questions, but chief director of communications

David Porogo confirmed that senior officials had received hefty overtime payments "because we are entitled to do so"

Mr Porogo said Mr Omar had approved

Mr Omar had approved Mr Noeth's overtime claims and that all the other officials needed the signature of immediate superiors

"This is all very, very ethical. My boss knows I claim overtime. We (administrative staff) are also public servants and we are entitled to claim, just as the prosecutors and advocates are entitled to make claims

"We work a lot. There's a lot of work to be done," said Mr Porogo, but refused to divulge why the personnel department was required to put in an inordinate number of hours for administrative work conducted last

payments

ARG 31/1/98 (252)

'We are shocked by the alarming information – we didn't know it had gone this far'

He said he did not believe that the overzealousness of top management in their overtime claims set a poor precedent for the work ethic within the organisation

Angry Mr Porogo said last night he did not believe the Public Protector had been called in to investigate "because I would be the first to know". He refused to answer any more questions "because you are putting us in a corner" – before turning off his cellphone

A spokesman for Mr Omar's office said that no comment would be forthcoming from the ministry of justice because Mr Omar was out of the country

On Thursday, the Department of Justice announced that an additional R5-million had been found to pay advocates and prosecutors for overtime, in an effort to end the go-slow

National Union of Prosecutors of South Africa spokesman Vleis van Zyl said the Department of State Expenditure still had to approve the budget reshuffle to ensure that overtime payments for court officials would kick in once again

"We are shocked by the alarming information regarding excessive claims. We heard rumours, but we didn't know it had gone this far."

"The Society of State Advocates has a mandate to lay a formal complaint at the Public Protector's office to restore public trust," he said

Wheels of justice grind to a halt

(252)

M+G 23-29/1/98

Lynda Gledhill

At times this week it seemed as though the paint peeling off the walls was moving faster than justice inside the Johannesburg Magistrate's Court

There was nothing that could be done to stop the additional delays in court processes brought on by prosecutors' refusal to work overtime

Defence attorneys, who at the beginning of the slowdown were incredulous that proceedings could be further delayed, by the end simply shrugged "We just have to wait," one said

Waiting became the standard for hundreds of people involved in litigation, while prosecutors struggled to balance their professional loyalty and fiscal realities

"I don't know what to do," one prosecutor said "I love what I do I don't want to defend, but financially I may not have a choice"

The department announced on January 13 that prosecutors and state attorneys would not receive overtime pay for the rest of the fiscal year because of a lack of funds Prosecutors responded by refusing to work the extra hours at home each night that had helped keep the courts running

On Wednesday, the department and unions met to discuss the possibility of entering into arbitration Vusi Pikoli, deputy director general in the Justice Department, said he is still hopeful that the matter can be resolved without formal arbitration

"I think the union and the department will have some bilateral talks," he said

But Joe Strauss, Gauteng representative of the National Union of Prosecutors of South Africa, said he believes arbitration is necessary "They just want to consult, but we need a way to make progress"

These ongoing negotiations will not help the people who spent the past week sitting on crowded, uncomfortable benches outside stuffy courtrooms Witnesses, defence attorneys and police officers all were forced to wait the appearance of the prosecutors

Throughout the slowdown, courts, which are supposed to start at 9am, were delayed past 10am Only a couple of cases were handled before it was time for the morning tea break A few more squeezed through before lunch

Meanwhile, many of the people who expected to have their day in court were sent home, some for the second or third time

"I have to take leave from work



Stepping down: Prosecutors are not dedicating their free time to cases. PHOTO: SIDDIQUE DAVIDS

every time I come," said a woman waiting for her case to be heard "They say to come at nine, but then we just wait"

One defence attorney had eight cases scheduled, but by the end of the day had completed just two bail hearings

Prosecutors emphasised that the action is not a work stoppage, which is prohibited under law, but that they are now simply doing their job only during the time for which they are paid

Usually, prosecutors prepare the next day's cases at home, often working as many as four hours a night This week, that preparation started at 8am when they arrived at their desks While they prepare, courts must wait

A prosecutor with five years' experience said he earns R77 000 a year He recently married, bought a house and is still working to pay off years of student loans

"There are basic needs I am trying to meet," he said "I have to have furniture I have to have a car It's not that I am not responsible I plan my finances,

but it is very difficult We all have bills, especially now after the holidays"

Each day this prosecutor handles about 20 cases, including six or seven trials That means preparing about 25 to 30 witnesses In addition, there are about 3 800 cases still pending from 1997, and old cases dating back as far as 1989

Along with this daily workload are long-term cases that must be prepared months in advance One fraud case might run two or three years In addition, each prosecutor is assigned to five police units and must handle all of these bail applications

This prosecutor had 18 trials scheduled for January and thought he would be making a certain amount in overtime He estimates that he averages R1 500 to R2 000 a month in overtime pay

"This is not excessive," he said "We must document our work carefully If I am sick or take leave, I don't get the pay"

The prosecutor said he must be as up-to-date on litigation as the senior defence counsel he is opposing, who may make as much as twice what he does

Instead of putting in overtime, the prosecutor has been spending time with his wife in the evenings However, financial concerns mean that this time is not worry-free

Another prosecutor said he was one of three who ended up in the hospital during the holidays from stress-related conditions "It is very difficult because so many prosecutors are leaving that those with experience get all of the big cases," he said

He said the loss of experienced prosecutors has hit department morale hard And promises to bring in new prosecutors will not be enough of a solution

"New prosecutors will not be able to handle big cases," he said "If they hired more prosecutors today it would not even start to help until at least three months from now"

Prosecutors said they hoped they had the support of the public They all pledge loyalty to the spirit of their work, but insist there has to be a corresponding amount of pay provided

"The people who are losing are the people in the streets," one said "People are getting off for their crimes and they end up right back in the streets with the public"

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Courts no longer held to ransom

(252)

M+G 23-29/1/98

Mungo Soggot

The Department of Justice is targeting prosecutors and other justice officials who quit for private practice during trials and are then rehired in the same capacity for the same trials at far more expensive private-sector rates.

In a nationwide circular, the department has threatened already overstretched attorneys general that they could have to restart from scratch cases in which prosecutors or magistrates quit halfway — instead of rehiring them at huge cost.

"If, in the opinion of this office, a case can be dealt with by a serving official on the establishment, it will be referred to your office to be dealt with *de novo* [from scratch]," the letter says

Over the past few years, the floundering criminal justice system has been hit by an exodus of professionals lured away with significantly better pay and conditions in the private sector — and

by the crippling cost of rehiring them for outstanding matters.

In a Gauteng case in which two Americans have been charged with running a scam financial scheme, both the prosecutor and the regional magistrate — one of six to have recently resigned from the division — quit during the matter, and have been rehired at private-sector rates

The January 9 circular from the Justice Department — which is still dealing with the backlash from its recent decision to stop overtime pay for prosecutors — says "requests for the appointment of officials who have resigned to finalise part-heard matters will as a rule not be considered favourably in future Magistrates, state advocates and state prosecutors must make the necessary arrangements so as to ensure all matters are dealt with prior to resignation"

The department letter says it will only consider allowing attorneys general to pay private sector rates to ex-officials in exceptional

cases, and lays down guidelines including "written proof of sworn affidavits of the concerned official's lack of income for the duration of the trial".

"Due to a lack of funds, approval for such requests will not be lightly granted," it warns

Approached for comment on the circular this week, the deputy attorney general of the Transvaal, Kevin Atwell, said officials are not contractually obliged to finish outstanding matters and that they only have to provide one month's notice of their resignation

But he said the new steps by the Justice Department, particularly the threat of having to start cases from scratch, should help discourage officials from leaving during cases "We cannot encourage people to leave and hold us to ransom"

Atwell said 20 of the 62 legal posts in his division have been vacant for at least a year, but that the Justice Department would soon approve new appointments

Botha will get the day in court he denied to so many others

By Patrick Burger
Political Editor

P W Botha strode apartheid's stage like the small-town bully whose time would never come – now he will face the new South Africa he fought iron-fisted during his 40-year political career. Yesterday, Western Cape At-

torney-General Frank Kahn announced criminal charges against Botha in retaliation for his refusal to face the Truth and Reconciliation Commission.

Botha (81) has already stated he would rather appear in court than before the commission. He will get his day in court – a day his states of emergency

denied to the thousands of political detainees he had thrown behind bars, declaring as he did so “This state of affairs can no longer be tolerated.”

Nobody else quite captured the *krugdadigheid* of NP rule like Botha did as MP for the George constituency from 1948 to 1984, as leader of the NP

from 1978 to 1989, as minister of defence from 1966 to 1980, as South Africa's eighth prime minister from 1978 to 1984, and finally as state president from 1984 to 1989.

With his wagging finger and belligerent demeanour, Botha, more than any other South African leader, elevated the de-

fence of apartheid to quasi-religious status if Hendrik Verwoerd was the architect of apartheid and John Vorster its foremost constable, then Botha was its chief enforcer.

Yet, and this is the biggest irony of his career, it was Botha who took the first shaky steps to-

ward dismantling a system he devoted his life's work to upholding.

Throughout the early 1980s, as the apartheid edifice still quavered in the wake of the 1976 Soweto student uprising, Botha tinkered at the periphery, his military foray into Angola in 1975 only adding to

the international oblivion he led South Africa into.

In public, he spoke – often bewilderingly – of a “constellation of states” which included the homelands and the rest of southern Africa, he engaged big business, he praised

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PW: the groot

Star 8/1/98 (252)

A combination of legal and political factors likely to see

‘Groot Krokodil’ escape lightly over TRC obstruction

By Staff Reporters,
Own Correspondent,
SAPA AND AFP

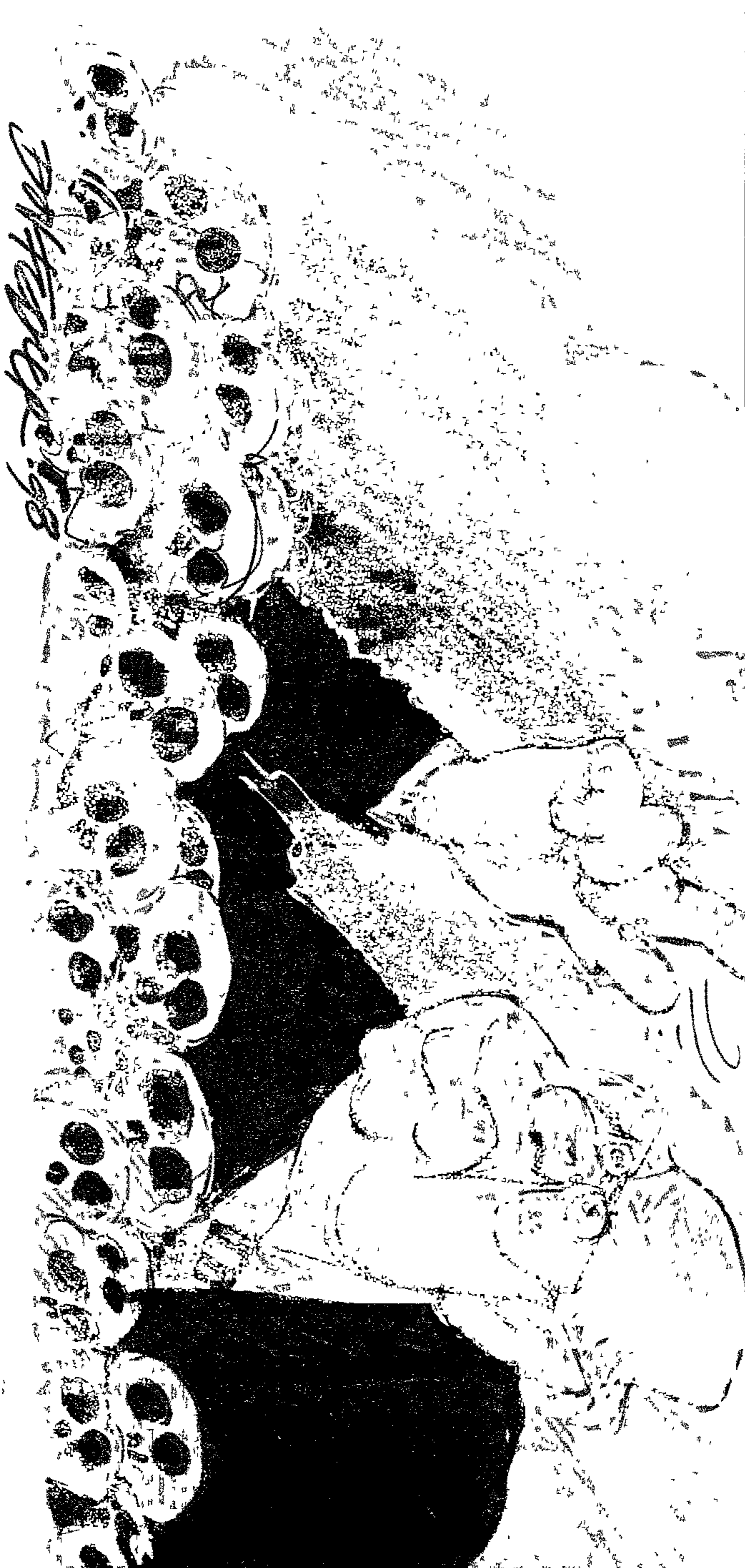
The summons served on P W Botha at his home in Wilderness in the Western Cape yesterday will see the former state president appear in the George Regional Court on January 23 – but legal experts expect drawn-out proceedings with little likelihood that he will be jailed even if he is found guilty.

Western Cape Attorney-General Frank Kahn announced the decision to prosecute the 81-year-old Botha yesterday after he repeatedly refused to testify before the Truth and Reconciliation Commission.

“A prosecution is warranted not only in law but also in the public interest... I have an undertaking from his legal advisers that he will appear,” said Kahn.

Botha is being charged with failing to appear before the commission without giving sufficient reason in the proper manner or alternatively that he obstructed the work of the commission. He faces a maximum of two years' jail if found guilty and/or a fine.

Botha has refused to testify in person on the workings of the State Security Council, which he chaired in the 1980s; about raids into neighbouring countries, the state's chemical war-



the technical and legal battles that would be triggered.

He said Botha could get his lawyers to challenge the TRC because he had submitted a 1 800-page report to the com-

stances,” Governder said. Civil and criminal law expert Lionel Reichenberg said

Botha could buy time by getting doctors' certificates, appealing to higher courts or even by ask-

suspended sentence

Mishautana said United Democratic Front activist Oscar Mpetsha was 75 years old when he was given the minimum five-year sentence for Terrorism

guidelines in the State Attorney's Act, members of Botha's legal team are being paid inflated fees. According to Min-

naer, the higher fees were approved by the office of the president in order to encourage Botha's co-operation with the

commission. By August last year the state attorney's office had already paid out more than R520 000

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fare programme, and the murder of activists

His attorney, Ernst Penzhorn, said Botha would appear in court to answer the charges. He added that Botha would not make any other public statements about the matter.

Attorney and spokesman for the National Association of Democratic Lawyers, Krish Govender, said the case against Botha could take one or two years because of the amount of documentation involved and

mission in response to its questions. He could also appeal against a court decision or even take the issue to the Constitutional Court.

"I think it could be a long time before Mr Botha even enters the box. I also believe that even if he is given a jail sentence, either Mr Mandela or Mr Mbeki would pardon him as a final act of reconciliation and compassion.

"I do not see Mr Botha going to jail under any circum-

ing a judge to recuse himself because judges themselves have refused to appear before the commission.

Advocate Patric Mtshaulana - who sometimes assists Advocate George Bizos with amnesty applications - said Botha could be jailed or fined "in theory". He added that elderly people were sometimes jailed, but Botha's age and the fact that he had submitted documents to the TRC would probably be mitigating factors and could mean a

Act offences. He served four years despite worldwide appeals for his release for similar reasons to those which Botha's lawyers are using. Mpetha was freed as part of the political detente in 1987.

Meanwhile, Ben Minnaar of the state attorney's office in Pretoria said the payment of Botha's abnormally high legal fees would be reconsidered due to his perceived "obstructive" attitude towards the TRC.

In a deviation from the tariff