


VOLUME THREE

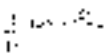
**Truth and
Reconciliation
Commission
of South Africa
Report**



The report of the Truth and Reconciliation Commission was presented to President Nelson Mandela on 29 October 1998.



Archbishop Desmond Tutu
Chairperson



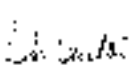
Ms Hlengiwe Mkhize




Dr Alex Boraine
Vice-Chairperson



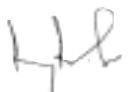
Mr Dumisa Ntsebeza




Ms Mary Burton



Dr Wendy Orr



Revd Bongani Finca




Adv Denzil Potgieter

Ms Sisi Khampepe




Dr Fazel Randera



Mr Richard Lyster



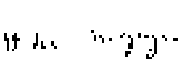
Ms Yasmin Sooka



Mr Wynand Malan*



Ms Glenda Wildschut



Dr Khoza Mgojo

* Subject to minority position. See volume 5.

Chief Executive Officer: Dr Biki Minyuku

■ CONTENTS

Chapter 1

Introduction to Regional Profiles 1

Appendix: National Chronology..... 12

Chapter 2

REGIONAL PROFILE:

Eastern Cape 34

Appendix: Statistics on Violations in the

Eastern Cape..... 150

Chapter 3

REGIONAL PROFILE:

Natal and KwaZulu 155

Appendix: Statistics on Violations in

Natal, KwaZulu and the Orange Free State... 324

Chapter 4

REGIONAL PROFILE:

Orange Free State..... 329

Chapter 5

REGIONAL PROFILE:

Western Cape..... 390

Appendix: Statistics on Violations in the

Western Cape..... 523

Chapter 6

REGIONAL PROFILE:

Transvaal 528

Appendix: Statistics on Violations

in the Transvaal..... 741

Introduction to Regional Profiles

- 1 The regional profiles provide an overview of gross violations of human rights as they were reported to the Commission, in both chronological and thematic narrative. It was not possible to include every case brought to the Commission; rather the stories that illustrate particular events, trends and phenomena have been used as windows on the experiences of many people.
- 2 The primary sources for this report are the statements of individual deponents, as well as submissions by political parties, institutes and professional bodies. Reliance has also been placed on the transcripts of the hearings of the Commission – both human rights violations hearings and amnesty hearings – and on the transcripts of *in camera* hearings. Documentation from Commission enquiries, such as police dockets, court transcripts, inquest findings, *post mortem* reports and so on have also been used.
- 3 In presenting these stories, background details have been used to situate the cases in their proper context. Hence, researchers and writers in the Commission have made use of secondary source material. The reports and publications of research institutes and monitoring bodies, both at home and abroad, have been extensively used. *Affidavits* collected for other enquiries and investigations have been used where they apply to the cases before the Commission. Published monographs, press reports and ‘unrest reports’ of the South African Police (SAP) have been extensively used.
- 4 Each regional profile is organised chronologically and divided into four distinct periods: 1960–1975, 1976–1982, 1983–1989 and 1990–1994. These periods correspond roughly with patterns of violations and shifts in the nature of resistance and repression in South Africa as identified from the evidence before the Commission.
- 5 Within each period, violations have largely been considered within one of two groups, namely ‘State and allied groupings’ and ‘Resistance and revolutionary groupings’. While many events and issues defy such divisions and indeed

demonstrate a close interaction of violations by each grouping, certain forms of violations were most strongly associated with a particular grouping.

- 6 'State and allied groupings' comprises reported violations associated with public order policing, detention and torture, covert actions of the security forces and contra-mobilisation. 'Resistance and revolutionary groupings' comprises, for the most part, violations perpetrated by such groupings, including attacks on 'collaborators', necklacings, armed actions and sabotage, inter-organisational conflict and so forth. Where the history of violations occurring in the mandate period of the Commission was not amenable to these categories (particularly in the 1990s – the years of political transition), a thematic approach has been used.
- 7 The evidence before the Commission reveals a complex interaction of events. It has been difficult to separate entirely the stories of victims from the stories of perpetrators. For this reason, there is an inevitable degree of overlap between the regional profiles and the chapters on perpetrators in Volume Two of the report.
- 8 Findings in the regional profiles focus mainly on events or issues that shaped the nature of gross human rights violations in each region. The regional profiles do not, on the whole, make findings on individual cases. Individual findings are to be found in the summary of statements given to the Commission. Because the findings on individual cases have a bearing on the applications for amnesty still pending, these will become available in full at an appropriate time during the continued work of the Amnesty Committee of the Commission. For the purposes of this report, a full list of the names of persons found by the Commission to be victims appears in Volume Five.
- 9 It should be emphasised that fuller versions of the profiles are available in the documentary archives of the Commission, as are the full transcripts and audio-visual recordings of all the public hearings convened by the Commission and the original versions of all statements and submissions made to the Commission. To facilitate easy retrieval of primary source material, the reference number for each individual case quoted in the profile has been included in brackets.
- 10 Finally, every attempt has been made to check and recheck the names published in these reports. If there are errors, please forgive us.

National Statistics

Introduction

- 11 The Human Rights Violations Committee gathered 21 296 statements during the course of its work. The Truth and Reconciliation Commission (the Commission) asked all South Africans who had suffered in the political conflicts of the past to come to the Commission and make a statement. In an attempt to reach all sectors of the community, especially those that were hostile to the Commission, it made special appeals through the media and through hearings to ensure that all voices were heard.
- 12 These statements were analysed by a team of data processors in each of the four offices, who then loaded the details of the violations onto a computerised database. These details included the names of the victims, the names of the alleged perpetrators, the date and place of the violation and a description of what happened. Violations reported in the Free State were recorded by the Durban office and the statistics for the two provinces are combined. Violations reported in Kwa-Zulu Natal account for the overwhelming majority. The table below shows the total amount of information gathered by each office:

Office	State-ments taken	Violations (gross and associated) ¹	Gross violations of human rights	Number of victims	Average victims per statement	Average violations per victim
Cape Town	1 780	4 267	3 122	2 350	1.3	1.8
Durban	10 292	19 383	16 803	14 207	1.4	1.4
East London	2 843	6 380	5 460	3 252	1.1	2.0
Johannesburg	6 381	16 666	11 550	8 941	1.4	1.9
Total	21 296	46 696	36 935	28 750	1.4	1.6

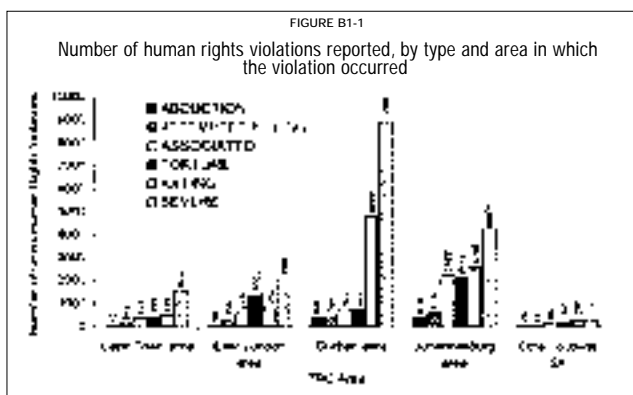
¹ Gross violations of human rights are: killings, torture, severe ill treatment and abduction. In addition, a number of violations were reported which did not fall into these categories. These were called 'associated violations' by the Commission.

- 13 It should be noted that a statement may describe more than one violation, and that a victim may have suffered more than one violation.² On average, 140 victims and 160 violations were mentioned in every 100 statements. In total, 46 696 violations involving 28 750 victims were reported to the Commission.
- 14 Note also that none of these figures includes information from the Amnesty Committee. The work of that committee is perpetrator-focused, and was far from complete at the time of reporting. This volume considers only the violations reported to the Human Rights Violations Committee.
- 15 After the details were captured, each statement was corroborated by the Investigative Unit and passed to the Human Rights Violations Committee, which made findings on the violations. The tables and analyses which follow are based on 37 942 violations reported by victims who were found by the Committee³ to have suffered a gross violation as defined in the Promotion of National Unity and Reconciliation Act. Of these violations, 33 713 are gross violations of human rights.

Types of violation

- 16 The figure below shows the numbers of violations in each category, grouped into the four areas covered by each regional office.

- 17 The greatest number of violations occurred in the area covered by the Durban office where 8 923 cases of severe ill treatment and 4 820 killings were reported. This is nearly double the number of violations from the area with the next highest figure – the area covered by the Johannesburg office – even though the population in the Durban office area (the old Natal and Orange Free State provinces and the KwaZulu homeland) is lower than that of the Johannesburg office area (the old Transvaal province). There were far more vio-



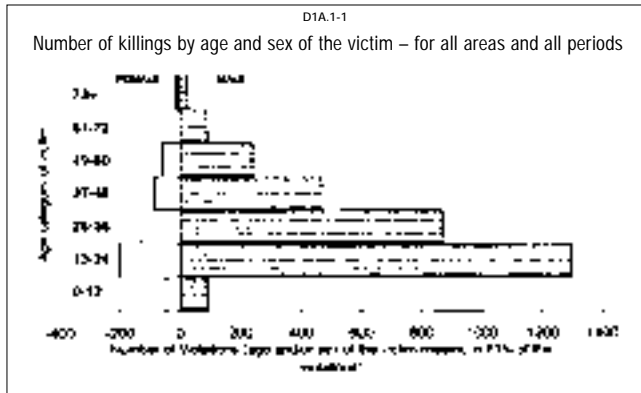
² See the appendix to the chapter on *Methodology* (in Volume One) which describes the information management system used by the Commission.

³ At the time of reporting, many cases had not been finalised by the Human Rights Violations Committee, either because deponents had been given an opportunity to provide more documentation, or because the cases are still under review. The complete list of findings will be finalised and published in a later volume. They have been included in this analysis for completeness.

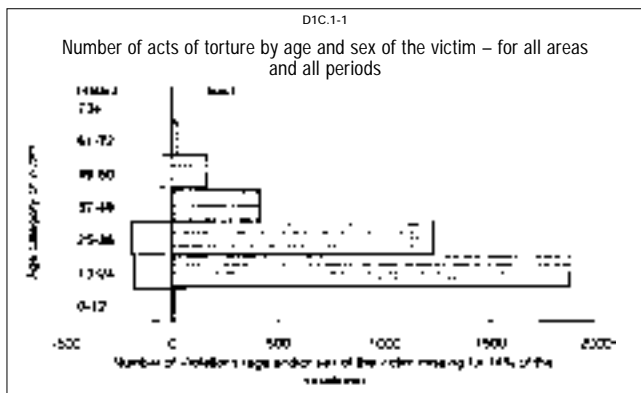
lations of human rights in the area covered by the Durban office, both absolutely and proportionally. As we shall see, the bulk of these violations occurred in the 1990–1994 period.

Victim profile

18 The three figures on the right show the age and sex profiles of the victims, for the three categories named killings, severe ill treatment and torture. Each figure has a bar representing the number of violations in each age group⁴, with female victims shown on the left and males on the right.

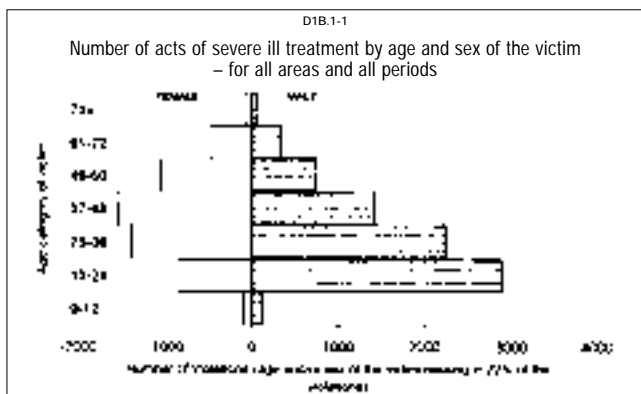


19 Overwhelmingly, it was men who were killed in the conflicts of the past, and the vast majority of those men were aged between 13 and 36.



Many women died too, and again, the majority of women who died were aged between 13 and 36.

20 The pattern for torture is similar. Most victims of torture were young adults, mostly men.



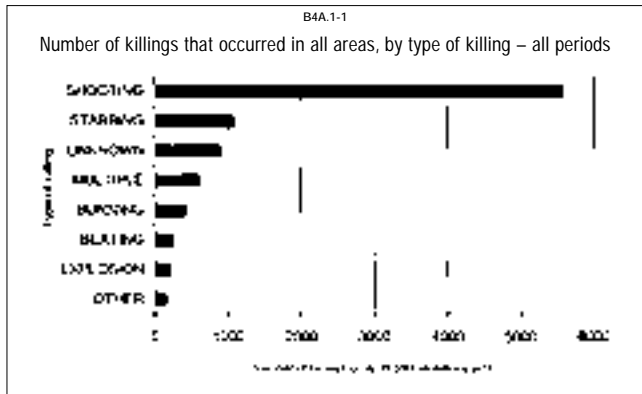
21 A different picture emerges for severe ill treatment. Although men are still in the majority, the number of cases of severe ill treatment involving women is much

⁴ The ages are divided equally into twelve-year age groupings.

greater than that of women being killed or tortured. The age pattern is different too. Of the men, it is still mostly younger men who suffered severe ill treatment, but of the women, it is older women, particularly those aged 37–48.

Nature of the violations

22 To make sense of these patterns, it is necessary to look at what sort of violations fall into each category (what constitutes severe ill treatment, for example). Each of the categories of human rights violations was broken up into sub-headings⁵, so a clearer picture emerges from a more detailed look at the violations. These charts show the top eight sub-types of each human rights violation category, starting with killings⁶:



23 Of the killings, the greatest number was by shooting; the next most common was stabbing. The number of unknown causes of death is very high, either because the deponent did not specify details or because inquest documents or police reports were inadequate. Death by multiple causes is very common; usually a consequence of victims being shot, stabbed and/or burnt at the same time.

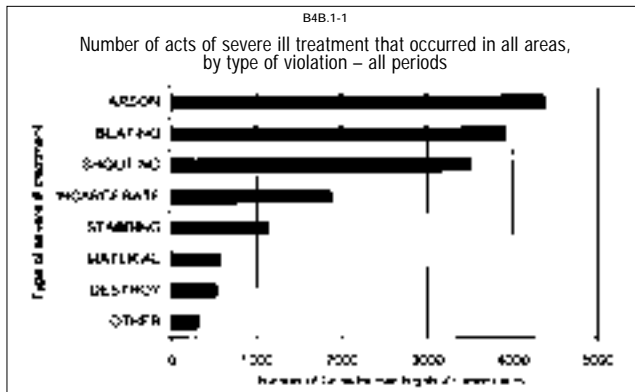
24 The large number of deaths by burning is mainly a consequence of the number of arson attacks. Note that burning does not include what was known as 'necklacing'⁷. Necklacing was categorised separately from burning, and was the tenth most common cause of death, at seventy-one instances.

⁵ See appendix 2 to *Analysis of Human Rights Violations* in Volume 5 for the coding frame, which provides a complete list of the definitions used.

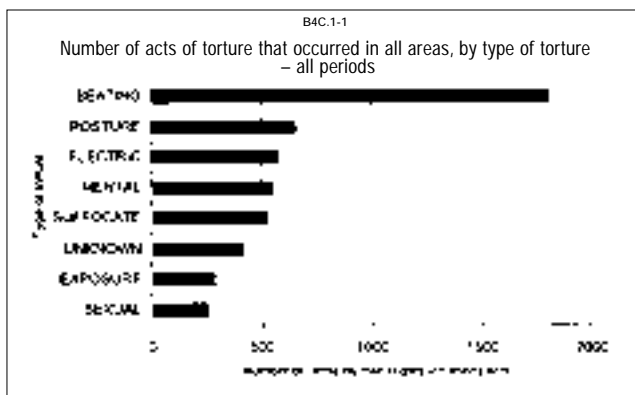
⁶ In all charts of this type, only the top eight categories are shown, for brevity.

⁷ 'Necklacing' refers to the practice of placing a car tyre around the neck of a victim and setting it alight.

25 Destruction or loss of material goods is the most common type of severe ill treatment, taking the form of arson, destruction of property and material loss. This was followed by injuries to the individual by means of shooting and beating. There were over 1 800 instances of incarceration under conditions which amounted to severe ill treatment.



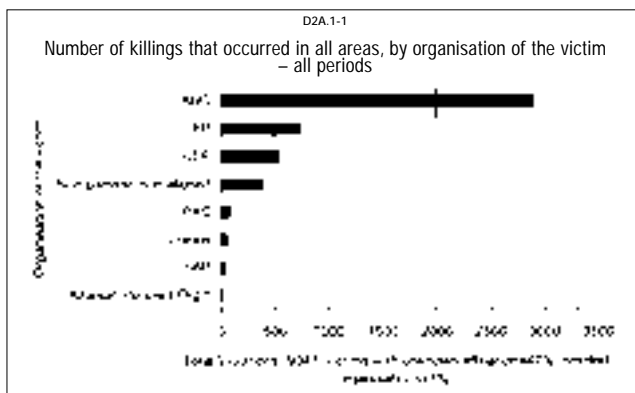
26 Over 2 900 people reported 5 002 instances of torture, the most common of which was by beating. More than 2 000 instances of deliberate methods of torture, such as being forced into painful postures, electric shocks, suffocation or mental torture were reported.



Victim organisations

27 In terms of its mandate, the Commission was obliged to examine the conflicts of the past in a political context, so political allegiance is an important factor to consider when looking at the trends and patterns of the violence.

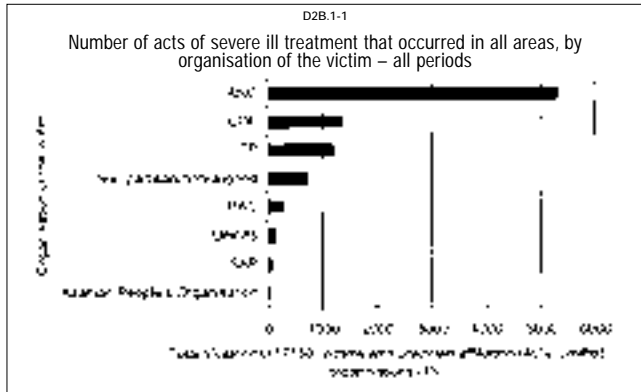
28 Deponents were asked to specify the victim's organisational membership. Many people did not reply; many did not belong to a specific organisation and many deponents did not know



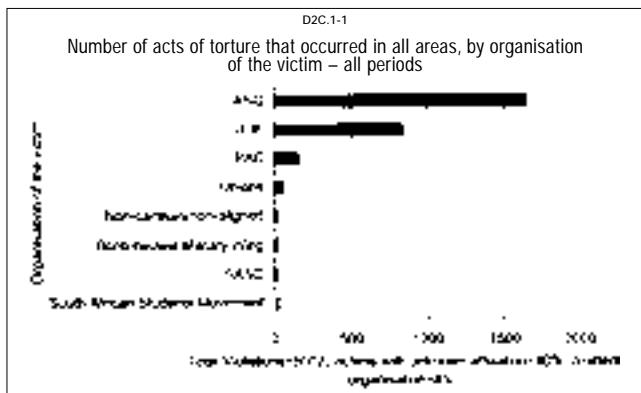
whether the victim belonged to an organisation. The results of those who *did* reply are shown below, starting with the killings:

29 Of the top eight organisations, African National Congress (ANC) members were overwhelmingly the majority of those killed. Nearly four times as many ANC members died as did those in the next largest category, Inkatha Freedom Party (IFP) members. United Democratic Front (UDF) members were the third largest category of those who died.

30 A similar pattern emerges for cases of severe ill treatment, with ANC, UDF and IFP members experiencing the most violations. As with killings, members of the South African Police (SAP) suffered very few violations in comparison with the others.



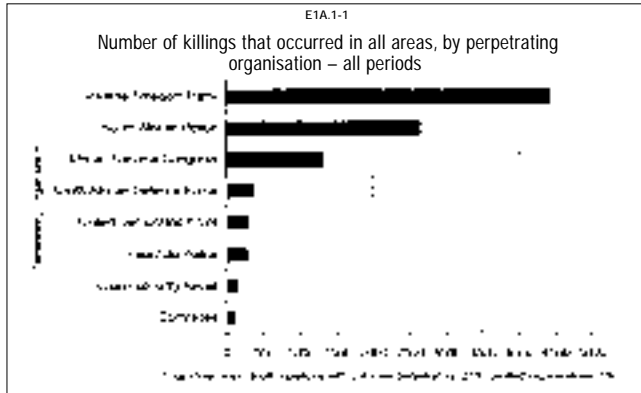
31 The pattern of torture is different. No IFP members were reported to have been tortured, nor were members of the state security forces. The vast bulk of torture incidents involved members of the ANC, UDF and PAC.



Perpetrator organisations

32 The picture is not complete without looking at the alleged organisational allegiance of the perpetrators. Deponents were asked about the organisation to which they thought the perpetrators belonged. The top eight responses for instances involving killings were as follows: ►

33 The number of violations allegedly committed by the IFP dominates the graph, with the SAP and the ANC showing the second and third highest numbers of alleged violations.



These figures show the total number of killings over the whole period, but different organisations were allegedly active at different times. The chart below shows how the alleged violations by the top three organisations changed over time: ►

34 The chart shows how the killings allegedly committed by the SAP feature during all periods⁸, with peaks in 1976 (the Soweto uprising), 1985 to 1987 (states of emergency) and 1990 (the unbanning of organisations), followed by a steady decrease in killings during the 1990s.



35 Killings attributed to the ANC⁹ peak in 1986, a year after the peak of SAP killings, and then increase steadily during the 1990s after a lull in the late 1980s.

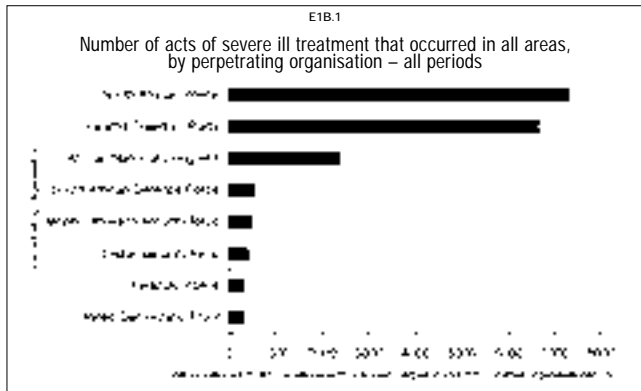
36 Killings attributed to the IFP start increasing at the same time as those of the ANC in 1986, and carry on increasing during the late 1980s, at a time when the

⁸ The chart starts in 1975, not 1960, because fewer killings were reported from the early periods (1960 – 1975) compared to the later periods.

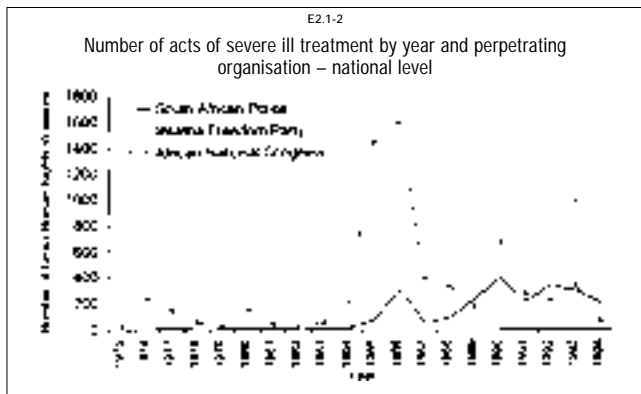
⁹ Note that the large numbers of allegations against the ANC during the 1980s were made at a time when the ANC was still banned. This is partly reflecting activities by Umkhonto weSizwe (MK), but is also due to a perceived continuity of interest between the so-called 'comrades', the UDF and the ANC.

alleged violations of the SAP and ANC experienced a comparative lull. There is a steep increase after the unbanning of the ANC, reaching an all-time high in 1993.

- 37 The patterns of severe ill treatment are similar to those of killings, with the SAP, IFP and ANC at the top of the list of alleged violations: ►



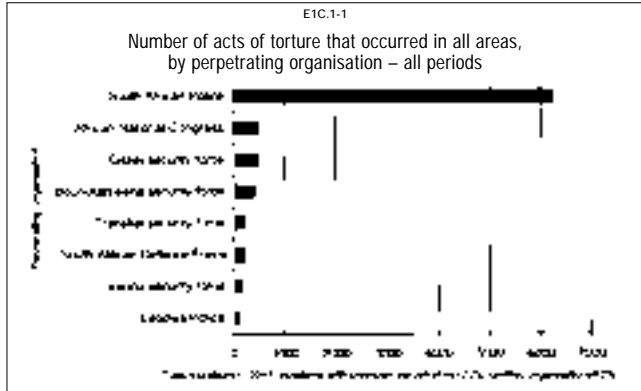
- 38 The greatest number of instances of severe ill treatment are attributed to the SAP, followed by the IFP, with over 7 000 alleged violations each, followed by the ANC with over 2 000. Again, the pattern is different at different periods of history, and matches the pattern of alleged killings closely: ►



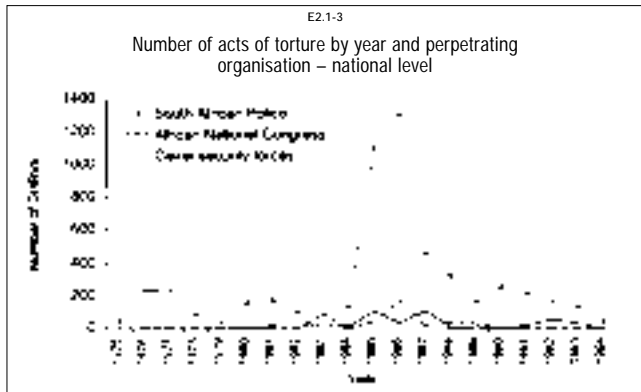
- 39 There is a peak of severe ill treatment violations allegedly committed by the SAP in 1976, followed by a great increase in 1985 and 1986 during the states of emergency, then a lull followed by another peak in 1990, and then a steady decrease from that peak during the 1990s.
- 40 Violence attributed to the ANC peaks in 1986, then drops, after which it increases to another peak in 1990 and then remains relatively constant during the 1990s.
- 41 Violations attributed to the IFP show an increase in 1985, a steady rise all through the late 1980s, and then a steep increase in 1990, followed by two more increases during the early 1990s.
- 42 The pattern of torture, however, is quite different. Torture differs from severe ill treatment in two important ways – it consists of systematic abuse and it occurs

in places of confinement. The victim cannot escape and nobody other than the perpetrator has access to the victim. The eight organisations who top the number of allegations of torture are: ►

43 Overwhelmingly it is the police who allegedly tortured. The only organisation in the top eight which is not a state-controlled body is the ANC.



44 Looking at the pattern of alleged torture by the top three organisations over time shows that it was at its worst during the states of emergency: ►



45 During all periods, the most instances of torture were attributed to the SAP, with steep peaks during the states of emergency, followed by a steady decline from this high during the late 1980s and early 1990s. The instances of alleged ANC torture are clustered in 1986 and then tail off. The third group allegedly involved in torture, the Ciskei security forces, show three small peaks – in 1985, 1987 and 1992.

■ APPENDIX

National Chronology

This chronology focuses primarily on the mandate period of the Commission, while referring to some significant events which helped shape the years 1960 to 1994. It includes events that are essentially of national significance, and a limited number of events that are of regional significance. In selecting these entries from more detailed regional chronologies, which form part of the Commission's records in the National Archives, an attempt is made to capture the unfolding drama of the South African conflict. The chronology should be consulted in relation to the chapter on *Historical Context* as well as volumes 2 and 3, which address national and regional events in narrative form.

1899	The South African War between Britain and the Boer Republics ends with British victory in 1902.
1910	Union of South Africa comes into being.
1912	South African Native National Congress or SANNC (later African National Congress or ANC) is founded.
1913	The Natives' Land Act prescribes that no African person be allowed to own land outside designated reserves (approximately 7% of the land is allocated for African people, subsequently increased in 1936 to 13%).
1914	National Party is founded.
1916	Native Affairs Administration Bill confirms segregation.
1918	Formation of Afrikaner Broederbond.
1919	Industrial and Commercial Workers Union (ICU) is founded by Clements Kadalie.
1920	The Native Affairs Act creates separate administrative structures for people in African reserves. South Africa is granted a League of Nations mandate over South West Africa.
1921	Members of the Israelites, an African religious sect, are gunned down by police at Bulhoek in the Eastern Cape.
1922	The Bondelswarts rebellion crushed in South West Africa. The Rand revolt begins. 214 lives are lost as the strike is crushed.
1923	The Natives (Urban Areas) Act extends segregation to towns. SANNC becomes the African National Congress (ANC).
1925	Afrikaans is adopted as an official language.
1935	All-African Convention is founded.
1936	The Cape African franchise is abolished.
1941	The African Mineworkers' Union is formed.
1943	ANC Youth League is formed.

1946	Asiatic Land Tenure Act is passed. The police crush a strike by African mineworkers.
1947	The Security Branch of the South African Police (SAP) is formed.
1948	The <i>Herenigde</i> National Party (NP) wins a majority of seats. DF Malan becomes Prime Minister.
1949	Prohibition of Mixed Marriages Act is passed.
1950	The Group Areas Act provides for areas to be declared for the exclusive use of one particular racial group and makes it compulsory for people to live in an area designated for the group under which they were classified. The Suppression of Communism Act prohibits organisations and people from promoting Communism. Later amendments extend the prohibition to cover any efforts to overthrow the state and provide for the banning of meetings and people, the receiving of donations, the prohibition on people practising law and deportations. The Population Registration Act provides for the classification of all South Africans into one of four racial groups. The Immorality Act prohibits sexual relations across the colour bar.
1951	The Prevention of Illegal Squatting Act grants magistrates the power to evict squatters from urban areas and to demolish their dwellings.
1952	The ANC launches the Defiance Campaign. The Native Laws Amendment Act is enacted. The Abolition of Passes Act introduces reference books for Africans.
1953	The Public Safety Act provides for a state of emergency to be declared. The Minister of Law and Order, the commissioner of the SAP, a magistrate or a commissioned officer can detain any person for reasons of public safety. A magistrate or the commissioner of police can ban meetings and gatherings. (The Act is passed in response to the civil disobedience campaign of the ANC and invoked for the first time after the Sharpville Massacre on 21 March 1960.) The Reservation of Separate Amenities Act is passed. The Bantu Education Act introduces a system of education for African people designed to provide them only with skills that will serve the white economy. The Communist Party of South Africa dissolves and is reconstituted as the South African Communist Party (SACP).
1954	The Natives' Resettlement Act marks the beginning of the creation of exclusively African urban townships.
1955	The Freedom Charter is adopted by the Congress of the People in Kliptown, Transvaal.
1956	Coloured voters are removed from the common voters' roll. The Riotous Assemblies Act prohibits certain public open air gatherings. The Treason Trial begins. 156 accused are charged with high treason. (The trial continues for five years during which charges are withdrawn against all but thirty-four. They are all acquitted in 1961). In August, 20 000 women march to the Union Buildings in Pretoria to protest against the extension of passes to African women.
1957	The Group Areas Act consolidates the law relating to the establishment of group areas and control of the acquisition of immovable property in those areas.
1958	Hendrik F Verwoerd becomes Prime Minister.

-
- 1959** The Pan Africanist Congress (PAC) is formed under Robert Sobukwe.
The Extension of the University Education Act provides for the segregation of English-language universities and the creation of ethnic universities. The Promotion of Bantu Self-Governing Act lays the foundation for the creation of 'independent' bantustans. An amendment to Pass Laws Act extends pass laws to women.
Both the ANC and the PAC initiate protest campaigns against the pass laws.
The Sekhukuneland revolt is crushed, followed by executions of those convicted, including a chieftainess.
-
- 1960** **Mandate period of Truth and Reconciliation Commission begins**
On 21 March, sixty-nine people are killed and 186 wounded at Sharpsville when police open fire on marchers protesting against the pass laws.
In Cape Town, two people are killed and 47 wounded in Langa when police open fire on a crowd of anti-pass protestors. At the end of March, a group of 30 000 people march from Langa to Cape Town in protest.
A national state of emergency is declared on 24 March, lasting until 31 August. 11 503 people are detained. PAC leader Sobukwe is sentenced to three years for burning his pass.
The ANC and the PAC are banned on 8 April.
The African Resistance Movement (ARM) is formed by mainly young radical whites and launches a sabotage campaign.
The Pondoland Revolt by Transkei peasants against the Bantu Authorities Act is crushed by police shootings, detentions and torture, trials and executions.
The South West African People's Organisation (SWAPO) is formed.
South Africa's alleged contravention of SWA mandate is taken to the International Court.
-
- 1961** The Indemnity Act indemnifies the government, its officers and all other persons acting under its authority and empowered to suppress internal disorder from civil or criminal proceedings. (The Act is made retrospective from 21 March 1960).
Following South Africa's withdrawal from the Commonwealth, the first steps are taken to establish a military intelligence component in the South African Defence Force (SADF).
On 31 May, South Africa becomes an independent Republic and leaves the Commonwealth.
The Nobel Peace Prize is awarded to ANC President, Chief Albert Luthuli, in October.
ANC and PAC missions-in-exile open in Tanzania.
Poqo, armed wing of the PAC, is formed in September.
Umkhonto we Sizwe (MK), the armed wing of the ANC, is formed. MK launches its first sabotage actions on 16 December, the first in a series of over two hundred attacks on state installations over the following eighteen months.
-
- 1962** The General Law Amendment Act (Sabotage Act) increases the State President's power to declare organisations unlawful and to add further restrictions to banning orders. The Act creates the offence of sabotage by providing that any person who jeopardises law and order can be tried for sabotage for which the maximum sentence is death.

Poqo initiates attacks on 'informers', headmen, chiefs and whites. In November, Poqo members launch a raid in Paarl in which five people die. In the Eastern Cape, seven Poqo members die in December in a failed attempt to assassinate Paramount Chief Kaiser Matanzima. (On 4 February 1963, Poqo members kill five whites at the Bashee Bridge in Transkei). Mass arrests, allegations of torture, convictions and several executions follow.

1963 The Publications and Entertainment Act extends the state's control over the media. Transkei is granted self-governing status — the first homeland to become self-governing. The General Law Amendment Act (ninety-day detention law) authorises any commissioned officer to detain without a warrant people suspected of political activities and to hold them, without access to a lawyer, for ninety days. In practice, people are often released after ninety days and immediately re-detained for a further ninety-day period. The 'Sobukwe clause' allows for the further detention for twelve months of a person convicted of political offences. Allegations of torture and deaths in detention soon follow.

In March, Potlako Leballo of the PAC announces that a general uprising in South Africa is imminent. British police raid PAC offices in Maseru and seize membership lists.

Republican Intelligence, the forerunner of the Bureau of State Security (BOSS), is formed in June.

Solwandle Looksmart Ngudle dies in September in Pretoria after being held for seventeen days, one of the first to die in detention. The official cause of death is suicide.

Seven senior members of MK are arrested at Lilliesleaf Farm, Rivonia on 11 July 1963. The Rivonia Treason Trial of ten people including Nelson Mandela follows. Most are sentenced to life imprisonment.

The Organisation of African Unity (OAU) is founded.

1964 The Armaments Board, the forerunner to ARMSCOR, is established in order to develop South African self-sufficiency in the manufacturing of arms.

Three MK/South African Congress of Trade Unions (SACTU) members from Port Elizabeth — Vuyisile Mini, Wilson Khayinga and Zinakile Mkaba — are executed following their conviction on charges of sabotage and the killing of an alleged police informer.

ARM member, John Harris, bombs Johannesburg station in July. A woman is killed and twenty-three people injured. (Harris is hanged at Pretoria Central Prison in April 1965).

1965 The Criminal Procedure Amendment Act (180-Day Detention Law) empowers the attorney-general to order the detention of people likely to give evidence for the state in any criminal proceedings relating to certain political or common law offences. Detainees can be held in solitary confinement for six months and only state officials are permitted access to them.

Bram Fischer of the SACP is arrested. He is subsequently sentenced to life imprisonment.

The Smith government in former Rhodesia declares UDI.

1966 SWAPO and the SAP clash at Ongulumbashe, SWA/Namibia, in a battle that marks the start of SWAPO's armed struggle. SAP forces are led by 'Rooi Rus' Swanepoel. The UN General Assembly terminates South Africa's SWA mandate.

Prime Minister Hendrik Verwoerd is assassinated in the House of Assembly by a parliamentary messenger, Dimitri Tsafendas on 6 September.

Balthazar J Vorster becomes Prime Minister on 13 September.

1967 The Terrorism Act is passed, in terms of which police are empowered to detain in solitary confinement for indefinite periods with no access to visitors. The public is not entitled to information relating to the identity and number of people detained. The Act is allegedly passed to deal with SWA/Namibian opposition and NP politicians assure Parliament it is not intended for local use. Besides being used to detain Toivo ya Toivo and other members of Ovambo People's Organisation, the Act is used to detain South Africans.

SAP counter-insurgency training begins (followed by similar SADF training in the following year).

Compulsory military service for all white male youths is extended and all ex-servicemen become eligible for recall over a twenty-year period.

Formation of the PAC armed wing, the Azanian Peoples Liberation Army (APLA).

MK guerrillas conduct their first military actions with ZIPRA in north-western Rhodesia in campaigns known as Wankie and Sepollo. In response, SAP units are deployed in Rhodesia.

1968 The Prohibition of Political Interference Act prohibits the formation and foreign financing of non-racial political parties.

The Bureau of State Security (BOSS) is formed. BOSS operates independently of the police and is accountable to the Prime Minister.

The PAC military wing attempts to reach South Africa through Botswana and Mozambique in what becomes known as the *Villa Peri* campaign.

1969 The ANC holds its first Consultative (Morogoro) Conference in Tanzania, and adopts the 'Strategies and Tactics of the ANC' programme, which includes its new approach to the 'armed struggle' and 'political mobilisation'.

PAC President, Robert Sobukwe, is released after spending six years in detention (imposed after the expiry of his three-year prison sentence) and is placed under house arrest in Kimberley.

The South African Students' Organisation (SASO) is formed by black students, led by Steve Biko, in a breakaway from the white-dominated National Union of South African Students (NUSAS).

Imam Abdullah Haron dies in detention on 27 September after 122 days.

1970 The Bantu Homelands Citizenship Act effectively strips all black South Africans of their citizenship by making them automatic citizens of one of the ten 'homelands'.

1971 The International Court of Justice revokes South Africa's mandate in Namibia.

Ahmed Timol dies in detention on 27 October, allegedly by jumping from the tenth floor of John Vorster Square police building.

The World Council of Churches allocates R91 000 of its annual R140 000 fund against racism to liberation movements in Southern Africa – including SWAPO, the ANC, and anti-apartheid groups.

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- 1972** Black police are trained in anti-‘terrorist’ techniques by the SAP and deployed in Namibia.
- Bophuthatswana, Ciskei and Lebowa are granted self-government status.
- Conscription is extended from nine to twelve months, followed by a nineteen-day annual call-up for five years.
- The Black People’s Convention (BPC) is launched as an umbrella body to co-ordinate black consciousness groups.
- The 1 Reconnaissance Regiment of the SADF is established.
- Operation Plathond, a joint SADF/BOSS operation to train dissident Zambians in the Caprivi Strip, is launched.
- The Schlebush Commission is appointed to investigate the objects, organisation, financing and activities of the University Christian Movement (UCM), NUSAS, the Christian Institute of Southern Africa, the South African Institute of Race Relations, and other related organisations.
- Widespread student protests and expulsions of students take place at many universities in May, followed by student demonstrations which are broken up by the police.
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- 1973** The Afrikaner Weerstandsbeweging (AWB), a militant offshoot of the Herstigte Nasionale Party (HNP) is formed.
- A wave of strikes begins in Durban and spreads to all major urban centres, marking the re-emergence of political protest and independent trade unionism.
- African and Arab states impose an oil embargo on South Africa.
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- 1974** The UN withdraws the credentials of the South African delegation, which loses voting but not speaking rights in the General Assembly. The ANC and PAC are granted observer status.
- After a coup in Portugal, Portuguese colonial control in Mozambique and Angola collapses (leading in 1975 to independent socialist governments hostile to apartheid). The collapse of the buffer of colonial states between South Africa and ‘the rest of Africa’ leads to a review of South Africa’s regional and domestic security policy and to the emergence of the theory of ‘total strategy’ under PW Botha, including regional destabilisation.
- The first cross-border killings take place in February. SASO founder Ongkopotse Abraham Tiro is killed in Botswana by a parcel bomb, and Boy Mvemve (John Dube) is killed by a letter bomb in Zambia.
- Rallies in support of FRELIMO are held in Durban and at the University of the North. They are broken up by the police. Many are arrested across the country and several BPC and SASO leaders are detained and tortured.
- A Special Forces division in the SADF is established in October, followed by the expansion of reconnaissance regiments.
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- 1975** Operation K, a Security Branch counter-insurgency unit in Namibia and forerunner to Koevoet, is launched in January.
- The Inkatha Cultural Liberation Movement is formed.
- Mozambique and Angola become independent.
- The SADF takes over responsibility for the counter-insurgency war in Namibia.

South Africa launches Operation Savannah, an invasion of Angola with US support (but withdraws the following year).

The Special Task Force is formed in January, followed by the setting up of eighteen full-time Riot Units countrywide. (The units are formed with a strong emphasis on the use of counter-insurgency techniques and were later responsible for the policing of the 1976 student revolt).

The Turnhalle conference takes place in Namibia, followed by the setting up of Democratic Turnhalle Alliance.

1976 On 16 June, the Soweto uprising begins. Police open fire on approximately 10 000 pupils protesting against the use of Afrikaans as a medium of instruction. Resistance spreads nationwide and continues for several months. There are 575 official deaths, including 390 in the Transvaal and 137 in the Western Cape. Over 2 000 people are injured. Arrests, deaths in detention and trials follow the revolt. The first members of the 'Class of 76' leave South Africa for training in armed resistance.

Nominal independence is granted to the Transkei in October, under the leadership of Paramount Chief Kaiser Matanzima.

1977 KwaZulu gains self-governance in February.

At the Goch Street shooting in Johannesburg on 15 June, two whites are killed and MK operatives Solomon Mahlangu and Mondy Motloung are arrested. (Mahlangu is sentenced to death and executed in April 1979).

Former ANC member, Leonard Nkosi, is killed by the ANC on 9 September, after he joins the Security Branch.

Black consciousness activist, Bantu Stephen Biko, dies in detention in Pretoria on 12 September, following his detention in Port Elizabeth. Widespread protests around the country follow. Numerous other deaths in detention occur during 1977 and in subsequent years.

Conscription to military service is increased to two years; citizen force duty to thirty days a year for eight years.

Former government official, Robert Smit, and his wife, Cora Smit, are killed in a possible political assassination in the Transvaal.

With the launch of Operation *Silwer*, South Africa begins giving official support to UNITA.

The ANC establishes guerrilla training camps in Angola, catering for the large-scale influx of youth from the 1976 student uprisings.

The South African Students' Organisation (SASO), the Christian Institute and the Black People's Convention (BPC) are banned along with other organisations.

Bophuthatswana becomes 'independent'.

Winnie Mandela is banished for eight years to Brandfort in the Orange Free State.

1978 Anti-apartheid academic and activist, Rick Turner is killed in Durban on 8 January.

The Azanian Peoples Organisation (AZAPO) is launched in May.

Prime Minister BJ Vorster is forced to resign in the wake of the Information Scandal. It is revealed that he agreed to channel millions of rands to the

Department of Information for a major covert international propaganda campaign, including the launch of the *Citizen* newspaper in South Africa.

PW Botha becomes Prime Minister, and State President from 1984 under the new constitution. Botha's policy of 'total strategy' is introduced, involving reforms of the apartheid system, combined with extensive militarisation of the state as set out in the Defence White Paper. The introduction of the strategy follows the Venter and Van Dalsen enquiries.

South Africa accepts United Nations Resolution 435 for the independence of SWA/Namibia.

An ANC visit to Vietnam marks a shift in ANC military tactics. This is followed by the Fort Klapperkop Conference in 1979 and the Coetzee Committee in which leading security personnel review security policies towards the ANC and intelligence structures.

Kassinga Massacre: Operation Reindeer results in an SADF raid on SWAPO camps at Kassinga and Chetequera. Approximately 1 000 people are killed, 612 at Kassinga.

The SADF attacks SWAPO refugee camps in Zambia.

1979 Venda becomes independent.

MK Special Operations Unit is formed.

COSAS (Congress of South African Students), PEBCO (Port Elizabeth Black Civic Organisation) and AZASO (Azanian Students Organisation), later renamed SASCO (South African Students Congress) are formed.

The Federation of South African Trade Unions (FOSATU) is formed, followed by the Council of Unions of South Africa (CUSA) the following year.

The government launches its 'constellation of states' policy to block ANC cross-border raids.

Riekert and Wiehahn labour 'reforms' are introduced.

The State Security Council adopts guidelines for cross-border raids, marking a shift to proactive defence and security policies.

The National Security Management System (NSMS) is implemented. The Secretariat of the State Security Council is established. (Regional Joint Management Centres (JMCs) are set up in the early 1980s).

Attacks by the Lesotho Liberation Army (LLA) on Lesotho from bases in the Orange Free State, are first reported.

The Security Branch Vlakplaas unit is established by Colonel JJ Viktor. (It is later formally constituted in 1981 with the transfer of Security Branch officers to Vlakplaas).

Koevoet is established in January as a police counter-insurgency unit for operations in northern Namibia. *Koevoet* operates on a bounty basis whereby members are given cash bonuses for killed and captured 'terrorists'.

Chief Buthelezi and the ANC leadership in exile meet in London in October, whereafter ties are severed between Inkatha and the ANC.

Lancaster House settlement on Zimbabwe-Rhodesia.

1980 In what becomes known as the Silvertown Bank Siege, three MK operatives take bank employees hostage on 25 January. The operatives and two hostages are killed. School boycotts originate in April in the Western Cape and spread nationally. Initial grievances concern mainly the standard and quality of education, but these grow

into wider political protest. Street protest and police actions result in widespread violence. In the Cape, police shootings lead to over forty deaths.

The Sasol 1 oil refinery plant in Secunda is blown up in April by MK Special Operations Unit.

Expelled ANC official Tennyson Makiwane is shot dead by the ANC in the Transkei in June.

South Africa takes over support to RENAMO from the former Rhodesian government.

The independence of Zimbabwe is proclaimed.

The Southern African Development Co-ordination Conference (SADCC) is founded.

1981 In the Matola raid, the first major cross-border raid into Mozambique, twenty people, including three SADF members, are killed in January.

At the Simonstown *Beraad* [consultation] in January, the state rationalises the intelligence community, leading to the establishment of the Co-ordinating Intelligence Committee (CIC or KIK).

COSAS activist, Sizwe Kondile of Port Elizabeth, is abducted from Lesotho by the security police and killed in June.

Joe Gqabi, ANC chief representative in Zimbabwe, is assassinated in July.

The MK Special Operations Unit attacks the Voortrekkerhoogte military base in Pretoria in August.

Durban lawyer, Griffiths Mxenge, is assassinated by security police in Durban on 19 November.

The independence of the Ciskei, under Chief Lennox Sebe, is proclaimed on 4 December.

Self-governing status is conferred on KwaNdebele.

South Africa withdraws its recognition of UN resolution 435.

In Operation Protea, the SADF occupies one third of Angola.

1982 Trade unionist, Neil Aggett, dies at John Vorster Square in February, after seventy days in detention.

The Conservative Party (CP) is launched in March.

The ANC London offices are bombed by a South African security police team headed by Craig Williamson.

Nelson Mandela is transferred from Robben Island to Pollsmoor Prison in Cape Town in March. A worldwide 'Free Mandela' campaign begins.

COSAS activists, Siphwe Mthimkulu and Topsy Madaka, are abducted from Port Elizabeth on 14 April and killed by security police. Mthimkulu was in the process of suing the police for poisoning him with thallium while he was in detention.

ANC acting chief representative in Swaziland, Petrus 'Nzima' Nyawosa and his wife, Jabu, are assassinated in June in a car bomb explosion by South African security police.

ANC/SACP member, Ruth First, is assassinated in Maputo on 17 August by a parcel bomb despatched by South African security police.

Warrant Officer Selepe is killed by the ANC in Mamelodi in November.

South African commandos attack flats in Maseru, Lesotho, in December; forty-two

people are killed, twelve of whom are Lesotho nationals. They miss their target, Chris Hani, but the ANC representative in Lesotho, Zola Nguni, is killed.

The Koeberg nuclear power plant is bombed by MK in December, causing extensive damage.

Three COSAS activists are taken (allegedly for military training) to a mine bunker near Krugersdorp by *askaris* masquerading as MK operatives. They are blown up. (This method of 'entrapment' is later used by the security forces in similar incidents in the mid- and late-1980s).

The Internal Security Act follows the recommendations of the Rabie Commission of Inquiry, providing for the banning of publications and people, prohibition from attending any kind of meeting, house arrest, indefinite preventive detention and solitary confinement for detainees.

Compulsory military service is extended.

1983 A car bomb explodes outside the South African Air Force headquarters on Church Street, Pretoria on 20 May. Nineteen people are killed and 200 injured. Two MK operatives die in the attack.

Security forces attack Matola, Mozambique in May, killing 6 people.

A two-year boycott of Ciskei-owned buses starts in Mdantsane, Ciskei in July. Ciskei security forces and vigilantes work together to force boycotters back onto buses. By the end of the year at least fifteen people have been killed.

The national launch of the United Democratic Front (UDF) takes place in Mitchell's Plain on 20 August. The immediate goal is to oppose the introduction of the Tricameral Parliament and black municipal councils.

In terms of the Republic of South Africa Constitution Act, the new constitution is adopted by Parliament in September. The Act provides for the establishment of the Tricameral Parliament consisting of three legislative houses for whites, coloureds and Indians.

In the Ongoye killings on 29 October, Inkatha-aligned 'warriors' at the University of Zululand kill five and injure many in clashes between students and approximately 500 Inkatha supporters.

In a national referendum in November, white voters support the tricameral constitution proposal referendum, which accommodates coloureds and Indians but excludes Africans. In a 76% turnout, 66% vote 'yes'.

Operation *Askari* is launched in Angola in December by the former SADF. It is a pre-emptive action, designed to forestall the invasion of SWA/Namibia by 800-1000 SWAPO guerrillas.

Namibian Multi-Party Conference is launched.

The End Conscription Campaign (ECC) is launched by whites opposed to conscription.

1984 Mutinies by frustrated MK soldiers at ANC camps Viana and Pango are crushed in early 1984, resulting in the execution of seven mutineers and the imprisonment of others at Quatro rehabilitation camp.

The Lusaka agreement between South Africa and Angola is signed in February, after South Africa announces its withdrawal from Angola. (The agreement is never fully implemented, as South Africa never entirely withdraws).

The Nkomati Accord is signed in March between Mozambique and South Africa. The Accord represents a non-aggression pact in which both sides pledge to cease hostile actions against each other. The Mozambique government agrees to expel all ANC military personnel.

ANC official, Jeanette Curtis Schoon, and her daughter, Katryn, are killed by a South African security police parcel bomb in Angola in June.

Elections are held for the House of Representatives and the House of Delegates in August.

In the Vaal uprising, nine people are killed in Sharpville after a rent increase, followed by numerous other deaths as protests spread. Rent boycotts become a new strategy of protest. In Operation *Palmiet* in September, the SADF is deployed to support the SAP in suppressing internal unrest in the Vaal Triangle, followed by a wider deployment of the SADF in unrest areas.

The new constitution is enacted in September. PW Botha becomes State President.

The biggest stay-away in thirty-five years takes place in November in the Transvaal.

The Nobel Peace Prize is awarded to Archbishop Desmond Tutu in December.

In the first UDF treason trial, fifteen UDF and union leaders are charged with treason in Pietermaritzburg. (The charges are finally dismissed in June 1986).

The UDF 'Million Signature Campaign' against apartheid is launched.

Mass student protests and disruptions intensify existing unrest caused by community protest activities and conflict with black local authorities.

The Strategic Communication Branch (STRATCOM) of the State Security Council is formalised, following an investigation into the use of psychological action/warfare.

1985 The Rand slumps and the disinvestment campaign commences. Britain and the US begin the process of adopting employment codes for companies operating in South Africa.

Mandela and other political prisoners are offered release in January if they renounce violence. Most refuse.

Widespread attacks begin on 'collaborators', including police and community councillors, by residents in both urban and rural areas across the country. These killings result in numerous 'common purpose' trials and many death sentences for those convicted.

Vigilante groups emerge nationwide. Groups such as the A-Team and the *Phakathis* in the Orange Free State and the A-Team in Chesterville, Durban, begin to target UDF activists. The Eagles youth club in the OFS (run by Military Intelligence from 1986) is active in the harassment of UDF leaders and violent disruption of youth meetings.

Conflict between black consciousness organisation AZAPO and the UDF erupts during a visit by US senator Edward Kennedy. Conflict continues throughout the year and spreads to other regions, including Port Elizabeth and Uitenhage where many are killed.

Violence erupts in February at Crossroads, an informal settlement in Cape Town, after the state declares that squatters in the Western Cape must move to Khayelitsha. Eighteen are killed and 200 are injured in clashes with the police.

Police open fire on a march to a funeral at Langa near Uitenhage on 21 March, killing at least twenty-one people. This is preceded by an authorisation to use buckshot and birdshot.

Councillor Benjamin Kinikini is 'necklaced' and four of his young relatives killed by a crowd on 23 March. This is the first widely publicised 'necklace' killing in the country. The SAP records 406 such 'necklace' killings and 395 deaths by burning between September 1984 and December 1989; a third of these take place in the former Eastern Cape and Border regions.

UDF and Port Elizabeth Black Civic Organisation (PEBCO) activists — Sipho Hashe, Champion Galela and Qaqawuli Godolozzi — are abducted on 8 May and killed by security police.

The SADF raids Gaborone in Botswana in June; twelve people are killed of which eight are South Africans.

MK members blow up the Umtata fuel depot, water pipelines and an electricity sub-station in June. A nightly curfew is subsequently imposed.

A second National Consultative (Kabwe) Conference of the ANC is held in Zambia in June, marking a turning point in the ANC's approach to the struggle in South Africa. The distinction between 'hard' and 'soft' targets starts to be blurred and a desire to 'take the struggle to the white areas' is expressed.

In the Delmas treason trial, twenty-two Transvaal UDF leaders are indicted for treason in June. The trial runs from January 1986. In December 1988, Justice van Dijkhorst convicts eleven of the twenty-two who are given sentences from five to eleven years' imprisonment. (The Appellate Division overturns the convictions at the end of 1989.)

Eight COSAS activists are killed by grenades booby-trapped by the security forces in Operation Zero-Zero at Tsakane in June.

The Cradock Four — UDF activists Matthew Goniwe, Sparrow Mkhonto, Sicelo Mhlawuli and Fort Calata — are abducted and murdered by security forces outside Port Elizabeth on 27 June. Their funeral under ANC and SACP flags in July is attended by 60 000 people from all over the country.

A state of emergency is declared on 21 July 1985 in thirty-six magisterial districts. This is extended to additional areas, including the Western Cape in October 1985. The power to detain is extended to every member of the police, railways police, prison officials and army members. It becomes a crime to disclose the identity of any detainee without permission from the Minister of Law and Order. The Commissioner of Police is empowered to impose a blanket censorship on press coverage of the emergency. Thousands are detained and organisations still operating are either banned or restricted. This state of emergency lasts until March 1986.

Maki Skosana is necklaced on 25 July at the funeral of several people killed by police.

Eugene de Kock assumes command of Vlakplaas in July.

Victoria Mxenge, a Durban attorney, is assassinated in Umlazi on 1 August. This triggers a rapid escalation of conflict between the UDF and Inkatha in Natal.

COSAS is banned in August.

PW Botha delivers his 'Rubicon' speech in August, in which he retreats from talk of reform.

In August, the UDF in Cape Town organises a march to Pollsmoor Prison to demand the release of Nelson Mandela and other political prisoners. It ends in violence when police disperse the marchers. Clashes result in thirty-one deaths over the next few days and spark off widespread street protests and repression until the end of the year.

Seventeen people die in the Umlazi cinema killings when Inkatha supporters armed with traditional weapons and firearms burst into a memorial service held for Victoria Mxenge on 8 August.

The Gandhi settlement at Phoenix is attacked and destroyed in August. Seventy people die (forty-three at the hands of police) and more than 200 are injured.

UDF student activist, Batandwa Ndonga, is shot dead by security police and *askaris* at Cala, Transkei in September.

In what becomes known as the 'Trojan Horse' incident, three youths are killed in Athlone, Cape Town in October. A further two are killed in an identical security force operation the following day near Crossroads. This method is used elsewhere in the country, notably in the Eastern Cape.

The Congress of South African Trade Unions (COSATU) is launched in November.

The first series of ANC landmine attacks in November leads to several deaths and injuries in the Northern and Eastern Transvaal rural areas. By the time the ANC ceases landmine operations, between twenty and forty people have died in over thirty landmine explosions.

In what becomes known as the Mamelodi killings in November, at least twelve people die when police open fire on 50 000 protesters demonstrating against rent rises, funeral restrictions and the presence of the SADF in the township.

In the Queenstown shootings, at least eleven people are shot dead when police open fire on a meeting in a church hall in November.

South African security forces launch a raid into Maseru in December. Six South Africans, including MK operatives, and three Botswana citizens are killed.

In the Amanzimtoti bombing, five people are killed and over sixty injured in an explosion at an Amanzimtoti shopping centre in December. MK operative, Sibusiso Andrew Zondo, is convicted for the bombing and executed in September 1986.

Church leaders issue the Kairos document.

The State Security Council inter-departmental committee on security is upgraded to Joint Security Staff (*Gesamentlike Veiligheidstaf*) to oversee the co-ordination of unrest and security matters under the Deputy Minister of Law and Order.

The highest decision-making body of Inkatha, its Central Committee, declares KwaZulu and Natal 'no-go' areas for the UDF (according to a State Security Council document produced in 1989).

1986 The attempted incorporation of Moutse into KwaNdebele leads to widespread resistance and violence accompanying the emergence of a pro-incorporation vigilante grouping, Mbokodo.

Reverend Mzwandile Maqina establishes *AmaAfrika* in Uitenhage following his expulsion from AZAPO in January. Violent conflicts with the UDF follow.

Residents clash with police in Alexandra in the 'Six Day War' in February. At least seventeen people are killed.

In the 'Gugulethu Seven' killing, seven MK operatives are shot dead by security forces in an apparent ambush on 3 March. A similar method involving entrapment and/or ambush is used in the killings of the 'Nietverdiend Ten' in June and the 'KwaNdebele Nine' in July.

In the Winterveld killings, police open fire on a thousand-strong crowd on 26 March, killing eleven people and wounding 200 others.

Between April and October, paramilitary (Caprivi) training of 200 Inkatha supporters by SADF Special Forces takes place on the Caprivi Strip, South West Africa/Namibia.

South African Air Force raids on Harare, Lusaka and Gaborone on 19 May result in the termination of the Commonwealth Secretariat peace mission, the Eminent Persons' Group.

Over 1.5 million people participate in the largest May Day stay away yet seen.

The United Workers Union of South Africa (UWUSA) is launched by Inkatha in May, backed by substantial covert state funding.

Vigilante *witdoeke* attack and destroy the UDF-aligned satellite camps around Crossroads, Cape Town in May. A similar attack takes place at KTC in June. Over sixty people are killed, including ITN camera operator, George De'Ath. Tens of thousands are left homeless.

The nationwide state of emergency is re-imposed on 12 June, accompanied by mass detentions. (By the end of this state of emergency on 11 June 1987, over 25 000 people will have been detained at various times. The emergency is re-imposed annually until 1990).

In what becomes known as the Magoo's Bar bombing, three people die and sixty-nine are injured when a car bomb explodes at Durban's Parade Hotel on 14 June. Robert McBride is sentenced to death for the bombing; his sentence is later commuted to life imprisonment.

Four members of the Chesterville Youth Organisation are killed in a Vlakplaas operation in June.

KwaNdebele Minister, Piet Ntuli, is killed by a security force car bomb in July.

In White City, at least twenty-four people are killed in August following police action against a crowd demonstrating against municipal rent raids in Soweto.

MK operatives entering the country are ambushed in Amsterdam, Transvaal. Three die. (This method becomes more extensively used).

Mozambican president, Samora Machel, and thirty-four others die in an aeroplane crash at Mbuzini on South African soil in October.

Drs Fabian and Florence Ribeiro are killed by security forces in Mamelodi in December.

Special Forces operatives are deployed in support of key Security Branch divisions.

Chief Jonathan is toppled in a Lesotho coup. The ANC leaves Lesotho.

The Eastern Transvaal Target Work Group is established by joint security forces. TREWITS (*Teenrewolusionêre Inligtingstaakspan*), a counter-revolutionary intelligence task group, is formed to collect operationally directed intelligence.

The US passes the Comprehensive Anti-Apartheid Act which imposes fiscal and other sanctions on South Africa.

Charles Sebe, jailed in 1984 for plotting a coup against his brother, Ciskei President Lennox Sebe, is broken out of jail in 1986 with the assistance of South African security forces during Operation Katzen.

The UDF campaign, 'Forward to People's Power', is launched involving the establishment of street committees and people's courts.

Special state of emergency media regulations in December impose a news black-out, prohibiting the reporting of unrest incidents or actions of the security forces.

Legislation – the pass laws, the Mixed Marriages Act and the Prohibition of Political Interference Act – is repealed.

1987

In the Natal 'Midlands War', increased inter-organisational conflict and violence break out between Inkatha and UDF youth organisations (resulting in large-scale deaths and social upheaval from 1987 to 1990). Inkatha-aligned vigilante gangs, such as the *AmaSinyora* in KwaMashu, engage in political violence.

In the KwaMakhutha massacre in January, the home of UDF leader, Bheki Ntuli, is attacked. Thirteen people are killed, including eight children.

The Alexandra Treason Trial of five UDF activists begins in January (and continues until their acquittal in April 1989).

In Operation Katzen, Transkei Defence Force (TDF) troops attack Ciskei president Lennox Sebe's palace in January. In a failed attempt to abduct or kill him, at least two TDF troops die.

ANC official, Albie Sachs, is severely injured in a security force car bomb explosion in Maputo in April.

ANC activist, Gibson Ncube/Mondlane, is assassinated in April. He dies after drinking poisoned South African beer brought to Maputo by a Civil Co-operation Bureau (CCB) operative.

In the general elections in May, the Conservative Party replaces the Progressive Federal Party as the official opposition in Parliament.

Large-scale stayaways take place on 5 and 6 May to protest the 'whites only' election in May.

The head of MK's Natal machinery, Theophilus 'Viva' Dlodlo, and two passengers are killed in a security police ambush in Swaziland in May.

Security forces bomb COSATU House on 7 May.

The Transkei, Ciskei and South Africa sign a non-aggression pact in Cape Town on 10 May, following the February attack by Transkei on Ciskei.

ANC National Executive Committee member, Cassius Maake, and MK operatives, Paul Dikeledi and Eliza Tsinini, are killed in a security police ambush in Swaziland in July.

A group of sixty-two mainly Afrikaans speaking whites meets with an ANC delegation in Dakar, Senegal in July.

The Congress of Traditional Leaders of South Africa (CONTRALESAs) is formed in September.

A coup in Transkei by the Transkei Defence Force in September ousts Prime Minister George Matanzima and installs the civilian government of Stella Sigcau, which is itself deposed in December by a second coup under Bantu Holomisa.

The first Rivonia trialist to be released, Govan Mbeki, is placed under restriction orders after his release in November.

Botshabelo is incorporated into QwaQwa by presidential proclamation in December. The proclamation is challenged and declared invalid. Residents launch mass protests against the incorporation.

The ANC launches Operation Vula after its Arusha conference in Zambia in December. The objectives of Operation Vula are to build strong underground structures with the ultimate goal of bringing ANC leaders into the country.

Conflicts arising from the incorporation into KwaZulu of Clermont result in several killings.

1988 SADF forces are forced by a joint Angolan-Cuban force to retreat at Cuito Cuanavale in Southern Angola in early 1988.

The UDF, COSATU and sixteen other organisations are placed under severe restriction orders in February.

Disaffected elements of the Bophuthatswana defence force, led by Rocky Malebane-Metsing, attempt a coup in Bophuthatswana. The coup is crushed by the SADF on 10 February.

A one-month stay of execution is granted in March, in the Pretoria Supreme Court to six Sharpville residents, sentenced to death for being part of a crowd that killed a black councillor. Sentences are later commuted to life imprisonment following a local and international outcry against their 'common purpose' conviction.

ANC representative Dulcie September is killed in Paris in March, allegedly by the CCB.

Four unarmed ANC members are shot dead in June by a Vlakplaas hit squad and members of the Piet Retief security branch.

Massive strike in protest against the Labour Relations Amendment Act in June.

Stanza Bopape dies in police custody on 12 June, after being tortured. Police state that he 'escaped from police custody' and disappeared.

A concert at Wembley Stadium in London in July to celebrate Mandela's seventieth birthday and protest his continuing imprisonment is televised worldwide.

The ANC publishes its constitutional guidelines in July.

The security forces bomb Khotso House, Johannesburg, on 1 September, causing extensive damage. In October, Khanya House (the offices of SA Bishops Conference) is destroyed in an arson and limpet mine attack.

The ECC wins a successful interdict against the SADF 'dirty tricks' campaign in October.

Municipal elections in October meet with widespread national resistance and violence.

Former police officer Barend Strydom, AWB and *Witvolwe* member, shoots randomly at black people in Pretoria in November, killing seven and injuring sixteen.

In what becomes known as the Trust Feed killings, eleven people are killed by SAP members and special constables who storm and fire on an all-night prayer vigil near New Hanover on 3 December. Senior Inkatha leaders are part of the planning.

South Africa signs the New York accord in December, readopts UN Resolution 435 and agrees to the withdrawal of troops from Angola and Namibia.

1989 Detainee hunger strikes begin in January when long-term state of emergency detainees across the country, some of whom have spent over three years in detention without trial, embark on hunger strikes. Gradually, many are released.

The Democratic Party is launched in April as an amalgamation of three white political parties to the left of the NP.

The UN Transitional Administration Group (UNTAG) is installed in Namibia to oversee elections.

David Webster is assassinated by Ferdi Barnard and other CCB operatives in Johannesburg in May.

The ANC, UDF and COSATU adopt the Harare Declaration in July, outlining the conditions for negotiations. The Declaration is later ratified by the Organisation of African Unity (OAU) and the United Nations.

The Defiance Campaign, a passive resistance campaign, is launched in July by the 'Mass Democratic Movement'.

The first known meeting between President PW Botha and Nelson Mandela takes place in July. (This follows several secret meetings between representatives of the government and the ANC from 1985.)

The last general election for the Tricameral Parliament takes place in September, marked by nationwide protest action and repression. On election night alone, over twenty people die in Western Cape townships.

A massive 'Peace March', protesting against police repression, is permitted to go ahead in Cape Town on 13 September.

Anton Lubowski, a SWAPO activist and lawyer, is shot dead in Windhoek in September.

FW de Klerk becomes State President on 20 September after the resignation of PW Botha in August and introduces a series of reforms over the following years. The National Security Management System is replaced by the National Co-ordinating Mechanism (NCM). The State Security Council is stripped of many powers. Many of its sub-structures are dismantled, excluding STRATCOM.

Walter Sisulu and seven other high profile prisoners (seven ANC members and one PAC member) are released by FW de Klerk in October.

On the eve of his scheduled execution in October, Butana Almond Nofemela confesses to the hit squad activities of security police at Vlakplaas. He is later supported by his commander, Dirk Coetzee, and David Tshikalanga.

Operation Victor, one of several security force operations in Namibia, aims at reducing SWAPO majority support.

SWAPO wins national elections in Namibia in November and Namibia becomes independent in March the following year.

In the Motherwell bombing, Port Elizabeth, in December, three police officers and an informer are killed when their car is blown up by fellow police officers to prevent possible revelations of police involvement in the killing of the Cradock Four.

The Pan-Africanist Movement (internal wing of the PAC) is launched.

1990 The Berlin Wall falls in February, the symbolic end of the 'communist threat' and used by FW de Klerk as a justification for a 'liberalisation' of strategy.

FW de Klerk announces the unbanning of liberation movements and other organisations, the release of political prisoners, the lifting of restrictions on thirty-three organisations, and a moratorium on judicial executions on 2 February.

Nelson Mandela is released on 11 February.

President FW de Klerk appoints the Harms Commission of Inquiry into certain murders in February to look at possible hit squad activity and the Civil Co-operation Bureau.

Violence breaks out outside Pietermaritzburg between 25-31 March in what becomes known as the 'Seven Day War', resulting in the loss of over two hundred lives, and the flight of up to twenty thousand people from the area.

Police open fire on a protest march of 50 000 people in Sebokeng in March, killing eight and injuring over 300.

Brigadier Oupa Gqozo seizes control of Ciskei in March, deposing Chief Lennox Sebe in a bloodless coup. This is followed by a brief period of liberalisation.

The Chand family in Botswana is killed in the last Vlakplaas cross-border raid in April.

Father Michael Lapsley is seriously injured in a letter bomb explosion in Zimbabwe in April.

The Venda government of President Frank Ravele is overthrown by military coup in April.

During student protests at Viljoenskroon, Orange Free State on 19 April, police open fire on a march, killing five and injuring many others.

Exiled ANC leaders arrive in the country in April for talks with the government. On 5 April, President De Klerk and ANC Deputy President Nelson Mandela meet in Cape Town. Negotiations begin in May, resulting in the Grootte Schuur Minute which allows for the release of political prisoners, the return of exiles and the amendment of security legislation.

The Indemnity Act is introduced in May, providing for the granting of temporary or permanent indemnity against prosecutions for exiles returning to South Africa.

The countrywide state of emergency is lifted in June. A partial emergency is declared in KwaZulu-Natal and lifted on 18 October 1990.

Senior ANC and MK personnel including Mac Maharaj are detained in July 1990 in a state crackdown on 'Operation Vula'.

The Inkatha Freedom Party (IFP) is launched as a political party in July.

Violence in the Reef begins in July, following local opposition to an IFP recruitment drive in Transvaal hostels which culminates in a rally in Sebokeng on 22 July. After the rally at least twenty-seven people are killed, followed by counter-attacks. (This spiral of violence continues, increasing in 1992).

The first train attack takes place at Inhlanzane Station in July. This marks the start of a series of attacks on train commuters in the Witwatersrand. Between 1990 and 1993, at least 572 people die in more than 600 incidents of train violence.

The Pretoria Minute is signed by the ANC and the government in August. The ANC suspends the armed struggle.

Violence on the Reef and in the Natal Midlands escalates in August.

AWB members open fire on a bus full of black commuters in October in Durban, apparently in retaliation for a fatal knifing incident in Durban by PAC supporters.

The state of emergency is lifted in Natal on 18 October.

A mass march against the local town council in Khayelitsha, Cape Town, on 25 October, ends in violence with at least eight deaths. (The march follows several months of conflict between the local ANC-aligned structures and town councillors).

The Harms Commission Report rejects confessions made by Dirk Coetzee, and other security police officers in November. It absolves the security police at Vlakplaas from responsibility for hit squad activities but finds the CCB broadly culpable of politically motivated violence.

Sixteen people are killed at Bruntville, Natal in November in an attack led by hostel dwellers. Approximately 1 500 people are forced to flee their homes.

Former Transkei Defence Force MI chief, Lieutenant Colonel Craig Duli, dies on 22 November while attempting to overthrow the military government of Major General Bantu Holomisa in Transkei. (Duli is supported by the South African security forces).

Mandela pledges that MK members will help form and train self-defence units (SDUs) to protect communities from attack by security forces or vigilantes. SDUs are established in many townships across the country.

Compulsory military service (conscription) is ended and the SADF is withdrawn from townships.

Vigilante activities by the Three Million Gang (reported as active from 1989 to 1992 in the Orange Free State) target UDF and ANC activists, student organisations and SDUs for attack. The SDUs violently oppose the group.

The killing of political leaders and activists in Natal escalates.

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- 1991** In the Christopher Nangalembe night vigil killings in January, forty-five people are killed when a night vigil is attacked with automatic weapons in Sebokeng, Transvaal. Ciskei rebels, Colonel Onward Mangwane Guzana and former General Charles Sebe are shot dead at a roadblock in Ciskei on 27 January, following an apparent ambush on their coup attempt against Brigadier Oupa Gqozo's government. Thirteen die and twenty-nine are injured when police open fire on Daveyton residents holding an illegal meeting on 14 January. Lawyer Bheki Mlangeni is killed in February by a Vlakplaas parcel bomb meant for Dirk Coetzee. The UDF National General Council decides in March to disband the organisation later that year. In the Alexandra night vigil killings on 26 March 1991, fifteen people are shot dead and at least eighteen are injured in an attack on a funeral vigil for an ANC member who died in fighting in Alexandra which raged for three days. Political prisoners engage in hunger strikes in April and May to protest the slow pace of releases. Winnie Mandela is found guilty in May of kidnapping and being an accessory to assault after the fact. The ANC National Executive Committee writes an open letter as an ultimatum to the State President in April concerning the pattern of political violence and making a number of demands. The ANC subsequently suspends constitutional talks with the government in May. A group of about eight hundred alleged IFP supporters attack the squatter settlement of Swanieville on the East Rand on 12 May. Twenty-nine people are killed and over thirty injured. The Group Areas Act and the Land Acts of 1913 and 1936 are repealed in June. In the 'Battle of the Forest' in June, twenty-three people are killed in fighting between IFP and ANC supporters in the Richmond townships of Ndaleni and Magoda, Natal. The 'Inkathagate' scandal breaks in July and government funding of, *inter alia*, Inkatha and its union UWUSA for anti-ANC activities is revealed. De Klerk establishes the Kahn Committee to examine secret projects.

The African Democratic Movement (ADM) is launched by Ciskei's Brigadier Oupa Gqozo in July. The ADM is subsequently involved in violent clashes with ANC supporters. Nelson Mandela is elected president of the ANC in July and Oliver Tambo elected chairperson.

The Patriotic Front is launched to oppose the government — it includes the ANC, the PAC and ninety other organisations.

The National Peace Accord is signed on 14 September by the government, the ANC, the IFP and twenty-four other organisations. The government, the ANC and Inkatha reach an agreement, which opens the door to negotiations and leads to the establishment of the Goldstone Commission.

The Goldstone Commission is established in October to investigate public violence and intimidation.

The government and eighteen other parties (excluding the CP and the PAC), making up the Convention for a Democratic South Africa (CODESA), sign a Declaration of Intent in December.

The Esikhaweni IFP hit squad is active in areas of Zululand, killing UDF/ANC and union supporters and leaders until 1993.

From 1991, Khayelitsha and other Cape Town townships see the emergence of anonymous ('balaclava') attacks on people aligned with the ANC.

Intense competition between taxi operators for ranking facilities and routes escalates from 1991 and acquires a political character in certain areas (over 200 lives are lost in 1992 alone).

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- 1992** In Umlazi on 13 March, eighteen people are killed (including fifteen women and three children). Twenty-eight are injured in an attack on the Uganda squatter settlement.
- A whites-only referendum on 17 March gives the government firm support for negotiations – a 68.6% vote for the continuation of the negotiations process.
- In the Phola Park killings on 8 April, the SADF's 32 Battalion shoots dead two women and injures more than a hundred other people during a raid on the Phola Park informal settlement.
- In the Boipatong killings on 17 June, two hundred IFP supporters from KwaMadala hostel attack residents of Slovo Park squatter camp, killing over forty-five people. The ANC withdraws from CODESA in protest against the killing and launches a mass action campaign.
- The ANC calls a strike on 3-4 August, estimated to have cost business R250 million.
- The Skweyiya Commission of Enquiry, an internal ANC commission, reveals details in August of human rights violations in ANC detention camps. Nelson Mandela accepts collective responsibility for the leadership of the ANC.
- In the Bisho killings on 7 September, Ciskei Defence Force troops open fire on ANC protesters demanding free political activity in Ciskei at Bisho. Twenty-nine protesters and one soldier are killed and about 200 are wounded. (This follows months of violent conflicts between homeland government supporters and ANC supporters).
- On the Natal South Coast, twelve IFP supporters are killed at Bomela in September and twenty at Folweni in October.
- The state and the ANC sign the Record of Understanding in September.

APLA attacks the King William's Town golf club in the Eastern Cape in October, killing four and injuring seventeen. The first major attack by APLA, it is followed by other attacks resulting in at least ten deaths in Eastern Cape bars, restaurants and churches.

A Goldstone Commission raid in November uncovers a campaign waged by the Directorate of Covert Collection (DCC) to discredit the ANC. General Pierre Steyn is appointed to investigate Military Intelligence structures and functions.

Project Echo and Operation Thunderstorm, two extensive SADF projects aimed at undermining the ANC, are exposed.

The Internal Stability Unit is created by the SAP to relieve ordinary police of riot duties.

The KwaZulu legislative assembly adopts a constitution for a future state of KwaZulu-Natal as an autonomous state within a federation.

APLA continues armed attacks, including the killing of white farmers.

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- 1993** An APLA commander declares 1993 'The Year of the Great Storm'. APLA operatives carry out several attacks on restaurants, churches, farms and pubs, killing mainly white civilians. In March, APLA attacks the Yellowwoods Hotel in Fort Beaufort and a Baha'i church service in Mdantsane, Ciskei. On 1 May, APLA attacks the Highgate Hotel in East London, on 25 July the St James Church in Cape Town, and on 31 December the Heidelberg Tavern in Cape Town. These attacks result in multiple killings and injuries.
- The government announces in March that it has dismantled six nuclear bombs built secretly before 1989.
- Six children are killed by ANC supporters on 2 March and ten are killed by IFP supporters on 5 March in two separate bus ambushes Table Mountain, Natal.
- Chris Hani is assassinated in April. Senior CP member, Clive Derby-Lewis, and Polish immigrant, Janusz Waluz, are later convicted. Over seventy people die across the country in violence sparked by his murder.
- 27 April 1994 is confirmed as the election date. Inkatha and the CP walk out of the talks, later joined by Ciskei and Bophuthatswana. (They later set up the Freedom Alliance). The July announcement of the election date leads to an immediate escalation in deaths related to political violence.
- The Afrikaner Volksfront is launched in May by 21 right-wing groups who demand self-determination in a federal state.
- Winnie Mandela's conviction on kidnapping charges is upheld on appeal but her conviction on accessory to assault is overturned in June. The sentence is changed to a fine.
- Members of the Afrikaner Volksfront and the AWB invade the negotiations venue, the World Trade Centre, in June and occupy the building causing damages estimated at R700 000.
- A second ANC-appointed enquiry, the Motsuenyane Commission, reports in August on human rights abuses in ANC detention camps. Conclusions reached (similar to those of the first enquiry) are accepted by the ANC. Alleged perpetrators are named.
- The IFP and KwaZulu Legislative Assembly embark on a Self-Protection Unit training project. Training of SPUs begins at Mlaba Camp in September with the assistance of Vlakplaas commander De Kock with weapons delivered by IFP member Philip Powell. (By April 1994, over 5 000 Inkatha supporters have received training).

The ANC wins an order in October, restraining members of the ISU from assaulting and torturing people at Nyoni farm, the ISU headquarters in Vosloorus.

The Nobel Peace Prize is awarded to Nelson Mandela and FW de Klerk in October.

The SADF attacks an alleged APLA safe house in Umtata, Transkei in October. Five children are killed.

The ANC and the government propose power sharing and a five-year interim government of national unity after elections.

Three years of negotiations end with agreement on constitutional issues in November. Agreements are reached on a non-racial, multi-party democracy, a bill of rights, a system of proportional representation and other matters.

The interim Constitution is finalised and a Transitional Executive Council is installed, with representatives from all parties at the negotiations. The ANC and the government continue talks with the Freedom Alliance in an attempt to resolve issues in time to bring the Alliance into the elections.

1994 One person is killed and several injured in an APLA attack on the Crazy Beat disco in Newcastle, Natal on 14 February.

PAC president Clarence Makwetu announces the suspension of the armed struggle.

The Fourth Interim Report of the Goldstone Commission in March concludes that there is *prima facie* evidence of a hit squad in the KwaZulu Police.

Amidst a widespread public revolt at his decision to withdraw from the April elections, President Mangope draws in the white right wing including the Volksfront to defend his rule. Hundreds of armed AWB members drive into Bophuthatswana and attack residents. Over forty-five people are killed, including three AWB members.

The military ruler of the Ciskei, Brigadier Oupa Gqozo, resigns in March. The Transitional Executive Council takes over control of the Ciskei.

At least fifty-five people die and hundreds are injured when IFP members march to the centre of Johannesburg on 28 March. IFP marchers are shot at by ANC members from the ANC Shell House head office, killing thirteen.

In the Ndwedwe killings, eight people are killed while distributing voter education pamphlets north of Durban on 12 April.

Members of the AWB's *Ystergarde* launch a series of bomb attacks in the Transvaal to sabotage the national election, killing over twenty one people. This includes an attack on the airport, a Germiston taxi rank where ten people are killed, and a car bomb in central Johannesburg on 24 April which kills nine people.

Less than a week before the election in April the IFP calls on its supporters to vote.

South Africa's first democratic election takes place on 27 April. The ANC wins with 62.6% of the vote, implying 252 of the 400 seats in the National Assembly. A Government of National Unity is constituted.

Former Vlakplaas commander Eugene de Kock and two others are arrested in Pretoria in May.

Nelson Mandela is inaugurated as President of South Africa on 10 May.

Regional Profile Eastern Cape

■ OVERVIEW OF THE REGION

Demography

- 1 The current Eastern Cape province borders KwaZulu-Natal in the east, the Western Cape in the west, and the Northern Cape and Free State provinces in the north. It shares an international boundary with Lesotho in the north-east. Geographically, it is the second largest of the current nine provinces. According to the Unit for Statistical Analysis in the Western Cape, there were 6 665 million people living in the current Eastern Cape in 1991 which, after KwaZulu-Natal and Gauteng, has the third highest population. Unemployment in the province is usually estimated at above the national averages and, in 1991, the Development Bank of South Africa estimated that more than half the adult population had no formal income. Levels of literacy and life expectancy are lower and levels of poverty higher in the Eastern Cape and Northern Province than in any of the other provinces. This poverty tends to be concentrated in the former homeland areas.
- 2 The current Eastern Cape is made up of the eastern part of the old Cape Province and includes two of the four 'independent homelands', namely Transkei and Ciskei. Transkei is the oldest such territory in the country and was granted self-government status in 1963 followed by independence in 1976. Ciskei received self-government status in 1972 followed by independence in 1981. For a substantial part of the period within the Commission's mandate, they had separate parliaments and separate security forces, particularly after independence. The Transkei and Ciskei, which were geographically more united than most of the other homelands, were separated by a narrow strip of land commonly referred to as the Border region. For the purposes of the Commission's work, the Border region was often viewed as part of the Ciskei because of the cross-border nature of some of the violations.

- 3 About 87 per cent of the population of the Eastern Cape is African and almost entirely Xhosa-speaking. Roughly half the population is urbanised, but the majority of the African population lives in rural areas previously governed by homeland administrations.
- 4 Of the main political organisations, the African National Congress (ANC) has the biggest following in the province. Indeed, the Eastern Cape has generally been regarded as the heartland of the ANC. Many of the organisation's national leaders either grew up in the Eastern Cape or were educated at Fort Hare University in Alice, in the former Ciskei. The battles for control over this region often made it a key area of conflict in the country.

Overview of violations

- 5 Abuses of human rights in this region included:
 - a violations committed during the Pondoland Revolt of the 1960s;
 - b armed attacks on civilians carried out by Poqo, the armed wing of the Pan Africanist Congress (PAC) and the accompanying torture and executions of Poqo members;
 - c deaths in detention including that of Black Consciousness Movement (BCM) activist, Mr Steve Biko;
 - d widespread torture in detention;
 - e resistance to homeland rule and the related violent conflicts between traditional chiefs on the one hand and supporters of the ANC and the United Democratic Front (UDF) on the other;
 - f clashes between ANC-aligned groups and the Ciskei government and its allies during the 1990s;
 - g shootings by security forces at marches, funerals and protests;
 - h assassinations such as the 1985 killing of the 'Cradock Four';

- i inter-organisational violence such as that between the UDF and the Azanian People's Organisation (AZAPO) in the mid-1980s, and between the newly unbanned PAC and ANC during the 1990s;
- j the use by UDF supporters of the 'necklacing' method of killing opponents such as community councillors, police and those perceived to be collaborating with the government;
- k violations committed during clashes between different security forces and homeland rulers, for example during coup attempts;
- l the attacks on security forces and 'soft targets' by the Azanian People's Liberation Army (APLA) in the 1990s.

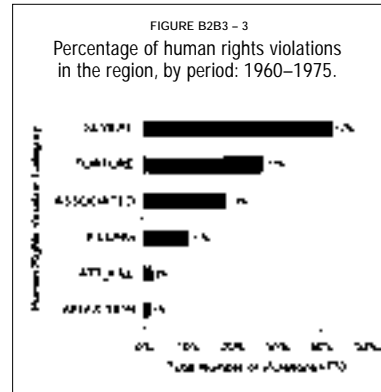
■ 1960-1975

Overview of Violations

- 6 Human rights violations in the Eastern Cape during this period were related to the detention and trial of ANC and PAC members in the early 1960s. The Commission heard numerous allegations of torture and assault in custody. Deaths in custody were also recorded for this period.
- 7 The sabotage campaigns undertaken by the liberation movements in the early 1960s were also felt in the Eastern Cape. In Transkei, a peasants' revolt against tribal authorities and resistance to the impending creation of the Transkei homeland gathered momentum, resulting in the declaration of a state of emergency that would remain in force for more than a decade. Detentions and deaths in custody were a feature of these times.
- 8 The period also saw the creation of the first homelands. In 1963, Transkei became the first region in the country to be granted self-government, with initial strong resistance followed by brief attempts by some ANC groups to work within the new homeland structures. In August 1972, the Ciskei too became self-governing. Forced removals became a key part of Pretoria's push towards 'independence' for these territories.
- 9 Towards the end of the 1960s, police repression, along with new apartheid laws and the forced removal of hundreds of thousands of people from their homes,

generated a climate of fear which resulted in a period of relative quiescence in political resistance until the early 1970s.

- 10 Of the Eastern Cape violations reported to the Commission for this period, the highest number (42 per cent) were cases of severe ill treatment. ►
- 11 The next largest category of violations was torture (27 per cent), while 10 per cent were killings.



State and allied groupings

Detention

- 12 After the lifting of the state of emergency, the strategy of the security forces was to rely primarily on the existing legal system to contain opposition. Using what amounted to legalised violence, repression was enforced with particular ruthlessness in the Eastern Cape, the worst affected area being Port Elizabeth. According to figures quoted by the International Defence and Aid Fund (IDAF)¹, security police detained over 1 000 people in Port Elizabeth between October 1964 and June 1965.
- 13 Unlike the 1980s strategy of using detention for preventive purposes, the policy in the 1960s and 1970s was to charge and try those arrested. IDAF records that, of the roughly 1 000 persons detained in 1964–65, over 500 were sentenced, 101 became state witnesses, a few had charges withdrawn and the rest were still awaiting trial at the time of publication. Sentences ranged from one to twelve years, often for minor offences such as attending ANC or PAC meetings, distributing leaflets or contributing to ANC funds. Port Elizabeth lawyer John Jackson² notes that political trials in the Eastern Cape began in mid-1965 and were held in small rural courthouses or police stations. Most charges related to the banned ANC and PAC and acquittals were rare. He says of state witnesses:

The promise of personal freedom, if satisfactory evidence was given, was enough to ensure that they would implicate anyone ... During these political trials, the Special Branch, as these policemen were known, conducted the investigation and interrogation. The allegations of torture were plentiful. The

¹ IDAF, *The Purge of the Eastern Cape*: undated 1960s publication detailing the use of the legal system to contain opposition in the period 1963 to 1965.

² John Jackson, *Justice in South Africa*, London: Penguin, 1980.

accused were mainly illiterate black men who had been recruited into one of the banned movements and arrested after attending meetings of the organisation. Conviction followed conviction.

- 14 The new laws promulgated during this period facilitated extended detentions. The General Law Amendment Act No 37 of 1963 and the Criminal Procedure Act No 96 of 1965 allowed first for 90-day and then 180-day detentions. Conditions in detention and jails were appalling. Mr Harold Strachan [JB04416/99OVE], who was detained at Port Elizabeth's North End Prison in 1962 and later at Pretoria Central prison, told the Commission's prisons hearing in Johannesburg that North End Prison was "a hellish place" and described seeing warders assault prisoners as a matter of routine. "Where purposeful cruelty and vengeance left off, neglect would take over. Nobody really cared, you know."

Torture

- 15 Statements made to the Commission indicate routine assault and torture of detainees by police. Beatings were the most frequently mentioned violation. Electric shocks were also common and allegations of poisoning were made. Some detainees returned home blind and/or deaf, some mentally ill. Some of those jailed after sentencing were also mistreated. These torture allegations were supported by Mbeki and Southall³ as well as by the submissions handed to the Commission by Kairos.
- 16 Detentions and arrests were carried out primarily by the police, although several deponents also referred to soldiers having been involved. Several cases involved police assaults on family members and destruction of property, apparently in an attempt to force people on the run to surrender to police. Detainees and convicted prisoners were held at many different venues. A key place of torture was, however, a temporary police station housed in tents in Mkambati forest. This appears to have become an established police station by the early 1970s.
- 17 Mr Clement Khehlana 'Fly' Gxabu [EC0882/96ETK] was injured at Ngquza Hill (see below). He told the Commission that he was detained at Lusikisiki police station where he was beaten continuously over a five-day period. Mr Ngwazi Sipolo [EC0542/96ETK] said the police had tried to persuade him to become an informer, but he had not helped them. He was then again arrested and taken to Mkambati forest where he was tortured. Mr Ndovela Nxasana [EC0578/96EKT]

³ Govan Mbeki, *South Africa: The Peasants' Revolt*, 1964; Roger J. Southall, *South Africa's Transkei: The political economy of an "independent" bantustan*, 1982.

was detained because he was a member of *iKongo*. He said he was taken to the tents in Mkambati forest where he was beaten with a stick and his hand was broken. He was also given electric shocks “by an auto engine” while lying down with his hands cuffed behind his back. Nxasana was moved to several other towns, held for a year and later charged and acquitted.

- 18 In September 1963, Mr Henry Fazzie, Mr Singqokwana Ernest Malgas [EC0001/96PLZ] and six others from Port Elizabeth were convicted for undergoing military training with Umkhonto weSizwe (MK). At the first public hearing in East London, Malgas said he had been tortured in detention in the 1960s as well as in the 1980s:

During the torturing, I was always suffocated with a mask and there was this ‘helicopter training’. A stick was put inside your knees and you had to stretch your knees. During that period, you were suffocated.

- 19 He also said that, during the 1980s, his home was attacked several times. During one of these attacks, acid was thrown at one of his sons, who died as a result.

- 20 ANC member Mr Wilson Fanti [EC1704/97SBR] was arrested in Port Elizabeth in March 1964, tried in Graaff-Reinet, sentenced to five years on Robben Island for sabotage and banished to Stutterheim on his release. Fanti said he had been taken from jail to be re-tried in Grahamstown on sabotage charges and jailed for another five years:

We were not even allowed legal representation ... Torture in the form of hard labour and assaults increased as the sentence was doubled.

- 21 Among the many PAC members who testified to the Commission about their severe ill treatment when arrested and imprisoned in the 1960s were Mr Mfene Simon Yoyo [EC0653/96QTN], Mr Makhi Boyi [EC1990/97KWT] and Mr Daniel Paulos Nongena [EC1985/97KWT]. Yoyo, Boyi and Nongena alleged that that they had been assaulted by various policemen, including Mr Donald Card. Yoyo said that, in April 1963, Card and other policemen had beaten him and then hung him out of the window at Cambridge police station in East London. Nongena was one of a group of Poqo members who tried to attack the King William’s Town police station in 1963. He was detained by Mr Charles Xhanti Sebe (now deceased) and Card the following day and taken to King William’s Town. Nongena described his torture:

They put you into the sack, they tie it up and they throw you into the water ... the water inevitably comes into your mouth and stomach and your stomach

would be full of water. They take you out, pump you, pump out the water and put you back again, saying that we must tell the truth.

- 22 Mr Card attended the Commission's King William's Town hearing in May 1997 and denied the allegations saying, "I've never seen them in my life before". He added that he was well known amongst political activists, that his name had been bandied about a lot and that it was a case of mistaken identity. Several deponents told the Commission that they or family members had been assaulted by Card in custody; Card denied these allegations.
- 23 Mr Nohlaza Ngakanani Jakada [EC1340/96ETK] was held at Mkambati in 1971. He had shown scars on his back to his family and told them that he had been beaten and that police had cut his throat. He was jailed for six years, was ill on his release and remained so until his death three years later.
- 24 The Human Rights Commission (HRC) records the death of detainee, Mr Mthayeni Cuthsela, in Pondoland on 21 January 1971. Officially Cuthsela died in hospital of "natural causes, brain haemorrhage"⁴ after forty days' detention. Kairos reports that Cuthsela was detained in December 1970 in connection with the Pietermaritzburg Terrorism Trial, and held at Mkambati camp and Umtata jail. At Mkambati, he was often handcuffed and tied to a tree. He was beaten, kicked and given electric shocks to the ears and penis over four days. Although he complained of severe headaches, he was denied access to a doctor at both Mkambati and Umtata. In January 1971, Cuthsela was taken while unconscious from the Umtata jail to the local hospital, where he died of a brain haemorrhage attributable to arteriosclerosis. The police retained the death certificate.⁵
- 25 Kairos reports that Mr Mfolwane Mbele [EC1654/97ETK] had been held with Cuthsela, who told him of the assaults.⁶ Mbele's brother, Mr Ndengezi Makhokhoba, told the Commission that they had only been able to locate Mbele after he had been in custody for two years (similar complaints were made to the Commission about other detainees during the Pondoland Revolt). Makhokhoba told the Commission that after Mbele's release:

He came back very ill, he could not eat, his mouth was full of scars, he complained of backache and that his whole body was aching.

4 Human Rights Commission, Deaths in detention, August 1990. (This Human Rights Commission was later renamed the Human Rights Committee).

5 Kairos, Political prisoners and detainees in South Africa. Preliminary report, November 1996, pp 5-6; and Kairos, Torture in South Africa, Theunis Jacobus Swanepoel, February 1977, p 26.

6 Kairos (1997) p 26.

- 26 Mr Makhokhoba said they took Mbele to hospital where the doctors told the family that he had been poisoned. Mbele's widow, Ms Nantagelo Makhokhoba, told the Commission:

He said that when he was in detention, they would beat him up. He said that they would be hung on trees, they would sleep there on the tree. They were then taken to 'Maritzburg where they were detained before they went to Robben Island ... He said that what really hurt him was that, before they actually went to Robben Island, the torture was worse.

- 27 Mbele died in May 1980, a few weeks after his release. Mr Ndengezi Makhokhoba told the Commission that he himself had been detained and assaulted while attending his brother's trial in Pietermaritzburg. During 1977, while visiting his brother in jail, he was again arrested and assaulted until his hip was dislocated.

Deaths and disappearances in custody

- 28 Leading members of the MK command were amongst those arrested early in this period. Howard Barrell⁷ names three Eastern Cape unionists, Mr Looksmart Ngudle, Mr Washington Bongco [EC2165/97ETK] and Mr Vuyisile Mini [EC2097/97PLZ], as MK commanders in the Western Cape, Border region and Eastern Cape respectively.
- 29 On 24 January 1964, Mr James Tyitya became the first political detainee to die in police custody in Port Elizabeth. The cause of death was given as "suicide by hanging".
- 30 In 1969, seven people across the country died in detention. One of them was South African Congress of Trade Unions (SACTU) unionist and ANC activist Caleb Mayekiso [EC0644/96PLZ], who died in Port Elizabeth on 1 June 1969, reportedly of "natural causes", after being held for eighteen days under the Terrorism Act.⁸ His daughter, Ms Nomakhosazana Queenie Mayekiso, told the Commission that her father had been jailed for two and a half years in 1964 on charges of terrorism, re-tried while in jail and sentenced to an additional three years. He was released in August 1968 and detained again in May 1969. Two weeks later his family was told he had died of chronic bronchitis. However, "I learnt from another detainee that he was killed with an electric shock". Mr Mayekiso had taken a leading role in the Defiance Campaign of the 1950s and worked as an underground member of the ANC after it was banned.

⁷ Howard Barrell, *MK: The ANC's armed struggle*. Johannesburg: Penguin, 1990.

⁸ The Terrorism Act No 83 of 1967. Section 6 of this Act provided for detention in solitary confinement for indefinite periods.

31 Of those who died or disappeared in custody, some may have died in detention, others as sentenced prisoners. In most cases, families had little information about the deaths. Disappearances reported to the Commission for this period include that of Mr Maqhilane Solomase Nodosha [EC2064/97ETK], last seen being taken away by the police in March 1960, and the disappearance of Mr Ndlanganyana Mvunyiswa [EC1794/97ETK], last seen being arrested by the police in the same year.

32 In 1960, Mr Mtayini Myezo [EC1658/97ETK] was detained on three separate occasions; he told his family he had been assaulted during each detention. His daughter-in-law, Ms Nkanyiwe Myezo, told the Commission:

On the third time, the police came to say he was dead. They said he died of TB [tuberculosis]. We went to pick up his body and we saw that his body had a scar cut in his right head side as if he was beaten by an iron baton.

33 Mr Fuzile Shikita and his son, Mr Zanyokwe Shikita [EC1780/97ETK], were both detained in March 1960. They fought with the police and attempted to resist arrest. Zanyokwe Shikitha was released a few days later and told his family of beatings in detention; Fuzile Shikita died in custody the following year. The family did not know any further details. It is not clear whether Shikita died as a detainee or as a sentenced prisoner.

34 Mr Shweni Zibonele [EC1535/97ETK] was one of those who died in prison after being sentenced. He was arrested in the aftermath of the 1960 Ngquza incident (discussed below) and jailed for an effective four years. He died in prison in Bloemfontein in 1962. Ms Makhonjwayo Javu told the Commission:

My father wrote a letter to me from an East London cell. He was complaining about ill treatment there, saying he was sick. Another letter came from him from a prison in Bloemfontein ... In this last letter he was again telling me about ill treatment there. He said he was often put into a freezer for hours [overnight] and was taken out in the morning. In that letter my father was telling me that by the time they were taken out it would be difficult to talk.

35 Ms Javu said the family received a telephone call from the prison authorities calling them to Bloemfontein because Zibonele was ill, but that they had been too afraid to go. They were later told he had died.

36 The HRC records the death in Transkei of two detainees, Mr Ngeni Gaga and Mr Pongolasha Hoye. Both were detained on 8 May 1965 and died the next day; in

both cases, the official cause of death was given as “natural causes”.⁹ These cases were not brought to the Commission. However, given the treatment of detainees reported to the Commission, it seems likely that the two men died as a result of treatment in detention. It is not clear in which area of Transkei these men were held.

- 37 Mr Mbambani Solomon Madikizela [EC1805/97ETK] disappeared in police custody in 1967. His family told the Commission that Madikizela was an ANC member who had recently returned home from Bophuthatswana. Police had taken him away in a helicopter, saying they were taking him to hospital. He was never seen again.

After-effects of torture

- 38 The Commission received approximately ninety statements about people who had been detained and/or jailed, subsequently returning home ill and dying as a result of abuse suffered in prison. Some died within days or weeks, most within a few months, but some deaths took place years later. In many cases, deponents said the ex-detainees were permanently ill. Some families were too afraid to take the ill for medical treatment, but several deponents refer to visits to hospitals that failed to prevent the deaths. At least one deponent reported that a doctor had told the family that the ex-prisoner had been poisoned (Mfolwane Mbele [EC1654/97ETK], see below).

- 39 Mr Sithembiso Ndesi [EC2059/97ETK], Mr Sambathi Majova [EC2062/97ETK], Mr Sithembile Ngalavu [EC0536/96ETK] and Mr Bambaliphi Mdlamla [EC0585/96ETK] were all ill when they were released from custody in 1960/1 and died within months. Ms Nobawo Mildred Mdlamla said of her husband:

He said that the cell that he was in was not sheltered. When it rained, it would rain on them. We would take him from hospital to hospital, thinking that he would improve. He would cough blood.

- 40 He was bedridden and died a year later.
- 41 Mr Aaron Mandokoza Mbhali [EC2060/97ETK] was released permanently blinded. His family said he believed he had been given poisoned water to wash in.
- 42 Mr Sikinkili Moyiswa [EC0538/96ETK] was detained in 1960 and later told relatives of beatings and electric shocks at Mkambati. He was detained again in 1970 and was constantly ill until his death years later.

⁹ Human Rights Commission, Deaths in detention, August 1990.

- 43 Mr Mbethwa Silangwe [EC1677/97ETK] was held at Bizana police station with his son, Mr Mnikelwa Silangwe, who said white police officers had beaten his father and attacked his testicles with pliers. Mbethwa died from his injuries a few months later.
- 44 Mr James Notununu [EC0588/96ETK] was jailed for a year. On his release, he told his family he had been poisoned in jail. He died about a month later.
- 45 Mr Takutshane Mayidume [EC1666/97ETK] was jailed for three years in East London prison and died three months after returning home. His daughter, Ms Nokwanda Nora, told the Commission:

His lower limbs were not functioning; his side teeth were gone. He had marks all over the body and his eyesight was gone. He died as a result of the severe torture he suffered in prison.

- 46 Some prisoners returned home mentally ill. Mr Wani Ntsede [EC1811/97ETK] was detained in March 1960 and held for five months in Idutywa. His son Mamothisa told the Commission:

At the time of the arrest he was severely beaten with fists and kicked all over his body. It would appear that during the period of his incarceration at Idutywa prison, a similar form of ill treatment was meted out to him – for at the time of his release in 1966 he was mentally deranged. He then passed away in 1970. At the time of his passing away, he was deaf in both ears.

- 47 Mr Makulana Phato [EC1819/97ETK] was held for five years, variously at Bizana, Mount Frere, Umtata and Butterworth. His family told the Commission they did not know whether or not he had stood trial. He was assaulted in custody, released mentally ill and died of head injuries a few months later.

Banishment

- 48 Many of those who had served their sentences were, on their release, banished to remote parts of the Eastern Cape, including Dimbaza in the Ciskei and Ilinge near Queenstown.
- 49 Mr Eric Lulamile Vara [EC1568/97NWC] was arrested in February 1963 together with Mr Aaron Mzwandile Sizila [EC1287/96NWC], secretary of the Cradock ANC branch, and jailed for furthering the aims of the ANC. Vara's son, Mr Nondwe Vara,

told the Commission that, when his father was released three years later, “he was mentally disturbed due to beating with a hammer whilst serving on Robben Island”. Both the Vara and Sizila families were banished to Ilinge. Nondwe Vara reported:

Whilst in Ilinge, his health became worse such that he had to be taken to Komani mental hospital for treatment. He died after three months of being admitted to Komani hospital. I believe that if my father was not arrested and imprisoned in Robben Island he would still be alive.

- 50 Mr Sizila’s wife, Ms Nozithandiso Olga Sizila, told the Commission that prison warders assaulted Sizila and his teeth were broken. After his release, the family were banished from Cradock and sent to Ilinge, where they were kept under house arrest. Ms Sizila was pregnant at the time and her husband was ill. When her baby died at the age of three months, the family could not afford to buy a coffin:

We then put the baby, the baby’s corpse, in a cardboard [box], we took the baby to the graveyard. We dug a hole and we put the box inside. Our neighbours could not do anything to help us. We had no food. It is my mother who travelled from Cradock to Queenstown and gave us food.

- 51 Ms Sizila’s brother, who was also tortured, was a member of MK and was shot dead by police in Port Elizabeth in 1987.

III treatment of families

- 52 Some deponents reported that families were ill treated when police attempted to find suspects. Mr Ndoyisile Mari [EC2145/97PLZ] was arrested in 1964 and jailed for seven years on Robben Island for underground activities. His wife, Ms Vuniwe Angelina Mari, told the Commission that the family had been harassed repeatedly by police while they searched for him before his arrest. She told the Commission:

Inside the house if they [the police] don’t find him they used to kick me, chasing my children in and out the house, forcing me to tell of his whereabouts. As a result, my second child from there on suffered from a mental sickness because he was hit against the wall also. He could not manage even to go to school ...

[My husband was eventually arrested.] ... That was the worst day of my life seeing my husband naked, leaving my house to a car, kicked, and I still have that picture. His clothes were like washing hung on a line from his arms.

- 53 On his release, Mr Ndoyisile Mari was restricted and the family was banished from Port Elizabeth to King William's Town, over 200 km away.
- 54 Ms Zakheleni Nkanyezi [EC2169/97ETK] was seventeen at the time of the Ngquza shootings (see below). Her father, Mr Mdayimani Nkanyezi, fled when the security forces arrived to arrest him, but the soldiers severely assaulted her mother and five-year-old brother. Her brother, Mr Dalindyebo Nkanyezi, died three months later and her mother, Ms Mafoxini Nkanyezi, four months later. She attributed both deaths to the assaults. Her father then handed himself over to the police in Durban and was taken back to Bizana with his daughter.

The police or soldiers who were in the police station told me they are taking me home and I was to look at my father for the last time because they are going to kill him.

- 55 Her father was subsequently convicted and executed.
- 56 Ms Irene Nontobeko Nakwa [EC1432/97ETK] told the Commission that her baby son Vuyisile was injured when police arrived at her home to detain her husband, Mr Kholisile Nakwa:

As the Boers were taking my husband away, I tried to give him his coat. The Boers shoved me away and in the process hit my baby boy with a knobkierrie [club]. When I took my baby to the doctor later, I was told that my baby had a drop of blood in his brains. That boy who has grown to be a man ... is still troubling me to date. He is epileptic. He couldn't go to school.

- 57 Kholisile Nakwa was held for six months and afterwards complained continually of pain behind his ear. "When he died in 1980", his wife said, "he just fell down, had a bout of fits and died on the spot".
- 58 The Commission heard that detainees were frequently moved from one police station or prison to another as part of a strategy to break contact between the prisoners themselves and between the prisoners and their families outside.
- 59 Mr Motshwa Sigwinta [EC1782/97ETK] and his brother, Mr Qawukeni Sigwinta [EC1782/97ETK], were arrested in April 1960, convicted and sent to work as farm labourers. Qawukeni died in the 1970s, apparently while still working as a prisoner on a farm. The surviving brother told the Commission:

I together with my brother Qawukeni Sigwinta was taken by helicopter to somewhere in the Northern Transvaal which I think was Bethal. We were taken to farms where we were distributed to various farmers where I was subjected to hard labour and corporal punishment. That was the last I saw of my brother until I heard of his death in 1976 because we were not on the same farm ...

We were planting and harvesting potatoes under very harsh conditions. All this we were doing physically under very strict supervision from as early as about 4am until about after 7pm.

I escaped in January 1974 and had to find my way, avoiding contact with police and farmers. I came back home in 1977.

- 60 Those who were jailed often had their homes destroyed by the chiefs. Mr Mranqwa Bhalala [EC1827/97ETK] was detained for a year and assaulted. A week after his release the local chief, together with police, arrived at the Bhalala home and torched it.

THE COMMISSION FINDS THAT DETAINEES, PARTICULARLY THOSE REGARDED AS MEMBERS OF THE ANC AND PAC AND THEIR ARMED WINGS, WERE SUBJECTED TO VARIOUS FORMS OF SEVERE ILL TREATMENT AND TORTURE BY THE SOUTH AFRICAN POLICE (SAP). THE COMMISSION BELIEVES THAT SUCH ILL TREATMENT AND TORTURE RESULTED IN DEATHS IN DETENTION – FOR EXAMPLE, THAT OF MR CALEB MAYEKISO IN PORT ELIZABETH IN 1969. THE COMMISSION FINDS THAT SUCH SEVERE ILL TREATMENT, TORTURE AND RESULTANT DEATHS IN DETENTION AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT THE STATE, IN THE FORM OF THE SAP, DETAINED AND TORTURED SEVERAL HUNDREDS OF PEOPLE IN PONDOLAND DURING AND AFTER THE PERIOD OF PONDOLAND REVOLT. THIS RESULTED IN SOME DEATHS IN POLICE CUSTODY- AS A RESULT OF TORTURE DURING CUSTODY AND AS A RESULT OF CONDITIONS OF CUSTODY.

THE COMMISSION FINDS THAT DETAINEES WERE SUBJECTED TO VARIOUS FORMS OF SEVERE ILL TREATMENT INCLUDING SEVERE ASSAULT, ELECTRIC SHOCK, AND OTHER FORMS OF TORTURE THAT RESULTED IN MANY DEATHS AFTER DETENTION.

THE COMMISSION FINDS THAT COLONEL CJ DRYER, A POLICEMAN LAMPRECHT, AND COLONEL THEUNIS SWANEPOEL, WHO WERE BASED AT MKAMBATI FOREST POLICE STATION, PLAYED A LEADING ROLE IN THE TORTURE OF DETAINEES.

THE COMMISSION RECEIVED VARIOUS ALLEGATIONS OF POISONING OF DETAINEES BUT DOES NOT HAVE SUFFICIENT EVIDENCE TO MAKE A FINDING IN THIS REGARD.

THE COMMISSION FINDS THAT THE ACTIONS OF THE POLICE WERE PART OF A SYSTEMATIC CAMPAIGN TO SUPPRESS POLITICAL OPPOSITION TO THE POLICIES OF THE STATE AND THAT THESE ACTIONS BY THE SAP AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

Resistance and revolutionary groupings

ANC/MK activities

61 During the 1950s, the ANC had built up a strong mass base in the Eastern Cape. When the ANC was banned in 1960, many recruits into the newly formed MK came from that region. MK engaged in a number of acts of sabotage in the Eastern Cape as part of its 'armed propaganda' campaign. Academic Tom Lodge records that Port Elizabeth was the region most seriously affected by the ANC's sabotage campaign, with fifty-eight attacks recorded. Cape Town was next with thirty-five. In the rest of the Eastern Cape, six attacks were recorded for East London and five for Uitenhage, near Port Elizabeth. Lodge also notes that, while nationally there was a general adherence to the national command's instruction to avoid bloodshed, there were twenty-three attacks on railways or beer halls that endangered lives, and twenty-three attacks on police officers. Most of these took place in either Port Elizabeth or Durban¹⁰.

PAC/Poqo activities

62 In line with the national Poqo call for an uprising targeting whites and following the 1960 Pondoland Revolt, Poqo activity increased in Transkei. Poqo activity in the Eastern Cape was concentrated in parts of Transkei, in the Queenstown area and in Graaff-Reinet (the hometown of PAC leader Robert Sobukwe). Much of this activity, particularly in the Queenstown and Transkei regions, seems to have been influenced by migrant workers who lived in Transkei and worked in Cape Town. The Poqo operations in Paarl in the Western Cape also involved some Transkei migrants.

63 In December 1962, Poqo members made an abortive attempt to assassinate Paramount Chief Kaiser Matanzima at his home at Qamata near Cofimvaba. Matanzima, who was later to become first president of an 'independent' Transkei, was at the time actively promoting self-government for the Transkei. Seven Poqo members were killed and three police officers seriously injured in the encounter. Statements made to the Commission suggest that, after this incident, Poqo members were rounded up and taken to Qamata where they were beaten. Some alleged that Chief Matanzima himself had been involved in this. The Commission met with Chief Matanzima, who said he was too old to remember matters from the 1960s and declined to be interviewed.

THE COMMISSION FINDS THAT MEMBERS OF THE PAC /POQO CARRIED OUT FAILED ATTEMPT(S) TO KILL PARAMOUNT CHIEF KAISER MATANZIMA AND TOOK PART IN ARMED ACTIONS IN WHICH

¹⁰ Tom Lodge, *Black politics in South Africa since 1945*. Johannesburg: Ravan, 1983.

CIVILIANS AND/OR POLICE WERE KILLED OR INJURED. THESE ACTIONS WERE CARRIED OUT AS PART OF THE PAC'S ARMED STRUGGLE. THE COMMISSION FINDS THAT THESE ACTIONS AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE PAC IS HELD ACCOUNTABLE.

- 64 In 1962, there was Poqo activity in a village called Jixini, in the district of Mqanduli in Transkei. Mr Mamfengu Leonard Mzolisa [EC2467/97CTK], who joined the PAC in 1960, told the Commission that the Jixini branch of Poqo planned an attack on white people near the area; but before this campaign could take off, more than 100 Poqo members were arrested. The prison and police station of Mqanduli reportedly overflowed with people detained during this period. Mzolisa was sentenced to two years' imprisonment in East London for participating in an unlawful gathering. Mzolisa named four prisoners, including his brother, who died as a result of ill treatment during this time.
- 65 On the night of 4 February 1963, Poqo members attacked a group of whites who were sleeping at the roadside near Bashee (Mbashe) River bridge in Transkei, killing five people. A massive police crackdown on the PAC followed and fifty-five people were arrested and charged with murder, twenty-three of whom were convicted and sentenced to death. The Commission did not receive submissions from the victims of this attack, but two were received from PAC members arrested in connection with the incident. Mr Gilindonda Nomgogwana [EC2021/97UTA] and Mr Right Mangqikana [EC2079/97UTA] were both charged. Mangqikana was subsequently executed and Nomgogwana was jailed for three and a half years. Nomgogwana said he was assaulted in Umtata and East London during his detention and later while jailed on Robben Island:

I was repeatedly beaten up with sticks, fists, open hands, kicked with booted feet and I was also subjected to helicopter treatment.

- 66 Mr Zakhele Mangqikana said his father, Mr Right Mangqikana, had been innocent:

It was alleged that those Boers had been killed by the members of Poqo, of which my father was a member. But I am made to believe that my father was not present when those Boers were killed.

- 67 In addition, in 1963, fifty-six PAC members went on trial in Steynsburg for involvement in Poqo activities. The Commission heard that Mr Velile Willie Ramncwana [EC1235/96NWC], one of the accused, was tortured in detention by unknown police officers in Venterstad and Colesburg. They threw water over him and beat him on the head with bricks. One eardrum was damaged, leaving him partially deaf. He was sentenced to three years in prison.

68 The most famous of the PAC prisoners from the Eastern Cape was the PAC president, Mr Robert Mangaliso Sobukwe [EC0155/97ALB]. Sobukwe was sentenced to three years' imprisonment in May 1960. Once he had completed his sentence, Parliament introduced a special amendment to the Suppression of Communism Act to provide for people convicted of certain political offences to be held in continual detention after completion of their sentences — if the Minister of Justice believed that they were likely to 'further the aims of Communism' on their release. In terms of a clause amending the General Law Amendment Act (No 37 of 1963), often referred to as the 'Sobukwe clause', Sobukwe was detained on Robben Island until May 1969, when he was released and banished to Kimberley until his death in 1978. According to his widow, Ms Zondeni Veronica Sobukwe:

My husband was to be released on 30 May [1963] but he was not released. The government refused. He was one of the people who built up an organisation. They then decided that they will pass a Sobukwe Clause so that they can keep him ...

It is both the NP and the opposition party of the day that agreed that he should be, he should remain in jail. It is only Helen Suzman who spoke up for him. Even the opposition party said that he should remain in custody. Nobody wanted him to be released.

69 Ms Sobukwe said her husband had been healthy before he was jailed but became ill while in jail. She unsuccessfully petitioned the government for his release so that he could get medical treatment at home. In 1966, he was admitted to hospital under a false name and had an operation about which his family was not informed. He also told his wife he had been given food with broken glass in it while on Robben Island. After his release, in Kimberley, Sobukwe suffered from a chronic cough. The family was initially refused permission to take him to Johannesburg to see a specialist. Sobukwe eventually died of lung cancer in 1978.

The Pondoland Revolt¹¹

70 The granting of self-government status to Transkei and Ciskei (in 1963 and 1972 respectively) was a first move towards setting up homeland parliamentary systems, separate homeland legislation and separate homeland police forces. (Military structures followed only at independence.) Although the Transkei Police force was set up in 1966, the SAP retained access to both homelands.

¹¹ Information on the revolt has been taken from: Govan Mbeki (1964) and Roger J. Southall, *South Africa's Transkei: The political economy of an "independent" bantustan*. 1982, and statements made to the Commission.

- 71 The incidents that collectively became known as the Pondoland Revolt took place primarily in 1960-61 in the Pondoland region of former Transkei. The Commission received over 200 human rights violations statements in connection with the Pondoland Revolt, almost all of which were taken in the Bizana-Lusikisiki-Flagstaff regions, mostly from the Bizana area. No amnesty applications were received in connection with this matter. A public hearing was held at Lusikisiki in March 1997, generating enormous public interest. The gap of nearly four decades since the revolt meant that the Commission had difficulty collecting information and retrieving documentation. While some of the deponents had been personally involved in the revolt and could speak from their personal experiences, many stories were given to the Commission by descendants who lacked clear information on what had happened. Some deponents reported victims on both sides of the conflict.
- 72 The cases reported to the Commission included ten people killed by security forces outside of custody, eight deaths and disappearances in custody, three people killed by *iKongo* members, five permanent disappearances, seventeen judicial executions, approximately ninety people whose subsequent deaths were attributed to their treatment in custody, numerous cases of assaults and torture in custody, and various attacks on property both belonging to *iKongo* members and to those who supported Bantu Authorities. A total of fifty-three deaths was directly attributable to the conflict, and a further ninety deaths are believed by community members to have flowed from the conflict. Several deponents reported banishment to different areas.
- 73 The roots of the revolt were traced back to the 1950s and to the resistance by Pondoland communities to the imposition of the Bantu Authorities Act of 1951 (the forerunner to homeland rule) which provided for the establishment of tribal, regional and territorial authorities in the homelands. By the 1960s, the Pondoland communities were accusing the chiefs of being dictatorial and of abusing the powers granted to them, which included the running of tribal courts and the allocation of land. There was dissatisfaction with the rule of Paramount Chief Botha Sigcau, who years later was to become the first state president of the independent Transkei. Requests to the magistrate to meet with the community to discuss grievances were turned down. Mr Clement Khehlana 'Fly' Gxabu [EC0882/96ETK] told the Commission:

Our chiefs were singing the same song with the Boers which created the division between Pondo people and the chiefs. In 1960, we took a decision to defy the chiefs' authority over us. Instead of attending their tribal courts,

we decided to go to the mountains to have our court there, to solve our problems without the chiefs.

- 74 Those who opposed the chiefs' rule started holding their own meetings, first in forests and later on hilltops, leading to the naming of the movement as the 'Intaba (mountain) Committee'. It later became known as *iKongo*¹². Statements to the Commission indicated that the first mountain committee was formed at Nonqulwana Hill near Bizana, followed by committees at Ngqindilili Hill, Indlovu Hill and Ngquza Hill, all in the Flagstaff–Lusikisiki area. The Pondoland Revolt was generally referred to by deponents to the Commission as '*Nonqulwana*' after the first hill committee. While this movement clearly involved ANC supporters, the revolt appears to have been a local initiative in response to local grievances rather than a planned ANC campaign. Of those linked to the *iKongo* group who made statements to the Commission, all but one indicated allegiance to the ANC; the single PAC member told the Commission that at the time of these uprisings he had been an ANC member.
- 75 *iKongo* members and supporters took action against chiefs and those they regarded as collaborating with them. It appears that property was initially the primary target: a large number of huts belonging to Bantu Authorities supporters were burnt down. A few months later, the chiefs and their perceived 'collaborators' themselves became the targets. Southall records that twenty-two people identified in some way with the authorities were killed by *iKongo* members. The Commission received several submissions relating to such attacks, including three killings.
- 76 Some families were caught up on both sides of the conflict. A local headman, Mr Manhanha Maqewu [EC2067/97ETK and EC1807/97ETK], joined the *iKongo* group and attended their meetings. His daughter-in-law, Ms Virginia Nodipha [EC1807/97/ETK], told the Commission:

There was a day when he did not excuse himself from attending a meeting at Ndlovu because of an aching leg. Some men came with torches on the night of 18 December 1960 and attacked and killed him.

- 77 Another daughter-in-law, Ms Nyembani Mafololzi Mbotho, told the Commission that "he was killed with swords as he was suspected of being an informer". Ms Mbotho added that her husband, Mr Mikayeli Nodipha, was jailed for ANC membership for three years in 1961 and that her house was burnt down.

¹² The term *iKongo* appears to have been a corruption of 'Congress' in a reference to the ANC, as many of those involved had joined the ANC before it was banned. Some deponents told the Commission it was a way of referring to the ANC while it was banned, with the pretence that *iKongo* was a different organisation. It appears, however, that the name was in use in rural parts of Transkei before the ANC was banned [see Robin Bloch, 'The high cost of living: The Port Elizabeth "Disturbances" of October, 1920' in *Africa Perspective* No. 19, 1981].

- 78 There were also clashes between *iKongo* members and police. In March 1960, Mr Bhungweni Tshezi [EC1496/97ETK] died after police beat him with rifle butts in the Bizana area.
- 79 In May 1960, a meeting held at Ngquza Hill was teargassed from a helicopter by the security forces. Armed *iKongo* members fired at the helicopter. At one of the *iKongo* meetings in May, Mr Earnest Gwede Pepu [EC1762/97ETK] was shot dead by police and Mr Nkosayipheli Msukeni [EC1828/97ETK] was severely injured by the police and died on the way to hospital.
- 80 On 6 June 1960, a group of *iKongo* members were meeting again at Ngquza Hill when two aircraft and a helicopter dropped tear gas and smoke bombs on them¹³. Mr Clement Gxabu told the Commission that, although some of the *iKongo* members had been armed at the May meeting; they were not armed at the June meeting because they “intended convincing them that we were not at war with them but only needed a government delegation to talk to us about our grievances”. Thus, they had been expecting a representative from the government to come and meet with them at Ngquza. When the police arrived instead, the group raised a white flag. Police emerged from nearby bushes and opened fire, killing eleven people, including the leader, Mr Wana ‘One’ Johnson [EC0544/96ETK], Mr Sigwebo Mfuywa [EC0335/96ETK], Mr Ntamehlo Sipika [EC0881/96ETK], Mr Khoyo Chagi [EC0534/96ETK] and Mr Ndindwa Popotshe [EC0541/96ETK] and wounding many others, including Gxabu. Mfuywa’s daughter-in-law, Ms Mabathini Ntombizabantu Mfuywa, told the Commission:

We were told that father was shot in the arm. He fell. As he was down, he was shot at the back of the head and the bullet exited through the nose and he died instantly. We never attended his funeral.

- 81 Mr Sijumba Mlandelwa [EC0880/96ETK] and Mr Madodana Ndzoyiyana [EC1659/97ETK] disappeared permanently after the Ngquza shootings and no bodies were found. Mr Ngangilizwe Bele [EC2066/97ETK] disappeared in the same year, shortly after police arrived at his village to arrest people. His family never saw him again.
- 82 In late October 1960, an inquest heard that *post mortems* on the exhumed bodies of the eleven killed at Ngquza Hill indicated that six had died from bullet wounds, three from bullets in the back of the skull. Due to the late exhumations, it was not possible to determine the cause of death in the others. Lawyer Roley Arenstein,

¹³ The use of at least one helicopter and two aircraft is mentioned by Mbeki, Southall and in various statements made to the Commission.

who represented the families of some of the dead men, was restricted by the government to the Durban area and could not attend the inquest. Another lawyer appeared instead. The inquest subsequently called the police actions “unjustified and excessive, even reckless”. It appears, however, that no members of the security forces were prosecuted¹⁴. This is likely to have been because the Indemnity Act of 1961 provided that no civil or criminal proceedings could be brought against the government or anyone acting under government authority in respect of acts carried out in good faith (after 21 March 1960) with the intention of restoring public order.

- 83 It appears that both the SAP and the South African Defence Force (SADF) were involved in the Ngquza Hill incident. Most accounts (including reports on the inquest) point to the police as having carried out the shooting, while the aircraft and helicopter must have belonged to the SADF as the SAP did not have such items at that time¹⁵. Mr Gxabu told the Commission that men parachuted down from the aeroplane during the Ngquza incident: these were presumably soldiers rather than police. The South African National Defence Force (SANDF) denied SADF involvement in the incident, while the South African Police Services (SAPS) had no record of it. A number of factors support the suspicion that the shootings were a planned ambush. These include the arrival of the security forces instead of the expected government representatives at the meeting, the absence of any reports of warnings by the security forces calling for the meeting to disperse before the teargassing and shootings, the fact that the white flag was ignored, the use of Sten sub-machine guns (as found by the inquest), and the fact that some of those at the meeting were shot in the back of the head.
- 84 The Ngquza Hill shootings were followed by mass detentions and arrests by police and further attacks on Bantu Authorities supporters by *iKongo* members. Mbeki reports that twenty-three people were arrested on charges of fighting after the Ngquza Hill shootings. Nineteen of these were subsequently sentenced to prison terms ranging from eighteen months with six strokes to twenty-one months. At least some of the *iKongo* members sentenced to death also appear to have been convicted on charges arising out of this incident. Statements to the Commission indicate that police tracked down and detained others who had been at Ngquza Hill and also people who had not been there but were known to the local authorities as *iKongo* activists. Deponents told the Commission that

¹⁴ Information from an undated statement to the Commission by Leonard Maqhatshu Mdingi, who said that he had been tasked with investigating the Pondoland events at the time by the ANC underground. He stated that the Attorney-General had declined to prosecute following the inquest findings.

¹⁵ Information given by the South African Police Service on 29 May 1998 in response to a query from the Commission.

some of those taken into custody were beaten at the time of arrest; some were tortured in detention. Family members who were suspected of hiding wanted people were assaulted by police. Statements to the Commission indicate that the vast majority of those detained and arrested were men.

THE COMMISSION FINDS THAT THE STATE USED SEVERAL CHIEFS IN THE TRANSKEI REGION TO SILENCE POLITICAL OPPOSITION TO THE POLICY OF APARTHEID, USING METHODS INCLUDING BANISHMENT, FORCED REMOVAL OF POLITICAL OPPONENTS AND DESTRUCTION OF THEIR PROPERTY.

THE COMMISSION FINDS FURTHER THAT PARAMOUNT CHIEF KAISER DALIWONGA MATANZIMA ORDERED OR SANCTIONED SEVERAL VIOLATIONS OF HUMAN RIGHTS INCLUDING TORTURE OR PHYSICAL ASSAULTS ON PEOPLE. THE COMMISSION FINDS THAT THESE ACTIONS AMOUNTED TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH SOME OF THE CHIEFS IN TRANSKEI REGION, INCLUDING PARAMOUNT CHIEF KD MATANZIMA ARE HELD RESPONSIBLE.

THE COMMISSION FINDS THAT A GROUP OF PEOPLE CALLING THEMSELVES 'IKONGO MEMBERS' WERE INVOLVED IN HUMAN RIGHTS VIOLATIONS WHEN THEY CARRIED OUT REVENGE ATTACKS ON PEOPLE WHO WERE ALLEGED TO BE SUPPORTERS OF THE BANTU AUTHORITIES, KILLING SOME AND BURNING DOWN THEIR PROPERTIES. THIS CONTRIBUTED TO A CULTURE OF POLITICAL INTOLERANCE IN THE EASTERN CAPE AND AMOUNTED TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH IKONGO MEMBERS ARE HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT THE SECURITY FORCES, IN THE FORM OF THE SAP ACTING WITH SUPPORT FROM THE SADF, SHOT AND KILLED ELEVEN PEOPLE AND INJURED AN UNKNOWN NUMBER OF OTHERS NEAR NGOUZA HILL ON 6 JUNE 1960. THE COMMISSION FURTHER FINDS THAT NO WARNING WAS GIVEN BEFORE THE SHOOTING STARTED AND THAT UNJUSTIFIABLE DEADLY FORCE WAS USED. THE COMMISSION FINDS THAT THE ACTIONS OF THE SECURITY FORCES AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP AND THE SADF ARE HELD ACCOUNTABLE.

- 85 By September of 1960, authorities were restricting media access and denying that the unrest was a revolt against the Bantu Authorities. In a statement to the press, the commissioner-general for the Xhosa group, Mr JH Abraham, said:

Tribal clashes, which occur from time to time and which have occurred regularly throughout history, are presented as revolts against the system of Bantu Authorities. Even when the true facts are supplied to these newspapers, the paragraph giving the facts is carefully deleted.

- 86 A commission of enquiry was set up under the Chief Bantu Affairs Commissioner of Ciskei, Mr J A van Heerden, and announced its findings to a mass meeting of about 15 000 Ponds in October. It reported that it had found that secret meetings had been held, that law-abiding people had been threatened that their huts would be burnt if they did not attend these meetings and that many huts had been burnt, causing £20 000 worth of damage. It also found that, although mistakes had been

made in implementing the Bantu Authorities provisions, people in Pondoland had been misled into believing the government was against them. Some of the people's complaints were justified, but a number of the grievances could not be blamed on the Bantu Authorities system. It appears that the enquiry did not look into the shootings by police. A public meeting at Imizizi Hill in Bizana later rejected the commission's finding and decided to stop paying taxes and boycott white-owned stores in Bizana. The inquest, later that month, criticised the police shootings.

- 87 In November 1960, police disrupted a meeting at a hill near Flagstaff and shot and killed Mr Qhuntswana Gilbert Bewu [EC2065/97ETK]. Chief Vukayibambe Sigcau (brother to the paramount chief) was accused of helping the police in this attack and he and two of his headmen were subsequently killed. Mr Sheleni Mhlokhulu and Mr Shadrack George [both EC0656/96ETK] were convicted of murder in connection with the killing of Sigcau. George handed himself over to police after hearing that police had damaged his home while searching for him. Both were subsequently executed.
- 88 On 14 December, a state of emergency was declared in terms of Proclamations 400 and 413, prohibiting meetings and giving chiefs powers of banishment. Mbeki states that 4 769 people were detained during 1960, 2 067 of whom were eventually brought to trial. By the end of 1960, the uprising appears to have been over. Most of the leadership was in jail, dead or in hiding. Mbeki records that, between 24 August and 28 October 1961, thirty people were sentenced to death in trials arising out of the revolt; Southall states that nine of these were later reprieved. The Commission received statements in connection with seventeen executions.
- 89 Mr Simbo Hlongwe Khalakahle said his father, Mr Cenjulwa Hlongwe [EC0337/97ETK] was one of those sentenced to death in the Kokstad court: "He was then taken to Pretoria and my mother and brother were taken to Pretoria to watch my father die".
- 90 While some of those on trial were represented by lawyers, it appears that some were not. Mr David Tshikilo Manqa [EC1821/97ETK], who was acquitted on appeal on charges of burning down a chief's house, was represented by lawyers during the trial. Manqa told the Commission:

When the chief saw this, he took police and went to raid my house at three in the morning. They shot at my house, harassed my family, destroyed my property, stole R100 of mine and eventually shot me in the chest and left leg.

91 He was charged with attacking the police, denied access to his lawyer for this case and jailed for two years.

Other resistance to homeland rule

92 The violence and mass arrests of the Pondoland Revolt subsided within months, but isolated resistance to homeland rule continued. It appears that the ANC initially decided to work within the new homeland structures, but had grown disillusioned with them by the early 1970s.

93 Detentions in the Transkei continued in terms of the emergency regulations of Proclamation 400. Those seen as opponents of homeland rule were sometimes subjected to forced removals on the order of the local chief. The Minister of Bantu Administration and Development told the South Africa parliament that twenty-seven people in Transkei were living under such removal orders, served between 1961 and 1972.

94 At the Lusikisiki hearing, Mr Clement Gxabu and Mr Simon Silangwe told the Commission that *iKongo* members had asked the then ANC president, Chief Albert Luthuli, for advice on the proposed independence for Transkei. Luthuli, who was banned at the time, told them they should not oppose independence but rather get their own candidates elected in the new Umtata parliament. Silangwe reported:

He said to us, "Comrades, there is nothing I can do and you cannot fight whilst you are outside. You can fight a bit better when you are inside". What he was advising us to do is for us to elect our own people and go to Umtata and fight from within the parliament there.

95 Gxabu said *iKongo* members were involved in forming the opposition Democratic Party, several of whose members were subsequently detained by police. By 1970, with growing disillusionment among Transkei ANC supporters about the possibility of working within homeland parliamentary structures, a network in Pondoland began recruiting people to leave the country for training in the ANC's armed wing, MK.

96 Various people were detained at this time for recruiting for MK. The Commission heard allegations of torture in detention, including beatings and electric shocks. Again the Mkambati police station is mentioned as a site of torture; it appears that a more permanent structure had been set up by this time. Several of the cases of torture and death in detention described earlier relate to this period.

■ 1976-1982

Overview of violations

97 After the relatively quiet later 1960s and early 1970s, two major influences ushered in a period of heightened political activity. These were the national education protests and the rise of the BCM followed by other mass-based organisations. The Commission received many reports of shootings by security forces during the education protests that spread to the Eastern Cape after 1976. Many of the detentions reported were related to these protests.

98 The BCM gained momentum in the mid-1970s and developed a strong following in the Eastern Cape. A large number of those detained were from its ranks. After its collapse in the face of police repression, other mass-based organisations started to emerge in the Eastern Cape, such as the Port Elizabeth Black Civic Organisation (PEBCO) and the Congress of South African Students (COSAS). It was also at about this time that the ANC began to infiltrate units of trained guerrillas back into the Eastern Cape. Political trials began again, along with reports of abductions and killings. The Commission received numerous allegations of torture in detention and, indeed, the deaths in detention that occurred in this period need to be viewed in the context of such reports of torture. There were also attacks on police officers and people perceived to be collaborating with the state.

99 The pattern of violations in the Eastern Cape reported to the Commission for this period differs from that of 1960-75. ►

100 Whereas severe ill treatment, followed by torture, previously accounted for the bulk of the violations, during this period torture accounts for 39 per cent of the violations, followed by severe ill treatment. This indicates a shift in the site of violations, with a greater proportion of reported violations now taking place in custody; alternatively, it indicates an increasing severity of violations taking place in custody.



State and allied groupings

Public order policing: The mass protests of the education crisis

- 101 The national education protests of June 1976 soon spread to the Eastern Cape, starting with violence in Port Elizabeth and Uitenhage in August. Many areas in the Eastern Cape were affected at various times by the boycotts and clashes between police and youths.
- 102 The Port Elizabeth–Uitenhage area was a frequent site of protests and the clashes that resulted. During 1976–78, a special police ‘anti-riot unit’ – the Unrest Investigation Unit – operated in that area. Although not a part of the security police, it fell under the command of the Port Elizabeth security police chief and was assisted by the regular police Riot Unit. The Unrest Investigation Unit claimed to have been responsible for 2 000 arrests in two years¹⁶. Riot police were allegedly instructed to identify and shoot at ringleaders of mob actions and to arrest those unable to move when the crowd dispersed. On the following day, police would go to the hospitals and arrest all those with bullet or shotgun wounds. A day or two later, all police officers who had fired upon anyone would have to identify those they had shot from the arrested suspects.
- 103 By 18 August 1976, ten people had been killed and over twenty injured by police in clashes in Port Elizabeth and Uitenhage. Youths targeted schools, police vehicles and municipal bottle stores for stoning and arson attacks. In Port Elizabeth, during August and September, eighty-nine buses were stoned, and there were arson attacks on twenty black schools, five bottle stores and twelve shops. There was extensive damage – estimated by police at R1.4 million – to thirty-four police vehicles and various government buildings.
- 104 Mr Thembile Yawa [EC1462/97PLZ] was shot dead by police outside the Mbilini Street police station in KwaZakhele, Port Elizabeth in one of the early clashes on 18 August 1976. His aunt, Ms Babana Rebecca Nontshapho Yawa, said police told her that he had been shot “as he was the ringleader of violence”.
- 105 A day later, eleven-year-old Zoliswa Florence Tiyo [EC0668/96PLZ] was shot dead by security forces in White Location, Port Elizabeth while on her way home from school. Zoliswa’s mother, Ms Theodora Nosisi Tiyo, said security force members told her to go to the mortuary to identify her daughter’s body. She told the Commission:

¹⁶ *Focus* 19, November 1978. Published by International Defence and Aid Fund (IDAF).

I indeed went there and I found her dead. There were a lot of other children; they were packed as a load of sheep. There were so many bodies there, I couldn't find my child, but I was taken to another room which was separate from this one. I could see one of the children and my daughter was next to that.

- 106 On the first anniversary of the education crisis, violence escalated again in the Port Elizabeth–Uitenhage area as the events of 1976 were commemorated. Following a mass protest march in Uitenhage on 16 June 1977, six shops and schools were burnt down. A number of people were shot the following day, allegedly as they were about to set fire to a municipal beer hall. One of those shot dead on 17 June was a twenty-three-year-old labourer, Mr Michael Mzwandile Booï [EC1085/96UIT]. His mother, Ms Nontobeko Mavis Booï, said she had not known why he did not return home that night:

On Sunday, I read a [news]paper that six people died in the shooting by police. On Monday, I found my son's body at the mortuary.

- 107 Protests followed the September 1977 death in detention of Black Consciousness leader Steve Biko. In Queenstown, police stopped a march, using batons and teargas. In the ensuing four days of unrest, two people were killed, a police officer's home and other public buildings burnt and over eighty people arrested.

- 108 It was during this march on 30 September that Mr Lenare Moerane [EC0652/96QTN] was shot in the head. He died a few days later. Mr Billy Dagada, who told the Commission that he had been with Moerane when he was shot, said they had been shot by police in vans and by people (also believed to have been police) inside a house:

Some of the shots were coming from a house ... That is where comrade Lenare died. I was also shot. We were all taken into a police van. I was unconscious and we were taken to a mortuary here in town, only to find that I was still alive, then I was taken to hospital.

We were interrogated by policemen ... some of us were under police guard for twenty-four hours. At about ten I was taken to the police station and I was tortured.

- 109 On 7 October, the Ezibeleni township in the Transkei, just across border from Queenstown, was sealed off by Transkei police. In November, Mr Mnyamana Patrick Mayana [EC0420/96QTN] was shot dead by police in Queenstown while waiting outside a friend's house.

110 Protests spread to Cradock. On 8 November 1977, seventeen-year-old Mr Rocky James [EC0144/96NWC] was arrested by police under the Riotous Assemblies Act and shot dead the following day. Police said James was questioned in the municipal offices in Lingelihle township and escaped; they gave chase and fired two shots. The attorney acting on behalf of the James family said that township residents walking to work on the morning of 9 November found the boy's naked body. The family believe James was assaulted by police, and rejected police claims that he was shot while trying to escape.

111 The day after James' body was found, police fired birdshot at a crowd of stone-throwing youths. Three days later, police opened fire on a crowd that had reportedly set fire to three schools after a funeral.

112 The following month, police fired at a crowd that had gathered in New Brighton, Port Elizabeth to protest about the death in custody of Mr Mzukisi Nobadula (see below). Mr Mongezi Andrew Khomo [EC0659/96PLZ] was shot dead. Khomo's mother, Ms Monica Thandiswa Khomo, told the Commission:

In the evening of 27 December 1977, I heard gunshots being fired just outside my house. I could not go outside as the shooting was still continuing; instead I peeped through the window. I saw a person being dragged by policemen to a police van which was parked in front of my gate ...

On the following morning, we found a pool of blood near our gate. We then decided to go to Louis le Grange police station to report the matter and try to establish Mongezi's whereabouts. We found Mongezi's body in the police mortuary. He had been shot through the head.

On the day of the funeral, a police helicopter flew over our house firing birdshot and throwing teargas canisters at the crowd of mourners. As a result thereof I could not go to the graveyard to lay my son to rest as I was unconscious from the affects of the teargas.

113 The next night, Mr Mtuthuzeli Michael Heshu [EC0305/96PLZ] was beaten and then shot dead by police in New Brighton, Port Elizabeth. He was returning from a party with his girlfriend when police ordered him to have sex with her in the street in their presence. He refused and they got into a fight. The police dragged him into an alley and his girlfriend, Ms Liziwe Ndzimasi, fled. She heard three shots. The next day police informed Heshu's father that his son had been killed by riot police "during an attack on police". The body had a broken femur and three bullet holes. An inquest found the killing to be "justifiable homicide".

According to police evidence, Heshu was shot during an attack on a school which police had been guarding¹⁷. The death of Heshu fuelled anger in the township and tension mounted until the funeral took place on 7 January 1978. At the funeral, the police fired on peaceful mourners.

- 114 On 15 March 1978, sixteen-year-old Makhwenkwe Madalane [EC0042/96ALB] was shot dead by police in New Brighton, Port Elizabeth. They told the family he had tried to set fire to a bakery truck. Madalane was an activist who had earlier been forced to flee his home in Grahamstown due to police pressure. A *post mortem* was held but the family was not told the outcome.
- 115 Thirteen-year-old Xolani Kannetjie Stuurman [EC1551/97NWC] was shot dead in Cradock in November 1978. His sister, Ms Nontobeko Bernadette Vala, said he was shot near the shop where he worked after school:

People were shouting at the tops of their voices and others were crying hysterically. I then decided to go outside and investigate what was going on. Outside the yard in Kannemeyer Street next to the municipal building where the municipal police were staying, I observed that the SAP was chasing everybody who was in the street ... people were saying that my brother had been shot. I then followed the people who led me to the shop. I saw Xolani lying in front of the shop on his back. He had a bullet wound in the forehead.

- 116 Clashes between police and scholars continued in Grahamstown in 1980. On 9 July, fifty-seven-year-old Ms Violet Tsili [EC0046/96ALB] was shot dead when she passed a crowd of 1 000 boycotting pupils who were being dispersed by police with dogs, batons and birdshot. Over 2 000 people attended her funeral on 19 July, during which police again used teargas and birdshot to break up the crowd. They shot a sixteen-year-old boy, Mr Boyboy Nombiba, in the stomach, killing him [EC0204/96ALB]. After Nombiba's funeral on 26 July, police fired at a crowd of mourners who they said were attacking a Hippo (police armoured vehicle). Two men, Mr Tunu Nxawe (28) and Mr Blacky Freddie Tsili [EC0201/96ALB] were killed. Mr Bulwana Vaaltyn [EC0523/96ALB] was shot in the stomach and injured by police patrolling the township; he later instituted a successful claim against the police.
- 117 Back in Port Elizabeth, Mr Lulamile Henry Woji [EC0444/96PLZ] was shot dead while visiting a neighbour near his home one evening in November 1980. Woji's aunt, Ms Nozibonele Mabel Woji, told the Commission:

It appears he was with two friends inside the yard at this house when a bus

¹⁷ John Jackson (1980) pp 152-3

without lights came along. Someone was running towards the group in the yard and went past them running. The soldiers in the bus started shooting through the fence, hitting Lulamile Henry Woji in the chest. He fell and died immediately with three bullet wounds.

- 118 About two weeks later, scholar Mr Tefo Timothy Machesa [EC0560/96UIT] was shot dead during the school boycotts in Uitenhage. He was on his way to buy bread. His mother, Ms Malehlohonolo Lucy Machesa, told the Commission:

Later a friend, Tesco, informed me that he and Tefo and another friend saw a police van. As the police were shooting at random they decided to run and entered a nearby house. It is where Tefo was hit and police dragged his body outside and put stones in his pockets.

- 119 She said the family were told Machesa's body had been kept overnight among prisoners to delay its discovery. An inquest found that police had acted in self-defence.

Torture in custody

- 120 Detentions continued in both homelands throughout this period. These were associated mainly with the education protests and with protests against independence. The Commission received several reports of deaths in detention in the Eastern Cape in the late 1970s, both through victims' submissions and through amnesty applications. In addition, numerous activists made allegations of torture while in security police custody. Some of the cases of severe torture reported to the Commission occurred directly after deaths in detention had taken place, suggesting that police were unconcerned that the torture of detainees might prove fatal. Cases reported to the Commission suggest that Port Elizabeth was one of the main sites of torture in custody.

The case of Mzukisi Mapela

In June 1977, Mr Mzukisi Petros Mapela [EC0563/96UIT] was involved in the burning of a municipal office and a beer hall in commemoration of the events of the previous year. Three months later, he was arrested in KwaNobuhle by security police and taken to police offices where he was handcuffed, shackled and his head was immobilised. He was then hit continuously on the head with a piece of pipe for some hours. He eventually signed a statement implicating himself. His head was swollen and he could not lie on his back.

He did not see a doctor until he was taken to North End Prison, where he was cursorily examined by Dr Ivor Lang and told that he was 'okay'.

He was convicted on 6 October 1977 at Algoa Park, Port Elizabeth, and sentenced to six years' imprisonment, of which he served four and a half years in North End and St Albans Prisons. While in North End, he was assaulted by warders and abused by criminal prisoners. When he complained, he was put in solitary confinement for ninety days. He received treatment only after his release in 1982. His hearing is permanently impaired and he is still affected by the trauma. He is unable to get work or to communicate effectively.

The case of Moki Cekisani

Mr Moki Jacob Bonisile Cekisani [EC2701/97PLZ and CT05004/ECA], president of the Black People's Convention (BPC) in Port Elizabeth, was tortured in custody at the Security Branch headquarters in Port Elizabeth's Sanlam Building, the day after Biko's funeral in September 1977. Cekisani told the Commission that a bag soaked with water was placed over his head and that he was rammed against a wall and given electric shocks. Cekisani named some of those involved in the assaults as Sergeant Nieuwoudt and others linked to Biko's death. He was admitted to hospital the same day, after a severe attack of epilepsy.

Deaths in custody

The case of Mapetla Mohapi

Mr Mapetla Mohapi [EC0007/96PLZ], a BCM activist from King William's Town, the national centre of BCM activism, was detained on 15 July 1976 under the Terrorism Act. He died in custody at the Kei Road police station on 5 August 1976. Police claimed he had committed suicide, but his family do not believe this. An inquest found nobody responsible for the death.

Mohapi had previously been detained in October 1974 and held for 164 days in 1974 before being released without charge. He was banned in September 1975.

Mohapi's widow, BCM activist Ms Nobuhle Mohapi [EC0007/96PLZ], was herself detained the following year and told the Commission of assaults in detention in Port Elizabeth. She was detained at the same time as Steve Biko, for whom she worked as a secretary. Mohapi was subjected to both physical and psychological torture:

“During the six months, everything was revolving around Steve Biko. At times, they would bring blank papers so that I could sign, and they promised to release me if I should sign them. But they asked me if I wanted the same thing to happen as happened to my husband. At times I would be fastened to a grille and then would be assaulted brutally and would be unable to defend myself. There was not even a chance to run away because the grille holds you so fast that you cannot do anything about it ...

“I stayed six months in solitary confinement in Port Elizabeth, and they would come and report some of the things that are happening at home. They even came and told me that my youngest child is dead. They even promised to release me so that I can attend to the funeral. And they also insisted that I should sign this paper. They told me that they wanted to take the paper to Steve Biko so that he can know that I'm also inside. Each time they said this, Steve would always deny and say they were threatening him. He didn't believe that I was arrested, and I wanted not to make them happy about this.”

She refused to sign anything. Ms Nobuhle Mohapi was banned on her release; she lost her job and was forced to send her children to live with her in-laws to protect them from police harassment. She told the Commission:

“After the death of Mapetla, I was full of hate. I was full of hate that can never be countered. I was hating anybody who was in the police ... Even the children, when you speak to them, you have to tell them that these are the people who oppressed us but one day they will change.”

The case of Mr George Botha

Mr George Botha [EC1587/97PLZ], a thirty-year-old teacher at Paterson High School, was detained in Port Elizabeth on 10 December 1976 under Section 22 of the General Laws Amendment Act. He died in the Sanlam Building five days later. The security police claimed that, after interrogation in which Botha gave incriminating information, he committed suicide by jumping down a stairwell from the sixth floor.

The police officers involved were Major Harold Snyman, Sergeant Rowland E Prinsloo and Captain Daniel Petrus Siebert.

At the inquest, magistrate JA Coetzee found that nobody was to blame for his death, although there was substantial evidence that he had been assaulted. Although the court accepted the findings of Drs Benjamin Tucker and Gideon

Jacobus Knoebel that there were injuries on the body that had been inflicted before death, the magistrate found that the police evidence was satisfactory and the court did not know how the injuries were sustained.

At the Commission's amnesty hearing into the death of Steve Biko in 1997, Major Snyman was asked about the death of George Botha. He acknowledged that he had been present when Botha died, but repeated the version of events given by police to the inquest – that Botha had 'broken free' and jumped down the stairwell to his death. Nobody applied for amnesty for Botha's death.

THE COMMISSION FINDS THAT THE PERIOD 1976—1982 WAS CHARACTERISED BY AN INCREASE IN THE RELIANCE BY THE SAP ON ILLEGAL METHODS OF POLICING, THE UNJUSTIFIED USE OF DEADLY FORCE, AND THE ASSAULT AND TORTURE OF SUSPECTS AND DETAINEES, RESULTING IN THE DEATHS OF AND SEVERE INJURIES TO LARGE NUMBERS OF PEOPLE. THE COMMISSION FINDS THAT SUCH ACTS WERE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE. EVIDENCE BEFORE THE COMMISSION INDICATES THAT MANY ACTIVISTS AND DETAINEES WERE DETAINED AND TORTURED AT THE POLICE SECURITY BRANCH HEAD-QUARTERS AT THE SANLAM BUILDING IN PORT ELIZABETH.

The case of Steve Biko¹⁸

Black Consciousness leader Steve Biko [CT05004/ELA] was detained on 18 August 1977 in Port Elizabeth and died in custody on 12 September 1977 in Pretoria.

Security police officers Major Harold Snyman [AM3918/96], Captain Daniel Petrus Siebert [AM3915/96], Warrant Officer Ruben Marx [AM3521/96], Warrant Officer Jacobus Johannes Oosthuizen Beneke [AM6367/96] and Sergeant Gideon Johannes Nieuwoudt [AM3920/96] alleged that Biko died of brain injuries sustained in a 'scuffle' with the police at the Sanlam Building, Port Elizabeth.

At the inquest, magistrate Marthinus Prins ruled that Biko's death was caused by a head injury, probably sustained on 7 September during a scuffle with security police in Port Elizabeth – but that there was no proof that the death was brought about by an act or omission involving an offence by any person.

The police officers involved applied for amnesty for the incident and the amnesty hearings took place in Port Elizabeth twenty years after Biko's death. The Biko family did not ask the Commission to make a finding on his death.

THE COMMISSION FINDS THAT THE DEATH IN DETENTION OF MR STEPHEN BANTU BIKO ON 12 SEPTEMBER 1977 WAS A GROSS HUMAN RIGHTS VIOLATION. MAGISTRATE MARTHINUS PRINS FOUND THAT THE MEMBERS OF THE SAP WERE NOT IMPLICATED IN HIS DEATH. THE MAGISTRATE'S FINDING CONTRIBUTED TO THE CREATION OF A CULTURE OF IMPUNITY IN THE SAP.

¹⁸ See also chapter on *Institutional Hearings: Health Sector* in Volume 4.

DESPITE THE INQUEST FINDING WHICH FOUND NO PERSON RESPONSIBLE FOR HIS DEATH, THE COMMISSION FINDS THAT, IN VIEW OF THE FACT THAT BIKO DIED IN THE CUSTODY OF LAW ENFORCEMENT OFFICIALS, THE PROBABILITIES ARE THAT HE DIED AS A RESULT OF INJURIES SUSTAINED DURING HIS DETENTION.

IN VIEW OF OUTSTANDING AMNESTY APPLICATIONS IN RESPECT OF BIKO'S DEATH, THE COMMISSION IS UNABLE TO CONFIRM A PERPETRATOR FINDING AT THIS STAGE.

The case of Mzukisi Nobadula

Mr Mzukisi Melvin Nobadula [EC0662/96] died in a Port Elizabeth prison in December 1977. He was detained and appeared in the Grahamstown Supreme Court on a case against PEBCO leader Mr Thozamile Botha and two others. He refuted a statement he had been forced to sign implicating Botha.

The accused were released, but Nobadula was redetained and held as an awaiting-trial prisoner, pending perjury charges arising out of the Botha case. His family was later informed that he had died in custody. Dr Lang conducted a post mortem and stated that the victim died of natural causes. However, it was found that the body had scars and burns on the back. Attorney John Jackson, who was representing Nobadula, had told the Port Elizabeth regional court that he had seen Nobadula days earlier when he appeared to be in perfect health. A senior police officer said in a statement the day after a post mortem examination that no signs of any criminal offence causing Mr Nobadula's death in prison had been found, but that more tests would be made before an official report was issued by the police.

Jackson recounts that he learnt of the circumstances of Nobadula's death from one of his cellmates: a prison warder had taken his asthma pills and spray away from him and that night, in the grossly overcrowded cell, he had an asthma attack. Despite calls for help from other prisoners, the warders refused to help and threatened beatings. Nobadula died, and no inquest was held¹⁹.

The case of Lungile Tabalaza

Mr Lungile Tabalaza [EC0002/96PLZ] was detained on 10 July 1978 in connection with arson attacks and the robbery and burning of a delivery van. He died the same day, in custody at the Sanlam Building, Port Elizabeth. Police claimed he had committed suicide by jumping from the fifth floor of the Sanlam Building — from an unbarred window in Sergeant Nel's office. Major PR de Jongh, Lieutenant Verceuil, Sergeant PJ Nel and Constable Mene were involved with Tabalaza's interrogation.

¹⁹ John Jackson (1980) p 224; IDAF *Focus* No.14, January 1978; contemporary newspaper accounts.

It was reported²⁰ that Tabalaza died shortly after being transferred by uniform police to the custody of the Security Branch. Photographs of bodies, smuggled to London, suggest he may have suffered injuries before the fall, and may have been suspended by his feet.

At the start of the inquest in Port Elizabeth, the government pathologist acknowledged that several bruises and lacerations could have been sustained before he fell. Magistrate Willem Lubbe told the inquest that he had seen Tabalaza less than an hour before his death, but had refused to investigate allegations of assault made by Tabalaza. Lubbe said he was “shocked” and regretted that he had not investigated Tabalaza’s fears that he would be beaten if he did not make a statement when he was taken back to security police offices.

The inquest held in October 1978 found no one responsible for his death. Justice Minister Jimmy Kruger and others tried to lessen the embarrassment of Tabalaza’s death by portraying him as a “common criminal”. Mr Kruger claimed that the barring of windows, which he had ordered to prevent such deaths, had not yet been completed in Port Elizabeth. In response to the outcry following Tabalaza’s death, three Security Branch officers were transferred, including Colonel Goosen, the local Security Branch chief, who was posted to another district.

THE COMMISSION FINDS THAT THE ACTIONS OF THE SAP AND THE NAMED POLICE OFFICERS INVOLVED IN THE KILLING OF DETAINEES AT THE SANLAM BUILDING IN PORT ELIZABETH CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP AND THE NAMED POLICE OFFICERS ARE HELD RESPONSIBLE.

Vigilantes

121 In Grahamstown in 1980, some parents opposed to the school boycotts formed a vigilante group called the Peacemakers. On 14 May, Peacemakers member Mthantiso Alfred Soya [EC0437/96ALB] was attacked with *pangas* and stoned to death by youths in the grounds of a Grahamstown school, following a clash between scholars and police supported by the Peacemakers. Several youths were later convicted in connection with this murder. The widow, Ms Nomilile Phyllis Thandiwe Soya, told the Commission:

The youth did not attend schools. As a result, the parents were disturbed by this; they tried by all means to persuade children to go back to school. It was then that the Peacemakers were formed ... we decided that we are going to ask the Peacemakers to persuade the children to go back to school

²⁰ Focus 18, 1978.

... The parents decided to ask the Peacemakers, not the police because the police might shoot the children.

- 122 The Peacemakers did not succeed in ending the boycott; instead, there was a violent clash involving students, Peacemakers and police at Andrew Moyake School in Joza, Grahamstown. Ms Soya added that the police had assaulted the children and the children had retaliated.

Resistance and revolutionary groupings

- 123 Black police officers — especially the Security Branch — township municipal councillors and people regarded by UDF supporters as collaborating with the state were targets of attack.

Resistance to homeland rule

- 124 Transkei's independence in October 1976 was ushered in by a wave of detentions of anti-homeland rule campaigners. A similar intolerance of dissent marked Ciskei's independence in 1982. The South African Proclamations 400 and 413, issued in 1960 to help suppress the Pondoland Revolt in Transkei, were replaced by the Transkei Public Security Act of 1977. By 1980, Transkei had declared a state of emergency in terms of this Act.
- 125 Although forced removals were not defined as violations in terms of the Commission's mandate, they were a significant part of repression in the homelands. The use of forced removals to consolidate the homelands was well under way by this period. The Commission received individual statements from people who had opposed such removals.
- 126 Banishment was one tool used to silence dissent. People could be banished to another area in the homeland, from South Africa to a homeland, or even expelled from a homeland.

The case of Ezra Zeera Mtshontshi

Mr Ezra Zeera Mtshontshi [EC0969/96ELN] was first detained in 1963 in connection with PAC activities after being deported from Zimbabwe. In 1976, he was detained in Transkei for opposing Transkei independence. In 1980, he avoided being served with a Transkei banishment order by fleeing over the border to King William's Town.

The case of Phindile Mfeti

Trade unionist Phindile Mfeti [EC0020/96STK] was detained in 1977, banned on his release and banished from Transvaal to Butterworth in Transkei. Mr Mfeti disappeared permanently while in Durban in April 1987.

The cases of Chiefs Mbeki and Anderson Joyi and Others

In 1978, Chiefs Mbeki Marhelane Bangilizwe Joyi [EC0259/96UTA] and Anderson Dalagubhe Joyi [EC2437/97UTA] were banished along with their followers to different places within Transkei, after opposing the Matanzima government. In 1980, their homes were demolished, apparently on government orders. They were able to return home only after the military coup of 1987.

THE COMMISSION FINDS THAT THE TRANSKEI HOMELAND AUTHORITY, THROUGH ITS PRESIDENT PARAMOUNT CHIEF KAISER DALIWONGA MATANZIMA, WAS RESPONSIBLE FOR ORDERING OR SANCTIONING VARIOUS ACTS WHICH AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS – INCLUDING THE DETENTION OF MR EZRA ZEERA MTSHONTSHI, THE DETENTION OF MR PHINDILE MFETI AND THE BANISHMENT AND DESTRUCTION OF PROPERTIES OF MR BANGILIZWE JOYI AND MR DALAGUBHE JOYI.

Unions

- 127 In Ciskei, the new homeland government targeted emergent trade unions, effectively outlawing unionism in the territory. The South African Allied Workers' Union (SAAWU) was formed in 1979 with a base in East London, just outside Ciskei, and organised among workers who worked in East London but returned home across the Ciskei border to Mdantsane at night. SAAWU had a substantial impact on the emergence of unionism in the region. Unionists were sometimes detained by the SAP and were handed across the border to the Ciskei Police.
- 128 SAAWU leader Thozamile Gqweta was repeatedly detained and his family harassed. His mother was killed in a petrol bomb attack on his home in 1981.

The case of Deliswa Roxiso

After attending the funeral of Gqweta's mother in Peulton on about 8 November, Ms Deliswa Roxiso [EC0377/96ELN] was shot dead by Ciskei police. Her mother, Ms Philda Novula Roxiso told the Commission:

"On their arrival at Mdantsane Highway and while they were alighting from the buses, the police started firing at them. It is said that my daughter was first shot at the leg and then on the head. She then fell on the ground. She was then dragged by the same members of the police force into the back of the police van."

Ms Philda Roxiso said her husband had tried to find Deliswa, but police initially refused to talk to him. Eventually he was able to meet with Ciskei security chief Charles Sebe, who told him that Deliswa had been shot by the police.

The case of Bonisile Norushe

Mr Bonisile Philemon Norushe [EC0389/96ELN], a branch secretary for the African Food and Canning Workers' Union, was detained by the Cambridge security police in East London after a 16 June commemoration service in 1980. He told the Commission of his assault in detention:

"One policeman ... who was leading the attack, pushed his middle fingers into both my ears. He kicked me on the groin and that blow lifted me up and I hit the roof with my head and fell down unconscious."

Norushe still suffers from the after-effects of the assaults. The police held him for a year, telling him they were planning to bring sabotage charges against him. Instead, he was called as a state witness in the trial of another unionist, Mr Mandla Gxanyana. On refusing to give evidence in that case, he was jailed for about a year.

In 1983, a year after his release, the Cambridge security police again detained him and handed him over to the Ciskei police. He and his wife eventually fled into exile.

THE COMMISSION FINDS THAT THE CISKEI HOMELAND AUTHORITY, THROUGH ITS PRESIDENT CHIEF LENNOX SEBE AND THE HEAD OF THE CISKEI SECURITY FORCES GENERAL CHARLES SEBE, WAS RESPONSIBLE FOR ORDERING OR SANCTIONING VARIOUS ACTS WHICH AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS — INCLUDING THE SEVERE HARASSMENT, DETENTION AND TORTURE OF THE LEADING MEMBERS OF SAAWU AND THE KILLING OF MS DELISWA ROXISO.

THE COMMISSION FINDS THAT THE ACTIONS OF THE TRANSKEI AND CISKEI HOMELAND AUTHORITIES AMOUNTED TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH PARAMOUNT CHIEF KAISER DALIWONGA MATANZIMA AND CHIEF LENNOX WONGAMA SEBE, IN THEIR CAPACITIES AS HEADS OF THESE AUTHORITIES, ARE HELD RESPONSIBLE.

MK actions and state response

129 From the mid-1970s, there were a number of trials of people who had undergone military training, and in many cases detainees were interrogated and tortured before being brought to trial. In most instances, the suspects had not been involved in any operations, and often had not yet left the country for military training, but were merely planning to do so. One of those cases involved Mr Siphon Fielden Hina [EC1863/97ALB], who was called as a state witness in the trial of Mr Joe

Mati in East London in 1978. Hina was detained in Port Elizabeth for six months from 7 June 1977 and reported being tortured. He refused to testify and was sentenced to six months' imprisonment.

- 130 At this time, the ANC was improving its capacity to wage an armed struggle, continuing to focus on strategic installations. In the Eastern Cape, however, MK's capacity was still limited. Mr Chris Hani had moved to Lesotho in about 1974 and, while a level of communication existed between activists in the Eastern Cape and the ANC in Lesotho, the infiltration of armed units from outside the country was restricted. People attempting to strengthen the link were quickly hunted down and suppressed by the security police. One example of this was the killing of COSAS activist Mr Sizwe Kondile in 1981, one of the first cases of security police arranging the 'disappearance' of an ANC member.

The case of Sizwe Kondile

Mr Gcinisizwe 'Sizwe' Kondile [EC0021/96STK] was a Port Elizabeth activist and a founder member of COSAS. In contact with the ANC in Lesotho, Kondile and five others formed an underground ANC cell inside the country in about July 1980.

When two members of the cell — Mr Thembi Mbiyabo and Mr Nangamso Ndzube – were arrested, Kondile and the other cell members (Mr Vusumzi Pikoli, Mr Thoz Majola and Mr Phaki Ximiya) decided to leave the country in September 1980.

They went to Maseru, Lesotho, where they met with former PEBCO leader Mr Thozamile Botha and Mr Chris Hani. They were given basic training and told to build the underground in the Eastern Cape. This involved moving back and forth between Lesotho and South Africa.

Kondile went into South Africa on a brief mission in June 1981, and returned safely to Maseru in the same month. Later that month he disappeared from Maseru.

The South African Police claimed that Kondile had been arrested in Port Elizabeth on 26 June 1981, but had been released in August 1981. Because he had borrowed Chris Hani's car on the day he disappeared, the ANC suspected him of being a traitor, and the family suffered political isolation and trauma as a result of this.

It emerged subsequently (in the evidence of former police captain Dirk Coetzee to the Harms Commission in 1990) that Kondile had been kidnapped in Maseru,

Lesotho, by members of the security police's Vlakplaas unit. He was detained in Port Elizabeth, then taken to Jeffreys Bay police station where he was tortured and sustained a brain haemorrhage. Colonel Nick Van Rensburg of the Port Elizabeth security police then drove him to Swaziland and handed him over to Coetzee. He was taken to Komatipoort on the Mozambique border, poisoned and shot, after which his body was burnt while those responsible drank beer.

Applications for amnesty for the abduction and killing of Kondile were heard in Port Elizabeth in October 1997. Applications were made by Mr Dirk Johannes Coetzee [AM0063/96], Mr Nicolaas Johannes Janse van Rensburg [AM3919/96], Mr Gerrit Nicholas Erasmus [AM4134/96], Mr Hermanus Barend du Plessis [AM4384/96] and Mr Johannes Gottfried Raath [AM4397/96].

- 131 Between late 1980 and mid-1982, several bombings occurred around Port Elizabeth and East London, causing injuries and damaging property. Most of these acts can be attributed to MK units operating from Lesotho from the second half of 1981 until May 1983. In August 1981, a member of one of the units was killed in a series of clashes with police while trying to escape back to Lesotho (see below). Another cell member died in a sabotage attempt in January 1983 (see 1983–90); the rest of that cell were killed or put on trial.
- 132 In November 1980, MK member Gwaza Duckworth Twalo [EC0128/96KWT], who was operating out of Lesotho, disappeared in Transkei. His family heard that he had been arrested and “thrown down a cliff” at the Umtata Central Prison. The Commission was not able to clarify what had happened to Mr Twalo.
- 133 On 6 August 1981, one person was injured in a bomb blast at Central Square in East London’s city centre. The following day a shoot-out was reported between the police and MK guerrillas in Butterworth, killing two Transkei police officers, including a Captain Ngidi. The guerrillas escaped and later that day were involved in another shoot-out with the SAP at a roadblock near Elliot on the road to Lesotho, resulting in the injury of two SAP members, the death of two guerrillas and the arrest of another. Six days later, there was a final clash between the surviving guerrillas and the SAP on a farm near Aliwal North, during which the two last guerrillas were killed.
- 134 As a result of the Commission’s investigations, the remains of the four guerrillas were found buried in unmarked graves on a farm in Aliwal North. The remains of Mr Senzangabom Vusumzi ‘George’ Khalipha, [EC2318/97PLZ], Mr Anthony Sureboy Dali [JB00216/01GTSOW], Mr Thabiso Isaac Rakobo [JB02461/01GTSOW], Mr

Joseph Lesetja Sexwale [JB02462/01GTSOW] and two others were exhumed and reburied; Khalipha, who was the only one from the Eastern Cape, was reburied in Port Elizabeth. The man arrested near Elliot was Mr Mveleli 'Junior' Saliwa [EC2691/97UTA], who had been driving the group. He was subsequently put on trial in Umtata.

- 135 The first Transkei terrorism trial was held in 1981. Among the accused were Mr Mzwandile 'Kaiser' Mbetse [EC972/96ELN], Mr James Kati [EC0309/96WTK], Mr Mkhangelisi Matomela [EC0121/96KWT], Mr Alfred Marwanqana [EC0670/96PLZ] and Mr Mveleli 'Junior' Saliwa [EC2691/97UTA], who had been captured during the August 1981 shoot-outs. Some were members of the opposition Democratic Progressive Party's (DPP) youth league. Matomela and Marwanqana were finally acquitted in 1982; all the other co-accused were convicted and given sentences ranging from five to thirteen years' imprisonment. Most of them had been in detention for more than a year before being charged, and most spoke of torture by police. Marwanqana, who had been jailed on Robben Island for ANC activities in the 1960s, fled into exile soon afterwards. He and two of his children, Thandiswa and Mzukisi, were killed in the SADF raid on Lesotho in December 1982.
- 136 In 1982, COSAS activist Siphwe Mthimkulu [EC0034/96PLZ] and his friend Tobekile 'Topsy' Madaka [EC0766/96PLZ] were abducted from Port Elizabeth and killed by security police. In his amnesty application, Port Elizabeth police officer Mr Gideon Nieuwoudt referred to attacks on police officers at the time and claimed that the two activists were linked to these attacks and to a spate of bombings. This was used to explain the context in which the two were assassinated. However, it appears that while Mr Mthimkulu and Mr Madaka were linked to the ANC in Lesotho, they were part of a 'propaganda wing' involved in pamphlet distribution and were not involved in the armed actions.

The case of Siphwe Mthimkulu

Mr Siphwe Mthimkulu [EC0034/96PLZ] was a student activist in Port Elizabeth from 1979 until 1982, when he disappeared. He was chairperson of the Loyiso High School Students' Representative Council and an active COSAS member. It is also widely believed that he was an underground member of the then banned ANC.

Mthimkulu was involved in the COSAS schools boycotts of 1980–81 and a campaign against Republic Day celebrations in 1981, which involved the distribution of ANC pamphlets in Port Elizabeth. Along with other COSAS members, he was detained on 31 May. After being shot while trying to escape

detention, he was treated in Livingstone Hospital. He was held at the Security Branch headquarters in Port Elizabeth as well as Algoa Park and Jeffreys Bay police stations and was subjected to extensive interrogation and torture, including suffocation, electric shocks, sleep deprivation and being forced to stand on bricks for many hours.

He was released without charge on 20 October 1981, after five months in detention. He made a statement to his lawyer and instituted a case against the Minister of Police for assault and torture. The day after his release Mthimkulu complained of pain in his stomach and legs and was soon unable to walk. Fighting for his life, he was admitted to Livingstone Hospital. In November, he was transferred to Groote Schuur Hospital in Cape Town, where his hair started to fall out. Neurologist Dr Frances Ames diagnosed poisoning with thallium, an odourless and tasteless poison unavailable in South Africa except to the state.

In January 1982, Mthimkulu returned to Port Elizabeth in a wheelchair. The police claimed that a top-level investigation into his poisoning was being conducted. On 2 April 1982, he instituted a second claim against the Minister of Police, this time for poisoning. Within two weeks, he had disappeared.

Ms Joyce Mthimkulu, Sphiwe's mother, last saw him on the morning of 14 April when he left for Livingstone Hospital with his friend, Mr Tobekile 'Topsy' Madaka, who often helped COSAS members with transport. After visiting the hospital, Mthimkulu spent the evening with other COSAS members, including Mr Madaka, Mr Lulu Johnson, Mr Tango Lamani and Mr Themba Mangqase. Mthimkulu left Johnson's house that evening with Madaka and Mangqase, dropped Mangqase off and arranged to return to Johnson's house later.

They never came back, and it seems that Mangqase was the last person to see them alive before they were abducted. About a week later Madaka's car was found at Sterkspruit in the Transkei, near the Telle Bridge border post with Lesotho. Madaka's passport and Mthimkulu's wheelchair were inside. The two families received anonymous telephone calls claiming the youths were safe. Enquiries on behalf of the Mthimkulu family at the time ascertained that Mthimkulu was not in custody in South Africa or Transkei. Enquiries through the United Nations High Commission for Refugees, the Civil Rights League, the ANC and churches in Lesotho, and a trip to Lesotho, confirmed the Mthimkulus' belief that he had not gone into exile.

In 1986, security police searched the Mthimkulu's house, claiming Sphiwe was back in the area after being trained as a 'terrorist'. In response to

questions in Parliament, Mr Louis le Grange, then Minister of Police, said the police had no knowledge of Mthimkulu's whereabouts and "had not communicated any information about him to his relatives".

In April 1990, Mr Dirk Coetzee revealed at the London sitting of the Harms Commission that Mthimkulu had been poisoned, kidnapped and killed and that this had been arranged by Brigadier Jan du Preez of Security Branch headquarters in Pretoria and Colonel Nick van Rensburg of the Port Elizabeth Security Branch. Coetzee alleged that Brigadier Jan van den Hoven had had the rare poison flown to Van Rensburg, who had it administered to Mthimkulu before his release from detention. Coetzee claimed that Du Preez had told him about the killing.

- 137 In response to these allegations, Mthimkulu's parents, Siphon and Joyce Mthimkulu, expressed the wish to see the place of their son's death and to retrieve his bones for a proper burial. Madaka's parents had both passed away in April 1990.
- 138 The cases were scheduled to be heard at the first hearings of the Commission in East London on 15 April 1996. An interdict brought by Brigadier Jan du Preez and Major General Nick van Rensburg in the Cape Town Supreme Court ruled that the Commission should not hear the matter before these officers had been given time to study the allegations against them. At the second Eastern Cape hearings of the Commission in Port Elizabeth on 22 May 1996, Ms Mthimkulu collapsed when she was informed that once again a court interdict prevented her from telling the story of her son's disappearance. A crisis situation was defused when thousands of demonstrating COSAS members were allowed into the Centenary Hall in New Brighton and given an assurance that Mthimkulu's case would be heard at a special hearing of the Commission in the same venue on 26 June. An additional interdict brought by Mr Gideon Nieuwoudt also specified that Ms Mthimkulu could not name him as one of her son's torturers. The ANC organised demonstrations and marches in Port Elizabeth protesting against the silencing of the Mthimkulus.
- 139 The Mthimkulu and Madaka cases were finally heard at a special hearing of the Commission's Human Rights Violation Committee on 26 June 1996 at the Centenary Hall, New Brighton. On the day before the hearing, a Cape Town Supreme Court ruling overturned the previous decisions and ensured that the evidence of Ms Mthimkulu could be heard. Various COSAS activists also gave evidence, handing in a list of COSAS activists who had died in this period and naming a number of Security Branch officers as torturers.

140 In January 1997, amnesty applications regarding the deaths of Mthimkulu and Madaka were received from Port Elizabeth Security Branch officer Gideon Nieuwoudt, Colonel Nick Van Rensburg, Major Hermanus Barend Du Plessis and Colonel Gerrit Erasmus. At a press conference in Port Elizabeth on 28 January 1977, it was revealed that the bodies of Mthimkulu and Madaka had been burnt and their remains thrown into the Fish River near the disused Post Charmers police station near Cradock. The Commission took the families to the site of the killings and disposal of the bodies. At the amnesty hearings later, the security police admitted to having abducted and killed the two activists, but they denied all knowledge of torture and poisoning.

141 Because the audience and families did not feel that the whole truth had been revealed, and because of the attempts by the security police to prevent the case from being heard on previous occasions, the amnesty hearings were fraught with tension and anger. At one point, a part of the crowd obstructed the armoured vehicle in which the amnesty applicants were being transported from the hall.

THE COMMISSION FINDS THAT THE SAP WERE RESPONSIBLE FOR THE ABDUCTION AND KILLING OF POLITICAL ACTIVISTS IN THE EASTERN CAPE — INCLUDING MR GCINISIZWE KONDILE WHO WAS ABDUCTED AND KILLED BY MR DIRK JOHANES COETZEE, MR NICHOLAS JANSE VAN RENSBURG, MR GERRIT ERASMUS, MR HERMANUS BAREND DU PLESSIS AND MR JOHANNES RAATH ON 26 JUNE 1981; AND MR SIPHIWE MTHIMKULU AND MR TOPSY MADAKA WHO WERE ABDUCTED AND KILLED BY MR GIDEON NIEUWOUDT, MR NICHOLAS JANSE VAN RENSBURG, MR GERRIT ERASMUS, MR HERMANUS BAREND DU PLESSIS, MR JAN VAN DEN HOVEN AND MR JAN DU PREEZ.

THE COMMISSION FINDS THAT THE ACTIONS OF THE SAP AND THE NAMED POLICE OFFICERS AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP AND THE NAMED POLICE OFFICERS ARE HELD RESPONSIBLE.

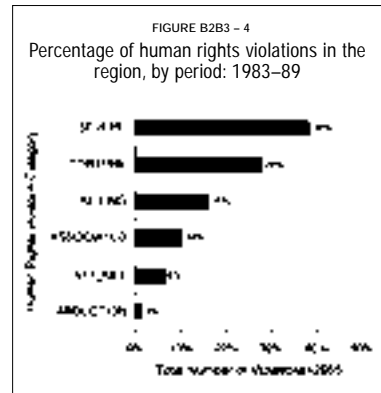
■ 1983-1989

Overview of violations

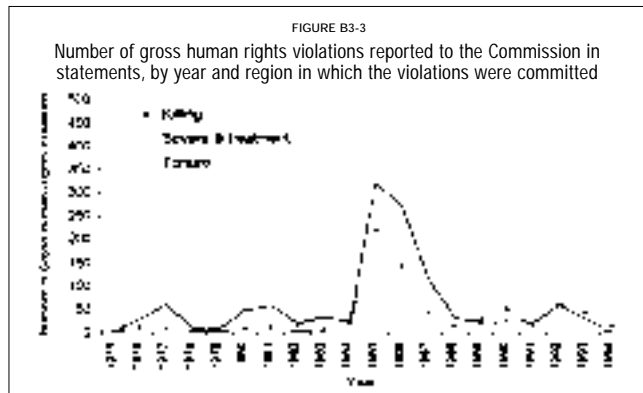
142 In the Eastern Cape, as in the rest of the country, these seven years were marked by renewed protest against apartheid structures. The UDF established a presence in the Eastern Cape from 1983, leading to clashes with the state and its allies, including vigilante groups. These clashes were characteristic of this period, evidenced in police shootings of UDF-aligned protesters, UDF attacks on police and community councillors – the Black Local Authorities (BLAs) – and the accompanying practice of ‘necklace’ killings and burnings, the increase in (mainly ANC) guerrilla activity in the country and the killing of guerrillas and key activists by the security forces.

143 About half of this period was spent under a state of emergency: a limited state of emergency affecting western parts of the Eastern Cape around Cradock lasted from July 1985 to March 1986, followed by the declaration of a national state of emergency three months later and lasting until 1990. The emergency had a significant impact in the Eastern Cape, with thousands being detained. In September 1985, the courts granted an interdict, brought by district surgeon Dr Wendy Orr and others, restraining police from assaulting emergency detainees.

144 Submissions received by the Commission indicate that violations in the Eastern Cape for this period were once again dominated by severe ill treatment (38 per cent of the Eastern Cape violations). ▶



145 While severe ill treatment and torture remain the two biggest violation categories, as in the previous two periods, killings in this period increased to 16 per cent, becoming the third biggest category of violations reported to the Commission. This is probably a result of the large number of clashes between police and protesters. ▶



146 There was a sharp increase in killings, torture and severe ill treatment in 1985, just before the state of emergency. Torture was a key violation in the Eastern Cape during this period.

State and allied groupings

Public order policing

147 Shootings accounted for about 22 per cent of the serious violations (that is, killings, attempted killings, abductions, torture and severe ill treatment but excluding

associated violations) reported to the Commission in statements for the Eastern Cape region during 1983–89. Generally, these occurred in public order policing situations. About half of the shooting violations were fatal and, half of the shooting violations over these seven years occurred during 1985, with another 22 per cent the following year. The Commission received reports of shootings from towns across the province, but the Port Elizabeth–Uitenhage region accounted for nearly a third of all the reported Eastern Cape shootings during this period.

- 148 Particularly in 1985, there were large-scale police shootings of demonstrators in public order policing situations. Some of these larger incidents are detailed below. Evidence about these and numerous other smaller incidents was heard at the Commission's hearings. These included the Mdantsane railway shootings by Ciskei security forces in August 1983, the Langa massacre by police at Uitenhage on 21 March 1985 and police shootings at Duncan Village and Aliwal North in August 1985 and at Queenstown in November 1985. In addition, the Commission was told of three incidents during 1985 (in Despatch, Uitenhage and Steynsburg) in which SAP members shot protesters in 'Trojan Horse' type incidents. This period thus saw the bulk of the mass shootings reported to the Commission in the Eastern Cape.
- 149 Police unrest statistics for the Port Elizabeth–Uitenhage area for the period 21 March 1985 (the date of the Langa massacre) to 29 May 1985 give an insight into the level of violence at the time. During this period, 108 people died in unrest: of these, sixty-eight were killed by police and forty by 'rioters'.
- 150 The South African Police Services (SAPS) provided the Commission with a copy of the SAP's Standing Orders (SOs) for dealing with public order protests during this period – SO 210 and 211 effective for the period January 1985 to August 1990. The SAPS stated that these documents were the closest that could be found to regulations for dealing with mass actions. These brief documents do not appear to give police much guidance on dealing with the mass protests of this period. Such outdoor protests were by definition illegal, were often spontaneous and sometimes resulted in violence. The SOs contained no explicit ruling on how to prevent or contain the political protests so typical of the mid-1980s, nor how to liaise with the military if troops were brought in. No mention is made of what equipment police should be issued with for such events, nor is mention made of the use of minimum force.

The Ciskei bus boycott and the railway station shootings: 1983²¹

- 151 On 18 July 1983, a boycott of the partly government-owned Ciskei Transport Corporation (CTC) buses started in Mdantsane, Ciskei, in protest at an 11 per cent fare increase. The boycott lasted several years and involved shooting of and assaults on commuters by the Ciskei security forces backed up by vigilantes, in attempts to force commuters to use the buses.
- 152 The Commission received numerous statements in connection with violence that broke out during the bus boycott; many of those who made statements were also heard at the hearing at Mdantsane in June 1997.
- 153 When the boycott started, commuters initially walked to work in large groups, from Mdantsane across the Ciskei border to East London, a distance of about twenty kilometres. These groups effectively became mass demonstrations against the bus company. Later, more use was made of private taxis and trains.
- 154 Within days, the boycott elicited a violent response from Ciskei authorities. Security forces and vigilantes set up roadblocks in Mdantsane, and there were reports of commuters being hauled out of taxis and ordered onto buses. On 22 July 1983, five people were shot and wounded by Ciskei security forces at the Fort Jackson railway station. On 30 July, a man was attacked and killed by vigilantes while walking near the Mdantsane stadium, used by vigilantes as a base. On 3 August, a state of emergency was declared in Mdantsane and a night curfew imposed. Meetings of more than four people were banned and people were prohibited from walking in groups larger than four. The following day Ciskei forces opened fire on commuters at three Mdantsane railway stations.
- 155 In the dark early winter morning of Thursday 4 August, Mdantsane commuters started walking up the small hill to the railway line that ran alongside Mdantsane and the three stations of Fort Jackson, Egerton and Mount Ruth that served the township. The state of emergency had been declared the evening before and the first nightly curfew had just ended at 04:00. Many commuters were probably still unaware of the emergency or the curfew. They were met at each station by a human blockade of armed police and soldiers, supported by vigilantes armed with sticks and *sjamboks* (whips). The security forces apparently had one aim: to get the commuters back onto the buses. Within an hour, commuters had been shot at all three railway stations.

²¹ See Fink Haysom, Ruling with the whip: Report on the violation of human rights in the Ciskei. Johannesburg: Centre for Applied Legal Studies (CALS), October 1983; Institute for Planning Research, An investigation into the Mdantsane/East London bus boycott. University of Port Elizabeth, April 1984 and contemporary newspaper accounts.

- 156 Ms Valencia Ntombiyakhe Madlityane [EC2091/97ELN] said she was shot by soldiers at Mount Ruth station at about 05h00 after she ignored police orders to use a bus instead of the train. At least three people died in the incident. At 04h20 union employee Ms Kholeka Dlutu²² heard shooting at Egerton where commuters also died. Shooting was also reported at Fort Jackson, where some injuries were reported. All in all, "at least six commuters died and dozens were injured"²³. The fact that shooting happened at more than one station points to a co-ordinated security force operation with orders to stop commuters from catching the trains at all costs. While police later claimed they were attacked, attempts to prosecute commuters for such attacks failed and it seems unlikely there would have been similar attacks at all three stations at the same time."
- 157 Ms Kholeka Dlutu said she heard shooting and went with her aunt to see what was happening. Ms Dlutu stated in an *affidavit*:

Somewhere near the church nearby a corner house, on the way to Egerton Railway Station, we came across a girl who was bleeding from the thigh and screaming. She alleged that she had been shot by the police ... We proceeded and saw many people in an open veld standing opposite Egerton Station, and a smaller group of people, some wearing brown overalls and some wearing other police or army uniform, standing on the opposite side nearer the station. The two groups were facing each other. Whenever the commuters moved towards the station, the other group, to whom I shall collectively refer as the police, would advance as if to meet the first group halfway, causing the commuters to retreat, some of whom ran into residential yards.

At that stage, visibility was poor, but the action described above went on for so long that the light gradually improved. Meanwhile, some of the commuters were managing to escape and reach the railway line by taking devious routes and crossing the railway line. Later, when the police advanced once more, the commuters did not run but shouted out that they were not at war with the police and only wanted to get to the railway station so as to board trains to East London.

²² *Affidavit* by Kholeka Dlutu on 4/8/83 in Boqwana *et al v Ciskei Minister of Justice et al* case 494/83, Zwelitsha court.

²³ The Commission was able to trace the names of six people who died in this incident. They were: Lawrence Vukile Cecane, Nyanisile Alton Vusani, Julia Ndaliso, Goodman Toko, Fuzile Caza and Mncedisi Elliot Sidwadwa. A memorial at Egerton station lists 11 dead: five of the six identified by the Commission, plus one (Zengezenge Mpiyake) who was killed on 30 July by vigilantes, two who died in separate incidents on 6 August (Sisa Faku and Michael Mbila) and three others: Khaya Mbange, Clifford Soxokashe and a Mr Mayile. While the memorial includes at least three people who died in other incidents during the boycott, three children of a Ciskei government supporter who were fatally injured when their home was petrol-bombed on 3 August (Daniel, Priscilla and Vuyiswa Ndlovu) are not included on the memorial.

The police drew their firearms, and, without having given any warning fired at the commuters who just stood still, apparently not having expected to be fired upon. Even from where I stood, somewhat further away from the commuters, I feared that I might also be struck by bullets and I ran away.

Before running away I saw an elderly man fall to the ground holding his leg, which was bleeding. He complained that he had been shot. As I ran away, I went past a young man wearing a bluish overall lying prostrate on his back on the ground apparently motionless. I also noticed some vigilantes approach the said elderly man. They beat him severely as he lay on the ground. I crawled on all fours and heard further gunshots and bullets whizzing past me. Three bullets struck the wall of a house in front of me, leaving visible holes.

- 158 The affidavit later helped win an urgent interdict aimed at stopping security force and vigilante assaults. Ms Dlutu was chased by police and hid in a nearby house. She watched police assault the injured young man and then throw both him and the older man into the back of a police truck. The young man is believed to have been twenty-seven-year-old Mr Lawrence Vukile Cecane [EC2625/97ELN]. He was later found to have died.
- 159 Mr Goodman Toko [EC2215/97ELN] and Mr Nyanisile Alton Vusani [EC2174/97ELN] were also shot dead by police the same morning at Mount Ruth station. Mr Fuzile Caza [EC0220/96ELN] was shot by Ciskei security forces (the family believed that the Ciskei Defence Force (CDF) was involved) at Mount Ruth station; he died in hospital a year later from his injuries. His family tried to bring a civil claim against the Ciskei authorities but heard nothing further from their lawyers. They heard that police had claimed that Caza had been holding an illegal gathering and had been shot after throwing stones at the police. His brother, Mr Mykeni Wellington Caza, told the Commission that Caza had been assaulted and left for dead by vigilantes.
- 160 The Commission received several other accounts of the shooting in which victims were killed or severely injured. Mr Zola Malgas [EC2178/97ELN] described how police tried to force commuters onto buses.

Near my house, there was a bus which people were told to board instead of using trains. I went out to see with my family but I told my wife to take the kids inside the house. Due to gunshots, we ran inside the house. My wife, Christina Malgas, was snatched by a bullet on the head, leaving a gap on the hair; there are still bullet holes in our door.

- 161 There were no reports to the Commission of any warnings before shooting began. Most victims did not know what had happened. It seems that few, if any, of those injured or families of those killed received compensation from the Ciskei government. Several deponents who had been injured spoke of having had to pay money to the government for court proceedings but not receiving any payments in return. They were unable to say what the legal proceedings had been about. Some of those injured said they had subsequently been arrested, charged and acquitted, without knowing what the charges had been.
- 162 At the time, Ciskei authorities said police had been attacked. The Commission did not, however, receive any statements indicating that this was so. It is worth noting that, by the end of August, fifty-nine people accused of attacking the police at the railway stations on 4 August had been found not guilty by the Mdantsane court. A year later, a group of ten were acquitted on charges of public violence relating to the incident, or charges against them had been withdrawn.
- 163 The Commission could find no indication that anyone was prosecuted in connection with these killings. About eighteen months after the shootings, the Ciskei Attorney-General said he had referred files on four of the six known killings back to the police for further work, and that police were still working on a fifth file. The inquests into four of the deaths eventually began in September 1986, three years after the shootings. Nobody was found to be criminally liable for the killings.
- 164 There was confusion and panic in Mdantsane after the shootings. Ciskei authorities issued contradictory reports and hospital staff were under pressure not to release details. It was alleged that soldiers prevented people from entering the casualty ward to find the dead and the injured. One persistent rumour was that as many as ninety people had died. However, the Commission did not receive statements indicating a large number of previously unknown deaths and/or disappearances and was unable to substantiate this.
- 165 Detentions and assaults followed the shootings, some of which were reported to the Commission. A large number of people were charged in connection with breaking the curfew. Two more people were shot dead by Ciskei police within days of the railway station shootings.
- 166 Six Mdantsane residents working in East London and taxi operator Mr Khabalinjani Mabulu were granted interim orders prohibiting members of the Ciskei security forces and vigilantes from assaulting, molesting, harassing, intimidating or unlawfully interfering with them.

- 167 One deponent alleged that the SAP had also acted against boycotters. Ms Misiwe Evelyn Keye [EC0951/96ELN] said she had been bitten by police dogs, assaulted by the SAP and dragged onto the railway line at Arnoldton station, just outside East London, the day after the Mdantsane railway station shootings: "I think they were angry simply because we were boycotting buses".
- 168 The actions of the security forces and vigilantes elicited a violent response from some of the boycotters, who targeted the vigilantes as well as government structures and individuals believed to be linked to the bus company. Buses were attacked with petrol bombs and stones. The homes of two people believed to be vigilantes assisting the police were burnt down. About 1 000 pupils boycotted school in Mdantsane and within ten days six schools had been damaged in arson attacks. In late July, a bus crashed when a stone thrown at it knocked the driver unconscious. The sole passenger escaped unhurt. In early August, ruling party official Mr Robert Ndlovu's home in Mdantsane was petrol-bombed and three of his children were killed. Ndlovu had been involved in urging commuters to use buses.
- 169 A large number of detentions were recorded. By the end of August, over 1 000 people had been detained under the emergency regulations. At the same time, at least sixty-seven were detained under Ciskei's Internal Security Act, including eight members of the Committee of Ten which was set up to negotiate around the boycott²⁴. A lawyer who represented some of the detainees, Mr Hintsisa Siwisa, was himself detained. Following the boycott period, a Committee of Ten member, Ms Priscilla Mxongo, was hospitalised following assaults in detention; another, Mr Eric Mntonga, was subsequently killed in detention in Ciskei in July 1987, while at least two others (Mr Mzwandile Mampunye and Mr Newell Faku) were charged with 'terrorism'. Unionists were also targeted for detention during the boycott. Some unionists were detained by the SAP and handed over to Ciskei. The militant SAAWU, formed in East London in 1979, had been struggling to operate in Ciskei before the boycott started and the Ciskei authorities used the boycott as an excuse to suppress the union. Chief Lennox Sebe openly accused SAAWU of being behind the boycott. SAAWU unionists were detained and by 5 September, the union had been banned in Ciskei²⁵.
- 170 The bus boycott was finally called off at a mass meeting held by the Committee of Ten on 15 March 1985.

THE COMMISSION FINDS THAT THE RESPONSE OF THE CISKEI POLICE FORCE AND THE CDF TO THE 1983 MDANTSANE BUS BOYCOTT WAS GROSSLY UNLAWFUL, AND THAT THE POLICE

²⁴ Haysom (1983), pp 43 and 53.

²⁵ A lengthy legal challenge to this ban by SAAWU was eventually overturned by the Ciskei Supreme Court in October 1987; the union eventually disintegrated.

ACTIONS IN ATTEMPTING TO BREAK THE BOYCOTT AND FORCE PEOPLE TO USE BUSES LED TO THE COMMISSION OF WIDESPREAD GROSS HUMAN RIGHTS VIOLATIONS, INCLUDING KILLING, ATTEMPTED KILLING, AND SEVERE ILL TREATMENT, FOR WHICH THE CISKEI POLICE AND CDF ARE HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT PRO-CISKEI GOVERNMENT VIGILANTES ALSO PARTICIPATED IN THE UNLAWFUL ATTACKS ON COMMUNITIES, AND ARE HELD EQUALLY ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS THAT RESULTED.

The Langa massacre: 21 March 1985

- 170 In March 1985, tensions in Uitenhage townships reached boiling point. Between 8 and 10 March, police reported twenty-three incidents of arson and eighteen of stone-throwing, causing damage estimated at R220 000. The Minister of Law and Order, Mr Louis le Grange, had visited Uitenhage with the commissioner of police, General Coetzee on 19 February. They had been told that 'soft' weaponry was no longer effective for riot control purposes. On 14 March, Uitenhage's most senior police officers, the 'Order Group', decided to take stronger action to regain control. As from 15 March, police patrols were no longer issued with teargas, rubber bullets and birdshot; instead they were given heavy ammunition.
- 171 Meanwhile, police action against militant youth resulted in six black people being killed by police. The funeral of four of the six was to be held on Sunday 17 March and a stay away was called for Monday 18 March as part of the 'Black Weekend'. Police said that three petrol bombs were thrown at a police vehicle in Langa during this weekend, and that they shot and killed a young man. The houses of two police officers in Langa were destroyed by fire. On 17 March, Black Sash leader Ms Molly Blackburn burst into the Uitenhage police station where a youth, Mr Norman Kona, was being tortured by police. She halted the assault and saw that charges were brought against the police officers responsible.
- 172 The week before the funeral, Captain Goosen of the SAP applied for two different and conflicting orders relating to funeral prohibitions. Both were granted, resulting in confusion over the dates on which funerals were to be held.
- 174 On 21 March 1985, a large group of people from Langa township assembled at Maduna Square and began to march to KwaNobuhle to attend the funeral. The police blocked the road into the centre of Uitenhage with two armoured vehicles and ordered the crowd to disperse. When the crowd failed to comply immediately, police opened fire on the crowd, fatally shooting twenty. The incident became known as the Langa massacre.

- 175 The Kannemeyer Commission was appointed the day after the shooting with Judge Donald Kannemeyer as chairperson and sole member. The Kannemeyer Commission found that twenty people were shot dead and at least twenty-seven were wounded, and that the majority had been shot in the back. He found that, in the circumstances, the police could not be blamed for issuing orders to open fire. Police were armed with lethal weapons rather than standard riot control gear because of a deliberate policy adopted by senior officers, and the police should thus have foreseen that an order to open fire would result in fatalities. Police evidence of the weapons carried by the crowd was exaggerated.
- 176 Charges of public violence laid against thirty-one people following the Langa massacre of March 1985 were dropped a year later. Of the thirty-one charged, twenty-one had been injured by police gunfire.
- 177 A year later, an inquest at the New Brighton courts in Port Elizabeth found that the deaths were not the result of any act or negligence constituting a crime on the part of anyone. The inquest findings were based on the evidence heard by Kannemeyer and it was considered unnecessary to call any of the witnesses to give their evidence to the inquest. As a result of this decision, the families of the deceased withdrew from the inquest proceedings. Magistrate JS Knoesen said that, if any blame were to be attributed for police actions, the responsibility should lie with Lieutenant JW Fouche, who was in command of the Casspirs (armoured personnel carriers) and who gave the order to open fire. However, Knoesen found that Fouche had done his duty in dispersing the crowd which was on its way to kill white people in town; that every effort made by Fouche and Warrant Officer JW Pentz to halt the marching crowd had failed, and that Fouche and Pentz had seen objects that they believed to be petrol bombs among the crowd. Knoesen said:

The court is satisfied that the amount of violence used was that which was required and justifiable under the circumstances.

- 178 The Commission received statements in connection with more than twenty victims of this incident – about half relating to deaths, the rest to injuries. Part of one of the Uitenhage hearings in August 1996 was devoted to the Langa massacre. Those who gave evidence at this hearing included two men who had been working as ambulance drivers at the time. The dead included Mr Kenneth Thobekile Mahuna [EC0057/96PLZ], Mr Buyile Gladstone Blaauw [EC0555/96UIT], Mr Gugulethu Mzwabantu Gavu [EC0558/96UIT], Mr Aubrey Vuyo Nobatana [EC0559/96UIT], Mr Phakamile Nicholas Solomon [EC0562/96UIT], Mr Mgcineni Vusani [EC0615/96UIT], Mr Mzimkulu Penzana [EC0708/96UIT], Mr Phumzile Gladwell Plaatjies

[EC0806/96UIT], Mr Sonwabo Kama [EC1080/96PLZ], Mr Zanele Sidwell Majikazana [EC1140/96UIT] and Ms May Vena [EC1197/96UIT], who all died on the day, and Mr Lungisile William Nqikashe [EC0685/96TSI], who was paralysed in the shooting and subsequently died after surgery.

- 179 There had previously been allegations that a baby had died in the shooting; the Kannemeyer Commission found that this was not true. One of the ambulance drivers told this Commission he had seen a dead baby at the scene, but nobody could corroborate this. This Commission also heard from a woman who said her baby had been ill with gastro-enteritis and she had arrived at the casualty department at the same time as many of those wounded in the massacre. Her baby had been certified dead on arrival at the hospital. It appears that this incident may have been confused with the massacre, and the Commission satisfied itself that this baby's death had no connection with the shooting.

THE COMMISSION FINDS THAT, WHILE THE SAP WERE JUSTIFIED IN PREVENTING THE MARCH AND DISPERSING THE CROWD, THEY RESORTED TO GROSSLY EXCESSIVE MEANS TO ACHIEVE THIS, USING UNJUSTIFIED DEADLY FORCE, AND THAT THEY ARE ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS (KILLINGS, ATTEMPTED KILLINGS AND SEVERE ILL TREATMENT) WHICH RESULTED FROM THEIR ACTIONS.

Violence in Duncan Village

- 180 The Commission received a number of statements from people affected by unrest and killings that took place in Duncan Village, Aliwal North and Queenstown within months of each other during 1985, and which were in many ways typical of township unrest in other parts of the country.
- 181 Until August 1995, the predominant aspects of resistance and political mobilisation were less pronounced in Duncan Village (on the outskirts of East London) than in other townships around the country. There were, however, sporadic street battles between youths, students and the police, particularly in the context of intermittent schools boycotts. Pupils at Qaqamba Senior Secondary School boycotted classes early in 1985, demanding that their student representative council be recognised and corporal punishment abolished. On 11 April 1985, the pupils at Qaqamba apparently marched out of their school and demanded that other pupils from the nearby Nyathi and Makinana primary schools join them. They were confronted and dispersed by the police using rubber bullets. Persistent running battles between the police and boycotting students followed. In May, the local educational authorities suspended classes.

- 182 At that time, Duncan Village was under threat of removal to the nearby Mdantsane township, under Ciskei jurisdiction, which was causing substantial unhappiness in the township.
- 183 On 11 August, large-scale violence was sparked off in Duncan Village after the funeral of human rights lawyer and activist Ms Victoria Mxenge, who had been assassinated in Durban. Her husband, human rights lawyer and activist Mr Griffiths Mxenge, had been killed in Durban by a police hits quad some years earlier. She was buried next to her husband at her home village of Rayi outside King William's Town, about sixty kilometres from Duncan Village.
- 184 Mxenge's funeral was characterised by militant addresses to mourners and UDF supporters. The speakers' messages concentrated on demands for the release of Mr Nelson Mandela from prison, the withdrawal of the troops from the townships, the denunciation of government 'collaborators' and institutions and the lifting of emergency regulations. A message from Mr Mandela was smuggled out of prison and read at the funeral.
- 185 At the end of the funeral, members of the crowd attacked a passing vehicle with CDF soldiers in it. Corporal Mnyamezeli Bless [EC2782/96ALB] died after being stoned and set alight.
- 186 After the Mxenge funeral, there was violent unrest in Duncan Village, apparently started by the returning mourners. There were arson attacks on various buildings like the rent office, schools, a beer hall, a bottle store and a community centre. That evening, rampaging youths swept through the Ziphunzana area of the township, singing freedom songs. All six community councillors' homes were burnt down and homes of police officers and suspected 'collaborators' were also attacked. Youths stopped private cars and taxis travelling through the township and demanded petrol for making petrol bombs.
- 187 The police dispersed the youths with rubber bullets, teargas and sneeze powder. The violence continued the following day, a Monday, adversely affecting industry and commerce, with high absenteeism at local factories. There were also reports of looting and burning of commercial and delivery vehicles. Bread and milk deliveries to the township were affected.
- 188 Police are reported to have arrested many injured people as they were being treated at a local church aid centre. Many families were left homeless as a result of this

violence. According to media reports, five people were dead by 14 August. The neighbouring coloured areas were also peripherally affected, as there was no instruction at their schools. Bus services were withdrawn from the township and taxis avoided the Duncan Village route to town. Commercial vehicles were stoned and burnt, and their drivers attacked. By 16 August, the toll had risen to nineteen people dead and 138 injured after running battles with security forces. The Commission received statements in connection with about seventy victims of violations in Duncan Village for this period, about a third of which related to killings. Statements submitted indicate that killings continued throughout August. Most killings were by shooting and a report of a death by necklacing (Mr Mzuzile Siqubethu [EC0991/96ELN]) was also received. The Commission was unable to consult police records on these incidents as records were reported to have been destroyed.

- 189 Police are alleged to have shot randomly and without warning at mourners holding church services for the victims. The police harassed, interfered with and intimidated the clergymen operating an aid centre and clinic treating the victims. A court order was brought against the police on behalf of the priests working at the centre.
- 190 At a mass meeting called by the Duncan Village Residents' Association (DVRA), residents called for an end to the violence and workers were urged to go back to work. Buses were to be allowed to operate without hindrance or restraint and Escom was called to resume power supplies to the area — they had been unable to repair electrical faults during the unrest. There was an ongoing consumer boycott and shop owners were requested to lower their prices to avert the collapse of the boycott. Suppliers of goods to Duncan Village were also asked to resume their services.
- 191 A memorial service for the dead was held on 21 August and several factories closed as workers heeded a call to attend. At least twenty-three organisations were represented at the service and most had provided speakers. Some workers are reported to have been fired for attending the service. Activists were detained, including an aid centre worker. State President PW Botha paid a visit to the city for a briefing about the unrest.
- 192 On 31 August, nineteen people were buried at a mass funeral attended by 35 000 people and addressed by then Border UDF president, Mr Steve Tshwete. Two men were killed by a crowd returning from the funeral when their car apparently ploughed into the crowd, injuring eleven.

THE COMMISSION FINDS THAT, WHILE THE POLICE WERE OBLIGED TO MAINTAIN ORDER DURING THE PERIOD OF UNREST IN DUNCAN VILLAGE, THEY ROUTINELY RESORTED TO THE UNJUSTIFIED USE OF DEADLY FORCE IN DOING SO AND ARE ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS THAT RESULTED FROM THEIR ACTIONS, INCLUDING KILLING, ATTEMPTED KILLING AND SEVERE ILL TREATMENT.

Aliwal North shootings: August 1985

- 193 The Commission's public hearings in Aliwal North focused on human rights violations in Aliwal North and in surrounding districts such as Barkly East, Lady Grey, Sterkspruit, Jamestown and Burgersdorp.
- 194 The mid-1980s was the most violent period for Aliwal North and surrounding areas. Political protest centred around students at Malcomess High School in the Dukathole township, and the UDF-affiliated Aliwal North Youth Congress was formed.
- 195 The first clashes between police and students took place on 22 August 1985; student activist and leader Mr Mzingisi Biliso was the first victim. The following day, about twenty-four people were shot dead by the security forces. The Commission received over twenty statements in connection with the shootings in Dukathole: nearly half of these dealt with killings.
- 196 According to stories told to the Commission, police standing on top of a building fired on protesting youths. Chaos followed in the township with arson attacks and further clashes between youth and police. The shootings were followed by detentions, and in May 1986, twenty-three people were charged with public violence related to the August 1985 events. Inquests subsequently found nobody criminally liable for the deaths. The Commission was unable to find police records relating to these incidents as records from that period were reported to have been destroyed.

THE COMMISSION FINDS THAT THE POLICE RESORTED TO THE UNJUSTIFIED USE OF DEADLY FORCE IN DEALING WITH THE AUGUST 1985 PUBLIC UNREST, AND ARE ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS WHICH RESULTED FROM THEIR ACTIONS, INCLUDING KILLING, ATTEMPTED KILLING AND SEVERE ILL TREATMENT.

Queenstown massacre: November 1985

- 197 There had been no major political conflicts in Queenstown and the surrounding areas from the 1960s until the mid-1970s except for the forced removals and the incorporation of areas into the neighbouring Ciskei and Transkei homelands. In the 1980s, dissatisfaction revolved around the rejection of BLAs and land

issues. In surrounding black areas that formed part of the former Ciskei homeland, political conflict was between homeland security police forces and chiefs, communities or individual activists opposed to the homeland system and who were also suspected to be part of the Mass Democratic Movement (MDM).

- 198 In Queenstown, conflict escalated with the imposition of a consumer boycott by UDF-aligned organisations in August 1985. Tension between the coloured and African communities followed the enforcement of the consumer boycott and at least one coloured man was 'necklaced'. This led to the formation of a coloured vigilante group supported by the local SAP and SADF. Black schools were also out on boycott since the assassination of the 'Cradock Four' in June. In September, the brother of a suspected informer was 'necklaced' in Queenstown's Mlungisi township.
- 199 On 17 November, a report-back meeting on negotiations with the Department of Education and Training, the Queenstown municipality, the East Cape Development Board and the Queenstown Chamber of Commerce was called by the residents' association of the local Mlungisi township. The meeting, held at Nonzwakazi Methodist Church and attended by over 2 000 people, was disrupted by police.
- 200 It is estimated that at least eleven people were shot dead and many were severely injured in the ensuing conflict. The Commission received submissions dealing with the deaths of Mr Lizo Ngcana [EC1241/96QTN], Mr James Mnyandeki [EC1111/96QTN], Mr Fikile Dastile [EC1109/96QTN], Mr Thamsanqa Kamati [EC0326/96QTN] and Mr Zandisile Ndabambi [EC0325/96QTN]. All had been part of the meeting. Eighteen-month-old Cebisa Tyobeka and her grandmother, Ms Maggie Tyobeka [EC0158/96QTN], who was holding her at the time, were both wounded inside their home, apparently by stray bullets.
- 201 Again, the Commission was unable to obtain inquest records or police records from the incident, and deaths were confirmed by consulting mortuary records. In addition, the Commission found details of another six people who died in this incident whose cases were not brought to this Commission. All eleven dead were male, ranging in age from fifteen to sixty-one. A press report from the time indicates that a twelfth person may also have died²⁶.
- 202 On 13 December, eleven people were buried at a mass funeral in Mlungisi township, attended by thousands. In response to questions in Parliament over a year

²⁶ A contemporary newspaper report on the funeral states that eleven were buried together, while funeral organisers said a twelfth person had been buried previously.

later, the then Minister of Justice, Mr Kobie Coetzee, said that an inquest into nine deaths from that incident had found that nobody was criminally liable.

IN REVIEWING THE EVIDENCE OF THE GROSS HUMAN RIGHTS VIOLATIONS REPORTED TO THE COMMISSION IN THIS PERIOD, THE COMMISSION FINDS THAT THE STATE AND THE HOMELAND AUTHORITIES IN THE EASTERN CAPE DISPLAYED TOTAL DISREGARD FOR THE LIVES OF THOSE ENGAGED IN PROTEST ACTION AGAINST THEIR POLICIES. WHERE LESSER MEASURES WOULD HAVE SUFFICED FOR THE RESTORATION OF PUBLIC ORDER, DEADLY FORCE WAS USED, RESULTING IN:

- THE KILLING OF AT LEAST SIX PEOPLE AT RAILWAY STATIONS IN MDANTSANE ON 4 AUGUST 1983 BY THE CISKEI POLICE AND THE CDF DURING THE MDANTSANE BUS BOYCOTT;
- THE KILLING OF AT LEAST TWENTY PEOPLE AT LANGA TOWNSHIP IN UITENHAGE ON 21 MARCH 1985 BY THE SAP AND THE SADF;
- THE KILLING OF AT LEAST NINETEEN PEOPLE AT DUNCAN VILLAGE OVER SEVERAL DAYS IN MID-AUGUST 1985 BY THE SAP AND THE SADF;
- THE KILLING OF AT LEAST ELEVEN PEOPLE AT MLUNGISI TOWNSHIP IN QUEENSTOWN ON 17 NOVEMBER 1985 BY THE SAP AND THE SADF, AND THE
- KILLING OF ABOUT TWENTY-FOUR PEOPLE AT ALIWAL NORTH ON 23 AUGUST 1985 BY THE SAP AND THE SADF.

THE COMMISSION FINDS THAT THE ACTIONS OF THE SAP, SADF, CP AND CDF AMOUNT TO CRIMINAL NEGLIGENCE FOR THE LIVES OF HUMAN BEINGS, AND HOLDS THEM ACCOUNTABLE FOR THE KILLING OF AN ESTIMATED NUMBER OF EIGHTY PEOPLE DURING THE FIVE NAMED MASSACRES.

Hankey shootings: May 1986

- 203 Hankey is a small farming town on the Gamtoos river, about 100 km west of Port Elizabeth. In Hankey, as in many other small Eastern Cape towns, 1984–86 saw the emergence of youth and community organisations aligned to the UDF and opposed to the BLAs. A town council was set up in the local Centreton township but, by May 1986, most of the councillors had resigned under pressure. In April, activist Sandile Joseph Mjacu [EC0089/96TSI] was shot, allegedly by a councillor, and died in hospital on 3 May. One of the councillors who had not resigned, Mr AM Mabukane, was killed by militant youth. Three days later the state-owned beer hall and the homes of two black police officers and a councillor were firebombed.
- 204 In late May, five more youths were shot dead by security forces — including farmers who appear to have been part of the local SADF commando at the time. A witness later told an inquest they were shot while attempting to attack a councillor's house. A councillor told the Commission he had fired shots when a group tried to petrol-bomb his home; he later heard a youth had died. Those killed were Mr Vuyo Gladman Kato Ndleleni [EC0085/96TSI], Mr Siphon Edward Boy Siziba [EC0086/96TSI], Mr

Msondezi Eric Sibengile [EC0087/96TSI], Mr Vusumzi Patrick Khotso Landu [EC0090/96TSI] and Mr Nimrod Monde Mjijwa [EC0088/96TSI]. Another youth, Mr Buyisile Eric Swartbooi [EC0084/96TSI], was shot in the leg in the same incident. He was subsequently convicted of public violence and given a suspended sentence.

‘Trojan Horse’ killings: Despatch, Uitenhage and Steynsburg

205 The so-called ‘Trojan Horse’ incident that took place in Athlone, Cape Town, on 15 October 1985 is well known: police hiding in boxes in the back of a delivery van opened fire, killing three youths. Similar tactics were used in the Eastern Cape, twice before the Cape Town incident and once afterwards.

206 On 18 April 1985, a municipal truck loaded with branches drove past the Nomathamsanqa Higher Primary School in Despatch. Scholars were on boycott at the time but were playing games in the school grounds. The truck was stopped by youth in the street. The driver got out and fired a gun into the air, at which police officers emerged from under the branches and opened fire on the group of youths, hitting six people. Four died, including Mr Xolisile Nqandu [EC0679/96TSI], and two survived.

207 Mr Henry Sawuli told the Commission at the Uitenhage hearing that he had seen the ambush being prepared. He had been on his way home, waiting for a bus, when he saw a municipal truck loaded with branches stop behind a tree at a shooting range, next to a police Hippo (armoured personnel carrier):

Two policemen alighted from the Hippo, the others remained in the Hippo, and they got under the branches in this truck and I realised that these boys are up to something ... Since there was no bus, I stopped a car. You must remember it cost me 30c to get home, but I paid somebody R2 to take me home, to save our children from the lions ... I ran past no. 6 and no. 5 to my house at no. 4, and I put my bag on the table and as I walked out, the shots rang out and they started shooting.

208 Mr Lulamile Base Peter [EC0680/96TSI], who was fifteen at the time, told the Commission he had been shot and injured. He was arrested at hospital, convicted of public violence and given a suspended sentence. He requested medical assistance as he is still affected by the shooting. When asked by the Commission why he thought the incident had occurred, Peter said:

It is because they thought that we were going to burn their truck, because we were a group, and yet we were coming from school.

209 Mr Mntukanti Mbolekwa [EC0688/96TSI] also survived; he was sixty-nine years old at the time:

I was sitting outside basking in the sun when I saw this lorry. A green lorry appeared near the school and when it got near our blocks, it stopped and these branches, first you only saw branches and then the next thing people appeared from amongst these branches with their arms and they started firing ... They shot at everyone around ... They struck me while they were shooting. They even followed me. I was crawling to the other side.

210 Mr Mbolekwa was wounded in the left arm and chest. Now in his eighties, he is weak and in pain, and says that the government should compensate victims and build houses with running water as "this would make people happy and also make them feel like human beings".

211 A few weeks later a similar incident took place in KwaNobuhle, Uitenhage, close to Despatch. Seventeen-year-old COSAS activist Khayaletu Melvin Swartbooi [EC0175/96UIT] was killed. Swartbooi's mother, Ms Meyi Mabel Swartbooi, told the Commission:

On 2 May 1985, a Hippo had collided at the Filtoni Bottle Store, Mabandla Road, Uitenhage at about 11am, damaging a door. Khaya and another comrade left to go and see this accident. While travelling up Mabandla Street, a municipal truck loaded with cardboard boxes passed by. Police came out of hiding under the cardboard boxes and shot at Khaya who fell. The truck stopped and they picked Khaya up and put stones in his hands and put him in a plastic bag and loaded the bag before they drove off.

212 On 27 December, a third such incident took place, this time in Vergenoeg township at Steynsburg, a small town which had also been experiencing violent clashes between youths and police. Three youths, including nineteen-year-old UDF activist Buyisile Guga [EC1514/97NWC], were killed. Guga had been part of a group of youths staging a *toyitoyi* (a form of chanting and dancing often used in protests) demonstration at the time. His mother, Ms Notyaya Elise Guga, told the Commission:

As they were running up and down the streets they were approached by police in a bakery truck who dispersed them. Some gunshots were fired and my son was hit by one of the shots in his spinal column. The police who approached the crowd had hidden themselves in a bakery truck, so as to give the impression that it was an innocent delivery truck so that nobody

would suspect any danger from it. This delivery truck, which disguised itself as some kind of a Trojan Horse, was followed by a police van.

THE COMMISSION FINDS THAT THERE WERE THREE INCIDENTS IN THE EASTERN CAPE IN WHICH THE SAP ACTED AGAINST PUBLIC PROTESTS BY AMBUSHING AND SHOOTING PROTESTERS IN TROJAN HORSE-STYLE OPERATIONS — IN DESPATCH ON 18 APRIL 1985, AT KWANOBUHLE IN UITENHAGE ON 2 MAY 1985 AND AT VERGENOEG IN STEYNSBURG ON 27 DECEMBER 1985. IN REVIEWING THE EVIDENCE BEFORE THE COMMISSION, THE COMMISSION FINDS THAT THE ACTION OF THE POLICE IN THESE THREE INCIDENTS WAS CONTRARY TO NORMAL PUBLIC ORDER POLICING PROCEDURES AND THAT THESE INCIDENTS WERE DELIBERATE ATTEMPTS BY MEMBERS OF THE SAP TO CREATE SITUATIONS IN WHICH PROTESTERS WOULD BE KILLED IN ORDER TO SUPPRESS SUCH PROTESTS. THE COMMISSION FINDS THAT THE ACTIONS OF THE SAP AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

Kitskonstabels and municipal police

- 213 In some areas special constables or *kitskonstabels* (instant constables) and municipal police were brought in. Both *kitskonstabels* and municipal police were often implicated in attacks on activists.
- 214 *Kitskonstabels* were brought in to reassert state control over the township at the small rural town of Hofmeyr during this period, but instead brought more violence. Hofmeyr and its Eloxulweni township are about sixty kilometres north of Cradock. The Catholic Institute for International Relations [CIIR]²⁷ reported that a successful consumer boycott was implemented in Hofmeyr in 1985, and a schools boycott was widely supported. The community council was forced to resign, and street committees were implemented to ‘govern’ the township. Mr Matthew Goniwe launched the Hofmeyr Youth Congress in 1985. In the 1985–86 period, police admitted that they had “lost control of the township”. A number of incidents of violence occurred, including killings by both police and residents.
- 215 In response to the worsening situation, the state deployed a group of thirteen *kitskonstabels* in Eluxolweni in April 1987. The public prosecutor for Hofmeyr was also at times the station commander of the South African Police, and thus would not take action against members of the security forces accused of being ‘above the law’. Residents felt that it was useless to lay complaints against the *kitskonstabels* at the charge office, but approached lawyers to apply for an interdict against them.
- 216 On 30 October 1987, *kitskonstabels* shot seven people leaving a concert in Eluxolweni. Five of them were hospitalised. One was taken to the *kitskonstabels*’

²⁷ CIIR, *Now everyone is afraid: The changing face of policing in South Africa*, CIIR, August 1988.

quarters, kicked and threatened with a shotgun and an axe. Despite a temporary interdict granted against the kitskonstabels, in February 1988 a *kitskonstabel* shot one of the applicants outside a memorial service.

- 217 During 1985 there were a number of incidents of shootings and torture by police in Jansenville, south-east of Graaff-Reinet. On 1 January 1986, Mr Pieter Rapudi [EC1399/96KAR] was shot dead while part of a group of youths celebrating the new year by singing freedom songs. Four months later, Mr Vuyani Douze [EC1397/96KAR] was shot dead by the same municipal police officer. Rapudi's brother, Mr David Velele Mgone, asked the Commission to ensure that the police officer concerned was not employed by any government structure.

Resistance groupings and counter-mobilisation

UDF-AZAPO clashes: Port Elizabeth, 1985-86

- 218 1985 and 1986 saw the evolution of inter-organisational conflict in the Port Elizabeth-Uitenhage area, with manipulation by the security forces (see Volume Two). The conflict started between AZAPO and the UDF in Port Elizabeth; later it developed into a violent conflict between the UDF and an organisation called *AmaAfrika* in KwaNobuhle. This conflict emerged at a time of education boycotts and developed into increasingly violent clashes between UDF-aligned youths and security forces and those regarded as their allies, such as community councillors. A prominent feature of these conflicts was the use of fire in attacking opponents – arson attacks on houses and burning of people. By 1985, the 'necklace' method of killing was being used, which involved placing a tyre around the victim and setting him or her alight.
- 219 Up until late 1984, there had been no political violence to speak of in Port Elizabeth. By September 1984, the UDF was becoming increasingly antagonistic towards the BLA and Mr Thamsanqa Linda, who later became the mayor of Port Elizabeth's BLA. Schools boycotts also began, leading to clashes between scholars and riot police. Clashes between youths and police and between youths and BLAs continued.
- 220 During 1985 and 1986, the battle between the UDF and AZAPO tore the Port Elizabeth townships apart. Although the UDF-AZAPO conflict had national parallels, in this region much of the conflict appears to have centred around relations between the UDF and Reverend Mzwandile Ebenezer Maqina, who was aligned to AZAPO. Maqina had a background in the BCM and was banned until 1983.

Tension between Reverend Maqina and the UDF started in 1984 over responses to the education crisis. Maqina opposed the school boycotts, which made him unpopular with COSAS.

- 221 The conflict in Port Elizabeth became violent in April 1985. On 6 April, at the funeral of AZAPO member Patata Kani, Reverend Maqina claimed that he had been threatened by members of COSAS, marking the beginning of the 'feud'. The end of that month saw the first of several attacks on UDF leadership by AZAPO members; there were allegations that Maqina himself was involved in at least one attack. Counter-attacks followed, with leaders on both sides being targeted.
- 222 The feud led to a large number of attacks, rendering many families homeless. One clash in June 1985 involved 600 to 1 000 UDF and AZAPO supporters, killing two. Most attacks involved petrol bombs, knives, axes and similar weaponry; some guns were also used, and one MK attack on Maqina involved hand grenades. There were also allegations by both sides of 'third force' involvement in the conflict.
- 223 The Commission received several submissions in connection with this lengthy feud. Reported incidents included the abduction and assault of Mr Mono Badela [EC0217/96KWT] by AZAPO members. Badela's home was also petrol-bombed. Mr Edgar Ngoyi [EC1602/97SBR] was assaulted and his home was petrol-bombed. Mr Ernest Malgas's [EC0001/96PLZ] home was petrol-bombed on three occasions and Mr Sicelo Apleni [EC0304/96PLZ] was shot and injured.
- 224 By May 1985, the conflict had spread to Uitenhage where it emerged as a conflict between the rival metalworker unions in the auto industry, namely the National Automobile and Allied Workers' Union, whose members supported AZAPO, and the UDF-supporting Motor and Component Workers' Union [MACWUSA] and its ally the Uitenhage Youth Congress [UYCO]. Also in May, the conflict spread to Grahamstown AZAPO and UDF affiliates.
- 225 The two weeks from 30 April to 11 May saw a number of violent attacks. On the 8 May, the 'PEBCO Three' (Mr Siphon Hashe [EC0003/96PLZ], Mr Champion Galela [EC0005/96PLZ] and Mr Qaqawuli Godolozzi [EC0004/96PLZ]) were abducted and killed by the security forces. This further increased tensions in the area. On 10 May, Mr Mkhuseleli Jack went to Reverend Maqina's home with a large crowd, demanding the release of four youths who were being held by him. One reporter noted that: "The crowd made it clear that there was no fight between the UDF and AZAPO, but that it was between Maqina and the community". Maqina claimed that the

youths had been 'apprehended' on their way to attack a home in New Brighton, tied up and beaten. The police and SADF intervened, secured the release of the four and took three of them into custody, while one was hospitalised. Maqina denied the allegation that AZAPO held informal courts and commented at the time:

The only thing we usually do when we apprehend some youngsters attacking homes of our members, in particular mine, is to keep them at my place and send for their parents who talk to them. Then we release them. I know of two youngsters from Dora Street who were given some form of deterrent punishment after they admitted being members of a UDF action committee. They were also involved in certain acts of violence against our members.

- 226 On 16 June, an MK member attacked Reverend Maqina's house and car with hand grenades. Two days later, the home of UDF leader Mr Ernest Malgas was petrol-bombed; it was the third such attack and ten youths were burnt. Before the end of that month, Maqina's home had again been attacked with hand grenades and firearms and at least one person was injured.
- 227 By early July, eighty to ninety UDF families and fifty-five AZAPO families were estimated to be homeless as a result of the feud.
- 228 In June, the 'Cradock Four' were abducted and killed in a clandestine operation by the security forces. The security forces tried to make it look as though the four UDF activists had been killed by AZAPO members (see below).
- 229 On 22 July, at the funeral of the 'Cradock Four', the first partial state of emergency was declared in the Eastern Cape. Most of the local UDF leadership was detained under emergency regulations; many were tortured in detention. On 13 September, thirty-nine AZAPO leaders and supporters were arrested at a commemoration meeting for Steve Biko in Uitenhage. They were later charged with holding an illegal gathering and some were severely assaulted in custody.
- 230 On 24 December, UDF leader Mr Edgar Ngoyi was released on bail. He met with Reverend Maqina and they made an agreement in terms of which the hundred AZAPO members under Maqina's protection would not be attacked. Just a few weeks later, in early 1986, AZAPO distanced itself from Maqina, claiming that he had been expelled from the organisation. AZAPO members returned home and, to a certain extent, the truce held. However, on 15 July 1986, the AZAPO regional chairperson, Mr Sonwabo Ngxale, was killed. By the end of that month, a national state of emergency had been declared and thousands of activists were detained.

- 231 Street and area committees set up by UDF activists in early 1986 involved 'people's courts' to deal with local problems and avoid having to deal with police. Following the mass detentions of the state of emergency, however, the *amabutho* (UDF-aligned vigilantes) sometimes took over these structures and committed violent actions such as 'necklacings'.
- 232 During 1987, the violence between AZAPO and UDF died down to some extent. At the beginning of 1988, the situation was 'normalised' to the extent that services such as post offices were reopened in the townships and work began on the electrification of Kwazakele. However, the violent conflict between AZAPO and UDF flared up again, this time in Walmer township. Three people died in a week of fighting, including former Azanian Students' Movement (AZASM) chairperson, Mr Xolisile Mnyaka.

UDF-Peacemaker clashes: Uitenhage, 1985-86

- 233 Uitenhage and its townships, KwaNobuhle and Langa, are a short distance from Port Elizabeth. Uitenhage is an important centre for the motor industry in South Africa, and the unions that organised in this sector had a strong influence on the development of civics in that region during the 1980s.
- 234 The enactment of BLA legislation in 1983 and the subsequent establishment of the KwaNobuhle Town Council in Uitenhage heightened political tensions. The sixteen councillors were elected unopposed in October 1983. Seventy-five per cent of them had been members of the previous community council which had also been elected unopposed in 1978.
- 235 In September 1984, the KwaNobuhle Town Council, faced with a fiscal crisis, decided to raise rents and service charges. Popular opposition to this decision (which was not implemented) combined with national opposition to the BLA system under the banner of the United Democratic Front. Uitenhage Youth Congress called for the resignation of the councillors and a boycott of their businesses. Councillors responded by installing police guards and getting personal firearms for their protection. In addition, a group of young men formed a vigilante group called the 'Peacemakers' in support of the councillors.
- 236 Violence escalated between September 1984 and March 1985, with violent attacks on councillors and police by *amabutho* being met by increasingly harsh responses from police and vigilantes, including indiscriminate shooting at individuals and groups, assaults on innocent people and prolonged torture in police cells. This

violence also affected the township of Despatch, where the political funeral of Mr Lungile Nqgikashe on 15 September 1985 was followed by the arrest and torture of youth by police. When conflict developed over the use of the KwaNobuhle community hall in November 1984, the police openly backed the Peacemakers in their violent clashes with the *amabutho*. One Uitenhage police officer said:

The police regarded the Peacemakers as helpful in maintaining law and order and admitted that members of the Peacemakers were acting as informers for the security police.

- 237 Several violent incidents were reported. On 3 December, the home of metal-workers' union official Mr Fikile Kobese was firebombed, killing his brother, Mr Leslie Kobese [EC0302/96UIT], for which the Peacemakers were blamed. Police broke up the vigil for Kobese on 17 December, detaining some of the mourners. The same day, Mr Zamuxolo Louis Mondile [EC2821/97UIT], a nephew of Councillor Benjamin Kinikini, was beaten to death by *amabutho*. On 16 January 1986, police opened fire on a crowd in KwaNobuhle; the next day three police officers' homes were burnt down by *amabutho*.
- 238 In February, three KwaNobuhle councillors resigned. Another resigned early in March. On 12 March, almost all the remaining councillors resigned *en masse*, led by the Mayor, Mr Tini. Mr Benjamin Kinikini was not at the meeting where the resignations took place and was the only councillor who did not resign.
- 239 Violence escalated further after the Langa massacre of 21 March 1986 (see above). The houses of thirteen police officers were petrol-bombed, and all black police officers living in Uitenhage's two African townships had to be moved to temporary accommodation. Revenge attacks against those suspected of collaboration became rife. This led to the burning down of the houses of eighteen suspected 'collaborators' at Tinis, another township near KwaNobuhle, and the killing and burning of at least seven suspected informers or 'sell-outs', including Councillor Benjamin Kinikini.

UDF–AmaAfrika clashes: Uitenhage 1985–86

- 240 The beginning of 1986 saw the beginning of a violent conflict between the UDF and *AmaAfrika* in KwaNobuhle. *AmaAfrika* was led by the Reverend Ebenezer Maqina, who had been expelled from AZAPO in Port Elizabeth in January 1986. It was formally established in Port Elizabeth in December 1987, although it had been in existence for some time before this. Its forerunner was the African Persons Concerned Committee (APCC). *AmaAfrika* soon came into conflict with

the UDF when it objected to the consumer boycotts and to the undisciplined actions of township youth aligned to the UDF following the detention of UDF leaders in June 1986.

- 241 Violence erupted in January 1987 when a march through KwaNobuhle, organised by the APCC and protected by SAP vehicles, led to the death of up to four people, the assault of many others, and the burning down of at least ten houses belonging to leading UDF activists. The intention was to purge the township of political organisations and activities which were “holding the township to ransom”, to create space for government reforms and negotiations, and to prepare for councillors to return to the township as Regional Services Councillors.
- 242 The violence, which continued after January 1987, resulted in the deaths of many people from both the UDF and the *AmaAfrika*. Municipal police were deployed to establish control in the township. By 1988, nine separate court cases had been brought against the municipal police for assault and other charges including rape and theft. By September, more than 300 families had fled from their Uitenhage homes. By this time, *AmaAfrika* was suffering from internal divisions and there was less open collusion with the police. Many people detained under emergency regulations were released, and the situation in KwaNobuhle was brought to the attention of international and national bodies.
- 243 The following cases brought to the Commission occurred in one incident on 28 December 1989, when thirteen youth who were *abakhwetha* (initiates at circumcision school) were attacked by *AmaAfrika* vigilantes in KwaNobuhle, Uitenhage.
- 244 Ms Miriam Nombulelo Manziya testified about the death of her son, Mr Mthuzimele Philip Manziya [EC0636/96UIT] in Khayelitsha, Uitenhage, on 28 December 1989. He was aligned to the UDF and was ‘guarding’ the *abakhwetha* from the *AmaAfrika* group. His mother later heard that police had teargassed the group guarding the *abakhwetha*, chasing them into the hands of the *AmaAfrika* members. Manziya was hacked with axes and knives and died of his wounds three days later. Thirteen people were allegedly killed by *AmaAfrika* in this incident; three bodies were hidden and found later. Manziya was buried with nine others on 13 January 1990.
- 245 Ms Nodoli Lillian Solani testified about the death of her son, Mr Vusumzi Solani [EC0635/96UIT], who was also killed in this incident. His decomposed body was found by police two weeks later, on the path to Despatch.

- 246 The case of the *AmaAfrika* vigilantes is significant as it represents an overlap between two categories of violent conflict with African communities — inter-organisational political conflict, and vigilante conflict. While sharing many of the characteristics of vigilante groups elsewhere, the *AmaAfrika* were perceived to have an ideological basis in Africanism as well as an organisational basis in either the PAC (through individuals such as Mr Timothy Djangjies who had been PAC members in the days before its banning) or AZAPO (through the connection with Reverend Maqina). Members of the community did not understand the ideological differences and sometimes referred to the vigilantes as ‘*AmaAfrikas* or AZAPOs’. Reverend Maqina’s involvement in the Uitenhage conflict is confusing; also from Africanist roots, he established an organisation called *AmaAfrika* in December 1987, and denied it was the same organisation as that which had operated in Uitenhage earlier in that year²⁸.
- 247 Mr Mncedisi Sithotho testified at the Commission’s Uitenhage hearings in his capacity as a former UDF leader from Uitenhage, giving the Commission a background on the conflicts. He explained how, after the consumer boycotts of 1986, people had to move from the old part of KwaNobuhle to Khayelitsha, where rents were higher. On 28 December 1986, a decision was taken to lift the consumer and schools boycotts in the new year. The community was to be informed by pamphlets of this decision, which would be implemented on 5 January 1987. However, on the morning of 4 January, KwaNobuhle was surrounded by police Casspirs. Escorted by the police, vigilantes marched through the township, attacking the houses of UDF activists. Homes of UDF leaders were destroyed and their relatives attacked. Mr Sithotho explained that some of those in the vigilantes’ march were not politically active, but were compelled to join; others were glad of police support as they wanted to crush the youth. The conflict continued until 1989, when a peace agreement was reached. He was of the opinion that the conflict was designed to crush the emerging democratic forces. It was not, in his view, a manifestation of ‘black on black’ violence but rather a manipulation of the situation by Military Intelligence. There is, indeed, evidence that Military Intelligence was involved in financing the Uitenhage Concerned Group, which later became known as *AmaAfrika*. Some UDF members joined the *AmaAfrika*. Hundreds of people fled from their homes and went into hiding or took refuge elsewhere as a result of this violence. UDF leaders were detained, whereas *AmaAfrika* leaders were not. Many of the participants in *AmaAfrika* are now members of the PAC.
- 248 Mr Mandla Konci testified to the same hearings as a former member of *AmaAfrika*, now chair of the PAC Uitenhage branch. He explained how an organisation called

²⁸ See Rory Riordan, *Evidence in mitigation of sentence*, in which he interviews Maqina.

'Save the Starving Community' was established in Uitenhage around 1982, including both Africanists and 'Congress' supporters. Some, like Djanties, were involved in this group but did not want to affiliate to the UDF when the latter was formed. There were thus ideological divisions within the African community of Uitenhage. In March 1986, the conflict began to deepen. Members of the organisation wanted to establish a branch of AZANYU, the youth wing of the Africanist movement. They were then forced to go and live in Khayelitsha. In May 1986, one of the members was killed, and the feud started in earnest. Konci admitted that "the Boers tried to use us, to fan the conflict in Uitenhage", but denied that they were given protection by the police, and claimed that they were also arrested and assaulted: "Rumours that we worked with the police are surprising". He said there was continuity between the *AmaAfrika* and the PAC branch today.

Covert Military Intelligence operations: Somerset East and Cookhouse

- 249 Conflict in Somerset East began in late 1984. Residents held meetings to discuss problems with rents and with the beer hall. The focus of their grievances was Mr Joel Memese, Chairman of the KwaNojoli Community Council. On 11 February 1985, Memese fired a shotgun at a crowd stoning his house, wounding three youths. Somerset East schools came out on boycott after this incident. As in other small towns, violence escalated, with attacks on police officers and councillors, acts of arson, and police shooting and killing a number of youths. The schools in Cookhouse, Pearston, Jansenville and Fort Beaufort joined the boycott on 10 April. Two days later, meetings of twenty-nine organisations, including COSAS, were banned.
- 250 The councillors together with municipal police officers began to adopt increasingly 'hard-line' actions against residents. The vigilante movements in Somerset East and Cookhouse, linked in the case of Somerset East to Councillor Memese, are mentioned in the documentation on Project Vallex and Operation Katzen as being covert projects of Military Intelligence aimed at creating conflict in black communities. One of the aims of such operations was "to remove the UDF, through the use of force, from the communities on the principles of colour against colour".
- 251 Mr Bantu Holomisa's May 1996 submission to the Commission in Port Elizabeth gave details of some of these strategies. Project Vallex was intended to create a counter-revolutionary force in the Eastern Cape, specifically in the towns around Cradock. Cradock was perceived to be the "epicentre" of the "revolutionary onslaught". The organisational efforts of Mr Matthew Goniwe and the UDF were described as follows:

It is well known that the enemy started its activities during 1983 in Cradock mainly through organisations like the residents associations, youth organisations and women's organisations. It expanded its control more or less as follows: Somerset East, Cookhouse, Bedford, Adelaide, Hofmeyr, Middelburg, Graaff-Reinet and Pearston. On a map it represents a circle around Cradock. It would therefore be wise not to tackle Cradock directly but rather to concentrate on the surrounding towns, thereby isolating Cradock. This will only be possible in co-operation with the right black leaders.

On a trial basis, activities were introduced in Somerset East with a strong conservative element and positive results have been achieved ... Elections have been held and a black council is now functioning in Somerset East. The main figure in this effort is Joel Memese. Two members of the council, previously regarded as radical, have attended a course and are now openly supporting Memese. In our efforts to find suitable black leaders, Joel Memese should receive our full support. He is totally opposed to the UDF, ANC and Communists. He openly supports the RSA government and commands wide influence. The municipal police also support him fully.

- 252 A local medical doctor in Somerset East was appointed as co-ordinator of this programme. Three courses were conducted for groups between twenty-four and forty-five in Somerset East, and one for the Kakana family in Cookhouse. The success of this programme in security forces' eyes was described as follows:

Restricted, isolated hard actions have been launched by Memese and his followers on comrades resulting in no actions from Cradock [and] Somerset East over the past month. Memese is outspoken against the ANC and UDF and is responsible for evictions of those who do not pay rent. Intimidation by the UDF is now less effective in Somerset East.

- 253 It seems that these reports were dated around the middle of 1986, by which time the projects were already in operation; it is not clear exactly when they started.
- 254 The small township of Bongweni, outside Cookhouse and some eighty kilometres south of Cradock, was torn apart by violence in 1986, when fighting broke out between UDF supporters and those aligned to the Kakana family. It was alleged that the Kakana family refused to join the UDF-affiliated Cookhouse Youth Organisation unless there was proof that the UDF's activities were legal; they were accused of being 'Le Grange dogs'. UDF Eastern Cape president Edgar Ngoyi claimed that the violence began when residents boycotted a shop belonging to

a member of the Kakana family. Submissions to the Commission indicated that, whether or not there was a link between the Kakana family and the security forces, there was certainly a belief among UDF supporters that the Kakanas were linked to the police, which probably contributed to the conflict. At least one of the Kakanas was either a police officer at the time of the conflict or joined the police soon afterwards. In some submissions to the Commission, former UDF supporters indicated they believed the Kakanas to be AZAPO supporters.

- 255 On 26 February 1986, UDF activist Gugwana Menzi was injured and his wife, Ms Nokhaya Mina Menzi, was killed in an attack on their shop in Bongweni [EC0468/96NWC]. An inquest implicated members of the Kakana family in the killing. In the following days, violent conflict between the Kakana family and UDF supporters ensued. Nine houses were gutted and there were running battles in the streets of Bongweni.
- 256 Ms Nosence Engelina Zanyiwe Kakana [EC1289/96KAR] and Ms Nokuzola Lena Nonhi [EC1290/96KAR] gave testimony on the deaths of four Kakana family members. Mr Mabhuti Kakana (17) was stabbed to death in Ekuphumleni location, Cookhouse, during 1985. Noticeboards were posted in the community saying, "Do not attend the Kakana funeral; they are sell-outs." Subsequent attacks resulted in the deaths of Mr Mpendulo Kakana, Mr Zolani Meko, Mr Batayi Kakana and Mr Wheyiwheyi Kakana, a *kitskonstabel*. Nosence Kakana questioned allegations of security force support to the Kakanas and said she was not aware of any payments made by the state to her family to oppose the UDF.
- 257 Mr Wele Samuel Kakana [EC1401/96ALB] testified that his house in Bedford was burnt down and his livestock destroyed because he was accused of being a police informer. Mr Buti John Kakana [EC1753/97ALB] and his family fled to Pretoria after their home and shop were burnt down; he later moved to Adelaide and joined the police. The Kakanas were eventually able to return to Cookhouse.
- 258 The home of Ms Angelina Zanyiwe Feni [EC0465/96NWC] was attacked and set alight because her sons were UDF activists; she was badly burnt. UDF member Mzukisi Johannes Fesi [EC2319/97KAR] was injured when he was attacked on two occasions and stabbed.
- 259 Many other people were injured and homes were torched. Two hundred members and supporters of the Kakana family fled and took shelter at the Cookhouse police station.

IN REVIEWING THE EVIDENCE EMANATING FROM THE AZAPO–UDF CONFLICT IN PORT ELIZABETH AND THE AMAAFRIKA–UDF CONFLICT IN UITENHAGE AND OTHER AREAS OF THE EASTERN CAPE, THE COMMISSION FINDS THAT THE STATE EMPLOYED A POLICY OF CONTRA-MOBILISATION TO MANIPULATE LEGITIMATE POLITICAL DIFFERENCES BETWEEN POLITICAL ORGANISATIONS WITH THE INTENTION OF MOBILISING ONE GROUP AGAINST ANOTHER AND FOMENTING VIOLENCE, STRIFE AND DIVISION.

THE COMMISSION FINDS THAT THE REVEREND MZWANDILE EBENEZER MAQINA WAS A LEADER OF SUCH A GROUP IN PORT ELIZABETH. DURING THE PERIOD 1985–90, AND IN AND AROUND PORT ELIZABETH, MAQINA WAS INVOLVED IN THE FORMATION AND SUPPORT OF POLITICAL AND SOCIAL ORGANISATIONS AND VIGILANTE GROUPS WHICH HAD AS THEIR AIM, INTER ALIA, THE PERPETRATION OF VIOLENCE AGAINST MEMBERS AND SUPPORTERS OF THE UDF.

IT FINDS THAT HE INCITED MEMBERS OF THE AFORESAID ORGANISATIONS AND GROUPS TO ACT VIOLENTLY AGAINST MEMBERS AND SUPPORTERS OF THE UDF AND COLLUDED WITH MEMBERS OF THE SAP AND SADF IN ORDER TO FURTHER THE AIMS REFERRED TO ABOVE. BECAUSE OF MAQINA'S ACTIONS, SUBSTANTIAL VIOLENT POLITICAL CONFLICT OCCURRED IN THE PORT ELIZABETH REGION BETWEEN 1985 AND 1990, AS A RESULT OF WHICH AN UNKNOWN NUMBER OF PEOPLE WERE INJURED AND DIED.

THE COMMISSION FINDS THAT MAQINA IS ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS WHICH RESULTED FROM HIS ACTIVITIES (KILLING, ATTEMPTED KILLING, TORTURE, ARSON AND SEVERE ILL TREATMENT).

ON THE EVIDENCE BEFORE THE COMMISSION, VARIOUS ACTS OF KILLING, ABDUCTION AND DESTRUCTION OF PROPERTY TOOK PLACE ON BOTH SIDES OF THE CONFLICT AS A RESULT OF THE ACTIVITIES OF THESE GROUPS. THE COMMISSION FINDS THAT THE POLICY OF CONTRA-MOBILISATION CAUSED VARIOUS VIOLATIONS OF HUMAN RIGHTS TO BE COMMITTED FOR WHICH THE STATE IS HELD ACCOUNTABLE.

Vigilantes in Ciskei

260 Over the years, the Ciskei authorities used vigilantes on several occasions. Haysom records the first use of vigilantes in Ciskei as being during 1974, when the vigilantes known as the 'Green Berets', who were members of the ruling Ciskei National Independence Party (CNIP), assaulted Mdantsane commuters during a boycott of the local bus company. Vigilantes re-emerged in 1977, this time to target Mdantsane schoolchildren who were boycotting classes in protest over Steve Biko's death in detention.²⁹ While there was suspicion that these vigilantes were linked to the homeland authorities, and they appeared to act in support of the homeland government, there was no clear evidence of state support for them.

261 However, there was clear Ciskei government support for the vigilantes who operated during the July 1983 boycott of the homeland-owned bus company. Police, army and vigilantes were used to break the boycott by assaulting commuters who used

²⁹ Haysom, 1983, pp 10, 24 & 45.

taxis, private cars and trains and taxi drivers seen as being in opposition to the bus company. The vigilantes were given free rein during the bus boycotts and that were able to use the central Sisa Dukashe stadium in Mdantsane as a venue for holding detainees. Haysom reports that there was “overwhelming evidence” that the vigilantes were involved in the assault and torture of detainees here. Any knowledge of this was denied by the then Ciskei Minister of Justice, Mr David Takane, although he did admit that the vigilantes were operating with official endorsement. The *Daily Dispatch* reported on 4 August:

People assisting in checking intimidators in Mdantsane during the bus boycott were vigilantes working under the direction of the police, the Ciskei Minister of Justice, Mr DM Takane, said yesterday. Mr Takane added that reports of assaults on Mdantsane residents by such people had not been received by his office.

- 262 The Commission received several statements implicating vigilantes in assaults on commuters during that period.
- 263 In 1987, Potsdam community leader Mr Zola Nozewu [EC0359/96ELN] fell foul of vigilantes. Potsdam village, near Mdantsane, had been opposing homeland rule for some time. In an extraordinary move, a substantial group of Potsdam residents dismantled their homes and fled across the border to South Africa where they begged for a home. South Africa trucked them back again. Nozewu became a leader in his community. His mother, Ms Noti Lena Kroti, told the Commission that Ciskei police had warned her that Nozewu should stay out of politics or he would die. He was stabbed to death by vigilantes near his home on 24 July 1987, three weeks later. Other community members were injured when the vigilantes, known locally as ‘Inkatha’, went on the rampage. The Potsdam community eventually found a permanent home at Eluxolweni on the South African side of the border.
- 264 In September 1985, Ciskei police raided the Zwelitsha home of UDF activist Zalisile Matyholo [EC0105/96ELN] and told his mother, Ms Evelyn Matyolo, that they would kill him because he was the cause of unrest in Ciskei: “They had a list which they said was for UDF activists that must be killed”. Mr Matyolo was also accused of helping people to flee the country to join the ANC. Within days he had been killed by a group of vigilantes travelling in vehicles with Ciskei government registration numbers. They searched the area for him with security force assistance and beat and stabbed him to death in front of witnesses.

Necklacings and burnings

- 265 The use of the 'necklace' method and the burning of opponents began in the Port Elizabeth and Uitenhage townships during the mid-1980s, both as part of the UDF conflicts with AZAPO and *AmaAfrika* and as a method used by UDF supporters to attack police, councillors and those seen as collaborating with the state. The Commission received statements of both 'necklacings' and burnings. Due to the lack of information available, it was often difficult to distinguish between the two types of violations in a particular incident.
- 266 For the period September 1984 to December 1989, SAP national statistics recorded 406 deaths by 'necklacing', 28 injuries by 'necklacing', 395 deaths by burning and 150 injuries as a result of burning³⁰. The former Border and Eastern Cape regions (which together with the Transkei and Ciskei form the current Eastern Cape Province) accounted for 144 necklacing deaths (35 per cent of the national total), 131 burning deaths (33 per cent of the national total), 42 per cent of the burning injuries and 14 per cent of the necklacing injuries during that period.
- 267 The Commission received statements listing a large number of violations in connection with killings, attempted killings and severe ill treatment resulting from necklacing and burning – primarily related to incidents during 1985–87. In the first two of the review periods (1960–82 and 1990–94), the majority of reported fire-related attacks were arson attacks on buildings. In the current review period (1983–89), the majority of such violations related to attacks on people. Many of these attacks during the 1983–89 period occurred in the areas around Port Elizabeth, Uitenhage, Grahamstown, Port Alfred and East London. The 1983–89 period also saw an increase in the number of burnings during torture violations (that is, while in custody), but only a very small number of such cases was reported.
- 268 When houses were petrol-bombed, children who could not escape the flames sometimes became victims. Press reports indicated that, between March and May 1985, at least seven children under the age of ten (from families linked to councillors, AZAPO supporters and UDF supporters) died in such attacks in Port Elizabeth. Likewise, during the August 1983 Ciskei bus boycott, three children died in Mdantsane when their home was petrol-bombed because their father was seen as being against the boycott.
- 269 KwaNobuhle town councillor Mr Benjamin Kinikini [EC0289/96PLZ] was stoned, stabbed and 'necklaced' on 23 March 1985. Four of his sons and nephews

³⁰ 'Submission to the Truth and Reconciliation Commission by the Foundation for Equality Before the Law', compiled by Major-General HD Stadler and other retired officers of the SAP, June 1996.

were killed with him, either burnt or hacked to death: Luvuyo Stanley Kinikini (12), Mr Qondile Kinikini (18), Mr Silumko Welcome Kinikini (20), and Mr Zamuxolo Eric Kinikini (22) [EC0289/96PLZ]. At the time of the attack, Kinikini was accused of involvement in the abduction of some UDF youths. Kinikini's widow, Ms Nombuzo Kinikini, told the Commission she had not been present on the Saturday when her husband was killed, but heard about it from others:

I was told that he was stabbed by a spade on his head, then they stabbed him several times. He was made to drink petrol, they put a tyre over him and then they ignited him. During this time my younger son was hiding under the car, some of the petrol got to him and when he was trying to escape somebody saw him.

Silumko was hiding in one of the shops at Mboya. He asked one of the businessmen to hide him under the counter. They took him and they ignited him alive in front on the shop. I am telling you as it is. They cut his testicles while he was still alive.

Then on Monday at the police station, the doctor told me that he was going to inject me, at that time I had not seen them yet ... I will not be able to tell you about the head of my husband.

270 Many youths from Uitenhage were tried and some were sentenced to death for these killings based on the doctrine of 'common purpose'. Mr Moses Jantjies and Mr Wellington Mielies were convicted of murder and hanged on 1 September 1987 for their part in this.

The case of Phinda Baartman

On 13 April 1985, UDF supporter Mr Phinda Gladstone Baartman [EC2026/97ALB] was attacked in Fort Beaufort and survived an attempt to 'necklace' him. Baartman was accused of being a police informer. His attackers were allegedly UDF supporters. Baartman told the Commission two men collected him from his home, telling him he was wanted at a neighbour's house. On the way, he was ambushed by a larger group.

"They immediately attacked me with knives and screwdrivers. I was stripped of all my clothing except my underpants. I was stoned and severely beaten up. A car tyre was brought in and used to burn me up ('necklace' method). I was saved from death by a group of SADF soldiers who were passing by and saw the fire ... My entire left ear was burnt out as well as my left hand small finger. The left-hand side of my head was badly burnt as well as my left arm

which had to have a skin graft ... Six of my teeth were broken off. My skull was broken."

He was hospitalised for months and eventually boarded from work. Four men were charged and acquitted in connection with the attack.

The case of the Aubrey and Nokuzola Fulani

On the night of 28 April 1985, police officer Aubrey Jacob Fulani and his wife, Ms Nokuzola Carol-Anne Fulani [EC0291/96UIT] were abducted from their home at Uitenhage by UDF-aligned 'comrades' because Fulani was a police officer. The Fulanis had been at home on a Sunday evening when a group of attackers broke into their home, shot and wounded Mr Fulani, forced the two of them outside into waiting cars and drove them to a house in Soweto, Port Elizabeth. Ms Fulani told the Commission:

"They took him out of the house. They had black plastics and five litres of petrol and some tyres ... Then I was made to watch him. I was made to look at him for the last time. During all this time I had only a night-dress on. I was told to stand outside and look as this dog was dying. Then I asked them to burn him with me because I could not endure to listen to his cries. They said the petrol that they had was only for him. They were going to burn me up tomorrow. They made him drink petrol and he was also crying that he must be burnt with me ... They burnt him right in front of me until he died."

Ms Fulani escaped being killed with her husband, apparently because the attackers could not obtain additional petrol and because she was pregnant at the time. Six people were later convicted for this killing.

The case of Nofikile and Zameka Dikana

In January 1986, three women were tortured and then 'necklaced' by UDF supporters in the Duncan Village township outside East London. These killings came after several months of violent unrest in the township, involving mainly clashes between UDF-supporting youths and security forces. Ms Nofikile Dikana (50) and her daughter Ms Zameka Dikana (29) [EC1967/97ELN] were accused of having bewitched their son and brother, UDF activist Fudwana 'Giza' Dikana [EC0943/96ELN]. Fudwana Dikana had died a few months earlier when an SADF armoured vehicle drove into his car, an incident which was regarded in the community as a deliberate killing, since he had often helped wounded activists by driving them to hospital. The two Dikana women and a third woman were abducted by a crowd and

taken into a house while a fire was built in the road nearby. A witness, Mr Skonwana Mntuyedua, stated in an affidavit to police at the time:

"[A man] was placing iron rods approximately one metre long into the fire. He seemed to be handling two or three of these rods. When these rods were red hot they were taken and handed over to [another man]. All the time I could hear screaming and pleading for help coming from inside the house. These rods were passed in and out for a period of about one hour. Throughout this hour the screaming and shouting for forgiveness never stopped ... The following morning when I arrived there I saw a large crowd of people gathered there. In the road I saw the same three females I had seen the previous evening lying in the roadway. [Three men] were standing next to the bodies and were placing tyres on top of the bodies. [A]ll three of the people were dead."

Two men were subsequently charged with the killings. Mntuyedua was stabbed to death a week before the trial was due to start and the case collapsed. The police reports on the matter indicated that UDF-aligned 'comrades' were responsible for the killings.

- 271 UDF supporter, Mr Norman Gilindoda Gxekwa [AM0148/96] was granted amnesty in connection with the 'necklace' killings in Uitenhage of Mr Thando Dladla in September 1987, Mr Monwabisi Reginald Fanayo in February 1988 and Mr Thozamile Michael Dondashe in March 1988. Gxekwa was convicted of murder in these three cases and was serving a lengthy prison sentence.

THE COMMISSION FINDS THAT A NUMBER OF POLITICAL DISSIDENTS WERE KILLED THROUGH THE 'NECKLACE' METHOD THROUGHOUT THE EASTERN CAPE REGION. THE MOST GRUESOME OF THESE INCIDENTS IS THAT WHICH WAS REPORTED TO THE COMMISSION BY THE KINKINI FAMILY, WHERE FIVE MEMBERS OF ONE FAMILY WERE KILLED ON 23 MARCH 1985 IN KWANOBUHLE, UITENHAGE, BY A GROUP OF YOUTH WHO CLAIMED ALLEGIANCE TO THE UDF, INCLUDING MR MOSES JANTJIES AND MR WELLINGTON MIELIES. THE COMMISSION FINDS THAT THESE KILLINGS AMOUNTED TO GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE UDF AND THE PERSONS NAMED IN THIS FINDING ARE HELD RESPONSIBLE.

- 272 In May 1985, the Grahamstown home of two UDF activists, Mr Mxoliswa Christian Mbekela and Ms Miseka Tonyela [EC0031/96ALB], was firebombed and Tonyela was killed. Mbekela was the chair of the UDF-aligned Grahamstown Youth Congress. Mbekela said the device used was not a petrol bomb but a firebomb. He believed the security forces to be responsible for the attack.
- 274 In March 1986, a family in Duncan Village, East London, was attacked as part of the UDF–AZAPO feud. Ms Nomasonto Kumalo and her two-year-old daughter Ayabulela Kumalo were badly burnt; her mother, sixty-five-year-old Ms Vuyelwa

Edith Kumalo, and sister, thirty-two-year-old Ms Nomakhosazana Kumalo, were both killed in the attack [EC0211/96CCK]. Nomasonto Kumalo told the Commission the family had been accused of being AZAPO members and her mother of being a witch. There had been several threats to the family. On the night of the attack, they were woken by stones being thrown at the house and the smell of petrol:

We tried to look through the windows to see what was happening. We noticed that the doors could not open as they were tied with wire ... My sister came out with her hair burning. I found my mother sleeping on the doorway of her room and I dragged her out.

- 274 On 2 April 1986, Mr Michael Mteto Ntozakhe [EC0567/96UIT] and his colleagues were stopped by a group of youths while on their way home to the SAP camp in Motherwell. The youths covered them with plastic bags, paper and sticks, poured petrol over them and set them alight. Ntozakhe and one other managed to escape. A security guard assisted them and called an ambulance. Ntozakhe spent three months at Livingstone Hospital in Port Elizabeth.
- 275 In July 1986, Ms Albertina Nontsikelelo Dlanjwa and Ms Wendy Sizeka Ramathe [EC0575/96PLZ] were attacked by UDF-aligned *amabutho* at Veeplaas in Port Elizabeth. The two women worked for the municipal welfare department and ran a welfare project involving a soup kitchen, sewing classes and the distribution of food parcels. They were at Dlanjwa's home, together with two elderly women, when two petrol bombs were thrown into the house by a youth who was their neighbour. Ramathe saw the youth throw the first petrol bomb and tried to escape. Dlanjwa died and Ramathe was severely and permanently injured. The UDF denied responsibility for the attack.
- 276 In January 1987, Mr Zolile Gerald Bonisile Vumazonke [EC0673/96UIT] left home to attend a relative's funeral in New Brighton, Port Elizabeth. He did not return and his wife later heard he had been killed by a group of youths. She heard that a quarrel had developed, after which Vumazonke was forced into a car, questioned and then killed and burnt with petrol.

Cradock

- 277 Cradock is a small farming town some 300 km north of Port Elizabeth. Michausdal and Lingelihle townships at Cradock have had a long tradition of resistance to apartheid. Canon JA Calata, General Secretary of the ANC between 1936 and 1949, was from Cradock. During the 1950s, the town had a vigorous ANC branch,

which mobilised support for the Freedom Charter and other campaigns. When Canon Calata died on 16 June 1983, the opportunity was used to mobilise people once again in the spirit of the Congress movement. This was at the time of the formation of the UDF.

- 278 Mr Matthew Goniwe, the popular principal of the Lingelihle Secondary School, and his nephew Mr Mbulelo Goniwe were approached by Mr Arnold Stofile, an ANC underground activist based at Fort Hare university, and asked to build organisation in Cradock and other Karoo towns. In 1983 he was instrumental in forming the Cradock Residents Association (Cradora), set up primarily to fight rent increases, and became its first chairperson. He was assisted by Mr Fort Calata, a fellow teacher at Lingelihle, who later became chairperson of the Cradock Youth Association (Cradoya).
- 279 On 29 November 1983, Mr Matthew Goniwe was notified that he had been transferred to Graaff-Reinet. Assuming this to be a politically motivated transfer, Goniwe refused to accept the move. The Department of Education and Training (DET) then claimed that he had 'dismissed himself'. When the DET refused to revoke the transfer, a school boycott started in February 1984 in support of Goniwe. By 18 March, it was supported by around 7 000 students from all seven Lingelihle schools; it ran for over fifteen months and became the longest school boycott in the country.
- 280 On 26 March 1984 a magistrate banned all meetings of Cradora and Cradoya. A few days later, police fired teargas into a church hall packed with 2 000 pupils. Pupils responded by stoning the police. On 28 March, twenty-one-year-old Mr Fezile Donald 'Madoda' Jacobs [EC0025/96NWC], head boy of Lingelihle High School, was detained under section 28 of the Internal Security Act. A COSAS and Cradoya leader, he was detained and tortured on numerous occasions between 1980 and 1989. He was charged with public violence and acquitted; he was later also charged and acquitted in connection with the 1985 killing of a Cradock police officer.
- 281 On 30 March 1984, Mr Matthew Goniwe [EC0080/96NWC], Mr Mbulelo Goniwe and Mr Fort Calata were detained under the same Act. On 31 March, the Minister of Law and Order banned all meetings for three months, extending the ban for another three months at the end of June. Conflict in Lingelihle escalated and the houses of councillors were stoned. Boycott-related violence began on 15 April, when students marched through the township demanding the reinstatement of Matthew Goniwe. Mr Sebenzile 'Sheshi' Jacobs [EC0149/96NWC], an eighteen-year-old student activist, was one of the first victims of political violence in Cradock in the 1980s. He was stabbed by a student who opposed the schools boycott.

- 282 On 26 April, the home of Mr Gladwell Makawula, Cradora chairperson, was petrol-bombed. The 'comrades' stoned the house of Mr Nqikashe, a teacher critical of the boycott. He warded them off with a pistol, but subsequently fled the township. His house was burnt down. On 27 May, police and the SADF cordoned off Lingelihle township searching for public violence suspects. In June 1984, Mr Matthew Goniwe, Mr Fort Calata, Mr Mbulelo Goniwe and Mr Madoda Jacobs were listed in terms of the Internal Security Act.
- 283 On 16 June, Cradora called a successful one-day consumer boycott. A commemoration meeting was dispersed by the police with *sjamboks* and teargas, and schoolchildren stoned police vehicles. Over 200 people were charged with arson and unlawful gathering. On 23 July, the trial of five scholars for intimidation relating to the schools boycott began. On 9 August, eleven scholars were tried with public violence.
- 284 On 21 August, Mr Fort Calata, chairperson of Cradoya, was dismissed from his teaching post while in detention. From July to November, seventy-seven Cradock residents were tried for public violence and arson; all but nine were acquitted.
- 285 In August 1984, a successful seven-day consumer boycott of white shops in Cradock was called, protesting against the detention of Goniwe, Calata and Mbulelo Goniwe. They were released on 10 October to a hero's welcome. In December 1984, a boycott of a beer hall led to its closure after four months. Ms Sindiswa Blom [EC0517/96NWC] testified how her home was petrol-bombed by youths in December because her husband Thembekile was a police officer.
- 286 Consumer boycotts and work stay aways were other tactics used to further the community's objectives – for example, the closure of the beer hall. The claim was made that, to all intents and purposes, Cradora had "seized control of Cradock" and was governing the township of Lingelihle. It clearly enjoyed widespread support from most of the township's 20 000 residents, demonstrated by the fact that it had gained the signatures of over 80 per cent of rent-payers for its petition.
- 287 On 3 March 1985, at the UDF Eastern Cape's first annual general meeting, Mr Matthew Goniwe was elected to the UDF Eastern Cape regional executive in the newly-created position of rural organiser. He helped establish civic structures in Adelaide, Fort Beaufort, Cookhouse, Kirkwood, Hanover, Colesburg, Alexandria, Kenton-on-Sea, Steytlerville, Motherwell and Noupoort. Civic and youth organisations in many of these towns used the same methods as organisations in

Cradock: boycotts of beer halls and schools and various forms of pressure on BLA councillors and police officers.

- 288 The effectiveness of Goniwe's organisational methods did not go unnoticed by the state. The security forces perceived Cradock – and Goniwe in particular – to be the epicentre of revolutionary organisation in the sub-region; General Joffel van der Westhuizen later testified to the second inquest into Goniwe's death that Cradock was considered to be the 'flashpoint' (*brandpunt*) of the revolutionary onslaught. The security forces consequently targeted both Goniwe and his 'comrades', and established or supported conservative forces in neighbouring towns in an attempt to break the organisational influence of Cradock.
- 289 It appears that a decision of top-level security force members resulted in the harsh repressive measures adopted in Cradock to deal with the schools boycott. However, banning of meetings, detention and 'listing' of leaders, and trials for public violence and arson of many young activists during 1984 did not have the desired effect, and organising continued to spread. Moreover, acts of violence escalated in the absence of respected leadership. In January 1985, the entire Lingelihle Council resigned and were accepted back into the community. They were the first Eastern Cape black local authority to resign. Many others were to follow.
- 290 Ms Novakela Doris Hermans was a councillor in Cradock from 1978 until 1984. At the Cradock hearing in 1997, she explained the background to the problem of rents in Cradock in 1984. She said that nobody from the community came to her to say that they did not want the council any more. In April 1984, her house was petrol-bombed twice; her elderly mother subsequently died. Hermans was forced into hiding: "My children were innocent; my parents were innocent. I was the councillor. But my family had to pay." She later resigned with the other councillors. When the police asked her if Mr Matthew Goniwe had pressured her to resign, she replied that he was in prison and was not responsible for her resignation. She was later accepted back into the community, but her house was burnt down again after Goniwe's death.
- 291 Violence in Cradock escalated again in February 1985. A number of people died in the conflict. Some were police officers, stabbed or 'necklaced'; others were youth who were shot by police. In early April 1985, the schools boycott was called off, despite the refusal of the DET to reinstate Goniwe and Calata.
- 292 The 'Cradock Four' died on 27 June 1985 (see below) and were buried under the Communist Party flag in Cradock on 21 July. At midnight that night, the first

partial state of emergency was declared, covering most of the Eastern Cape. Violence escalated again, partly due to the loss of trusted leadership. Many more people were killed in Lingelihle in the following three years, either shot by police or 'necklaced' by 'comrades'.

293 The pattern of events in Cradock in the mid-1980s was replicated with variations in many other small Eastern Cape towns: the building of community organisations, actions such as schools and consumer boycotts, the resignation of the black local authorities, action by security forces (police, municipal police, and sometimes state-aided vigilantes), the escalation of violence, the imposition of the state of emergency, the removal of leadership and the crushing of organisation.

The 'Cradock Four'

294 The cases of the 'Cradock Four' and the related 'Motherwell bombing' illustrate the use of sophisticated covert operations by the security forces in the assassination of both political opponents and dissidents within their own ranks.

295 The UDF activists known as the 'Cradock Four' were Mr Matthew Goniwe [EC0080/96NWC], Mr Sparrow Mkonto [EC0029/96NWC] and Mr Fort Calata [EC0028/96NWC], and Oudtshoorn activist Mr Sicelo Mhlauli [EC0079/96NWC]. They were abducted and assassinated outside Port Elizabeth on 27 June 1985. Testimony was given to the first East London hearing of the Commission in April 1996 by their wives, Ms Nomonde Calata, Ms Nyameka Goniwe, Ms Sindiswa Mkhonto and Ms Nombuyiselo Mhlauli, and by Mhlauli's daughter, Ms Babalwa Mhlauli. Before their deaths the 'Cradock Four' had all been frequently detained, tortured, threatened and harassed by the security police.

296 On 27 June, they drove to Port Elizabeth to attend a UDF briefing. They did not return home to Cradock, and their burnt and mutilated bodies were found near Bluewater Bay outside Port Elizabeth about a week later. An inquest in 1987 found that they had been killed by unknown persons. The inquest was reopened in 1993 and, after the disclosure of the top secret military signal calling for the "permanent removal from society" of Goniwe, it was found that the security forces were responsible for their deaths, although no individual was named as responsible. The families subsequently filed a claim for damages against the SADF and the SAP and this was finally settled.

297 The families requested further investigation to ascertain who was responsible. Ms Mkhonto requested that the perpetrators be brought to court so that justice

could be done. Ms Mkhonto, Ms Mhlauli and Ms Calata also requested assistance with the education of their children. Ms Mhlauli requested the return of her husband's hand, which is believed to have been kept in a jar by the security police at Louis le Grange Square in Port Elizabeth. Mr Madoda Jacobs [EC0025/96NWC], the former head boy of Lingelihle High School, told the Commission that while he was in detention in Port Elizabeth in 1985, security police had shown him a hand in a bottle and told him it was Mlhaul's.

298 In January 1997, the Commission received amnesty applications from members of the Port Elizabeth security police for the killing of the 'Cradock Four'. Those who applied for amnesty were Mr Eric Alexander Taylor [AM3917/96], Mr Hermanus Du Plessis [AM4384/96], Mr Nicolaas Jacobus Janse van Rensburg [AM3919/96], Mr Harold Snyman [AM3918/96], Ms Gerhardus Johannes Lotz [AM3921/96] and Ms Johan Martin 'Sakkie' van Zyl [AM5637/97]. It was revealed that the car in which the four were travelling was intercepted at the Oliphantshoek pass. The four were shot or stabbed, and their bodies mutilated, before being dumped in the veld near Port Elizabeth.

The 'PEBCO Three'

299 The killing of the 'Cradock Four' followed that of the 'PEBCO Three' on 8 May 1985, a very similar killing. These two killings of prominent UDF activists, within weeks of each other, added enormously to the tension in the Eastern Cape during 1985. At the time of the second killing, the 'PEBCO Three' had disappeared and their fate was suspected but not confirmed.

300 The 'PEBCO Three', Mr Siphon Hashe [EC0003/96PLZ], Mr Oqaqawuli Godolozzi [EC0004/96PLZ] and Mr Champion Galela [EC0005/96PLZ], were all members of PEBCO. They were lured to the Port Elizabeth airport with a false telephone message, abducted by the Port Elizabeth security police and taken to the remote disused Post Chalmers police station outside Cradock where they were killed. It was only when the Commission received amnesty applications in connection with these killings that the fate of the victims was confirmed. The amnesty applicants are Mr Johannes Koole [AM3748/96], Mr Harold Snyman [AM3918/96], Mr Gideon Johannes Nieuwoudt [AM3920/96], Mr Gerhardus Johannes Lotz [AM3921/96], Mr Hermanus Barend du Plessis [AM4384/96] and Mr Johan Martin 'Sakkie' van Zyl [AM5637/96].

The Motherwell bomb

301 This case involved a bomb blast outside Port Elizabeth in 1989, in which three black security police officers including Mr Amos Themba Faku [EC2115/97ELN] and Mr Mbambalala Glen Mgoduka [EC2631/97PLZ], and an *askari* (guerrilla fighter 'turned' by the police) died when the car they were travelling in exploded. It was initially thought that the blast was an act of MK, and it was alleged that the ANC had claimed responsibility for it. However, an investigation led to the trial and conviction of senior members of the SAP Security Branch, including Mr Gideon Nieuwoudt. The accused held that they had killed their colleagues because of a case of fraud involving the Council of Churches.

Armed activity by liberation movements

302 MK activities increased throughout the region during this period; armed attacks and clashes between guerrillas and police were reported and political trials continued. Transkei, which had a common border with Lesotho, became an infiltration route for guerrillas. The South African and homeland security forces often co-operated in matters such as handing over detainees. Detentions were frequently accompanied by torture.

303 In December 1987, the Prisoners' Welfare Programmes (Priwelpro), a human rights group in Umtata, published a report on security activity in the homeland in 1987 (up to 15 November). It claimed that 238 people had been detained (one had been in detention since 1985). A total of 738 people had been charged in forty-one political trials. In nineteen cases, charges had been dropped or the accused acquitted; there had been convictions in only ten cases. Of twenty-seven court applications, most of them seeking relief from detention or banishment and expulsion orders, twenty-four led to final orders or interim relief. The report said that there were thirty-two legal suits pending against the Minister of Police, claiming a total of R1.7 million; all but two of these dealt with unlawful detention or arrest and assault in detention. By May 1988, these claims had risen to a total of R2 million. Of 155 prisoners sentenced to death in the previous ten years, eighty-five had been executed and thirty-three were on death row. There were eleven political prisoners serving sentences at the end of 1987. In September 1988 Priwelpro was banned — the only organisation known to have been banned under the Transkei military government.

- 304 The Institute for Strategic Studies reported nineteen incidents of armed activity in Transkei alone during 1985–87. During 1988, there were at least twelve political trials relating to ANC activity in Transkei, many relating to armed incidents. Half of these cases were linked to one another and to another seven trials that had already been concluded. The Commission received a number of submissions dealing with these incidents and trials; in many cases there were allegations of torture in detention.
- 305 The following are some of the incidents of sabotage reported for this period:
- 306 An attempt to bomb the Bantu Affairs Administration Board (BAAB) offices in Port Elizabeth on 26 January 1983 resulted in the bomb apparently exploding prematurely, killing a bystander and the holder of the bomb, MK member Petros ‘James’ Bokala [KZN/ZJ/066/BL]³¹. Bokala was part of a small network of ANC members in Port Elizabeth, some of whom were later jailed.
- 307 The bombing of the Umtata bulk fuel depot and sabotage of the Umtata water and electricity installations, both on 25 June 1985, resulted in no deaths or injuries. Transkei enforced a nightly curfew for years after this and several trials resulted. After the bombing, the ANC sent MK commander Mzwandile Vena to Cape Town to replace an operative who had been arrested. Vena was also arrested in Cape Town and fought unsuccessfully against extradition to Transkei to face charges on this matter. The state alleged he had been assisted by Mr Mazizi Attwell Maqeqeza (see below) and Mr Zola Dubeni [EC2653/97UTA]. Dubeni was killed by police in Cape Town in March 1987 and Maqeqeza was gunned down in Lesotho. In another trial, Mr Zakade Alfred Buka [EC0310/96WTK] was jailed for seven years for assisting the bombers; he had been tortured severely in detention.
- 308 Shortly after the bombing, then Transkei prime minister Chief Kaiser Matanzima publicly accused student activist, Mr Batandwa Ndondo [EC0237/96WTK] of involvement in this incident. On 24 September, Ndondo was fetched from his home by a group in a minibus. Shortly afterwards he was seen trying to climb out of the vehicle’s window, shouting that he was being attacked. He escaped briefly and was gunned down in a neighbour’s yard. Transkei and South African police together with *askaris* from Vlakplaas were implicated in the killing, but the trial collapsed due to lack of co-operation from the security forces. The Commission received amnesty applications from former police officers Mbuso Enoch Shabalala [AM5727/97] and Gcinisiko Lamont Dandala [AM6535/97] in

³¹ Bokala was found not to be a victim by the Commission in terms of its policy on combatants.

connection with this matter. Six men connected to Ndondo (either as his relatives or as potential witnesses at an inquest into his death) were banished to remote Transkei regions for two years after his killing.

- 309 In July 1986, an MK unit attacked the police station in Madeira Street, Umtata. Three police officers and four others are believed to have died. ANC guerrilla China Talakumeni (aka Solly Prusente) was fatally injured and was later buried secretly by his colleagues. His body was subsequently exhumed by police; the Commission was unable to establish where he was eventually buried.
- 310 In January 1987, Mr Mbulelo Ngono (aka Khaya Khasibe) [EC0330/96PLZ] faced Transkei police, military and SAP in a thirty-six-hour shoot-out at a rural shop, the home of Ms Enid Jafta [EC0329/96STK] in Willowvale, southern Transkei. Ngono escaped with the assistance of guerrillas Dumisani Mafu, Zolile Ntlathi and Mazizi Attwell Maqekeza [EC0224/96UTA]. Mr Ngono and Mr Maqekeza were subsequently attacked in Lesotho; Maqekeza was killed in a second attack while recovering from the first in a Maseru hospital in March 1987. He was mentioned in numerous political trials in Transkei, with charge sheets indicating that he had operated in that territory for over three years. Ngono disappeared after the first attack, and the Commission learnt from amnesty applications³² that he had been one of four members of the same ANC cell who voluntarily allowed the police to 'abduct' them from Lesotho to Ladybrand in December 1987 in order to become police informers. The applicants were unable to say what had subsequently happened to Ngono and the others, Ms Betty Boom, Ms Nomasonto Mashiya and Mr Tax Sejanamane, all of whom disappeared.
- 311 On 5 August 1987, police shot dead MK member Sonwabo Mdekazi (aka Thandi Malgas Khumalo [EC1286/96NWC]) in Port Elizabeth. The inquest heard that police had surrounded the house where he was staying at about 04h30, broke in and shot him dead because he had tried to shoot them from his bed. Police reported seizing an AK-47 rifle, a pistol and ammunition at the scene. Mdekazi had been a founding member and later regional organiser of COSAS; he had spent three years in jail until 1980 on charges of public violence before leaving the country.
- 312 On 12 January 1988, MK member Sthembele Zokwe [EC0018/96STK] was shot dead by Transkei police at his home in Ngqamakwe just hours after his detention in Butterworth. Police claimed he had tried to throw a grenade at them. The family's lawyer said that he had inspected the room in which Zokwe had been

32 SAP members Lesizi Michael Jantjie [AM7107/97], Antonie Jagga [AM7106/97] and Colin Anthony Pakenham [AM7163/97].

shot and found fifty-four bullet holes. Onlookers said they had heard a burst of gunfire five minutes after Zokwe had been escorted by police into his mother's house. Two police officers appeared in court to face murder and attempted murder charges arising out of the death of Zokwe and assaults during an earlier detention. However, the accused, Sergeants Aaron M Tyani and Pumelele Gumengu, escaped from police custody in late October, shortly before they were due to appear in court. They escaped from separate prisons on the same day after requesting medical treatment. There had been at least two previous attempts by police to kill Zokwe; in one of these he was shot in the neck.

- 313 In February 1988, a joint South African and Transkei Police hit squad gunned down MK members Lizo Macanda (aka MK 'Gift', also known as Thembinkosi Gladman Mgibe), Zolile Sangoni [EC0243/96STK] and Zonwabele Mayaphi [EC0189/96ELN] in broad daylight in an Umtata suburb. A fourth man, Mr Thozamile Nkume [EC0257/96STK], escaped. Mayaphi's brother was on trial for a bombing at the time; Sangoni's brother was a prominent civil rights lawyer. Among the first to arrive at the scene of the attack were lawyer Lungisile Stofile and Priwelpro fieldworker Vumankosi Ntikinca. They chased the assassins, who drove straight into the local police station backyard at full speed. Ntikinca was subsequently detained and film in his camera was destroyed by police. Transkei and South African police officers openly admitted their involvement at an inquest later, but no one was ever charged. One of them, Mr Mpumelelo Madliwa, was later gunned down in Ciskei in an attack alleged to have been carried out by MK. The Commission subsequently discovered that Macanda had been buried in an unmarked grave in the Umtata cemetery.
- 314 In March 1988, MK member Qondo Hoho [EC0283/96QTN] was shot dead by police together with a relative at Mlungisi, Queenstown. The house in which he had been staying was smashed down by police during the incident.

THE COMMISSION FINDS THAT THE SAP AND PARTICULARLY ITS SECURITY BRANCH EMBARKED ON A PROGRAMME OF KILLING POLITICAL ACTIVISTS DURING THE LATE 1980S. EVIDENCE BEFORE THE COMMISSION POINTS TO THE RESULTING DEATHS AND DISAPPEARANCES OF ACTIVISTS BEING PART OF A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING BY MEMBERS OF THE SAP, FOR WHICH THE SAP AND THE SOUTH AFRICAN GOVERNMENT ARE HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT, DURING THE LATE 1980S, THE TRANSKEI HOMELAND POLICE FORCE EMBARKED ON A PROGRAMME OF KILLING POLITICAL ACTIVISTS. EVIDENCE BEFORE THE COMMISSION POINTS TO THE RESULTING DEATHS AND DISAPPEARANCES OF ACTIVISTS BEING PART OF A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING BY MEMBERS OF THE TRANSKEI POLICE, FOR WHICH THE TRANSKEI POLICE AND THE TRANSKEI GOVERNMENT ARE HELD ACCOUNTABLE. THESE DEATHS AND DISAPPEARANCES WERE GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE PERIOD 1983—89 WAS CHARACTERISED BY A DRAMATIC INCREASE IN THE RELIANCE BY THE SAP, THE CISKEI POLICE AND THE CDF ON: THE UNJUSTIFIED USE OF DEADLY FORCE IN CROWD CONTROL AND PROTEST SITUATIONS; THE USE OF DELIBERATE AMBUSH AND SO-CALLED 'TROJAN HORSE' OPERATIONS IN WHICH MARCHERS OR PROTESTERS WERE DELIBERATELY TARGETED AND KILLED; THE USE OF ASSAULT AND TORTURE ON SUSPECTS AND DETAINEES AS A SYSTEMATIC PATTERN OF ABUSE; THE FOSTERING OF DIVISIONS BETWEEN POLITICAL AND SOCIAL GROUPINGS; THE DELIBERATE KILLING OF POLITICAL ACTIVISTS.

THE COMMISSION FINDS THAT THESE ACTIONS LED TO WIDESPREAD GROSS HUMAN RIGHTS VIOLATIONS (KILLINGS, ATTEMPTED KILLINGS, TORTURE, ARSON AND SEVERE ILL TREATMENT) FOR WHICH THE SAP, THE CISKEI POLICE AND THE CDF ARE HELD ACCOUNTABLE.

■ 1990-1994

Overview of violations

315 Violations in the Eastern Cape during the 1990s took place in the following contexts:

- a violence following the release of Mr Nelson Mandela in February 1990;
- b clashes between the newly unbanned ANC and PAC;
- c a battle between the South African government and the ANC for control over the still independent homeland territories — including the conflicts in Ciskei (including the 1992 Bisho massacre) between ANC supporters and Ciskei authorities;
- d violence following the assassination of ANC leader Chris Hani in April 1993;
- e APLA's 'Operation Great Storm' of 1993.

316 The pattern of violations in the Eastern Cape as reported to the Commission changed from previous periods: ►



317 Severe ill treatment continued to be the largest category of violations (42 per cent), but killings increased to account for 20 per cent of the total Eastern Cape violations and torture dropped to 15 per cent.

Public order policing

318 In Barkly East, residents of Nkululeko township were celebrating Mandela's release on the night of 11 February 1990 when two SAP officers fired shots at the crowd. At least two youths — Mr Lungile Stina [EC0229/96ALN] and Mr Thamsanqa Maqethuka [EC0230/96ALN] — were killed in this incident and Mr Bongani Nakele [EC0231/96ALN] had a leg amputated as a result of being shot. Mr Bonisile Hlwele [EC1005/96ALN] was shot in the head by police during the *toy-toy* demonstration.

319 In Steynsburg, campaigns by the Steynsburg Youth Congress against the BLAs continued, leading to violence in which a youth was killed by a 'greenfly', or special constable. Police opened fire on the funeral crowd on 4 July 1990, killing Mr Lulama Futshane [EC1433/97NWC] and Mr Fuzile Fatyela [EC1438/97NWC]. During the same campaign against the BLA on 22 July 1990, Ms Nomphele Ralane [EC1435/97NWC] was shot and injured by a councillor while taking part in a *toy-toy* demonstration outside the councillor's house.

320 In Cradock, Mr John Vuyisile Mboya [EC0143/96NWC] was shot dead by police on 20 October 1992 following his arrest on a march into town. His sister, Ms Xoliswa Ethel Mboya, testified to the 1997 Cradock hearings that he was shot inside the police offices, where there were no witnesses other than police. No one was prosecuted.

321 In Venterstad, students and other residents of Nozizwe township engaged in protest marches in mid-1993, which led to the burning of delivery vehicles and attacks on municipal vans and policemen's houses. A number of youths were shot by police, or arrested and assaulted by police. Ms Nobeki Mbalula [EC1239/96NWC] was shot and killed by police on 4 July 1993 in Venterstad. The Commission also received other submissions relating to shooting injuries.

Inter-organisational conflict

322 In Fort Beaufort, an ANC/PAC 'feud' apparently broke out in February 1993. Three men were killed and several were seriously injured in violence. The police reported that the three were killed in separate incidents. They included ANC member

Zwelenkomo Alfred Swartbooi [EC0723/96ALB], who died in Adelaide hospital because of multiple head injuries caused by a sharp object. The Commission received a number of other statements relating to these clashes. Political intolerance between the PAC-aligned Pan Africanist Student Organisation (PASO) and the ANC-aligned COSAS appears to have been a motivating factor in the violence of this period.

- 323 Political intolerance between ANC and PAC members also became violent in Steynsburg in 1993. PAC organiser, Mr Michael Zalimpi Meje [EC1457/97NWC] told the Commission that, during March and July 1993, the ANC “tried to intimidate people to change membership from PAC to ANC”. His home was attacked and burnt by ANC supporters, despite at one stage being guarded by police.
- 324 In Uitenhage, the bloody conflict between the *AmaAfrika* and supporters of the UDF, which began in 1986/7 and flared up again in late 1989, continued into the 1990s. Mr Gladstone Kathazile Sibeku [EC0689/96UIT] was killed in the conflict between 1 and 6 February 1990 and Mr Mxoleli Pityana [EC1077/96UIT] was hacked to death by *AmaAfrika* on 13 February 1990. Mr Lawrence Mcebisi Willen [EC1068/96UIT] was shot dead at a rally in Uitenhage on 23 February 1990. It is not clear whether he was shot by SAP or by *AmaAfrika*. The homes and businesses of Mr Kaliman Jackson Befile [EC2367/97UIT] and Mr Pumezile Befile [EC2398/97UIT] were burnt down by UDF/ANC-supporting ‘comrades’ in February 1990. Mr Temba Tembani [EC2392/97UIT] was shot and stabbed to death by *AmaAfrika* supporters in Uitenhage in 1990. *AmaAfrika* member Thembekile Plaatjies [EC1141/96UIT] was found dead on 4 September 1993 in Uitenhage.
- 325 In Transkei, violence followed attempts by the unbanned organisations to organise, often as a result of local intolerance of opposition. ANC supporters clashed with supporters of tribal authorities. In Pondoland, many people of Xopozo village in Flagstaff were killed and many left homeless or physically injured in conflict between the ANC and a group led by Chief Samuel Mdutshane. The Commission received several statements from ANC supporters concerning this conflict; at least eight named Chief Mdutshane’s group as the perpetrators. Mr Dlayikeza Tonga [EC1730/97ETK], Mr Vulindlela Mbaligontsi [EC1731/97ETK] and Mr Masundula Kala [EC1732/97ETK] all died in the clashes; Ms Nokwendisa Priscilla Njeje [EC1537/97ETK], Mr Nkebe Soswiti Mdutshane [EC1727/97ETK] and Mr Sicanulo Ntshomela [EC1538/97ETK] were all injured; Mr Mandlakayise Lumbo [EC1729/97ETK] narrowly escaped injury; Mr Welcome Mtutuzeli Jara [EC1728/97ETK] and Mr Amos Mazizi Kango [EC1733/97ETK] had their homes burnt down.

THE COMMISSION FINDS THAT VIOLENT CONFLICT ERUPTED IN SEVERAL PARTS OF THE EASTERN CAPE DURING THE 1990S — BETWEEN THE ANC AND PAC IN FORT BEAUFORT AND STEYNSBURG AND BETWEEN THE ANC AND *AMAAFRIKA* IN UITENHAGE. THIS CONFLICT RESULTED IN KILLINGS AND INJURIES ON BOTH SIDES AND WAS FUELLED BY POLITICAL INTOLERANCE. THE COMMISSION FINDS THAT KILLINGS, ATTEMPTED KILLINGS AND INCIDENTS OF SEVERE ILL TREATMENT RELATED TO THIS CONFLICT WERE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH THE ORGANISATIONS INVOLVED IN THE CONFLICT ARE HELD ACCOUNTABLE.

The battle for the homelands

- 326 This period was one of military rule for both Ciskei and Transkei. The Transkei had been under constant military rule since Major-General Bantu Holomisa's second coup on 31 December 1987, the first successful coup in a South African homeland. In Ciskei, Brigadier Oupa Gqozo took over on 4 March 1990, shortly after the national unbannings, riding on a wave of rural resistance to the rule of former Ciskei president, Mr Lennox Sebe. It appears that neither of these coups was initiated by South African security forces, as has been speculated; rather they seem to have emerged from the homeland militaries themselves. By the 1990s, there was an ongoing dispute between the Transkei military government and the South African government: this soon became a dispute over whether or not Transkei was offering the newly unbanned liberation movements weapons, military training and bases from which to launch attacks. A few months after Gqozo took over in Ciskei, the SADF MI set up a front operation in Ciskei deliberately aimed at turning Gqozo against the ANC. The (IR-CIS)³³, which Gqozo was unaware was an MI project, operated in Ciskei from mid-1990 until the formal structure was closed down by the SADF following adverse publicity in August 1991.
- 327 During this period there was constant conflict in the Eastern Cape between the Transkei government and the ANC and PAC on the one hand, and the Ciskei and South African governments on the other. Within these broad alliances, there were other conflicts: the Ciskei and South African governments, for example, clashed frequently. These conflicts resulted, *inter alia*, in the abortive coup attempt against Major General Holomisa in November 1990 by Colonel Craig Duli, acting together with the South African security forces; the killing of Ciskei rebels Mr Charles Sebe and Mr Onward Guzana, and a plot to kill Mr Chris Hani and Holomisa in Transkei. The African Democratic Movement (ADM), which was set up under Gqozo with SADF MI assistance, was involved in conflict with ANC members in the Border-Ciskei region, particularly after the September 1992 Bisho massacre.

³³ International Researchers–Ciskei Intelligence Services, an intelligence organisation which operated out of Ciskei while being a front for the SADF. It was first known as International Researchers and later as Ciskei Intelligence Services.

The Gqozo coup in Ciskei

- 328 On 4 March 1990, the Ciskei military overthrew Mr Lennox Sebe's civilian government and installed a military government headed by Brigadier Oupa Gqozo. The take-over was followed by a wave of violence, with widespread burning and looting reported in some areas, especially in Mdantsane. Township councillors and officials of Sebe's Ciskei National Independence Party (CNIP) were attacked.
- 329 Mr David and Ms Nomutle Zenzile [EC0932/96CCK], who were accused of being CNIP members (although they denied it), were stoned and their house in the Zwelitsha rural area was burnt down. Mr Zenile told the Commission that "the youth were *toyi-toying* and collecting CNIP membership cards from the relevant people with the aim probably of burning these". Mr Steve Nene [EC1032/96CCK] was a councillor in Mdantsane and had been associated with Sebe's government during the 1983 bus boycott. On the day of the coup, the Nenes' house and shop in Mdantsane were burnt down. Nene (66) was detained; his family eventually found him a week later in hospital where he had been unconscious for three days. His wife, Ms Nomalanga Rhyline Nene, told the Commission:

He was injured in his head. Even today he is mentally impaired ... He said that the police would take his head to the toilet and they would flush the toilet, which rendered him unconscious.

- 330 The police believed that Nene was in contact with Sebe, who had not returned to Ciskei since the coup.

The Duli coup attempt in Transkei

- 331 In 1990, Lieutenant Colonel Craig Duli [EC0236/96UTA] attempted a coup against the Transkei military government. Duli was a former member of the Transkei military council who had resigned his position in May 1989 and been detained shortly afterwards; he later fled to South Africa and was discharged from the Transkei Defence Force (TDF) in February 1990.
- 332 His abortive coup attempt on 22 November 1990 was carried out with the active support of the South African security forces. They started with an attack at the Ncise military base outside Umtata, early in the morning. Four TDF members and several of Duli's men were killed here. The TDF members were an instructor, Mr

Mlungisi Atwell Kahla [EC0549/96UTA], Mr Siphon Peter [EC0795/97QTN] and two new recruits, Mr Xolile Milton Zweni [EC2122/97ETK] and Mr Telford Qungqutho [EC2123/97STK].

- 333 Duli and three others moved into the city centre and managed to gain access to Holomisa's office on the top floor of the Transkei government buildings by taking a key from the officer who arrived to unlock the doors early in the morning. After a lengthy shoot-out with the Transkei security forces, Duli was arrested together with Mr Sabelo Wana, who gave a witness statement to the Commission. Duli was killed after his capture. His bodyguard, Mr Boetie Davies [EC0533/96ALB], and a fourth man died before they could be arrested. The day after the coup attempt, bodies of the dead attackers and their weaponry were put on public display at the Ncise military base.
- 334 In all, seven TDF members were killed and thirty-three more wounded by the attackers, and Duli and ten of his followers died. In the months following the coup attempt, a large group of dissidents was detained in Transkei and later charged. Three years later, seventeen men were convicted in the main trial and given sentences ranging from an effective five to twenty years' imprisonment.
- 335 The Commission received submissions from families of the attackers and from families of the deceased TDF members, as well as amnesty applications in connection with this matter. Mr Albert Jacques Plaatjies [EC0530/96ALB], an SADF volunteer corporal from Grahamstown, died in the coup attempt. Plaatjies' sister, Ms Boniwe Maureen Ntshoko, told the Commission that she watched the news coverage of the failed coup on television and a few days later the Transkei authorities informed her of her brother's death. It took the family more than three weeks to get the Transkei authorities to release the body for burial. The family also questioned the public display of the bodies.
- 336 Ms Nontobeko Duli, widow of the coup leader, said she believed Duli had been shot dead by soldiers at the military base after he had been captured. She said she had been told by General Wildon Mbulawa of the Transkei Police (who was himself killed by unknown gunmen in December 1994) that he had seen Duli fatally shot in the back by security forces at the base; he did not identify the killers. Duli's fellow conspirator, Mr Sabelo Wana, was arrested with Duli at the government buildings in Umtata. Wana told the Umtata Supreme Court during his subsequent trial that he had been transported in the boot of a car after his removal from the building. Wana said that, at that time of his arrest, Duli had an

eye injury and a gunshot wound in his leg. He was able to walk out of the building, although he was limping. The *post mortem* report states that Duli's death was "consistent with gunfire and explosive injuries to chest and abdomen". It also indicates that Duli suffered severe injuries including a fractured skull, fractured ribs, fractured vertebrae, injuries to the spinal cord and extensive internal injuries. Press reports at the time indicate that Duli was carried out of the building, rather than walking as suggested by Wana, and that he was seriously injured. Despite the injuries, it appears that he was taken to the military base rather than to the hospital. Shortly after the attack, Lawyers for Human Rights wrote in a report³⁴:

On the day of the coup, it was alleged that Colonel Duli had in fact been murdered. His wife is alleged to have said that a number of soldiers taking Colonel Duli to hospital had first beaten and then killed him. We doubt that Colonel Duli would have survived his wounds received during the attempted coup. However, Ms Duli's claims should not be taken lightly. This was not the only claim of secret execution. A soldier we spoke to claimed that a number of the rebels were captured alive and then later executed. We have so far not been able to confirm this. Another troubling aspect of the army's actions was the treatment of the bodies of the rebels. The open and public display of them cannot be justified under any circumstances'.

337 At least four men were arrested years later and appeared in court in 1997–98 in connection with Duli's death. They were Major Kolekile Mangcotywa, Lieutenant Tobias Ngxola, Major Advocate Sobhuwa and Major Lungisa Fikeni. Their case continues.

The deaths of Sebe and Guzana

338 On 27 January 1991, Colonel Onward Guzana [EC0405/96ELN], formerly of the CDF, and Major General Charles Sebe [EC0904/96CCK], the former Ciskei security chief who had been living in Transkei for some years, were shot at a CDF roadblock in Ciskei on the road between Stutterheim and King William's Town. Guzana died at the scene while the injured Sebe fled. He was tracked down a few kilometres away and shot dead by the Ciskei security forces the following day. Guzana had been one of the four members of Gqozo's military council; within months of the Gqozo coup he had been pressured into resigning from the council and had been detained on allegations of plotting against Gqozo. While out on bail facing charges of treason, he had fled to Transkei and linked up with Charles Sebe, who had previously been involved in attempts to seize power in Ciskei. The two

³⁴ Lawyers for Human Rights, 'Regional News: Transkei' in Rights, February 1991, Johannesburg.

left Transkei and drove to Ciskei with the intention of taking over the government. Guzana's widow, Ms Nomzi Vivie Guzana, told the Commission:

They left about six in the evening, then it was in the morning at about ten that we heard from the radio that there had been a failed coup attempt in Ciskei.

339 After several days, the Ciskei government permitted her to go to Ciskei to identify his body.

When I arrived, we went to identify his body at the police mortuary in Mdantsane. When we arrived there, the place was full of school kids wearing navy blue tunics. And they were being shown Mr Sebe's body.

340 The family disputed the official *post mortem* report and claimed Guzana had been executed after arrest.

341 The inquest found that Guzana and Sebe had been on an unlawful mission to overthrow Gqozo. They were unaware that they were being lured into a trap devised by the IR-CIS unit headed by Lieutenant Colonel Anton Nieuwoudt. The inquest judge was critical of the evidence of many of the witnesses – “a vast proportion of the evidence was given by witnesses who had a motive to lie”. The court found there was insufficient evidence to find criminal liability in connection with Guzana's death, while Sebe was illegally shot dead while surrendering. While the court found that Nieuwoudt had been instrumental in planning the fake coup, there was insufficient evidence for a finding on Nieuwoudt's or the unit's criminal culpability. As a result of the inquest findings, Gqozo and his bodyguard, Sergeant Major Thozamile Veliti, were charged with murder; both were subsequently acquitted.

342 The Commission received an amnesty application in this matter, from IR-CIS deputy chief Clive Brink.

THE COMMISSION FINDS THAT, DURING THE PERIOD 1990—1994, SADF MI COLLUDED COVERTLY WITH SENIOR MEMBERS OF THE CISKEI HOMELAND AUTHORITY TO FURTHER ITS COUNTER-REVOLUTIONARY STRATEGIES IN THE CISKEI, TO BOLSTER ITS ALLIES IN THE CISKEI GOVERNMENT AND IN THE CISKEI INTELLIGENCE SERVICES, AND TO UNDERMINE THE INFLUENCE OF STRUCTURES AND GROUPINGS OPPOSED TO THE FORMER STATE AND ITS HOMELAND POLICIES. IN TWO SEPARATE INSTANCES, SADF MI OFFICERS ACTED TOGETHER WITH SENIOR HOMELAND OFFICIALS IN INCIDENTS THAT LED TO THE KILLING OF PEOPLE. THESE INCLUDED:

- COLLUDING WITH SENIOR TRANSKEIAN DEFENCE FORCE OFFICER, COLONEL CRAIG DULI AND ASSISTING HIM IN AN ATTEMPT TO OVERTHROW THE TRANSKEI GOVERNMENT BY MEANS OF A MILITARY COUP IN NOVEMBER 1990. THIS INCIDENT RESULTED IN THE DEATHS OF FIFTEEN PEOPLE;

- ASSISTING THE CISKEI HOMELAND AUTHORITY IN THE KILLING OF MR CHARLES SEBE AND MR ONWARD GUZANA IN FEBRUARY 1991.

THE COMMISSION FINDS THAT THE DEATHS OF THE ABOVE PERSONS WERE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE FORMER STATE, THE SADF, THE CISKEI HOMELAND AUTHORITY AND COLONEL CRAIG DULI ARE HELD ACCOUNTABLE.

Conflict between Ciskei government supporters and the ANC

- 343 In the months immediately after the Gqozo coup, there were good relations between the Ciskei authorities and the ANC and its allies. This situation deteriorated by mid-1990, with conflicts revolving in particular around the homeland government's support of the system of rural government involving chiefs and headmen as opposed to the ANC and its allies' preference for a system of residents' associations. In July 1991, Brigadier Gqozo launched the African Democratic Movement (ADM), which later became the political party with which he contested the 1994 general elections. This party was drawn into the conflicts between Ciskei and ANC.
- 344 Conflicts became increasingly violent from 1991. From April to August 1991, a state of emergency prevailed in the Whittlesea district of Ciskei; in late October, a state of emergency was declared throughout Ciskei which lasted until mid-November. Clashes increased during 1992 (particularly during August 1992 – the month between the ANC's peaceful 'practice' march to Bisho of 4 August and the march that resulted in the Bisho massacre of 7 September). The Bisho massacre thus took place against a background of increasing conflict between Ciskei authorities and ANC supporters. After the massacre, conflict between the two groups seems to have increased for a few weeks; there was also an increase in the use of more sophisticated weaponry during this period. The worst of the violence appears to have subsided by the end of that year. Most of the attacks seem to have involved arson, burnings or stoning aimed at security forces on the one side and at prominent ANC-alliance members on the other.
- 345 The CDF recorded 218 incidents of political violence in Ciskei between the lifting of the state of emergency on 17 November 1991 and 30 August 1992 (a week before the Bisho massacre); fifty-eight of these incidents took place in August 1992. For the three-month period 1 June to 31 August 1992, the CDF recorded 139 attacks; these appear to be attacks solely on Ciskei government supporters (victims were chiefs, headmen, policemen, soldiers, private security force members associated with the government, and other government employees); no ANC victims were identified. Of those 139 attacks, twenty-four were aimed at security force

members or buildings and twenty-eight involved the use of guns and/or hand grenades (as opposed to stones or petrol bombs); two-thirds of the attacks involving guns and hand grenades targeted security force members. The Network of Independent Monitors (NIM) reported on the involvement of MK operatives in the attacks on security forces during this period. NIM records another thirty-seven such armed attacks on Ciskei government supporters and security forces carried out from 1 September to 31 December 1992 (the period immediately after the Bisho massacre), which were probably carried out by MK. Both the CDF statistics and NIM records indicate that the overwhelming majority of victims during this period were Ciskei government supporters, rather than ANC supporters. For example, of 132 incidents recorded by NIM for June to August 1992 (also based primarily on CDF statistics), 46 per cent were known to involve government-aligned victims while less than 1 per cent were known to involve ANC-aligned victims. It appears that the CDF statistics were based primarily on cases reported to the police. According to a list drafted by lawyers for the Ciskei government, at least 151 civil claims were filed against the Ciskei government as a result of actions by soldiers during August and September 1992 alone. Fifty-one of these claims related to deaths and injuries in the Bisho massacre. This excludes civil claims made against the Ciskei police.

- 346 The Commission received about 150 submissions in connection with clashes between Ciskei authorities and ANC supporters during this period; the overwhelming majority of these statements were made by or on behalf of ANC-aligned victims. About twenty amnesty applications were received in connection with these conflicts.
- 347 Generally clashes appear to have been between Ciskei government supporters (security forces, ADM members, chiefs, headmen, government employees and private security companies such as Peace Force, which were associated with the government) on one hand and ANC supporters (the ANC, MK, the SACP, the Congress of South African Trade Unions (COSATU) and the South African National Civics Organisation (SANCO)) on the other. There were also clashes in some areas between ANC and PAC members, which often seem to have been linked to the broader conflict between the homeland authorities and the ANC. For example, in Bhele village outside King William's Town, ANC members perceived PAC members to be allied with the ADM. Thus clashes recorded as being between PAC and ANC members may have been perceived by at least one of the groups involved as being a conflict between ADM and ANC members.

348 One of the earliest of these clashes reported to the Commission took place in May 1990 when CDF members broke up a meeting at Ndakana near Stutterheim and assaulted those attending. The meeting had been called to protest against the re-imposition of the headman system and against conflict within the community over the recent stabbing of an ANC supporter. Those assaulted included Ms Selina Qongwana [EC1267/96SBR] and Mr Vuyisile Shushwana [EC1268/96SBR].

349 By August 1992, violence was increasing, revenge attacks were taking place and communities were being split by political intolerance. In Tendergate, in the Hewu district of Ciskei, there was tension between ADM and ANC members. ADM member Richard Xabendlini [EC1980/96KWT] was attacked in mid-August. His home was burnt down and he died later of his injuries. An ANC member in Tendergate, Mr Alfred Welile Oliphant [EC0161/96QTN], was accused of involvement in this killing by his one-time close friend, CDF member Bennie Lumko. Oliphant was arrested and charged with Xabendlini's killing. One night at the end of August, Oliphant's home was set alight and he was shot dead as he tried to escape the flames. Oliphant's widow, Ms Eunice Boniswa Oliphant, told the Commission:

There were rumours that the ADM had sworn revenge and said when Mr Xabendlini was being buried, Mr Oliphant's body would be at the mortuary, and that is exactly what happened.

350 Mr Edwin Lumko, Bennie Lumko's father, was convicted of the killing and sentenced to an effective three years' imprisonment, but the Oliphant family believes that he took the blame for his son. The criminal proceedings were complicated by the disappearance of a witness, ADM member Nkoliseko Mrola, who disappeared in the Western Cape while under a witness protection programme³⁵. Ms Oliphant told the Commission:

There were people that were arrested after my husband's death, but they were never held in custody because the day that they were arrested there were members of the ADM who phoned Gqozo and Gqozo sent a message that these people must be released immediately.

351 The Commission found records at Middledrift Prison in Ciskei which indicated that Mr Edwin Lumko had been admitted on 3 September 1993 and released again just 18 days later, with his three-year sentence recorded as having been completed. Lumko [AM7967/97] applied for amnesty in connection with Oliphant's killing.

³⁵ Mrola's disappearance while under witness protection confirmed by Network of Independent Monitors.

352 Tendergate ANC member Mr Tembilizwe Dywashe [EC0164/96CCK] was also allegedly killed by ADM members at that time. The family believed that a Mr Lumko and Nkoliseko Mrola were among those involved. A number of suspects were arrested and released soon after.

353 The Bisho massacre of 7 September 1992, which is dealt with below, seems to have set off an undeclared all-out war in Ciskei. A week after the massacre Mr Jimmy Kula [EC2120/97CCK], a headman and ADM member from the Msobomvu area of Middledrift, was stabbed to death and his family's homes torched by ANC supporters. His widow, Ms Nosilingi Patricia Makupula, told the Commission it was in retaliation for the Bisho massacre. The home of Ms Victoria Jwaxa [EC2119/97CCK] was burnt down after she attended Kula's funeral. On 15 October, people believed to be Ciskei soldiers attacked a Msobomvu home with guns and grenades and shot dead Mr Elby Ngayithini Ngece [EC0726/96CCK], apparently mistaking him for another family member they were searching for. Several others were injured. Mr Mthetho Ngece, SANCO member and chair of the local ANC Youth League, who is believed to have been the attackers' intended target, told the Commission:

If I had the strength at that time and I knew who the perpetrators were I would have gone and revenged, because my family is as it is because of them ... I have no forgiveness for these people.

354 The Ngece family believes this attack may have been in retaliation for the attacks on the Kula family and their supporters. Mr Madoda Shackleton Kula [AM6440/97] attended a hearing of the Commission and denied involvement in this attack. Kula applied for amnesty in connection with a hand-grenade attack on another Msobomvu household a week later, which did not result in fatalities. He was granted amnesty for possession of weapons but refused amnesty for the attack on the household on the grounds that this had an element of personal revenge and thus did not fall within the ambit of the Act.

355 On 22 September Mr Ndodiphela Maseti [EC0481/96CCK], a former headman from the Middledrift area who had joined the ANC, was attacked by ANC-aligned youths. His home was burnt down and he was chased and burnt to death. His widow, Ms Thandiswa Beatrice Maseti, told the Commission that her husband was targeted because he had once been a member of Upper Gqumashe Tribal Authority. The Commission received amnesty applications

from Mr Zukile Makhaphela [AM6438/96] and Mr Ludumo Mati [AM6439/96] in connection with this. They said they were part of a group that stoned and burnt Maseti because of their anger over the headman system.

356 ANC member Banele William Mxoli [EC2248/97CCK] was detained under the Ciskei state of emergency in October 1991; a week after the 1992 Bisho massacre, his home at Perksdale Mission in the Middledrift region was petrol-bombed by attackers believed to be ADM members. The following day another arson attack was launched on his home by people armed with guns. The Commission received amnesty applications from Perksdale Mission headman and ADM member Richard Ziyanda Mandita [AM3498/96] and four other ADM members, Mr Welile Mamayo [AM3499/96], Mr Mbulelo Ngxoweni [AM3024/96], Mr Japie Nimrod Mandita [AM3025/96] and Mr Bongani Mandita [AM3026/96]. Richard Ziyanda Mandita said his own home had been burnt down and he had attacked Mxoli and three others in revenge.

357 At the end of 1993, violence took a different form when a hit squad, apparently linked to the ADM, was set up. This group targeted ANC members and individuals who had spoken out against the ADM. On 23 December 1993, ANC member Mongezi Martin Ndudula [EC2090/97CCK] was shot and fatally wounded outside his home in Dimbaza. On 9 January 1994, Mr Khangelekile Tanana [EC2043/97CCK] was shot dead and Mr Thembani Moyeni [EC2083/97CCK] shot and injured while they were walking along the road on their way to an ANC meeting near Peddie. About two weeks later, the family of Mr Zongezile John Gamzana [EC2023/97KWT] at Phakamisa near King William's Town was attacked at night, leaving three people injured. ADM chairperson Titise Mcoiyana, Peace Force security employee Vuyisile Madikane, former MK member Jeffrey Moshumi, civil servant Dinga Somtsora and CDF member Mongezi Reuben Solani subsequently faced thirty-seven charges including murder, attempted murder, armed robbery and weapons charges relating to incidents in December 1993 and January 1994. They were acquitted on all counts.

THE COMMISSION FINDS THAT THERE WERE VIOLENT CONFLICTS BETWEEN THE ANC AND ITS ALLIES AND THE CISKEI GOVERNMENT AND THE ADM IN THE FORMER CISKEI DURING THE 1990S. THESE CONFLICTS INVOLVED KILLINGS, ATTEMPTED KILLINGS AND SEVERE ILL TREATMENT. THEY WERE INFLUENCED BY POLITICAL INTOLERANCE ON BOTH SIDES AND WERE EXACERBATED BY THE THEN CISKEI GOVERNMENT'S INTOLERANCE OF LEGAL OPPOSITION. THEY INVOLVED BOTH AD HOC ATTACKS BY SUPPORTERS OF BOTH SIDES AND TARGETED ATTACKS BY ANC/MK MEMBERS ON CISKEI SECURITY FORCES (IN CONTRAVENTION OF THE ANC'S SUSPENSION OF THE ARMED STRUGGLE) AND BY CISKEI SECURITY FORCES ON MK MEMBERS AND/OR PROMINENT ANC MEMBERS.

THE COMMISSION FINDS THAT KILLINGS, ATTEMPTED KILLINGS AND SEVERE ILL TREATMENT WHICH OCCURRED DURING THIS CONFLICT WERE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH THE ANC, THE CISKEI GOVERNMENT AND THE ADM ARE HELD ACCOUNTABLE.

Attacks on security force members

358 There were various attacks on police during this period. While this type of attack fell within the stated policies of the APLA at the time, not all were carried out by APLA members. Some of the attacks were part of the conflicts between the Ciskei authorities and the ANC and were probably carried out by MK members, despite the official suspension of the armed struggle. Some of these attacks may have been aimed at arming ANC self-defence units (SDUs) during the Ciskei-ANC conflicts. During 1993, there was speculation in the security forces and in the press that some of these attacks were carried out by a unit comprising MK members, APLA members and hired killers; the Commission did not receive any amnesty applications on behalf of anyone claiming to have acted as part of such a group.

359 Even if SDUs were not operating in Ciskei during this time, the Ciskei security forces believed they were: ANC Youth League member Khayaletu Baba [EC2001/97CCK] was detained in Peddie in about June 1992 by Ciskei security police and assaulted while being questioned about SDUs and the involvement of MK members in them.

360 On 14 August 1992, there were two separate attacks on Ciskei police vehicles in Mdantsane. Mr Thembaletu Jwayi [EC0235/96STK], who had recently joined the police, was on his way to work with other police officers when they were attacked. Jwayi's father, Mr Malolo Gilifisi Jwayi, told the Commission:

There were two policemen who came and reported that Thembaletu was shot dead and then the van in which he was travelling was burnt out.

361 He said his son's body was so badly burnt, he did not recognise him:

I went to the mortuary ... I couldn't identify him because it was only the skeleton which was there.

362 Four other police officers were killed in the attacks, including Mr Buyile Robert Kelewu [EC1282/96ELN]. The attackers fled to the Transkei border, chased for part of the way by the SAP. Subsequent inquest reports into the deaths of Jwayi and Kelewu indicate that the perpetrators were linked to MK. There were no prosecutions.

- 363 The day after these attacks, the Umtata police station was attacked and weapons were stolen. The Commission received amnesty applications in connection with this matter; the applicants stated the attack had been carried out on behalf of APLA.
- 364 On 17 September 1993, a Ciskei police vehicle was attacked by unknown gunmen in Zone Two in Mdantsane. Mr Zolani Dumile [EC0083/96KWT], who was in the vehicle following his arrest shortly before the attack, was killed along with two police officers.
- 365 While MK was clearly operating in Ciskei under cover of the general violence, it appears that the Ciskei security forces may also have been taking advantage of the violence as a cover for attacking guerrillas and leading activists. Again, the worst of these attacks seem to have taken place after the Bisho massacre.
- 366 The home of Mr Fusante Stanley Roji [EC0487/96CCK], the father of the general secretary of the SACP in the Border region, Mr Skenjana Roji, was attacked with guns on 15 August. The family counted over twenty bullet holes in the house. Two months later, just after the Bisho massacre, the family was again attacked. This time grenades were used and the home was burnt down. No one was injured and the family fled to stay with friends.
- 367 Ms Nowinile Badi, her husband Ben Badi and their granddaughter Vuyokazi Badi [EC0725/96CCK] were all killed when unknown gunmen attacked their home in Msobomvu, near Alice on 15 October 1992, in search of MK member Eric Fumanekile Badi [EC0727/96CCK]. Mr Eric Badi described how the attackers knocked on the window and called him by a nickname that only a few close friends knew, and then started shooting with rifles and throwing grenades. Badi was injured but managed to escape.

THE COMMISSION FINDS THAT THE ATTACKS UPON CISKEI POLICE AND DEFENCE FORCE MEMBERS PRIOR TO AND FOLLOWING THE BISHO MASSACRE IN SEPTEMBER 1990 WERE CARRIED OUT BY MEMBERS AND SUPPORTERS OF APLA AND THE ANC. THE ATTACKS RESULTED IN GROSS HUMAN RIGHTS VIOLATIONS (KILLING, ATTEMPTED KILLING, ARSON AND SEVERE ILL TREATMENT) FOR WHICH THE ANC AND APLA ARE HELD ACCOUNTABLE.

The Bisho massacre

- 368 The incident commonly referred to as the Bisho massacre took place in September 1992 in Bisho, the capital of the then Ciskei. The months before the shootings had seen a marked increase in tension in the Ciskei, with numerous violent clashes between ANC supporters and Ciskei government supporters in the weeks leading

up to the massacre. By September 1992, the ANC was running a national campaign to demand free political activity in homelands, targeting Ciskei, Bophuthatswana and KwaZulu in particular.

- 369 The ANC protest march to Bisho on 7 September 1992, demanding the resignation of Brigadier Oupa Gqozo (then military ruler of Ciskei) and free political activity in Ciskei, was part of this campaign. It followed a similar march on 4 August, which was regarded by many as a 'practice' march. CDF soldiers opened fire on the September march, killing thirty people. (Twenty-eight protesters and a CDF soldier – shot by his colleagues – died within days of the shooting; a twenty-ninth ANC supporter died in 1995 from his injuries.) At least 200 CDF soldiers and 70 000 – 80 000 ANC supporters were involved in the clash. Prominent ANC leaders who were part of the march included Mr Chris Hani, Mr Ronnie Kasrils (now Deputy Minister of Defence) and Mr Cyril Ramaphosa.
- 370 The Commission held two public hearings on this matter. The first was held in Bisho in September 1996, within days of the fourth anniversary of the massacre, and the second in East London in November 1996. About sixty witnesses who had brought complaints to the Commission were heard; these were people who had been injured in the march or whose relatives had been killed, and family of the CDF soldier who died. Further submissions were made by ANC leaders, Mr Ronnie Kasrils and Mr Cyril Ramaphosa, by the then South African Minister of Foreign Affairs, Mr Pik Botha, by a ballistics expert and by several senior police and military officers who had been in charge of the Ciskei security forces. The former Ciskei Attorney-General gave evidence describing interference by Gqozo's government in attempts to prosecute the matter. After some prevarication, Gqozo himself also gave evidence at the second hearing.
- 371 Those who made statements to the Commission described the chaos of the massacre. Some were apprehensive at the beginning of the march. Mr Monwabisi David Hlakanyana [EC0864/96ALB] told the Commission:

It was not the first time that we had come to Bisho on a march, but this march was different. We observed the road for the manner in which everything was set up, that something was going to happen, but in the picture of my mind I thought that in previous marches — previous marches had been allowed ... before I got to that road we saw a helicopter taking off and in taking off I did not realise that anything was happening at the time but when it took off I saw people running back and I heard gunshots.

372 The CDF soldiers were also worried. Mr Mzwabantu Nqabisa, whose brother, Rifleman Vusumzi Sydney Nqabisa [EC0877/96CCK], was the CDF soldier killed in the march, said the whole Ciskei army had received an instruction, apparently from Gqozo, that no soldier was to go home the night before the march but all should sleep at the military base instead.

But I insisted on going home to tell my sister and the local residents that this was going to happen on the 7th and that they should not go to Bisho ... I told them that there was going to be trouble in Ciskei.

373 In responding to a question as to why he thought there was going to be trouble in Ciskei on that day, Mr Nqabisa answered that their superiors were behaving in a strange way and seemed to be nervous.

374 The march started at the Victoria grounds in King William's Town and was monitored by the South African security forces as far as the outskirts of King William's Town. No South African security forces were visible across the Ciskei border by the time the marchers reached the border, apart from those in the air. The front of the crowd reached the Ciskei border in the middle of the day. A razor-wire barrier had been erected across the road by police to prevent direct access to Bisho itself. To the left, a dirt road led off the main road into the Bisho stadium, which the courts had given the marchers permission to use. Behind the razor-wire barrier were Ciskei police, some in armoured vehicles, and a long line of soldiers stretching down the Fort Hare University campus alongside the road opposite the stadium. More soldiers could be seen on the distant rooftops of some of the Bisho buildings, such as the parliament gates and the telephone exchange. At the razor-wire barrier, a group of ANC officials, including Mr Chris Hani and Mr Cyril Ramaphosa, stopped for discussions with National Peace Secretariat officials, while the main body of the march began to move into the stadium. Dozens of journalists and independent monitors were present. An SADF helicopter in camouflage colours, a blue and yellow SAP helicopter and a small white airplane monitored proceedings from above.

375 It seems that the shooting started on the far side of the stadium. The main body of marchers had gone into the stadium and a group, including Mr Ronnie Kasrils, ran out of the stadium towards Bisho in contravention of the court ruling on where the march could go. This group was shot at by soldiers stationed there. The shooting was apparently then picked up by most of the rest of the soldiers down the lines. No warning of intent to fire was given and no other methods of crowd control were used before opening fire.

376 MK member Petros 'Bushy' Vantyu [EC2053/97KWT], who was wounded in the incident, told the Commission that he was with Kasrils' group when the shooting started:

As we ran through the gap in the fence the only soldiers that I could see were the soldiers that were deployed along the dirt road on the other side of the stadium, and according to my experience if these soldiers had shot at us, if it was that column of soldiers that shot at us they would have hit us from the front and they would have hit most people in our column. Hence, it is my belief that most of the people who were shot at in Bisho were shot by people who were either shooting from the parliament side or the Fort Hare University side. And I also believe that I was shot by those people ... It appears to me that the Bisho massacre was a pre-planned incident, judging by the manner in which the security forces were deployed both on the RSA and Ciskei sides.

377 Mr Siyabulela Gusha [EC0865/96CCK] said:

We managed to enter the stadium. Whilst inside there we saw Ronnie Kasrils leading a group of people heading towards a gravel road leading to Parliament. We followed that march; we then heard gunshots being fired and then we turned and ran away towards the stadium. Whilst inside the stadium I was hit by a pellet on my shoulder blade.

378 Mr Lungisa Welcome Matiwane [EC0902/96KWT] gave his perspective:

I went through the hole into the stadium and when we passed something that looked like bridges, we heard things like fireworks, and when we looked around to see what was happening, there were people that were running out of the stadium towards our direction and when I turned around to run away as well in the direction from I had come, I fell and when I tried to get up, I couldn't.

379 Mr Sicelo Jonnie [EC0793/96KWT] said:

When we were about to enter Bisho, we were told to wait for the leaders. I heard some shots, and then we started to run, whilst I was running I was hit on the leg.

380 Several people were killed at the point where marchers broke out of the stadium. Others were killed inside the stadium, yet others at the razor-wire barrier. Marchers inside the stadium and those still at the border had no idea what was happening when shooting started.

381 Ms Yoliswa Shiyiwe Kewuti [EC0208/96ELN] described the scene:

A Ciskei helicopter got to the stadium and hovered very close to the ground but did not actually touch down and Mr Chris Hani asked us not to sing any freedom songs, and not make any noise, but we should rather keep quite because that was Brigadier Gqozo and he would think that by singing freedom songs we were provoking him. We should show him that we came to the stadium to speak to him, Chris Hani said.

382 Mr Pawulosi Mantyi [EC0645/96ELN] added:

It wasn't a Ciskei helicopter, it was something known as a 'Mellow Yellow' and when it went up there was dust because when a helicopter takes off it causes dust. I last saw the helicopter taking off and the next thing we heard was gunfire ...

383 When the shooting started there was complete chaos. None of the deponents reported hearing any warning from the soldiers before the shooting started. Most did not know where the shots were coming from; many were convinced they were being shot at from the helicopters. Other evidence to the Commission suggested that the helicopters may have moved upwards rapidly once shooting started (in order to avoid being shot at themselves) and that the rotor blade noise of the rapidly ascending helicopters could have been misinterpreted as the sound of shots.

384 Mr Desmond Manzolwandle Mpunga [EC1164/96CCK] saw the shootings as follows:

There were already a lot of people in the stadium who were in a hurry to go in, but what happened is that as more people got into the stadium a helicopter emanated. When I looked up there were about five or six men in the helicopter, and the doors were flung open. As I was trying to detect exactly what was happening we heard a terrible sound like a radio going off channel, then there was shooting ... after I was shot I thought that this could not be rubber bullets.

385 Mr Andile Ndembu [EC0867/96ELN] told the Commission:

We saw people going towards the stadium. When they got to the stadium, a helicopter went up. This helicopter was from the Republic of South Africa, it was yellow and blue in colour. When the helicopter arose there were shootings, that is how I was shot.

386 Mr Tembinkosi Ntengento [EC0823/96CCK] described the situation in the following manner:

Some gunshots came from the soldiers who were on top of the parliamentary buildings, some were coming from the soldiers who were approaching from Balasi direction, and some were coming from the helicopter that took off in front of us.

387 One deponent, Mr Phakamile William Duda [EC1158/96KWT], said in his testimony:

On the way to King William's Town, on the sides of the road there were police and soldiers of the Republic of South Africa. I realised that they were guarding the white men's houses. When we were going towards Bisho I looked at my right side, next to the Parliament and I saw Ciskeian soldiers with arms. We walked on, and as I looked at the gravel road that was leading to the stadium, I heard a noise that sounded like fireworks. We were being shot at.

388 Some were shot going into or inside the stadium, including Mr Lulama C Nyamfu [EC0416/96ELN, Mr Lindani Kama [EC0602/96CCK] and Mr Zolile Jonas [EC0874/96PLZ]. The latter told the Commission:

I was already inside the yard of the stadium when I heard some gunshots and I started to run for cover. I do not know what happened, as I only gained consciousness in Grey Hospital where I was admitted. I discovered that I was shot in my left thigh and the bullet is still in my thigh.

389 Mr Vuyani Tom [EC1443/97CCK], Mr Boyce Nqono [EC0873/96CCK], Mr Alfred Dayile [EC0833/96ELN], Mr Lulamile Madala Marcus [EC0779/96CCK], Mr Mabotshelero Paul Goniwe [EC22219/97ELN] and Mr Thembela Mtyingwana [EC0872/96CCK] all told the Commission that they had sustained gunshot injuries in the shooting. Some were injured in other ways while trying to escape the bullets. Mr Nofaneleko Mdlangu [EC0809/96QTN] told the Commission that he was hit by a green military truck.

390 Transporting the dead and injured from the scene was a difficult process, complicated by concerns that the soldiers would start shooting again and by the fact that people had been shot over such a big area. The injured were taken to several different hospitals. Mr Tatise William Ncapayi [EC0812/96QTN] from the Queenstown area, had this to say about the aftermath of the shootings:

We were even scared to go to the Queenstown hospitals because white men were looking for people who had bullet wounds and then they would identify that person as a person who had been in the march.

391 The South African security forces airlifted some of the more seriously injured victims to hospitals. Mr Siphon Makhwenkwe Ngweventsha [EC1264/96SBR] told the Commission:

I was transported in a helicopter because of the seriousness of the injury ... Later, in December 1992, I managed to remove the bullet on my own as it was moving inside my body.

392 In the chaos, it was sometimes difficult to distinguish between the living and the dead. Mr Wandile Mbathu [EC0787/96CCK] was unconscious, and it seems some people thought he was dead. He told the Commission:

Someone told me that I was transported with corpses to Grey Hospital. I only regained consciousness after two weeks and I was not even able to speak.

393 Mr Lungisile Robert Cotani [EC0811/96QTN] had a similar experience:

Then the comrades took me into a van that was collecting injured people all day. Whilst in that van, which was taking in more people, even dead people, I was still feeling very dizzy but I could hear that there were some who had died. I wanted to indicate that I was still alive, so I decided to come out of the dead bodies that were on top of me.

394 In addition, there were those who simply did not return home. Among these were Mr Thibane Gola [EC0222/96ELN] and Mr Jongile Mene [EC0792/96CCK], both of whom died at Bisho. Gola's mother, Ms Nokuzola Letitia Mene, told the Commission:

Three bullets hit him, but he probably died from the one fired at his shoulder, penetrating through the heart...

395 Mene's mother, Ms Ntombikayise Oscarine Gola, said of her son :

He had a hole on top of his head which indicated to us that the bullet which hit him was apparently coming from above.

396 Mr Norman Fulani's son Vuyani [EC0646/96ELN] and Ms Remonica Mnyamezeli Myeha's husband [EC0794/96CCK] died at the scene. Ms Alice Nombeko Mfenqhe [EC0647/96ELN] heard the news through the media:

I was at home, listening to the radio on the procession of the march. I heard that the people were shot at Bisho. On the following morning, one of my daughters, Thandiswa, bought a newspaper, Daily Dispatch, and it is only

then that we discovered that Monde was shot to death in the march ... My other son Nonelelo, avers that on the day in question he was manning a roadblock near Bisho Hospital, as he was then member of the Ciskei Police Force, searching for weapons on people who were entering Bisho.

- 397 By late 1996, the current government had paid out on various civil claims lodged in connection with deaths and injuries sustained. Attempts were made by the Ciskei Attorney-General to investigate and prosecute the matter; these got as far as the issuing of a draft indictment against a group of Ciskei police and soldiers and against the ANC's Mr Kasrils for his part in leading a breakaway group that allegedly sparked the shootings. The Ciskei government then passed a decree indemnifying everyone from prosecution. This was later overturned, but for various reasons (partly because it was too close to the elections and the matter was expected to be handed to the Commission) the prosecution did not go ahead.
- 398 On the third anniversary of the massacre, September 1995, the prosecution was reopened and handed over to the East London police. In October 1996, the police investigation was handed over to the Attorney-General in Bisho for a decision on prosecution. The Attorney-General has indicated that he would wait to see whether those he was considering charging applied for amnesty through the Commission before going ahead with any prosecution. Two amnesty applications were received in connection with this matter, from Mr Vakele Archibald Mkosana [AM4458/96] and from Mr Mzamile Thomas Gonya [AM7882/97].
- 399 In reviewing the evidence on the events leading to the Bisho massacre on 7 September 1992, the Commission has made findings in respect of then Ciskei military ruler, Brigadier Oupa Gqozo, the CDF and the ANC.

THE COMMISSION FINDS THAT, ON 2 SEPTEMBER 1992 THE ANC ORGANISED A MARCH OF SUPPORTERS FROM KING WILLIAM'S TOWN ACROSS THE HOMELAND BORDER TO BISHO IN CISKEI, IN SUPPORT OF DEMANDS FOR FREE POLITICAL ACTIVITY IN THE CISKEI AND FOR THE REMOVAL OF THE THEN CISKEI MILITARY RULER, BRIGADIER OUPA GQOZO. AT THE CULMINATION OF THE MARCH, AS MARCHERS WERE NEARING THE AFORESAID STADIUM, A GROUP OF THEM INCLUDING MEMBERS OF THE MARCH LEADERSHIP (THE BREAKAWAY GROUP) ATTEMPTED TO PASS THROUGH A GAP IN A FENCE IN THE VICINITY OF THE STADIUM, IN ORDER TO GAIN ACCESS TO THE TOWN OF BISHO. THIS ACTION WAS TAKEN PURSUANT TO A DECISION BY THE ALLIANCE LEADERSHIP WHICH LED THE MARCH, BUT WAS IN CONTRAVENTION OF THE COURT ORDER. THEY RAN TOWARDS THE GAP IN THE FENCE, AND DID NOT MOVE IN AN ORDERLY, CONTROLLED MANNER. THE MARCHERS WERE FIRED ON BY CDF SOLDIERS, RESULTING IN THE DEATHS OF THIRTY PEOPLE AND INJURIES TO AN UNSPECIFIED NUMBER OF PEOPLE, SUCH DEATHS AND INJURIES BEING GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT THE DECISION OF THE ALLIANCE LEADERSHIP EXHIBITED A LACK OF PRUDENCE IN DECIDING TO PROCEED THROUGH THE GAP IN THE FENCE IN THAT:

- THEIR DECISION AND THE MANNER IN WHICH IT WAS ACTED UPON, AS SET OUT ABOVE, CONTRIBUTED TO THE VOLATILE AND UNPREDICTABLE SITUATION PREVAILING AT THE TIME;
- THEIR ACTIONS AS AFORESAID ELICITED THE ILLEGAL RESPONSE OF THE CDF, ALTHOUGH SUCH RESPONSE WAS OUT OF ALL PROPORTION TO THE SITUATION AND WAS NOT REASONABLY EXPECTED BY THE ALLIANCE LEADERSHIP.

ACCORDINGLY, THE ALLIANCE LEADERSHIP WHO TOOK THE DECISION IS HELD PARTIALLY ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS ARISING FROM THE UNLAWFUL ACTIONS OF THE CDF.

THE FORMER MILITARY RULER OF CISKEI, BRIGADIER OUPA GOZO, IS ACCOUNTABLE FOR THE AFORESAID VIOLATIONS IN THAT:

- HE INSTRUCTED THE CISKEI SECURITY FORCES IN THE DAYS PRIOR TO THE MARCH, AND UP UNTIL 11:00 ON THE DAY OF THE MARCH, THAT THE MARCHERS WOULD NOT BE PERMITTED ACROSS THE CISKEI BORDER, THEREBY SERVING TO HEIGHTEN THE PREVAILING VOLATILE POLITICAL SITUATION;
- HIS INSTRUCTIONS AS AFORESAID WERE IN CONTRAVENTION OF THE NATIONAL PEACE ACCORD, AND UNTIL 11:00 ON THE DAY OF THE MARCH IN CONTRAVENTION OF THE LAW;
- HE EXHIBITED EXTREME INTOLERANCE OF LEGITIMATE POLITICAL PROTEST WHICH RESULTED IN A SITUATION IN WHICH THE SECURITY FORCES WERE RELIED ON TO RESOLVE A SITUATION WHICH COULD HAVE BEEN RESOLVED BY POLITICAL MEANS;
- AS HEAD OF THE CISKEI GOVERNMENT AND OF ITS DEFENCE FORCE, HE IS ACCOUNTABLE FOR THE ACTIONS OF SUCH FORCE, WHICH WAS RESPONSIBLE FOR THE GROSSLY IRREGULAR USE OF DEADLY FORCE IN THE SHOOTING DEAD OF THIRTY MARCHERS;
- AFTER THE SHOOTING ON 7 SEPTEMBER 1992, HE DELIBERATELY AND ILLEGALLY INTERFERED WITH THE CRIMINAL PROSECUTION INTO THE SHOOTINGS RESULTING IN A DELAY IN THIS PROCESS AND FACILITATING A PUBLIC PERCEPTION THAT THE SECURITY FORCES WERE ABOVE THE LAW.

THE CDF IS ACCOUNTABLE FOR SUCH VIOLATIONS IN THAT:

- UNTIL 11:00 ON THE MORNING OF 7 SEPTEMBER, IN CONTRAVENTION OF THE MAGISTRATE'S RULING THAT THE MARCHERS COULD USE THE STADIUM IT ADOPTED THE VIEW THAT NO MARCHERS WOULD BE PERMITTED TO ENTER THE CISKEI TERRITORY. THIS SERVED TO HEIGHTEN THE PREVAILING VOLATILE POLITICAL SITUATION;
- IT DID NOT PLAN FOR ANY SCENARIO OTHER THAN PREVENTING THE MARCHERS FROM ENTERING BISHO, THEREBY LIMITING ITS ABILITY TO DEAL WITH OTHER EVENTUALITIES WHICH COULD HAVE ARISEN;
- THR CDF TROOPS WERE ISSUED WITH WEAPONS AND AMMUNITION WHICH WERE NOT IN ANY MANNER SUITED TO CROWD CONTROL BUT WERE OF SUCH A CALIBRE AS TO BE CALCULATED TO KILL PERSONS AT WHOM THEY WERE FIRED;

- THE CDF TROOPS FIRED UPON MARCHERS IN CIRCUMSTANCES WHEN IT WAS NOT NECESSARY TO DO SO, AND WITH WEAPONS AND AMMUNITION WHOLLY DISPROPORTIONATE TO THE THREAT POSED BY THE MARCHERS;
- THE CDF TROOPS FIRED ON THE MARCHERS WITHOUT ISSUING A WARNING, AND WITHOUT CONSIDERING MINIMUM USE OF FORCE SUCH AS THE USE OF SHARPSHOOTERS;

THE CDF IS ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS (KILLINGS, ATTEMPTED KILLINGS AND SEVERE ILL-TREATMENT) ARISING FROM THE INCIDENTS ON 7 SEPTEMBER 1992. THE INDIVIDUAL MEMBERS OF THE CDF HELD ACCOUNTABLE ARE GENERAL MARIUS OELSCHIG, MAJOR MVELELI MLEVI MBINA, COLONEL VAKELE ARCHIEBALD MKOSANA AND GENERAL DIRK VAN DER BANK.

Violence in the wake of Chris Hani's assassination

400 Widespread protests and some violence followed the news of the assassination in Johannesburg of Mr Chris Hani on 10 April 1993. During one of the demonstrations, police opened fire on a crowd in Uitenhage. The exact circumstances of the shooting are not known. Among the victims was fourteen-year-old Zilindile Manyashe [EC1098/96UIT], who was shot dead. On 12 April 1993 Mr Bongani Bakhe [EC2388/97UIT] was also shot dead by police during a demonstration. Mr Fezile Fumbata [EC1071/96UIT] and Mr Andile Faltein [EC1089/96UIT] were both shot in the stomach and recovered after hospital treatment.

401 Mr Khayaletu James [EC1840/97ALB] was shot and injured by the SAP during unrest in Grahamstown on 15 April 1993 when youth were looting and setting vehicles alight. In Zwide, Port Elizabeth, Mr Mtutuzeli Msikinya [EC1847/97PLZ] was shot and injured by SAP on 18 April 1993.

402 In Transkei, there were attacks on whites in various areas. Mr Alistair Weakley and Mr Glen Weakley [EC0303/96PLZ] were killed in one such attack near Port St Johns on 13 April 1993. The Commission received amnesty applications from three ANC members, Mr Phumelele Civilian Hermans [AM7581/97], Mr Lungile Mazwi [AM5203/97] and Mr Mlulamisi Maxhayi [AM7207/97], in connection with this attack.

Attacks on soft targets: APLA's 'Operation Great Storm': 1991-94

403 From late 1991 until the elections in April 1994, APLA, the armed wing of the PAC, claimed responsibility for various armed actions aimed primarily at police officers and whites. A number of these took place in the Eastern Cape. The SAP told the Goldstone Commission in January 1993 that there had been about forty-six armed attacks ascribed to APLA nationally during 1991-92; about 40 per cent of these

occurred in the Eastern Cape³⁶. In April 1993, APLA commander Mr Sabelo Phama announced that 1993 was the year of APLA's 'Operation Great Storm': the attacks of these years were generally regarded as being part of this operation. The Commission received submissions from both victims and amnesty applicants in connection with these attacks.

- 404 Eastern Cape incidents from this period reported to the Commission include:
- a the early 1992 attack on the Wilgespruit farm at Lady Grey near Aliwal North and an attack on police at Lady Grey (submissions and amnesty applications received);
 - b the 15 August 1992 attack on an Umtata police station, including theft of weapons (amnesty applications received);
 - c the 13 March 1994 attack on members of the Baha'i faith in Mdantsane (amnesty applications received);
 - d the March 1994 attacks on a minibus near Fort Jackson and on a minibus at the Da Gama factory outside East London, in which a police officer and two attackers died (amnesty applications received).
- 405 All the amnesty applicants in these matters said they had acted on behalf of the APLA. Some of the attackers were linked to the 1993 attacks on the St James Church and Heidelberg Tavern in Cape Town and some were linked to various attacks on farmers and police in the Free State.
- 406 The amnesty applications indicated that some of the same APLA members were involved in the attacks in the Lady Grey area in early 1992, the August 1992 attack on the Umtata police station, various armed robberies in Transkei and the Heidelberg Tavern in Cape Town. No amnesty applications were received in respect of the Highgate Hotel attack or the Queenstown Spur attack (see below), indicating the possibility that these were not carried out by the same group that had been responsible for the other major attacks ascribed to APLA.
- 407 Some of the victims of these attacks described the incidents at Commission hearings. The first major attack carried out by APLA in the Eastern Cape during this period was that on the golf club at King William's Town on 28 November 1992,

³⁶ SAP memorandum submitted to the Goldstone Commission: 'Location of APLA camps, arms, ammunition, personnel and operational activities', 4 January 1993.

where a wine-tasting party was in progress. Four people died. Ms Beth Savage [EC0051/96ELN] was seriously injured in that incident. She spent a month in the intensive care unit in hospital and suffered hallucinations about her attacker. Her family was traumatised and she believed the subsequent death of her parents was brought on by the shock of her injuries. She told the Commission how she felt about the attack:

All in all, what I must say, is through the trauma of it all, I honestly feel richer. I think it's been a really enriching experience for me and a growing curve, and I think it's given me the ability to relate to other people who may be going through trauma.

408 When asked how she would feel if anyone applied for amnesty in connection with this matter, Savage said:

It really wouldn't worry me one way or the other ... It's not important to me, but, I've said this to many people, what I would really, really like is, I would like to meet that man that threw that grenade in an attitude of forgiveness and hope that he could forgive me too for whatever reason. But I would very much like to meet them.

409 APLA member Tembeleni Tandekile Xundu [AM3840/97], now an officer in the SANDF, applied for amnesty in connection with this incident. His trial was postponed pending the outcome of his application.

410 The Highgate Hotel in East London was attacked on 1 May 1993. The Commission did not receive any amnesty applications in connection with this matter although it has routinely been ascribed to APLA. Mr Nkosinathi Alfred Gontshi, who was the barman at the Highgate Hotel, told the Commission:

On entering the bar, the man in a mask started firing at all of us. I was hit on my right thigh by one of the bullets. Even today I do not know which political organisation did that, if ever it was one.

411 Mr Neville Beling [EC0167/96ELN], Mr Karl Andrew Weber [EC0035/96ELN] and Ms Doreen Rousseau [EC0052/96ELN] were permanently disabled as a result of the attack. Mr Deric John Whitfield [EC0101/96ELN] was one of five people killed. Ms Rousseau described her experience:

I said to the friend on my right, I've been shot and he said, lie still, pretend that you're dead because they may come back. My friend on the left was

*lying face down. I shook him and called his name but he lay very still.
Everyone was screaming and lying in pools of blood.*

412 Mr Weber told the Commission his feelings about the attack:

My life was changed overnight ... I've accepted it and I have to carry on with the daily routine of life. It's not something that will be forgotten about and it's something that I think justice should be done about.

413 A Spur restaurant in Queenstown was bombed on 3 December 1992, a few days after the King William's Town attack. One man died. Mr Les Barnes [EC0780/96PLZ] was seated at the table where the bomb had been placed; his friend died and he was seriously injured. Mr Barnes asked the Commission:

Basically all I'd sort of want to know is are the people that planted the bomb, will they be coming forward? Will they be testifying? And what is really going to happen to get their side of the story and is anything being done about it?

414 The Commission did not receive any amnesty applications in connection with this attack, although APLA claimed responsibility at the time.

415 On 20 March 1993 the Yellowwoods Hotel at Fort Beaufort was attacked by armed men. A student, Mr Johan Jerling [EC2359/97ALB], was killed. Amnesty applications received by the Commission in connection with this attack acknowledged APLA involvement.

416 The Commission also received statements in connection with some of the APLA members. These included a statement regarding the death on 9 February 1994 of APLA chief Sabelo Gqweta, better known as Sabelo Phama [EC1956/97UTA], when his car was involved in a crash with a truck in Tanzania, on the road from Dar es Salaam to Zimbabwe. His brother, Mr Bandile Besuthu 'Boxer' Gqweta, said he believed the crash was not an accident but had been staged. Gqweta told the Commission:

At the time of Sabelo's death there was conflict within the PAC as to the suspension of armed struggle and participation in the general elections of 1994. The position of Sabelo was that of being against the suspension of armed struggle, but he was for the participation of the PAC at the general election. He even called 1994 'the year of the bullet and the ballot'. This view of Sabelo's was a popular view among the organisation as a whole, but

it was not so popular among the National Executive Council on which Sabelo served. The opposing view was that the armed struggle must be suspended so that the PAC could participate in the general elections of 1994. I do believe that Sabelo died for the view that he held.

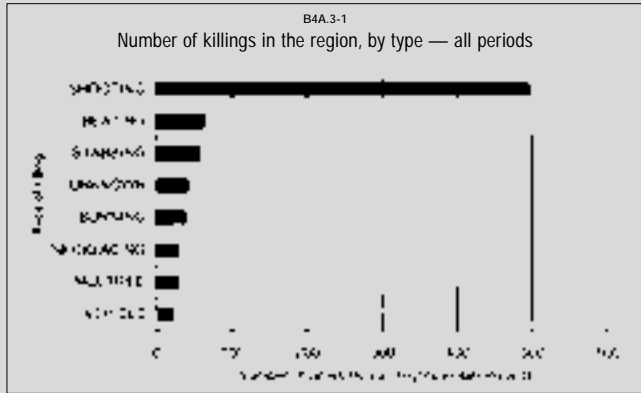
- 417 The attacks ascribed to APLA became a matter of bitter dispute between the Transkei and South African governments, with South Africa accusing Transkei of harbouring APLA members and providing them with weapons and training. No statements or amnesty applications were received by the Commission in connection with such training or provision of weaponry. An investigation by the Goldstone Commission similarly resulted in conflict between the two governments as well as the PAC.
- 418 On 8 October 1993 the SADF carried out a raid on the home of an Umtata PAC member, Mr Siggibo Mpendulo, in which five youths, including a twelve-year-old child, were shot dead. The SADF claimed at the time that it had attacked an APLA base. The Commission did not receive HRV submissions in connection with this matter.

THE COMMISSION FINDS THAT MEMBERS OF APLA CARRIED OUT VARIOUS ARMED ATTACKS ON SOFT TARGETS INCLUDING POLICE AND WHITES DURING THE 1990S AS PART OF THAT ORGANISATION'S OPERATION GREAT STORM. VARIOUS KILLINGS AND INJURIES RESULTED FROM THESE ATTACKS, WHICH INCLUDED THE ATTACKS ON THE KING WILLIAM'S TOWN GOLF CLUB, THE HIGHGATE HOTEL AND A QUEENSTOWN SPUR RESTAURANT. THESE ATTACKS WERE CARRIED OUT AS PART OF APLA'S ARMED STRUGGLE. THE COMMISSION FINDS THAT THESE ACTS CONSTITUTED GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH THE PAC/APLA ARE HELD ACCOUNTABLE.

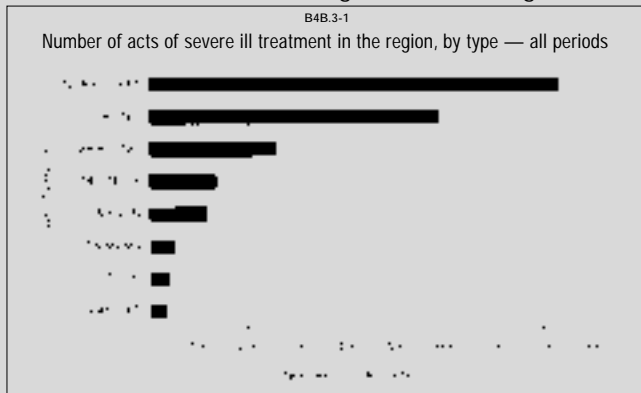
Statistics on Violations in the Eastern Cape

■ NATURE OF THE VIOLATIONS

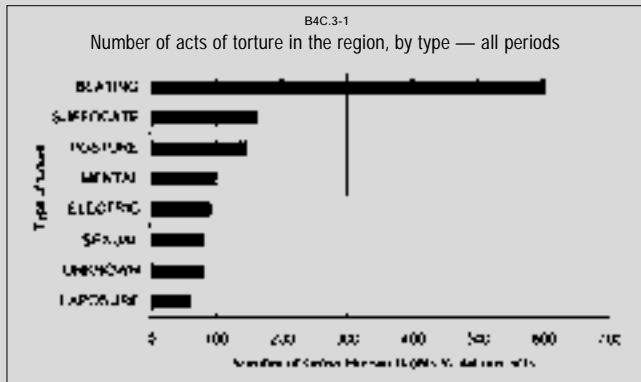
- 1 The pattern of violations in the region covered by the East London office is similar to the national picture, with death by shooting being the most common killing violation: ►



- 2 Shooting accounted for most of the killings, followed by beating to death and then stabbing. This differs from the national pattern where stabbing was the second most common cause of death. Unlike other regions, necklacing was amongst the top eight causes of death in the East London region.



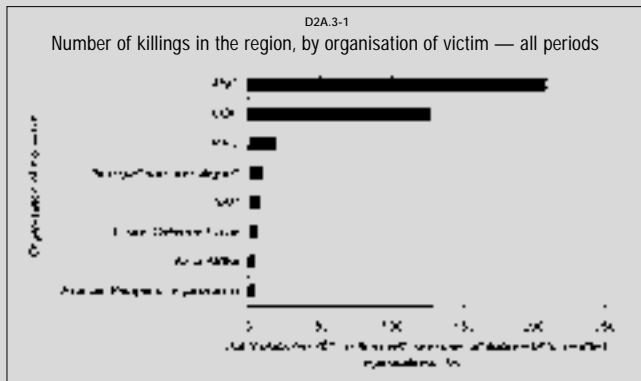
3 As in all other regions except Durban, beatings and incarceration were the most commonly reported severe ill treatment violations, followed by shootings. Arson and destruction of property were the next most common type of severe ill treatment.



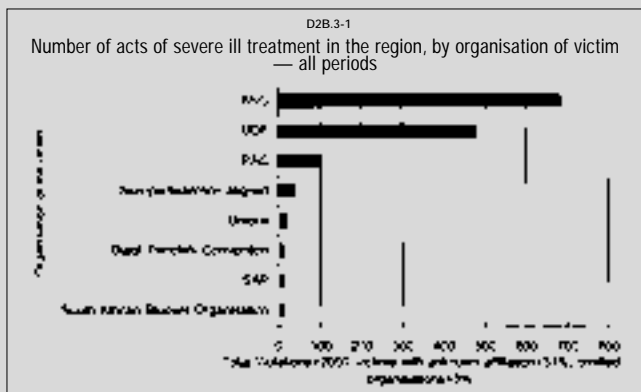
4 East London reflects the national trend, showing beating to be the most common form of torture. Suffocation was more common here than in the other three regions, reaching second place. Mental torture and torture by forced postures were also more common than electric shocking.

Victim organisations

5 The number of killings reported in terms of the organisational affiliation of the victim (where this is known) were as follows:



6 Most of those killed in this region were members of the African National Congress (ANC), the United Democratic Front (UDF), and the Pan Africanist Congress (PAC). There were some security force deaths, but the vast bulk of the victims were members of the ANC and UDF.



7 The pattern for cases of severe ill treatment was almost identical to that for killings, with ANC, UDF and PAC members suffering the bulk of the violations.



8 The pattern of torture is similar. All torture victims were members of black political organisations.

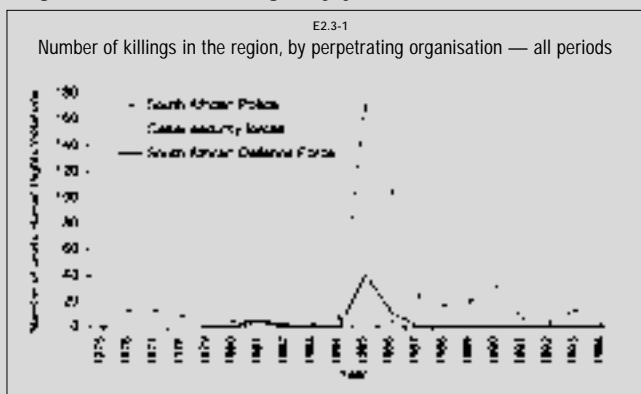
Perpetrator organisations

9 The top eight organisations allegedly responsible for killings in the area covered by the East London office area were as follows: ▶



10 The security forces dominate the chart, with killings attributed to the South African Police (SAP), Ciskei security forces and SADF making up the most cases. Black political organisations account for the rest of the killings, except for a small number attributed to the Transkei security forces. Killings by the the SAP, Ciskei security forces and SADF show a peak similar to killings allegedly committed by the SAP during the states of emergency years:

11 Unlike the national picture, the Eastern Cape does not reflect a peak in the killings attributed to the SAP in 1976 (the Soweto uprising), but the states of emergency peak does appear. In 1992,

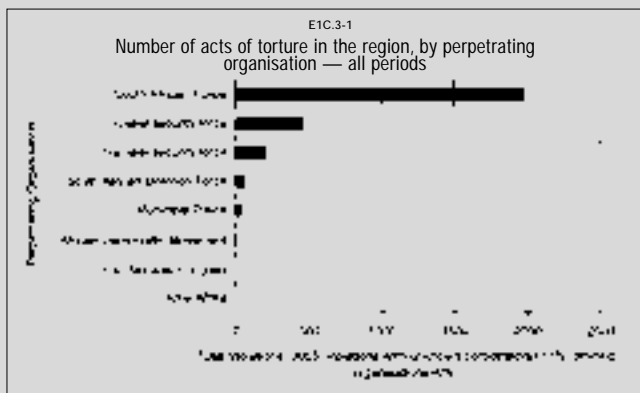
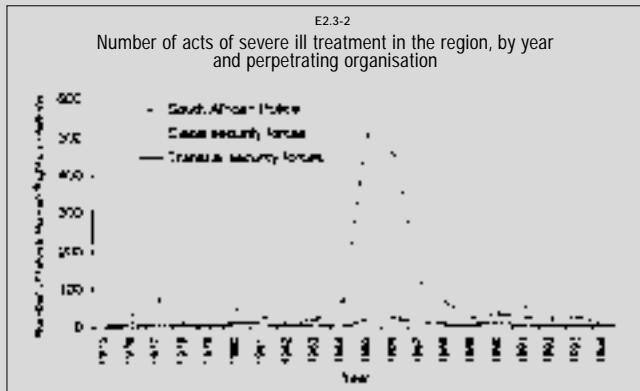
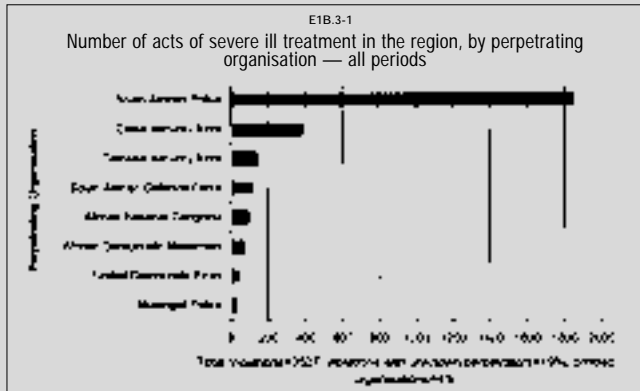


a number of killings attributed to the Ciskei security forces can be seen. The SAP also dominate the chart of severe ill treatment violations:

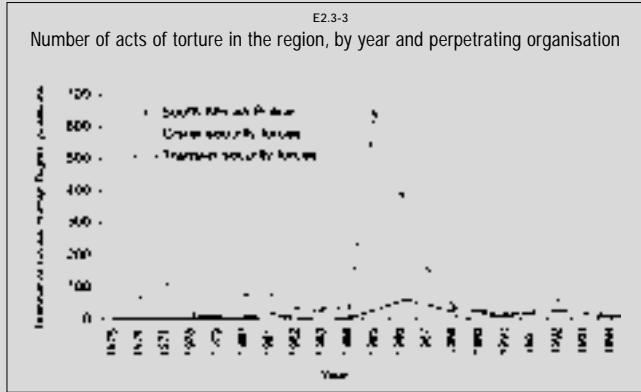
- 12 Overwhelmingly, the greatest number of instances of severe ill treatment are attributed to the SAP, followed by the Ciskei security forces and the SADF. The severe ill treatment violations attributed to the top three organisations change over time as follows:

- 13 The pattern of severe ill treatment closely matches that of killings, with allegations against the SAP dominating the peak in the mid-eighties and tailing off in the early 1990s. The number of allegations of severe ill treatment by the Ciskei security forces reaches a peak in 1992.

- 14 As in the national picture, the SAP dominates torture violations, with nearly 2 000 allegations: ▶



- 15 The security forces of both Ciskei and Transkei also feature strongly. Again, the pattern of alleged torture over time shows that torture was at its worst during the states of emergency:



- 16 The greatest number of torture cases attributed to the SAP occurs in 1985, then drops in 1986. In the national picture, by contrast, it shows an increase in 1986.

Regional Profile Natal and KwaZulu

■ OVERVIEW OF THE REGION

The Territory¹

- 1 The province now known as KwaZulu-Natal lies on the eastern seaboard of South Africa, stretching up to Mozambique and Swaziland in the north and bordered by the Drakensberg mountains to the west. It covers a total area of 100 000 square kilometres. The area was originally populated by San hunter-gatherers and by Nguni-speaking peoples who moved down the East Coast of Africa in the eighteenth century and later coalesced into the Zulu nation.
- 2 English traders and hunters settled in the Port Natal (Durban) region in the early nineteenth century. In the mid-1800s, the province was annexed as an autonomous district of the Cape Colony and the British administration established the Native Reserve of Zululand between the Tugela River and Mozambique. Administration was based on Zulu customary law, set up in a way that allowed the colonial state to co-opt the institutions of chieftainship for its own purposes. Thus, Zulu chiefs became the administrators of the British settler government. Many chiefs gained their positions through loyalty to the white administration rather than through customary laws of genealogy.
- 3 With the formation of the Union in 1910, the systems of chieftainship were brought together under a centralised administration controlled by Pretoria. The Black (Native) Administration Act (No 38 of 1927) empowered commissioners to appoint and depose chiefs, and laid the rules for chiefs' succession, family relations and personal obligations. In 1951, the last of the representative institutions for blacks was abolished² and a local government system of tribal and regional authorities was set up within 'Bantu Authorities' (also known as 'Bantustans').

1 Throughout this report the province has been referred to as 'Natal', with sub-regions referred to by the names that applied during the period of the Commission's review, i.e. 'Northern Natal', 'Natal Midlands' and 'KwaZulu'. The term 'KwaZulu/Natal' has been used in relation to events during the transition period in the early nineties, in keeping with common usage at these times. The province has been known as KwaZulu-Natal since 1994.

2 Bantu Authorities Act No 68 of 1951.

- 4 In 1970, the Zululand Territorial Authority (ZTA) was set up with Chief Mangosuthu Buthelezi as chief executive officer. In 1972, the ZTA was converted into the KwaZulu Legislative Assembly (KLA), with Buthelezi as the chief minister. The KwaZulu Constitution retained the colonial structures for regulating chieftainship, with chiefs appointed to their positions by the KwaZulu government. By now, the region's borders had changed substantially; KwaZulu consisted of disjointed fragments scattered throughout Natal. As with other homelands, the boundaries between Natal and KwaZulu were often marked informally by a river, a road or a mountain ridge. The land allocated to KwaZulu was largely barren and the soil degenerate compared to the generally fertile and productive farmland of Natal.

The people

- 5 KwaZulu and Natal together account for approximately one-fifth of South Africa's total population. The biggest population group is of African descent, of which 90 per cent is Zulu. About 90 per cent of the white population are English speaking. There is a sizeable Asian presence in Natal and a small section of the population is coloured.

The politics

- 6 Three main political groupings in the province have been identified for the purposes of this report:

The state

- 7 In Natal, this included the Natal Provincial Administration, the Department of Bantu Administration, the KwaZulu Government (including the KLA, local, regional, and traditional authorities and the KwaZulu Police or KZP) and structures in the security apparatus.

The Mass Democratic Movement (MDM)

- 8 This consisted of a loose alliance of organisations, most of which supported the political ethos of the African National Congress (ANC), and sometimes its military wing as well. These included organised labour, student organisations, the United Democratic Front (UDF) and its affiliates from the trade unions, Black Consciousness organisations, the Natal Indian Congress (NIC), the Congress of Traditional Leaders of South Africa (CONTRALESA), churches and church bodies, and non-governmental organisations (NGOs).

Those opposing the state from within state-created structures

- 9 Among these groups were Inkatha³ and its affiliates, working through the homeland and traditional structures.

OVERVIEW OF VIOLATIONS

Violations reported

- 10 Close to half of all statements reporting gross human rights abuses received were from the KwaZulu-Natal region (figures for Free State included: see introduction to this volume). This makes the proportion of submissions relative to population almost four times higher for this province than for the rest of the country. It was noticeable that the KwaZulu-Natal submissions tended to have a lower number of violations per victim (1.4 compared to the national average of 1.8–2.0), reflecting the large number of ‘single incident’ violations, mostly political killings and arson attacks.

FIGURE A1
Number of statements received by office

Office	Statements	% of total
CT	1 780	8.4%
EC	2 843	13.3%
JB	6 381	30.0%
KZ	10 292	48.3%
TOTAL	21 296	100.0%

FIGURE A2
Quantity of information received by office

Office	Statements	Violations (Gross and associated)	Gross human rights violations	Number of victims	Avg victims/statement	Avg violations/victim
CT	1 780	4 267	3 122	2 350	1.3	1.8
EC	2 843	6 380	5 460	3 252	1.1	2.0
JB	6 381	16 666	11 550	8 941	1.4	1.4
KZ	10 292	19 383	16 803	14 207	1.4	1.4
TOTAL	21 296	46 696	36 935	28 750	1.4	1.6

- 11 Most (63 per cent) of the deponents in KwaZulu-Natal were women – a significantly higher proportion than for other regions. In many cases, it was women who told the stories of families decimated by the political conflict in the province, with accounts of the loss or severe injury of male relatives. Fifty-four per cent of women deponents identified themselves as primary victims; while over 70 per cent of male deponents spoke of themselves as victims. The average age of deponents in KwaZulu-Natal was estimated at forty-three years.

FIGURE A3
Proportion female, male and sex missing for all deponents, by office

Office	Proportion female	Proportion male	Deponents with sex missing
CT	37%	57%	7%
EC	43%	55%	2%
JB	46%	53%	1%
KZ	63%	32%	5%
TOTAL	53%	44%	3%

³ The Inkatha Cultural Liberation Movement is referred to simply as ‘Inkatha’ from the time of its reconstitution in 1975 to July 1990 when the organisation was constituted as a political party. Thereafter, it is referred to as the Inkatha Freedom Party or IFP.

Types of violations

- 12 The trends in gross human rights violations in Natal over the Commission's mandate period show a marked increase in severe ill treatment from 1984, rising sharply between 1988 and 1990, and again from 1992 until the national elections of April 1994. A similar trend is indicated for politically motivated killings. Severe ill treatment accounted for the highest number of reported violations, followed by politically motivated killings. Together these two categories made up the overwhelming majority of violations. Moreover, over half of all violations reported nationally in these categories

FIGURE A4
Proportion of deponents who are victims, by office and sex

Office	Proportion of female deponents	Proportion of male deponents
CT	36%	72%
EC	32%	79%
JB	34%	67%
KZ	55%	72%
TOTAL	46%	71%

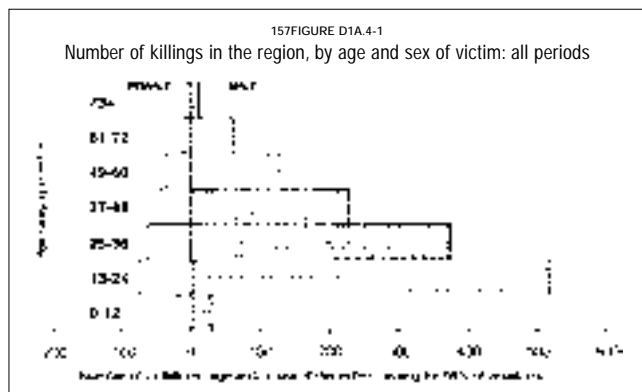
occurred in KwaZulu-Natal. Forms of severe ill treatment included arson, assault, stabbing, incarceration, shooting, burning and destruction of property. The most common form of severe ill treatment occurring in Natal was arson, rising significantly in the 1983–89 period and increasing dramatically in the 1990s. Incidents of shooting also rose dramatically during these two periods. Most of the politically motivated killings in the province were by shooting. Fatal stabbings also showed a steady increase.

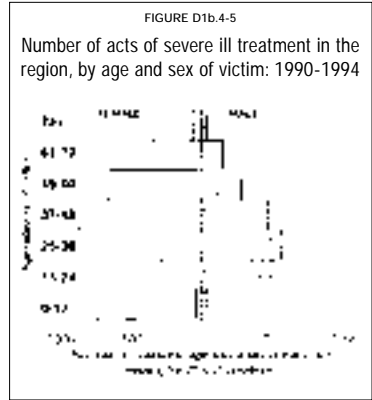
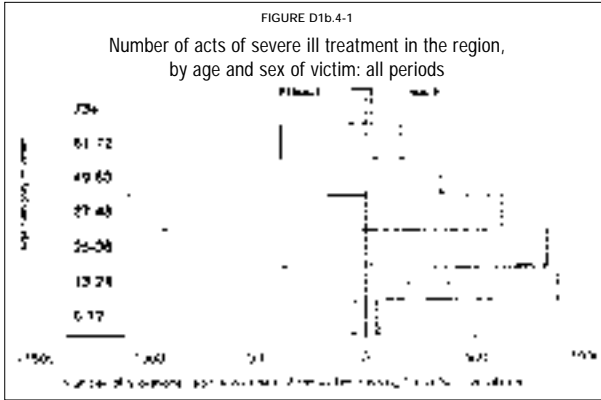
FIGURE A5
Estimated average age of deponent, by office and sex

Office	Female deponents	Male deponents	Total
CT	47	39	41
EC	50	44	46
JB	47	41	43
KZ	47	40	43
TOTAL	47	41	43

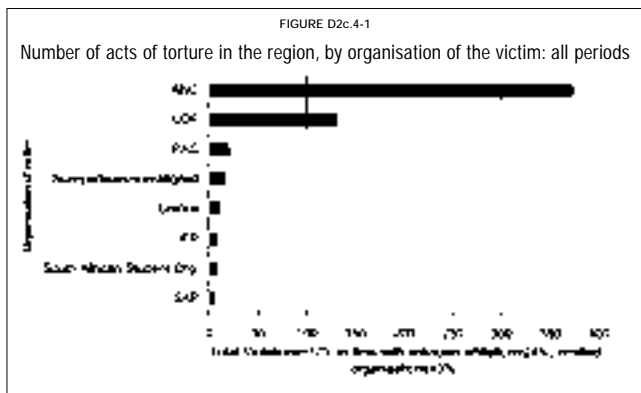
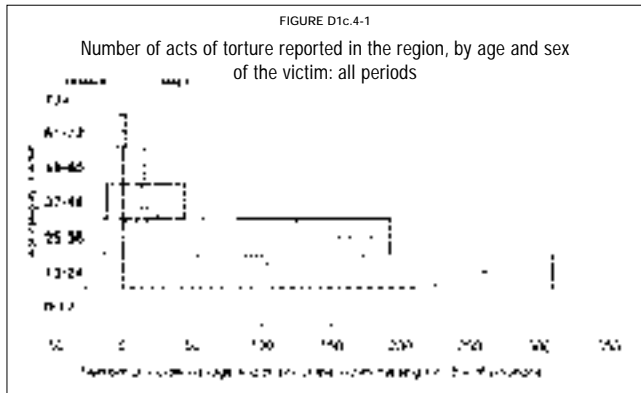
Victim categories

- 13 The statistics show that the victims of political killings were primarily males aged between thirteen and forty-eight years. This applies also to the victims of severe ill treatment until the 1990s, after which the victims were primarily female and between the ages of twenty-five and sixty years.





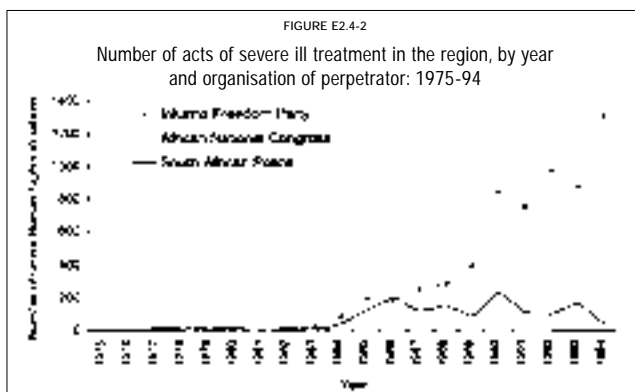
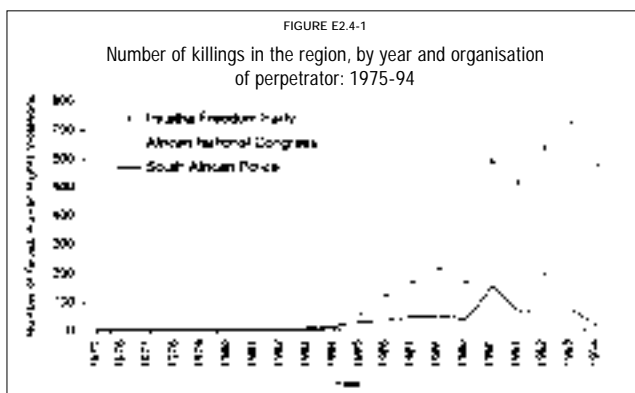
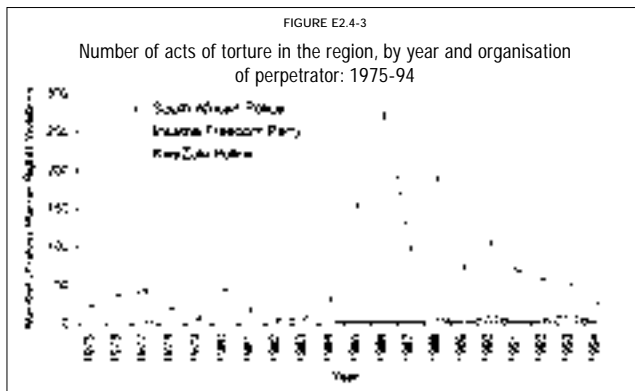
14 The statistics show that at least three times as many victims of severe ill treatment belonged to the ANC/UDF as to the IFP and other political groups. ANC supporters were also the overwhelming majority of victims of associated violations in all review periods. Reports of associated violations against Inkatha, the PAC and other organisations were recorded from 1976, and statistics showed a marked increase in the number of Inkatha members suffering associated violations during 1983-94.



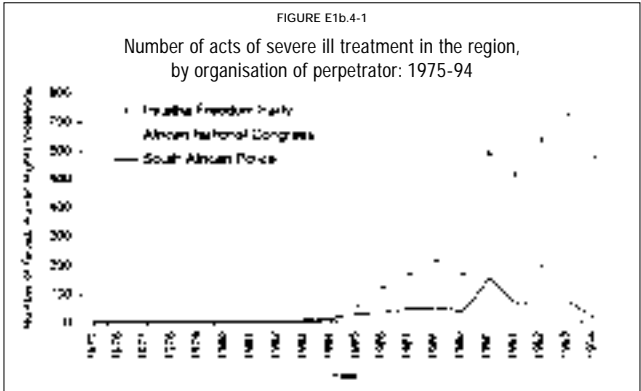
- 15 The victims of acts of torture were also overwhelmingly male, between the ages of thirteen and forty-eight and predominantly ANC/UDF members and supporters. There were remarkably few reports of the detention and torture of Inkatha supporters.

Perpetrator groups

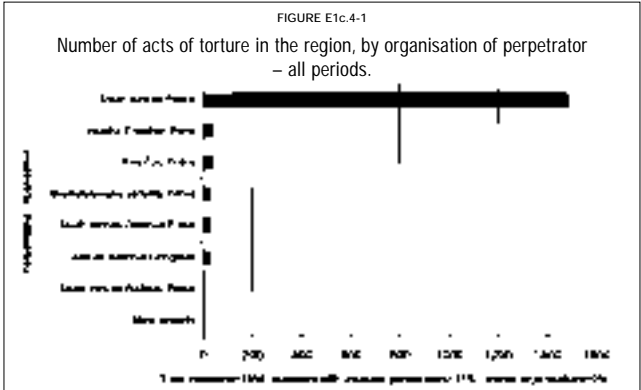
- 16 The evidence identifies the South African Police (SAP) as a dominant and consistent perpetrator group in three categories of abuse: torture, severe ill treatment and killings. Statistics show that assault or beating was by far the most common form of abuse. Electric shocks were used increasingly and most frequently during the 1983–89 period, corresponding roughly to the years of emergency government.



- 17 Inkatha was identified as a major perpetrator of gross human rights violations from 1983. Incidents of killings attributed to Inkatha rose dramatically in 1989–90, peaking again in 1993. Acts of severe ill treatment attributed to Inkatha and later to the IFP rose steadily from 1983 and dramatically between 1989 and 1994.
- 18 The ANC was also identified as a perpetrator group. Incidents of killing attributed to the ANC rose steadily from 1983, peaking in 1989 and 1992. There was a corresponding rise in the number of acts of severe ill treatment attributed to the ANC. According to information before the Commission, the number of acts of severe ill treatment attributed to the ANC was roughly one third of the corresponding figure for the IFP.



- 19 Incidents of associated violations were attributed predominantly to the SAP, except in the period 1990–94 when the greatest number were attributed to the IFP. The SAP was identified overwhelmingly as the major perpetrator of acts of torture throughout.



Where did the violations occur?

- 20 In the earlier periods under review, most reports emanated from Durban and Pietermaritzburg and surrounding areas; but violations gradually spread further afield, particularly to the Natal Midlands and the small outlying towns. By the 1990s, the entire province, urban and rural, had been touched by the violence – particularly in certain areas which came to be known as ‘flashpoints’. Notably,

the province's white suburbs remained relatively untouched by the political conflict in the province, apart from acts of sabotage in urban centres and incidents of police brutality at police stations.

- 21 Statements were received from a broad cross-section of communities in the province, with the majority coming from the townships and rural KwaZulu (former 'black areas'). While many people approached the Commission of their own accord with reports of violations, the Commission also deployed teams of statement takers across the province to gather a wide-ranging sample of evidence for a more complete view of the region's history. Statement takers reported difficulties in gaining access to some areas, for example Inchanga, which had been the scene of political conflict during 1996–97, and other areas known to be strongholds of the IFP.
- 22 The Commission received a total of 19 143 reports of alleged human rights violations in the province, of which one quarter referred to politically motivated killings. NGOs, research institutes and monitoring bodies have estimated the actual number of politically motivated killings for the period to have been four times greater – between 18 000 and 20 000.
- 23 The antagonism of the provincial majority IFP to the work of the Commission inhibited many IFP supporters from coming forward to tell their stories. A resolution of the IFP annual general meeting in July 1995 stated categorically that the IFP would not participate in the activities of the Commission. In correspondence and at meetings, commissioners expressed their desire for the IFP to encourage its members to appear before the Commission. The IFP maintained its stance, raising several objections to the work of the Commission, in particular to what it described as the 'partisan composition' of the Commission and to the conducting of public hearings in the province. Its strong opposition to the Commission's work was publicised in a newspaper advertisement in August 1997. In October 1997, however, the IFP agreed not to discourage its supporters who wished to come forward, in view of the fact that reparations could not be made available to victims who had not made statements to the Commission. The date for victims' submissions was extended to 15 December 1997, and several thousand submissions were made following this decision, although very few of these were from IFP supporters.
- 24 The majority of reports of human rights violations in the region refer to the conflict between supporters of the IFP and the ANC-aligned supporters of the UDF. Fighting between the two parties developed into open conflict in the 1980s and climaxed in the pre-April 1994 election violence, often amounting to civil war.

- 25 The Commission received many more accounts of the political violence from UDF/ANC supporters, creating the impression that the violations suffered by the UDF/ANC outnumbered those suffered by Inkatha by five to one. The Commission was unable to establish the degree to which this disparity is a reflection of the IFP's rejection of the Commission or a reflection of the actual experience of violations.
- 26 Similarly, reports of gross violations suffered by members of the former security forces (SADF, SAP and KZP) contributed less than 1 per cent of the total violations reported in KwaZulu-Natal. There is no doubt that members of the former security forces were victims of the political struggle in KwaZulu-Natal. Many were harassed and reviled; many became the targets of violent attack, and many were killed. These victims and their families did not come forward to tell their stories.

■ 1960-1975

Historical overview of the period

- 27 Several factors converged at the beginning of 1960 to usher in a decade characterised by extreme repression and demoralisation in the political life of the nation. With the 1959 Bantu Self-Government Act in place, the Nationalist government embarked on a policy of 'divide and rule'. The banning of the ANC and the Pan Africanist Congress (PAC) in April 1960 was an attempt to repress all forms of opposition, although non-violent and legal, in the country as a whole. In Natal, the decade was marked by the widespread imposition of restrictions, banning and banishment orders on individuals, arrests, detentions and police brutality, and by criminal prosecutions under the main pillars of apartheid legislation.
- 28 From the early sixties, the pass laws were the primary instrument used by the state to arrest and charge its political opponents. By the same token, it was mainly the popular resistance mobilised against those pass laws that kept resistance politics alive during this period. Africans in Natal incurred heavy fines for burning reference documents. One of those fined was Chief Albert Luthuli, president of the ANC and 1960 Nobel Peace Laureate. Shortly before its banning, the ANC organised anti-pass law demonstrations in Durban, resulting in large-scale arrests and detentions. Protests against the Group Areas Act became another major feature of resistance at this time, particularly in areas where residents were under threat of removal.

Umkhonto weSizwe

- 29 The ANC established a separate armed wing, Umkhonto we Sizwe (MK), in 1961 and developed an underground campaign to expose and counter state repression. The multi-pronged strategy included a propaganda campaign and student protest action in a number of black and English-medium universities. On 16 December 1961, MK launched Operation Mayibuye, a sabotage campaign directed mainly at government installations. This led to a large number of bannings, arrests and prosecutions, and the Commission heard several accounts of torture of detainees in Natal. Many operatives and activists were sentenced to jail terms for sabotage or for membership of the banned liberation organisations; many more were driven into exile. By the mid-1960s, the underground structures of the ANC had collapsed and formal opposition politics were at their most subdued.
- 30 After the Rivonia trial (1963–64) in which Mr Nelson Mandela and other members of the MK high command were tried, an attempt was made to reconstitute the high command, but all its members were subsequently arrested. The internal units of MK were in disarray, and any Natal operatives who were not in prison or on trial went into exile. About 800 MK cadres were in exile by 1965, undergoing training in Tanzania, Czechoslovakia, the Soviet Union and China under the command of Mr Joe Modise.
- 31 In 1967, MK cadres were sent into Rhodesia with Zimbabwe African People's Union (ZAPU) units in what was known as the 'Wankie Campaign'. The main MK unit (the Luthuli Detachment) was to forge a way to South Africa whilst another established a transit base in Sipolilo, Rhodesia. The South African security forces were invited into Rhodesia by the Smith government and launched a joint operation against MK-ZAPU units. These were the first cross-border actions against MK cadres from Natal. The Luthuli Detachment included well-known Natal MK cadres such as Mr Justice Mpanza from Groutville and Mr Daluxolo Luthuli⁴. Many of these cadres and their families later told their stories to the Commission.
- 32 In 1969, the ANC in exile established a Revolutionary Council to oversee all political and military work. Various attempts to send MK into South Africa, particularly into the rural areas, were thwarted when operatives were captured or killed, so there was very little MK activity in the late sixties and early seventies. The political landscape changed with the release of MK cadres such as Mr Harry Gwala, Mr

⁴ Daluxolo Wordsworth Luthuli, said to be the grandson of former ANC president Chief Albert Luthuli, was later arrested and convicted of terrorism. He served his sentence on Robben Island. On his release in 1979, he joined Inkatha and in 1986 became involved in an Inkatha paramilitary training project. Luthuli accompanied a group of 206 Inkatha supporters who underwent six months of secret training by the SADF in the Caprivi in 1986 and acted as their political commissar.

Joe Gqabi and Mr Jacob Zuma from Robben Island starting in 1972 and with Mozambique's independence in 1974, giving MK a corridor into South Africa. MK units in Natal began to redevelop routes to their units in Swaziland.

Black Consciousness

- 33 Early in the 1970s, new forms of resistance and new challenges emerged internally. A number of new organisations, such as the (black) South African Students' Organisation (SASO) and the Black People's Convention (BPC), espoused the philosophy of Black Consciousness, which addressed the psychological oppression and the daily experience of racism of black people. The NIC was revived in 1971. While the movement rejected the exclusivist aspirations of Black Consciousness, it became an outspoken opponent of ethnic and racially-based government administration in both the province and the country, and was effective in raising political consciousness in the Indian community.

The KwaZulu National Assembly

- 34 Those in the Black Consciousness tradition expressed clear opposition to blacks operating within government-created institutions. This rejectionist position served increasingly to isolate people like Zulu leader, Chief Mangosuthu Buthelezi, who headed the Zululand Territorial Authority created in 1970 and its successor, the KLA. From these positions, he sought to advance his own political agenda as well as his opposition to both apartheid and a specific strand within the ANC. He became a thorn in the flesh of the National Party (NP) government, which tried by various means to unseat him. He made it clear to the central government that he would only consider accepting homeland 'independence' on condition that the territory was consolidated to include the new harbour of Richards Bay and all 'white' towns north of the Tugela.

Durban strikes

- 35 The Durban strikes of 1973 marked a turning point in the history of political resistance in the province. With wages practically frozen for over a decade, the growing poverty in the cities – and therefore also in the rural areas where families depended on the wages of migrant breadwinners – led to strikes which affected 150 establishments and involved 60 000 workers during the first few months of 1973. The strikers were ultimately forced to back down, but they laid the foundations for a new labour union movement and for organised social resistance in other

spheres of the anti-apartheid struggle. The General Factory Workers' Benefit Fund also opened the way for the organisation of workers in a number of industrial fields. This was an initiative of the Wages Commission, set up at the University of Natal in 1972 to research labour conditions and to provide workers with a vehicle to voice their grievances.

- 36 While most homeland leaders limited their concerns mainly to the citizens of their own territory, Chief Buthelezi, the most outspoken of these leaders in attacking the South African government, used the Durban strikes to voice the more general aspirations of Africans and to assert an ethnic, specifically Zulu, mode of resistance. The KwaZulu government supported the strikers' demands for increased wages and used the opportunity to demonstrate to the white authorities what collective action could achieve unless concessions were made to African people.
- 37 Towards the end of 1974, several Black Consciousness supporters were arrested in Durban in connection with the planning of *Viva Frelimo* rallies to celebrate the fall of Portuguese colonialism in Mozambique. Many members of Black Consciousness organisations fled the country. Some were detained and others were charged under the Terrorism Act No 83 of 1967.

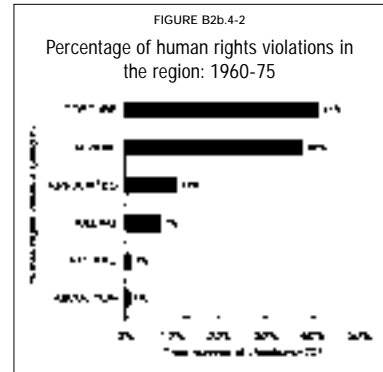
Inkatha

- 38 In 1975, the Inkatha Cultural Liberation Movement (Inkatha) was revived, marking a new era in the province's political life. Its strategy and its future relationship with other opposition groupings were shaped by the Durban strikes as well as by the scholars' uprising of 1976 in Soweto.⁵
- 39 The formation of Inkatha had the approval of the ANC, because the new movement appeared to offer access to rural areas. Initially, Inkatha placed itself squarely within the political tradition of the ANC's founding fathers. However, Inkatha was later to operate uncontested on any scale within the space provided by the homeland policy and the state's repression of all other opposition.

⁵ The Soweto uprisings are described in the chapter on the Transvaal in this volume.

Overview of violations

- 40 Torture and severe ill-treatment were the predominant form of gross human rights violations reported for this fifteen-year period: that is, torture 41%; severe ill treatment 38%; associated violations 11%; killings 7%; attempted killings 1%; abduction 1%.



- 41 All reported incidents occurred in the greater Durban and Pietermaritzburg areas. In the majority of cases, the victims were aligned to the ANC, the South African Communist Party (SACP) or were non-partisan. Most reported violations were attributed to members of the SAP.

State and allied groupings

Torture in custody

- 42 Many ANC and SACP activists spoke of detention and torture by the police during this period. The first reported case of torture through poisoning was received for this period. The Investigation Unit could not corroborate all statements as records had been destroyed. However, from information received, it appears that torture methods used by the police ranged from severe assault to forcing a victim to assume contorted and degrading positions. In some cases, it is believed that death resulted from torture suffered during detention.

The Case of Ethel Shabalala and Jerome Duma

SACP member Ms Ethel Sizile Shabalala [KZN/NN/004/DN], and her husband, ANC member Jerome Duma, both of Umlazi, were detained, interrogated and tortured repeatedly throughout the 1960s by members of the Security Branch. Shortly after Duma's release from detention on 30 August 1970, he died of renal failure believed to have been caused by the torture he suffered in prison. Shabalala said that when she was released from detention, she found that her house and its contents had been given to other people.

- 43 Members of SASO and BPC were tortured in detention following their arrest in September 1974 for the planning of *Viva Frelimo* rallies.

- 44 One of those arrested in Durban was Ms Bridgette Mabandla, employed at the time as a youth programme organiser for the South African Institute of Race Relations (SAIRR). Her husband, Mr Lindilwe Mabandla, had been arrested three days earlier. Ms Mabandla was in detention for five months and three weeks, during which time she was not permitted to see her five-month-old baby. She was allegedly tortured on a number of occasions by members of the Security Branch. Former Durban security policeman, Colonel ARC Taylor [AM4077/96] applied for amnesty for the torture of Mabandla and five others arrested at the same time: namely Mr Sathasivan Cooper, Mr Revabalan Cooper, Mr Lindani Muntu Myeza, Mr Nyangana Absalom Cindi and Mr Reuben William Hair. Taylor died on 11 November 1997, before his application for amnesty could be heard.
- 45 At the Durban hearing, the Commission heard that underground ANC cell leader Haroon Aziz [KZN/MR/013/DN] of Stanger was tortured following his arrest in 1975 under Section 6 of the Terrorism Act. He described the various forms of torture he suffered at the hands of the police, including a method that came to be known as the 'invisible chair'.

They used to make me sit on what they used to call an invisible chair. An invisible chair is you pretend to sit on a chair, but there's no chair there, and you hold your hands out and you flick your fingers. They interrogate you and you have to answer the questions. This invisible chair position was quite close to the wall, but I wasn't allowed to lean against the wall. In front of me, one of the special branch policemen used to hold a knife at my navel so as to prevent me from falling easily to the ground. And if they were not satisfied with the answers I gave, from time to time they would hit me on my penis, and sometimes squeeze it. It was very difficult to fall down because of the knife in front but eventually, when I fell, I was kicked and this kicking used to go on and I used to scream and shout and they used to laugh at me like mad hyenas.

- 46 In February 1975, Aziz was moved to the Pretoria Maximum Security Prison where he was kept in solitary confinement for four months. He was finally released without being charged.
- 47 ANC activist Leonard Mdingi [EC2150/97ETK], then aged fifty-five, was severely tortured by Durban security policemen in 1975 after being arrested for harbouring ANC cadres. During his week in detention he was assaulted, made to stand on one leg for long periods of time, and was wrapped in a cloth and put in dry ice for about five hours. He suffered internal injuries as a result of his torture.

- 48 Many others were arrested and tried, and some tortured, for leaving the country to undergo military training under MK.

The Case of Anthony Xaba

Mr Anthony Ndoda Xaba from Pietermaritzburg [KZN/PMB/002/PM], who left for training in Tanzania in 1963, was one of a large number of MK recruits arrested in Northern Rhodesia. Xaba told the Commission that they were tortured at Beit Bridge before being brought to South Africa to be tried for leaving the country unlawfully. Xaba was sentenced to ten years, which he served on Robben Island. On his release in July 1973, he was immediately placed under house arrest for five years.

One morning in November 1975, police surrounded Xaba's house, rounded up all six members of his family and took them to Loop Street police station in Pietermaritzburg. Xaba says he was taken upstairs where he was systematically assaulted, tortured and interrogated for two days. He was bleeding heavily and lost consciousness a number of times. His torture included being hung out of the window by his feet while the policemen swung him backwards and forwards and banged his head against the wall. His arm was broken in the process. At one point during the torture, he said he could hear the screams of his wife in the adjoining room. On his second day of torture, Xaba's hands were cuffed behind his back and he was suspended from the ceiling like "meat in the butchery".

The Case of Sipho Hamilton Kubheka

ANC Youth League member, Sipho Hamilton Kubheka [KZN/NNN/078/PM], told the Commission that he was detained and tortured on a number of occasions by the Pietermaritzburg Security Branch during 1975. He said he was subjected to severe mental torture and a month in solitary confinement, was stripped naked and assaulted. During his torture he was told that he had to turn against the ANC and be a state witness in the pending Gwala treason trial; if he refused to co-operate, he would be thrown off a moving train.

He did testify on behalf of the state during the above-mentioned trial and was then released.

- 49 Many activists were charged with furthering the aims of the banned ANC, SACP or PAC. Those charged and tried in the 1960s included Mr Albert Dlomo, [KZN/NM/228/DN] and Mr Griffiths Mxenge of the ANC; and Mr Shadrack Maphumulo, Mr

Joseph Mdluli, Mr Rowley Arenstein, Ms Dorothy Nyembe and Mr MD Naidoo of the SACP. Several people fled into exile to avoid long prison sentences.

IN REVIEWING THE EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS PERPETRATED BY THE STATE IN NATAL DURING THIS PERIOD, THE COMMISSION FINDS THAT THE SAP ASSAULTED AND TORTURED DETAINEES AND OPPONENTS OF THE GOVERNMENT, ESTABLISHING A PATTERN OF ABUSE THAT INCREASED IN INTENSITY THROUGH SUBSEQUENT PERIODS. THESE ACTS AMOUNTED TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

Resistance and revolutionary groupings

Sabotage

- 50 In December 1961, MK began a campaign of sabotage directed at government installations, especially communications and power installations. The military high command of MK had established regional commands and appointed trade union official Mr Curnick Ndlovu [AM5952/97] to head the Natal command. Other members of the Natal region included Mr Billy Nair [AM5613/97], Mr Ronnie Kasrils [AM5509/97], Ms Eleanor Kasrils [AM7725/97], Mr Ismail Ebrahim, Mr Bruno Mtolo and Mr David Ndawonde. They reported to the Commander of MK, Mr Nelson Mandela, until his arrest in Howick in 1962, and thereafter to Mr Raymond Mhlaba.
- 51 The sabotage campaign began with an attempt on 15 December 1961 to bomb the Durban offices of the Department of Bantu Affairs [AM5509/97: R Kasrils]. Other acts included the November 1962 attempt to sabotage pylons in the Durban/Pinetown area, the bombing of the Durban Post Office in December 1962 and the January 1963 attempt to sabotage telephone services in an industrial area of Durban. An African tax office, a beer hall and a section of railway line were also damaged by sabotage at this time.
- 52 In the 1964 'Spear of the Nation' trial, Billy Nair, Curnick Ndlovu and seventeen others stood accused of twenty-seven acts of sabotage in Natal, the possession of explosives and the recruitment of military trainees. Bruno Mtolo gave evidence for the state, allegedly at the behest of Mr Jan Daniel Potgieter, an amnesty applicant from the Security Branch's intelligence unit [AM5418/97]. Potgieter claims to have 'turned' many of the informers and/or *askaris* ['turned' guerrilla fighters] who assisted the Security Branch in Natal. Nair and Ndlovu were sentenced to twenty years, one was discharged and the rest were given sentences of five to fifteen years [AM5613/97: Billy Nair].

53 In response to the sabotage campaign, the General Laws Amendment Act (76 of 1962) created the offence of sabotage. Sabotage was loosely defined as “wrongful and wilful” acts designed to “obstruct, injure, tamper with or destroy” things such as the ‘health and safety of the public’ or the “supply of water, light, fuel or foodstuffs”. The penalties ranged from a minimum five-year sentence to the death penalty.

Attacks on ‘collaborators’

54 Information from victims’ statements and amnesty applications from former Security Branch members indicates that police torture aimed not only at extracting information from detainees but also at compelling individuals to ‘turn’ against the liberation movements and co-operate with the police instead. In many instances, the police were successful. Many individuals, formerly loyal members of the banned liberation organisations, became police informers under threat of torture or death, or turned state witness against their colleagues in an effort to avoid prosecution themselves.

55 Informers and ‘collaborators’ became targets of attack. The case of Leonard Nkosi illustrates how one-time heroes of the liberation struggle came to be hunted for betraying their own colleagues to the Security Branch.

The Case of Leonard Nkosi

Mr Leonard Nkosi left South Africa in 1963 to undergo military and political training with MK. He was a leader and allegedly a renowned sniper in the Wankie Campaign. He was captured by the Security Branch in 1967 and it is believed that he worked as an askari and later joined the Security Branch. In his application for amnesty, Mr Jan Daniel Potgieter [AM5418/97], a member of the Security Branch intelligence unit, revealed that Nkosi had been compelled to turn state witness against his former colleagues.

Daluxolo Luthuli [AM4057/96] claims that it was Nkosi who assisted in his December 1967 arrest in a sting operation in Messina. Nkosi subsequently testified against him and Luthuli was sent to Robben Island. Nkosi also testified for the state against other members of the Luthuli Detachment, including Mr James April who was tried in the Pietermaritzburg Supreme Court [CT00428/OUT].

On 9 September 1977, shortly after testifying against Harry Gwala and nine others in the 1976–77 treason trial in Pietermaritzburg, Nkosi was assassinated.

Security Branch amnesty applicants told the Commission that Nkosi was shot dead and his wife injured with a single shot from a Tokarev and that ANC member Reverend Stanley Msibi (now deceased) was implicated in Nkosi's death [AM3686/96]. The ANC claimed responsibility for the assassination in its second submission to the Commission.

THE COMMISSION FINDS THAT MEMBERS AND SUPPORTERS OF THE ANC WERE RESPONSIBLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS ARISING OUT OF THE SEVERE ILL TREATMENT AND KILLING OF SO-CALLED 'COLLABORATORS' – INDIVIDUALS PERCEIVED TO BE WORKING FOR THE SAP IN A WAY THAT WAS DETRIMENTAL TO THE RESISTANCE MOVEMENTS, AND THAT SUCH ACTS FORMED A PATTERN OF ABUSE FOR WHICH UNKNOWN MEMBERS AND SUPPORTERS OF THE ANC ARE HELD ACCOUNTABLE.

■ 1976-1982

Historical overview of the period

- 56 The political life of the province during this period was marked by attempts by Inkatha to consolidate its regional power base. By the late 1970s, Inkatha's membership had swelled substantially. Chief Mangosuthu Buthelezi described Inkatha as the "largest and best organised Black constituency"⁶ ever seen in South Africa.
- 57 At a national level, the 1970s were shaped by the events and consequences of Soweto 1976. While it took some time for the full impact to be felt in Natal, the focus of opposition shifted decisively to a new generation and brought about an age divide that was to have far-reaching consequences for traditional relationships between old and young.
- 58 The 1976 Soweto uprising produced a wave of popular protest in the province and generated the beginnings of youth and student polarisation. Student organisations such as the South African Students' Movement (SASM) and the junior wing of the Congress of South African Students (COSAS) confirmed their policy of rejecting all government-created institutions and foreign investment, bringing them into conflict with Inkatha policy. The opposition of Inkatha and the KwaZulu government to the school-based protests deepened existing tensions between political groups and organisations in the province.
- 59 By April 1980, the national campaign of students against overcrowding in schools, lack of equipment and books and lack of student representation had spread to

⁶ Chief Buthelezi's address to the 1978 Inkatha National Conference.

KwaMashu, north of Durban. Boycotting pupils in KwaMashu defied Chief Buthelezi's calls to return to school, resulting in clashes between pupils and Inkatha supporters. Altogether thirty-six KwaZulu and Natal schools were affected by the school boycotts of 1980 and 1981. These boycotts allegedly led to an increased exodus of youth from the country to join the ANC.

- 60 In the first few years after the revival of Inkatha in 1975, the ANC regarded Chief Buthelezi as an important ally inside the country.⁷ Buthelezi himself stated repeatedly that Inkatha was based on the ideals proposed by the ANC's founding fathers in 1912. In these early years, the external mission of the ANC maintained contact with him and encouraged their supporters back home to join Inkatha.
- 61 However, emerging differences of opinion and strategy between Chief Buthelezi and the ANC leadership in exile began to cause tensions between the two organisations. While the ANC called for sanctions and disinvestment and advocated an armed struggle and protest politics, Chief Buthelezi opposed these methods, arguing that the demise of apartheid was best brought about through constituency-based politics, focusing on evolutionary (rather than revolutionary) change. Opposition to apartheid, he believed, was best located within the structures of the state. The ANC failed to mobilise its supporters to give effect to Chief Buthelezi's strategy. According to Oliver Tambo, this was due to "the understandable antipathy of many of our comrades towards what they considered as working within the bantustan system".⁸
- 62 Matters came to a head at a London meeting between Chief Buthelezi and the ANC leadership in exile in October 1979. Chief Buthelezi expressed his disagreement with the ANC's strategy of the armed struggle and its belief in revolutionary change. He claimed that the ANC in exile no longer had a mandate from the masses. The masses, he said, had given up on waiting for the exiled ANC to liberate them militarily and were now seeking liberation through constituency politics. Chief Buthelezi accused the ANC's external mission of being hypocritical and of having deserted black South Africans.⁹
- 63 Chief Buthelezi interpreted the ANC's motives for the meeting as a desire to make Inkatha an internal wing or surrogate (and therefore an inferior subsidiary) of the ANC. He, for his part, went to the meeting to make a claim for political independence:

7 ANC: Documents of the Second National Consultative Conference of the ANC, Zambia, 16–23 June 1985, Lusaka, 1985, pp. 20–21.

8 ANC (1985).

9 Chief Buthelezi, 'Emerging Political Reality in South Africa' (address). London meeting of the ANC 10 Chief Buthelezi: 'The Question of the Recognition of the role of Inkatha in the Struggle for Liberation' (address). London meeting of the ANC leadership, October 1979.

*Inkatha is a political phenomenon of considerable magnitude and the ANC will be faced with having clearly to endorse the Inkatha position.*¹⁰

- 64 The meeting resulted in the severing of ties between the ANC and Inkatha. The ANC described the meeting as a failure. Former IFP national council member Walter Felgate, on the other hand, described it as 'good news'. In his view, Chief Buthelezi had shown the ANC that he had the necessary support and could go it alone.¹¹ Following the meeting, relations between the ANC and Inkatha deteriorated rapidly. In its submission to the Commission¹², the IFP said, "from then onwards Inkatha was singled out as an enemy".
- 65 Inkatha moved to consolidate its position in the province by relying increasingly on 'traditional' authority for control. Additional powers granted by the state consolidated its power base and control over the population. The 'Inkatha syllabus' entered the educational system; rents and transport became sources of revenue for the KwaZulu government and townships came under the control of KwaZulu. Townships earmarked for incorporation became centres of conflict. The KZP came into being, initially to serve as a state guard to protect KwaZulu government officials and property. Chief Buthelezi, as both chief minister and minister of police, soon called for greater powers and more resources for the KZP.
- 66 In the meanwhile ANC youth, now in the front lines of resistance to the government and in a situation of increasing political rivalry with members and supporters of Inkatha, were making more militant demands of their own leaders.
- 67 A war of words erupted between the two movements. The ANC, having failed to make Inkatha the vehicle for its organisational inroads into the important rural constituencies, now embarked on a propaganda onslaught against Chief Buthelezi and Inkatha. As the battle lines were drawn, Chief Buthelezi turned to and received support from the state security apparatus and Inkatha found itself part of the state's strategic response to 'the total onslaught' by the liberation and resistance movements.
- 68 During this period, the security forces adopted a more proactive strategy in dealing with the liberation movements. Reports and allegations of the torture of political detainees increased steadily and became more widespread. Abductions and political assassinations were also reported.

¹⁰ Buthelezi's address to the ANC leadership at the October 1979 London meeting intitled "The Question of the Recognition of the Role of Inkatha in the Struggle for Liberation".

¹¹ Walter Felgate, Section 29 hearing.

¹² IFP: Inkatha Submission to the Truth and Reconciliation Commission, 1996.

- 69 Following the national outcry over deaths in police custody, the security forces began to consider other ways – such as assassination – to silence their opponents. Military combatants of the banned ANC and PAC were often the ‘faceless victims’ of assassination by the security forces, their identity frequently unknown by their killers or their own units. The Commission had the task of matching the names of those who disappeared against names submitted by amnesty applicants who knew only the travelling names or *noms-de-guerre* of those they had killed. Former members of fragmented MK units, who had operated on a need-to-know basis with few written records, could not always assist the Commission in this task.
- 70 Combatants were not the only victims, however. Human rights activists, academics and ideological leaders engaged in legitimate opposition to the state’s policy of apartheid were also targeted for attack. Assassination became a way of silencing and removing those who could not be charged with criminal offences, even within the broad parameters of the security legislation at the time.
- 71 Deaths in custody during this period were characterised by a marked discrepancy between official police explanations and independent forensic evidence. In the main, the police claimed that deaths in detention were caused by suicide, by accidental events or in the course of attempted escape. The Commission heard that, in some cases, inquest rulings appeared to support the police version of events, clearly at odds with the other available evidence.
- 72 More treason trials were held in this period. In 1976, Mr Harry Gwala and nine others were charged under the Terrorism Act. Two of the accused said that they had been kidnapped in Swaziland and tortured. In several other treason trials held in the province in the late 1970s, activists were charged with planning to undergo military training and encouraging others to do so. Mr Isaac Zimu and three others, tried in 1977, and Mr Timothy Nxumalo, Nqutu teacher Vusumuzi Lucas Mbatha and others, tried in 1978, all claimed that they had been tortured in various ways while in detention.

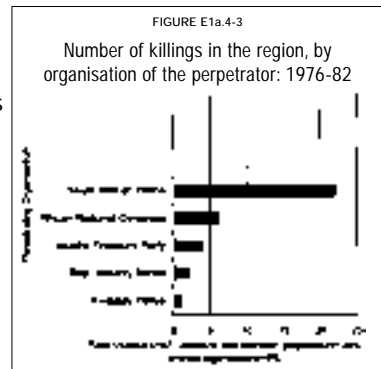
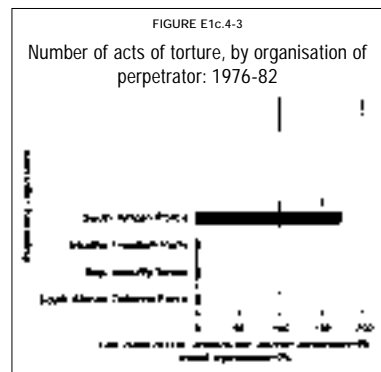
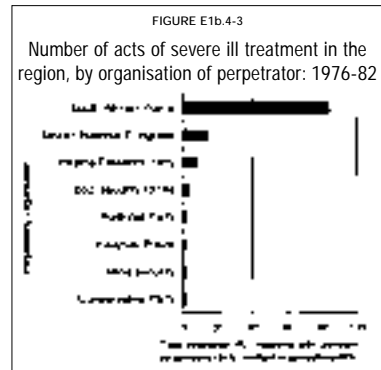
Overview of violations

73 As in the previous period, torture and severe ill-treatment were the dominant forms of violation reported to the Commission: that is, severe ill treatment 33%; associated violations 19%; torture 29%; killing 12%; abduction 7%; attempted killings 1%.

74 From information received, it emerged that the principal victims were ANC-aligned opponents of apartheid, including school activists. The increase in killings reflects the inclusion of political assassinations. The first reported Natal cases of abduction by security forces from a neighbouring state occurred in 1976. This period also saw an increase in acts of sabotage by MK. The overwhelming majority of acts of severe ill treatment recorded for the period were committed by the SAP, followed by those attributed to Inkatha and to the ANC. A small number of similar violations was attributed to other political organisations and to the KZP.

75 The overwhelming majority of acts of torture recorded for the period were attributed to the SAP.

76 The overwhelming majority of associated violations were attributed to the SAP, followed by Inkatha. A small number of similar violations were attributed to the ANC and to the KZP. The majority of killings recorded for the period were committed by members of the SAP, followed by those attributed to the ANC and to Inkatha. Killings were also attributed to the KZP.



- 77 Violations occurred over a wider area, although still largely concentrated around Durban and in the Midlands. A number of violations were also reported in Northern Natal (Madadeni, Msinga, Vryheid, Nkandla), on the lower South Coast (Gamalakhe, Port Shepstone), and on the North Coast (Empangeni).

State and allied groupings

Torture in custody

- 78 Several ANC and PAC members told the Commission that they were severely tortured in detention during this period. Several of these were involved in the 1976 treason trial in which Harry Gwala and nine others stood accused on charges relating to recruiting military trainees and getting them out of the country, and communicating with exiled ANC members in Swaziland. During the course of the trial, six of the accused filed summonses against the Minister of Police for failing to respond to their damages claims in respect of the torture they suffered.

The Cases of Joseph Nduli and Cleopas Ndlovu

Former security police member Colonel ARC Taylor [AM4077/96] applied for amnesty for the abduction and torture of Mr Joseph Nduli and Mr Cleopas Ndlovu, both accused in the 1976 Gwala treason trial. With the assistance of Amnesty International, the Commission obtained statements taken from Nduli and Ndlovu¹³ in exile by the United Nations, in which they alleged that they were abducted from Swaziland on 25 March 1976 by Durban Security Branch members and taken to Island Rock, Sodwana Bay, for questioning. They were both allegedly tortured.

Nduli alleged that he was immersed in the sea, subjected to electric shocks while being suspended from the neck, and beaten. Ndlovu alleged that he was blindfolded for thirteen days while his neck and wrists were tied with rope. He was made to stand for long hours and subjected to electric shocks.

Taylor stated that Ndlovu and Nduli were abducted by members of the Security Branch and Riot Unit at the Swaziland border and taken to a base at Island Rock. Taylor stated that Ndlovu and Nduli were assaulted with open hands and fists and one of them was kicked. They were also deprived of sleep.

¹³ Both Ndlovu and Nduli have since died.

The Case of Zephaniah Lekoane Mothopeng

The Commission heard that PAC member Zephaniah Lekoane Mothopeng [JB04279/01GTS0W] suffered torture at the hands of unknown security policemen while in the Pietermaritzburg prison for his involvement in the 1976 Soweto uprising. During his torture, a policeman placed a sharp knife on his head and gently beat the knife down with the palm of his hand. He was also forced to lie on ice, and was placed in a sack and spun around in the air. With his hands and feet shackled to a stick, Mothopeng was suspended from the ceiling and spun around. This became known as the 'helicopter technique'.

- 79 In reviewing evidence of gross human rights violations perpetrated by the state in Natal during this period (1976–82):

THE COMMISSION FINDS THAT THE SAP MADE WIDESPREAD AND ROUTINE USE OF ASSAULT AND SEVERE TORTURE AS PART OF A SYSTEMATIC CAMPAIGN TO SILENCE AND SUPPRESS OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT. THE TORTURE AND SEVERE ILL TREATMENT OF AN UNKNOWN NUMBER OF SUCH PERSONS CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

Deaths in custody

- 80 The Commission conducted investigations into the deaths in custody of several ANC and PAC members, including Mr Aaron Khoza of the PAC and Mr Hoosen Haffajee, Mr Bayempini Mzizi and Mr Joseph Mdluli of the ANC. An investigation into these and other cases was hampered by the destruction of records and by the fact that some of the detainees were moved to prisons far from their homes and interrogated by persons unknown to them or their families. In all cases, however, family members alleged that the victims had died in custody at the hands of the police. As with other recorded deaths in police custody, there was a marked disparity between the official police version and other evidence of the events leading to these victims' deaths.

The Case of Aaron Khoza

PAC member Aaron Khoza was detained in Krugersdorp on 9 December 1976, along with Mr Johnson Vusumuzi and Mr Ivan Nyathi. He was subsequently moved to Pietermaritzburg prison, where he died on 26 March 1977. On 12 July 1977, an inquest magistrate found that Khoza had committed suicide by hanging. Advocate Harry Pitman, appearing for the family, said the evidence of the prison authority was conflicting and the investigation unsatisfactory. Aaron Khoza's widow, Ms Alletta Maki Khoza told the Commission

[JB04458/03WR] that her husband was detained in November 1976 for underground activities and was held for 106 days. She said that she did not believe that he committed suicide as his face was scarred, showing that he had been severely assaulted.

Nyathi remained in Krugersdorp and was admitted to hospital on 2 February 1977 after allegedly falling out a window at Krugersdorp police station¹⁴.

The Case of Joseph Mdluli

ANC member Joseph Mdluli died in detention on 19 March 1976, just a day after his arrest in connection with the 1976 Gwala treason trial. Four security policemen were charged with culpable homicide, namely Mr Frederick Van Zyl, Colonel ARC Taylor, Mr Mandlakayise Patrick Makhanya and Mr Zabulon Ngobese. In their trial they claimed that Mdluli had tried to escape and had fallen over a chair. A pathologist presented evidence disputing the police version. All four accused were acquitted on 25 October 1976, the fifth day of the trial. The presiding judge said there was insufficient evidence to connect them directly to the death. He called for further investigation.

In March 1979, Mdluli's widow [KZN/KM/999/DN] sued the state in a civil court and accepted an out-of-court settlement of R28 616.

Before his own death in November 1997, Colonel Taylor was subpoenaed to appear before the Commission and questioned about this incident. He submitted a written representation in which he told the Commission that he had been acquitted in this matter and had nothing to add. No other witnesses could be traced.

The Case of Hoosen Haffajee

Dr Hoosen Mia Haffajee, a 26-year-old dentist at Durban's St George V hospital, died in detention at the Brighton Beach police station on 3 August 1977. The inquest magistrate found that he had committed suicide by hanging. Evidence before the Commission, however, suggested that Haffajee [KZN/NG/006/DN], may have died as a result of torture. He was allegedly found hanging by his trousers from the grille of his cell door at the Brighton Beach police station less than twenty hours after his arrest.

At the inquest in March 1977 [No. 951/77], two of the Security Branch policemen who effected the arrest and interrogation of Haffajee, Captain James Brough Taylor and Captain PL du Toit, denied that they had tortured him during

¹⁴ Focus 11& 12

interrogation. The pathologist's report stated that the death was consistent with hanging. However, it also stated that Haffajee had sustained multiple injuries and that some sixty wounds were found on his body, including his back, knees, arms and head. The inquest magistrate found that Haffajee had died of suicide by hanging and that the injuries were unconnected and collateral to his death.

In a statement to the Commission, former Security Branch policeman Mohun Deva Gopal said that he was present whilst Haffajee was interrogated, assaulted and tortured. He said that Haffajee was stripped naked and Captain Taylor initiated the assault by slapping and punching him when he refused to divulge any information. Later, Captain Du Toit joined in. As the day wore on, the assault became more violent. Although they continued until midnight, Haffajee refused to divulge any information.

The next morning Taylor told Gopal that Haffajee was dead. Du Toit later called them into his office and told them they had to prepare their stories for the inquest. He was told to say that Haffajee had tried to escape and in so doing, had hit his body on the car. Gopal told the Commission that he does not believe that Haffajee committed suicide, as he was very strong psychologically.

Dr DH Biggs, who was employed by the Haffajee family, reported on the unusual marks observed on the body of the deceased and found that he could duplicate the lesions found on the body by compressing the skin with an implement similar to that used to compress lead seals onto string or wire.

Captain James Taylor was subpoenaed to appear before the Commission. He denied all allegations of assault and continued to maintain that, at the time of his death, Haffajee was in the custody of members of the uniformed branch. Taylor did not apply for amnesty in this regard.

THE COMMISSION FINDS THAT THE SAP MADE ROUTINE USE OF ASSAULT AND SEVERE TORTURE AS PART OF A SYSTEMATIC CAMPAIGN TO SILENCE AND SUPPRESS OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT. THE ACTS OF SEVERE ILL TREATMENT PERPETRATED BY MEMBERS OF THE SAP CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS. IN SOME INSTANCES, THESE UNLAWFUL ACTS RESULTED IN THE DEATHS OF DETAINEES. THE SAP IS HELD ACCOUNTABLE FOR THESE GROSS VIOLATIONS OF HUMAN RIGHTS.

Covert Security Branch activity

- 81 A number of prominent community leaders and activists were targeted for attack during this period. Many of these attacks were attributed to the covert operations of the security police.

The Case of Fatima Meer

Durban academic Ms Fatima Meer's home was petrol-bombed in 1977. Meer had been the target of another attack the previous year, when a caller knocked at the door and started firing when it was opened. A visitor, Mr Zwelihle Ngcobo, was injured in the shooting [KZN/FM/001/DN]. The gunman was never identified, but was seen driving off in a green minibus.

The Case of Harold Strachan

Shortly after this incident, an unknown person fired on Mr Harold Strachan at his home in Durban. Strachan pursued the gunman, who managed to escape in a vehicle registered to the Durban City Council. In the ensuing court case, evidence was led to the effect that the vehicle had not left the Council property on the night in question and the accused was acquitted. The night before judgement was handed down, shots from an automatic firearm were again fired into the Strachan home. The gunman was seen fleeing in a green minibus.

- 82 A green minibus was also seen outside Dr Richard Turner's home on the night he was killed, in January 1978 (see below). The Commission established that Bureau of State Security (BOSS) operative Martin Dolinchek was in possession of a green minibus at the time. Turner was the first white activist and academic to be assassinated.

The Case of Richard Turner

University of Natal political scientist Dr Richard 'Rick' Turner [KZN/KP/001/DN] was fatally shot soon after midnight on 8 January 1978 at his home in Bellair, Durban. Turner was centrally involved in the development of the trade union movement and had been involved in establishing the university-based Wages Commission in 1972.

In March 1972, Turner's home had been firebombed. In 1973, Turner was banned along with seven NUSAS members and placed under surveillance by the BOSS. In December 1973, his car tyres were slashed and the engine damaged while the vehicle was parked in front of his house. In 1976, the Durban Security Branch bugged his telephone. A week before the assassination, the Security Branch's surveillance was suddenly terminated on orders from police superiors.

An examination of the police investigation into Turner's death, as well as new information which surfaced during the Commission's investigations, led to

the conclusion that the police themselves suspected the involvement of the state apparatus in the assassination and sought to obstruct the investigation. In a section 29 hearing of the Commission, Brigadier Christiaan Earle, the original investigating officer, said he believed that Turner was killed by "people who were part of the security forces and that they wanted to protect this and not have it known". He told the Commission that his investigations into the killing led him to suspect the involvement of BOSS operative, Martin Dolinchek. Dolinchek's pistol was sent for ballistic testing but no other investigation into Dolinchek took place.

Earle and his immediate superior, Major Christoffel Groenewald, told a section 29 hearing of the Commission that they believed the investigation was being obstructed when Groenewald and his superior, Brigadier Hansen (now deceased), were called to Pretoria and instructed not to waste time investigating Dolinchek, because there was no proof of his involvement in the killing. Both expressed the view that Dolinchek had been responsible for the killing.

Former Vlakplaas Commander Eugene de Kock reported that one of his informants, former BOSS member Piet Botha, told him that Dolinchek had killed Turner and that Dolinchek's brother-in-law, Mr Von Scheer, drove the getaway vehicle.

When Dolinchek was interviewed by the Commission, he handed over a number of BOSS reports prepared by himself or the regional representative of BOSS, most of them concerning Turner. However, he denied having been involved in the killing. A former BOSS member told the Commission he believed BOSS was behind the killing and may have set it up to look like the work of Scorpio, a right-wing group based in Cape Town but suspected to have been active in Natal as well. He named former BOSS agent, Mr Phil Freeman (now deceased), as a person possibly responsible for Turner's death. Whoever was responsible for this death, the probabilities overwhelmingly favour the view that he was killed by a member of BOSS or the SAP. The investigation into Turner's death was one of the most exhaustive carried out by the Commission. All documents are contained in the Commission's archives.

- 83 Among the MK operatives targeted for assassination during the period 1976–82 was 'MK Scorpion', killed in Northern Natal in 1980.

The Case of Oupa Ronald Madondo, aka MK Scorpion

The Commission received information about the death in April 1980 of a Soweto-based MK operative, believed to be Mr Oupa Ronald Madondo but

known as 'MK Scorpion'. Madondo was detained for several months. A number of Security Branch operatives from various police stations were drawn together and instructed to kill him.

He was allegedly sedated heavily and taken to Jozini, in Northern Natal, where he was shot three times. His body was then blown up with explosives allegedly provided by Security Branch policemen in Pietermaritzburg. Mr Gert Schoon [AM5006/97], Mr Schalk Visser [AM5000/97], Mr Donald Gold [AM3686/96], Mr Des Carr [AM5008/97] and Mr Johan Martin van Zyl, aka 'Sakkie' [AM5637/97] applied for amnesty in respect of this incident.

- 84 One of the major assassinations during this period was that of prominent Durban attorney and long-time anti-apartheid activist Griffiths Mxenge on 20 November 1981. This was one of the first cases where the target was known to be an activist and not associated in any way with the military operations of MK.

The Case of Griffiths Mxenge

On 20 November 1981, Mr Griffiths Mxenge¹⁵ was found dead at a cycling stadium at Umlazi. Three Vlakplaas operatives namely Commander Dirk Coetzee and askaris Almond Nofemela and David Tshikilange were charged and convicted of the killing. Two former Durban security policemen, Brigadier Johannes van der Hoven and Colonel Andy Taylor, were also charged with the killing but were acquitted. Mr Brian Ngqulunga, an askari who was involved in the killing, was himself killed shortly after testifying to the Harms Commission. Vlakplaas policeman Joe Mamasela publicly admitted having helped to plan the killing but did not apply for amnesty as he was acting as state witness for the Transvaal Attorney-General in the official probe into police involvement in 'third force' activities.

Coetzee, Nofemela and Tshikilange applied for amnesty for Mxenge's killing.

Coetzee told the Commission that Brigadier van der Hoven, then divisional commander of the Durban Security Branch, approached him and told him to "make a plan with Mxenge", which Coetzee understood to mean that he was to make arrangements to kill him. He was told that the security police had been unable to bring any charges against Mxenge, who had become a 'thorn in their flesh'. Coetzee said that Van der Hoven had told him to make it look like a robbery.

¹⁵ Mxenge was arrested in 1967 and sentenced under the Suppression of Communism Act to two years' imprisonment. On his release in 1969 he was served with banning orders, renewed in 1973 for another five years. In March 1976 he was detained under the Terrorism Act following the death in detention of Joseph Mdluli, who was both his friend and his client. In May 1978, while acting as instructing attorney for the defence of eighteen alleged PAC members in Bethel, Mxenge received a letter threatening him with the same fate as Rick Turner (see above). In addition, two attempts were made to sabotage his car.

Colonel Taylor briefed Coetzee regarding Mxenge's movements and Joe Mamasela was brought down to assist in planning and executing the operation. Former head of the Security Branch's Section C, Mr Willem Schoon [AM5006/97], was also informed of the planned operation. Although he did not apply for amnesty for Mxenge's killing, Schoon claimed knowledge of it in his amnesty application.

Coetzee said he put together a hit squad that included Nofemela, Tshikilange, Mamasela and one Mr Ngqulunga who was from the Umlazi area and knew the vicinity well. Coetzee took charge of the general planning and arranged details such as obtaining strychnine to poison the Mxenge's four dogs. The details of the actual killing were left to the four members of the squad he had appointed.

Nofemela told the Commission that the four men intercepted Mxenge on his way home from work on the evening of 20 November 1981. They dragged him out his car and took him to the nearby Umlazi stadium where they beat and stabbed him repeatedly. Nofemela told the Commission that Mxenge had resisted his attackers fiercely until he was struck on the head with a wheel spanner. He fell to the ground, and the stabbing continued until he was dead. They disembowelled him and cut his throat and ears. Then they took his car, wallet and other belongings to make it look like a robbery. Mxenge's vehicle was later found, burnt and abandoned near the Golela border post between South Africa and Swaziland.

On 15 May 1997, Coetzee, Nofemela and Tshikilange were found guilty of killing Mxenge. Both Van der Hoven and Taylor were acquitted. At the request of the Commission's Amnesty Committee, sentencing was postponed until the Committee had reached a verdict on the applications. On 3 August 1997, the three men were granted amnesty in respect of Mxenge's killing.

In making its finding, the Amnesty Committee said that, although there "may be some doubt" as to the identity of those who ordered the assassination, there was no doubt that Coetzee had acted on "the advice, command or order of one or more senior members of the Security Branch ... On the evidence before us we are satisfied that none of the applicants knew the deceased, Mxenge, or had any reason to wish to bring about his death before they were ordered to do so. We are satisfied that they did what they did because they regarded it as their duty as policemen who were engaged in the struggle against the ANC and other liberation movements. It is, we think, clear that

they relied on their superiors to have accurately and fairly considered the question as to whether the assassination was necessary or whether other steps could have been taken. We feel it is perhaps necessary for us at this stage to place on record our strong disapproval of the conduct of the police in this regard. That is in arranging for the assassination of an attorney who was doing no more than his duty in providing adequate representation for persons facing criminal charges ...”.

THE COMMISSION FINDS THAT MEMBERS OF THE SECURITY BRANCH OF THE SAP WERE RESPONSIBLE FOR COVERT OPERATIONS SPECIFICALLY TARGETING POLITICALLY ACTIVE AND OUTSPOKEN CIVILIAN OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT, AND ENGAGED IN UNLAWFUL ACTIVITIES WHICH RESULTED IN THE INTIMIDATION, INJURY AND, IN SOME CASES, DEATH OF THE VICTIMS.

Resistance and revolutionary groupings

- 85 In this period, security trials relating to organisational activities outnumbered those relating to violent action by resistance movements. People were tried for community and labour mobilisation, membership of the banned resistance movements, recruitment to banned organisations or military training, and the possession of banned literature. However, an increased number of sabotage attacks were reported across the whole province. In February 1977, Mr Thembinkosi Sithole and Mr Samuel Mohlomi, both from KwaMashu, were charged with taking part in ‘terrorist activities’ and for attempting to leave the country for military training. They were also charged and convicted of arson in respect of firebomb attacks at KwaMashu schools in October 1976.
- 86 Skirmishes between guerrilla fighters and members of the security forces were also reported in this period. In one such skirmish near Pongola in November 1977, a guerrilla fighter was killed and a policeman injured. In December 1977, ANC guerrilla fighter, Oupa Ronald Madondo, was caught by the police in the Pongola area. An ANC commander, thought to be Mr Toto Skhosana, was killed in the clash. Police recovered two scorpion pistols, ammunition and three grenade detonators. Madondo was convicted under the Terrorism Act in an Ermelo court in March 1978 and killed by members of the Security Branch in April 1980 (see above).

87 A number of acts of sabotage were reported. The ANC claimed responsibility for some of these.¹⁶

■ 1983–1989

Historical overview of the period

88 In KwaZulu and Natal, this period was dominated by conflict and violence that reached the proportions of a civil war in some areas. Political allegiances were crucial in the conflict, with lines sharply drawn between the supporters of Inkatha and the supporters of the ANC-aligned UDF, which was formed in 1983 to co-ordinate protest against the new Constitution and the proposed Tricameral parliament. The conflict manifested itself in all spheres of political life in the province and was felt particularly in educational institutions and in the workplace.

The Ongoye Massacre

On 29 October 1983, four students and an Inkatha supporter were killed and many others injured in a clash between students and a group of approximately 500 Inkatha supporters at the University of Zululand (Ongoye), south of Empangeni.

The clash was triggered when students opposed an attempt by Inkatha leader, Chief Mangosuthu Buthelezi, to use the campus for a ceremony to commemorate the death of King Cetshwayo. Attackers broke down locked doors behind which students were hidden, dragged them out and assaulted and stabbed them with traditional weapons.

¹⁶ They included: several explosions on railway lines in the province with no reported injuries; the February 1981 explosion at Scotts' store in Field Street, Durban; the sabotage of the Lamontville power station on 14 April 1981; an explosion at Francis Farewell Square on 26 June 1981; explosions at McCarthy Leyland and the Peugeot Sale House in Durban on 26 July 1981; an explosion at Esikhawini on 11 October 1981, injuring one person; an explosion on 3 November 1981 at the Indian Affairs Office in Durban; an explosion on 17 February 1982 at the Durban Game Discount store; the sabotage of an Umlazi water pipeline on 25 April 1982; an explosion at the Lamontville offices of the Port Natal Administration Board on 24 May 1982; the sabotage of a pipeline at Chesterville on 24/25 May 1982; an explosion at the Kemps List coal mining installation, Northern Natal, on 2 June 1982, followed the next day by an explosion causing damage to storage tanks at the Total fuel depot, near Paulpietersburg (ANC members arrested in connection with the blasts were allegedly shot dead by civilians in the Paulpietersburg area two days later); an explosion at Vryheid on 6 June 1982, damaging a grain silo; an explosion on 10 October 1981 at the Whitehead Building in Durban (housing the offices of the Department of Co-operation and Development), injuring four people. An organisation known as the Committee for the Consolidation of Natal and KwaZulu claimed responsibility for the latter attack, although the SAP attributed it to the ANC. The ANC claimed responsibility for the following: sabotage of a railway line between Richards Bay and Vryheid on 14 April 1981, resulting in the derailment of a goods train; the limpet mine attack on two transformers in the Durban region on 21 April 1981; an explosion at the Umlazi highway bridge on 25 May 1981; an explosion at the Durban recruiting office of the SADF on 27 May 1981; the sabotage of a railway line on the Natal North Coast on 11 June 1981; the sabotage of a railway line at Empangeni on 28 June 1981; the sabotage of a railway line at Delville Wood, Durban; explosions at the Pinetown and Durban offices of the Department of Coloured Affairs on 21 May 1982; an explosion at a railway depot at Scheepersnek, Vryheid, on 28 June 1982; an explosion at the Umvoti Mounted Rifles army camp at Red Hill, Durban, on 28 August 1982, causing extensive damage to buildings and SADF vehicles; three explosions at the Drakensberg Administration Board building, Pietermaritzburg, on 26 October 1982; an explosion at a Mobil fuel storage depot at Mkhuze on 8 November 1982, causing severe damage to the site of an operational military airstrip.

This event, known as the 'Ongoye massacre', was another decisive turning point in the relations between Inkatha supporters and those aligning themselves with the banned ANC.

- 89 In the labour field too, the conflict between the two movements took organisational form through the formation of the Congress of South African Trade Unions (COSATU) in 1984, and the counter-formation by Inkatha in 1985, with substantial state funding, of the United Workers Union of South Africa (UWUSA).
- 90 The SAP and other security personnel were frequently and directly involved in political violence in the province. Security and public order policing became characterised by a failure to apprehend known criminals, poor investigations and active collusion of the police with one side of the conflict. The most obvious case of security force collusion is that of the Trust Feed massacre on 3 December 1988 (see below).
- 91 The state's National Security Management System (NSMS), with its web of local Joint Management Councils (JMCs), was fully operational by mid-1985. Inkatha members became members of JMCs by virtue of their positions in township councils, tribal authorities and the KwaZulu civil service.
- 92 In August 1983, the 1982 Black Local Authorities Act came into effect, imposing local black town councils on a number of townships. In line with its policy of countering apartheid from within the system, Inkatha moved quickly to gain control of these councils. At that time, national opposition to black local authorities, to homeland governments and to traditional leaders was on the increase, and emerging extra-parliamentary opposition groups strenuously opposed the creation of these town councils which were perceived to be dominated, if not controlled, by Inkatha.
- 93 Through the NSMS, the South African government planned to win the war against the ANC and its affiliates, not through military might but through destabilisation. The government was sensitive to international opinion and, to avoid images of white policemen assaulting and shooting at black demonstrators, it sought to delegate repression to counter-revolutionary forces with black faces. A wide range of such surrogates emerged, including vigilantes, warlords, gangsters, hit squads, auxiliary forces, *agents provocateur* and moderate black organisations. The strategy was thus to cast the political conflict in the country as 'black-on-black' violence. For this to work, the involvement of the state had to be secret.

- 94 Furthermore, during the PW Botha era, the state perceived the primary threat to national security to be external. Its counter-revolutionary strategy was therefore based on pre-emptive intervention beyond the country's borders in both defensive and offensive actions. By 1985, when the situation inside the borders had entered a revolutionary phase, the state began to apply its principle of counter-revolutionary warfare internally. Revolutionary opponents of the state became 'legitimate' targets for attack. The enemy included not only armed cadres of the liberation movements, but trade unionists, activists and sympathisers. Moderate black leaders and organisations had to be co-opted to combat the revolutionary threat. A wide range of support, including military training and finance, was given to moderate black organisations, including Inkatha, as exemplified by the Caprivi training initiative (see below).
- 95 As conflict developed in the form of attacks, revenge attacks, sieges and assassinations, each side blamed the other for the violence sweeping the province. Each accused the other of collaborating with the apartheid government to bring about violence and mayhem.
- 96 Death threats against Chief Buthelezi prompted the Inkatha leader to claim that the ANC was out of touch with the realities of the country and served the interests of the state by fomenting dissent. The security establishment was well placed to feed the rumours of assassination with evidence gleaned from informers, from ANC propaganda and from its own unsubstantiated beliefs. Chief Buthelezi's response was to turn to the South African government for assistance to combat the ANC/UDF. These appeals led to the clandestine training of some 200 Inkatha members by the Special Forces arm of the South African Defence Force (SADF) in the Caprivi Strip in Namibia (see below).
- 97 By 1988, some of the principles of the state's security thinking could be seen reflected in security force operations, particularly in the use of auxiliary forces such as special constables and surrogate forces such as vigilante groups. The Commission heard reports of vigilante groups operating side by side with members of the security forces. Both perceived the same enemy, and were perceived as the same enemy. Security Force members who testified before the Commission spoke of the various ways in which the security forces had collaborated with Inkatha in attacks on the UDF. This included warning Inkatha supporters of impending attacks, disarming ANC supporters, arming Inkatha supporters, transporting Inkatha attackers and standing by while Inkatha supporters attacked people.
- 98 Whereas vigilante formations often started out simply as local suppressors of petty crime and school-related unrest, as the political battle lines sharpened in

the early 1980s they became the shock troops of politically aligned warlords. They engaged in a variety of criminal and lethal activities, even recruiting from criminal gangs. The vigilantes' initial targets were community structures, groups and individuals campaigning for the dismantling of homelands and black councils. Later the targets became less specific and vigilante tactics switched to indiscriminate terrorising of township communities.

- 99 Opposition to the government's authority structures (including traditional chiefs and urban town councillors) was perceived as rebellion. Once chiefs and councillors came to realise that their survival in office depended on neutralising the militant opposition, their involvement in the violence was almost inevitable. Some chiefs, therefore, became known as 'warlords'. The Commission received evidence of collusion between the security forces and Inkatha warlords.
- 100 The Commission heard evidence that some members of the ANC also behaved like warlords, gathering strongmen about them, intimidating people and directing acts of violence. This was particularly so in the Natal Midlands towards the end of the 1980s, where charismatic ANC leaders like Harry Gwala rose to prominence and offered a rallying point for UDF/ANC supporters who had been exposed to and engaged in the political conflict for some time.
- 101 Towards the end of this period, the UDF adopted a campaign to make the townships ungovernable. Educational institutions and trade unions became key sites of revolutionary activity. School boycotts and strikes were transformed into scenes of violent conflict and bloodletting. At the Kabwe Conference¹⁷ in June 1985, the ANC took a decision to drop the distinction between 'hard' and 'soft' targets. This resulted in an increase in the killing and maiming of civilians in MK sabotage operations where targets held only a tenuous link to the state and its institutions.
- 102 The period 1983–89 is remarkable for the emergence of organisations and associations in a rising tide of opposition to the imposition of local authorities and the incorporation of certain areas into KwaZulu. Such organisations included residents' and ratepayers' associations and rent action committees. There was also an increase in the number of NGOs set up to promote social justice and democracy in all arenas of civil society. Many of these organisations, based chiefly in Durban and Pietermaritzburg, ran on a non-profit basis and were supported financially by churches and other donor organisations. Many became affiliates of the UDF in 1983, although some later withdrew from active participation when the political situation in the province became more sharply polarised in the later 1980s.

¹⁷ Second National Consultative Conference of the ANC, Zambia, 16-23 June 1985

Overview of violations

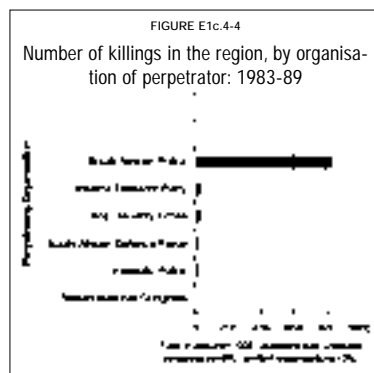
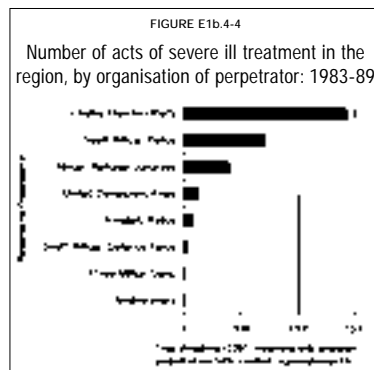
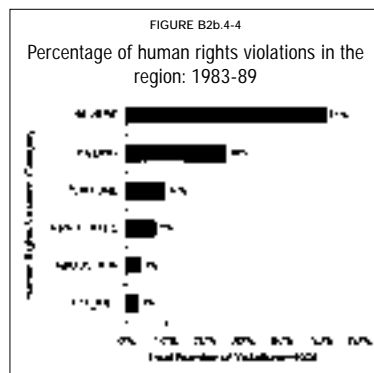
103 This period was dominated by conflict between the UDF and Inkatha, the key sites of which were conflict in Durban townships resisting incorporation into KwaZulu; struggles surrounding the imposition of black local authorities; clashes between members of UWUSA and COSATU affiliates, and offensives by ‘Caprivi trainees’.

104 There were allegations of partiality and brutality in the KZP, which grew during this period from small guard units to a fully-fledged police force in control of policing a number of extremely volatile townships. Violations were also attributed to the special constables and the SAP Riot Units.

105 Most reported violations pertained to acts of severe ill treatment, followed by killings: thus, severe ill treatment 51%; killing 26%; associated violations 7%; torture 10%; abduction 3%; attempted killing 3%.

106 By far the majority of reports of severe ill treatment were attributed to Inkatha. The number of acts attributable to Inkatha was double the number attributed to the police and more than three times the number attributed to the ANC. The number of reports of torture in this period rose to five times that of the previous period. The overwhelming majority of these acts were attributed to the SAP. The majority of reports of associated violations that occurred in the province during this period were attributed to the SAP, followed by those attributed to Inkatha. A small number of similar acts were attributed to other parties and organisations, namely, the ANC, the UDF, the KZP and the SADF.

107 The urban areas in the province were the worst affected by the spiralling conflict during this period. Affected areas were Durban and



surrounds; Pietermaritzburg and surrounds; the Natal Midlands (Mphophomeni, Mpumalanga (township), Hammarsdale, Camperdown, Greytown), and Northern Natal (Paulpietersburg, Newcastle, Osizweni, Hlobane, Vryheid). The North Coast, South Coast and KwaZulu interior were still relatively quiet.

State and allied groupings

Detentions and harassment

- 108 Individuals affiliated to human rights organisations during this period told the Commission that they were subjected to constant harassment, intimidation, surveillance and detention by the security police.
- 109 For the most part, these organisations were based in the main urban centres of the province and functioned to promote social justice and democracy in all arenas of civil society. Diakonia in Durban and the Pietermaritzburg Agency for Christian Social Awareness (PACSA) in Pietermaritzburg worked to promote social awareness in the churches. The Black Sash and paralegal organisations such as the Legal Resources Centre (LRC) and Lawyers for Human Rights (LHR) offered basic legal advice and support to ordinary people. The End Conscription Campaign (ECC) monitored developments in military conscription and offered advice to conscripts. Some organisations were set up to offer careers advice to school leavers and to address the problems of inequity in the educational arena. Others were set up in response to crisis situations brought on by intensified police repression and the repeated imposition of rule by emergency. Among these were the Detainees' Parents' Support Committee and the Education Crisis Committee.
- 110 These and other NGOs often worked shoulder to shoulder in joint social campaigns: calling for the release of political prisoners, the lifting of states of emergency, the withdrawal of troops from the townships, the abolition of the death penalty, the lifting of restrictions on the media and the free flow of information.
- 111 Diakonia took up residence at the Ecumenical Centre in Durban when it was established by the mainline churches in 1983 to provide office and meeting space for religious and other organisations committed to building peace and justice in the province. It soon became the object of intense scrutiny and surveillance by the Security Police. Former tenants told the Commission that they endured constant harassment by the security police and worked under the perpetual threat of police raids, detention and arrest. In 1985, the library housed at the Centre was severely

damaged in a firebomb attack. No perpetrators were ever identified or brought to book.

- 112 Several individuals working for these organisations were detained during the 1980s, among them Mr Paddy Kearney [KZN/SELF/084/DN] and Ms Sue Britton [KZN/SELF/083/DN] of Diakonia and Mr Richard Steele [KZN/SELF/084/DN] and Ms Anita Kromberg [KZN/SELF/091/DN] of the ECC, who were all detained in 1985 under Section 29 of the Internal Security Act No 74 of 1982. Kearney, who was held in solitary confinement for seventeen days, told the Commission that his arrest coincided with a heavy police crackdown on the UDF and preceded the August 1985 death of Ms Victoria Mxenge and the destruction of the Gandhi settlement at Inanda outside Durban (see below). He said that the detentions were part of a police attempt to create the impression that the UDF was responsible for most of the violent conflict in the province and that UDF activists were being severely dealt with.
- 113 On 12 June 1986, over twenty people were detained in Pietermaritzburg under Section 50 of the Emergency regulations.¹⁸ Peter Kerchhoff [KZN/SELF/088/DN] was held for ninety-seven days, of which thirty-two were in isolation. He reported that this group of detainees had been informed that they were being taken out of circulation on the re-imposition of the state of emergency (which had been lifted in March) and ahead of the Soweto Day tenth anniversary on 16 June.
- 114 Detainees told the Commission that they were arrested and detained following police raids on their homes and offices in the early hours of the morning. They were held for periods ranging from fourteen days to over three months. They reported that, while they did not experience physical abuse while in detention, they were subjected to many hours of questioning about the activities of their organisations and to periods of solitary confinement. Kerchhoff spoke of the psychological pressures which were brought to bear on the detainees through interrogation and solitary confinement, particularly as regards their families:

Generally detainees were coping but the problem was communicating this to those on the outside. The harassment of detainees' families made the situation much more difficult for them. They were without support and vulnerable to abusive, threatening and hoax telephone calls.

¹⁸ Amongst them Mr Yunus Carrim, Mr A S Chetty, Mr V Chetty, Mr C Motala, Mr D Dickson, Mr F Grantham, Mr L Hassim, Mr John Jeffrey, Mr Larry Kaufman, Mr Theo Kneiffel, Mr Peter Kerchhoff, Mr K Kambule, Mr S Mlotshwa, Mr J Vawda, Mr G Ndebele, Mr C Shelembe, Mr B David, Mr Mondli Zuma, Mr Mdu Ndlovu, Mr Skumbuzo Ngwenya and Mr Thami Mseleku. Ms Jacqui Boule, Ms Sandy Jocelyn and Ms Gay Spiller were held at the women's prison in Pietermaritzburg.

- 115 Kromberg told the Commission that her police interrogators tried to extract information about the work of the ECC in an attempt to validate their suspicion that this and other organisations based at the Ecumenical Centre had operational ties with the banned ANC and its military arm MK. This perception persisted throughout the 1980s and was eventually adopted by the IFP.
- 116 In a section 29 hearing of the Commission, former IFP National Council member Walter Felgate said that it was a time:
- in which you really [did] believe that, for example, Diakonia here in Durban was the hot seat from which MK people operated. You hated Diakonia, and Diakonia was also fair game for whatever.*
- 117 Mr Felgate said that this belief in the existence of an MK operating infrastructure at the Ecumenical Centre was one of the factors behind the recruitment of up to 200 Inkatha youth for paramilitary training in the Caprivi in 1986 (see below). He conceded that their information about the involvement of Diakonia and other Ecumenical Centre organisations in MK activities was unsubstantiated.

Deaths in custody

- 118 Numerous reports of torture and deaths in detention were received, particularly from the Newcastle area. Newcastle was an MK gateway to Swaziland and Mozambique and the Security Branch intensified its operations in Newcastle in an attempt to obstruct the movement of operatives in and out of the country. It was also a centre of strong student and union resistance. A number of student activists and unionists were detained and tortured by members of the Newcastle Security Branch during 1986 and 1988 [KZN/FS/205/NC, KZN/FS/203/NC]
- 119 Deaths in custody were also reported from other urban centres, amongst them, Mr Ephraim Thami Mthethwa [KZN/ZJ/146/DN, KZN/NG/020/DN], who died on 25 August 1984 in the Durban Central Prison after 165 days in custody awaiting trial on charges relating to his alleged attempts to leave the country for military training. Mthethwa was alleged to have committed suicide by hanging himself with his tracksuit jacket. He was twenty-three years old at the time.

The Case of Bongani Cele

Lamontville UDF activist Bongani Cele [KZN/NG/031/DN] was constantly harassed by the police in 1987 and went into hiding. Police approached his brother S'khumbuzo [KZN/NNN/094/PM], assaulted him and forced him to

point out where Bongani was hiding. Bongani was taken into detention. Later police brought Bongani, heavily chained, to his house to point out where he had allegedly hidden weapons. On 9 July 1987, his family was informed that he had been shot dead by police officers allegedly acting in self-defence. According to the police, Bongani had attempted to pull a pin from a grenade. However, the post mortem report indicated that Bongani had been shot in the back at very close range while his feet and hands were chained. No one was ever prosecuted in connection with the death.

THE COMMISSION FINDS THAT THE SAP MADE ROUTINE USE OF ASSAULT AND SEVERE TORTURE AS PART OF A SYSTEMATIC CAMPAIGN TO SILENCE AND SUPPRESS OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT. THE ACTS OF SEVERE ILL TREATMENT PERPETRATED BY MEMBERS OF THE SAP CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS. IN SOME INSTANCES, THESE UNLAWFUL ACTS RESULTED IN THE DEATHS OF DETAINEES. THE SAP IS HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS RELATED TO THESE ACTS.

Public order policing

- 120 The introduction of an auxiliary force of special constables during this period was seen as a means of bolstering the work of the SAP in combating the rising militancy of the UDF in the province's townships. It was also part of a strategy employed by the state to remove 'white faces' from the front line of public order policing of the conflict brewing between Inkatha and the UDF at the time.
- 121 At a section 29 hearing, the Commission heard that former SAP Captain Brian Mitchell, based in the Natal Midlands, understood the special constables to be a vital element of the state's strategy. Mitchell described the special constables as the 'third force' in the Midlands area; their sole purpose was offensive deployment against UDF supporters and for the support and assistance of Inkatha.
- 122 In 1988, some 300 Inkatha recruits were trained and deployed as special constables in the Pietermaritzburg area. The Commission has established from sworn testimonies of former special constables that Inkatha membership appeared to be a criterion for selection in Natal. Inkatha officials and *indunas* (headmen) assisted in recruiting the young men and endorsed their applications. Mr William Basil Harrington [AM0173/96], a member of Riot Unit 8, told the Commission that he worked closely with special constables and that those based in Pietermaritzburg had their applications for employment signed by Inkatha leader, Mr David Ntombela.
- 123 This drawing of special constables from the ranks of Inkatha supporters confirmed the open collaboration of the state security forces with the activities of Inkatha.

In Natal, the special constables constituted a convenient and effective striking force for the state and for Inkatha against the UDF alliance. Between 1988 and 1989, special constables played a role in bolstering Inkatha in the greater Pietermaritzburg area, particularly in the Edendale Valley, KwaShange and other sections of Vulindlela.

- 124 In January 1988, the first batch of Natal recruits, numbering approximately 300 Inkatha supporters, was taken for special constable training at the SAP's Koeberg base in the Western Cape. The batch included 130 'Caprivi trainees' who had already received secret offensive training by the SADF's Special Forces in 1986. During their training at Koeberg, they were shown gruesome videos of burning houses and brutally slain people and were told by their instructors, one of whom was Warrant Officer Rolf Warber of the Pietermaritzburg Security Branch, that the scenes were typical of ANC/UDF violence against innocent Inkatha members, their 'brothers and sisters'. Special constables testified that they cried openly at the sessions and were urged to kill UDF people on their return to Natal. After six weeks of training, the special constables were attached to SAP Riot Units and deployed in the Pietermaritzburg and Mpumalanga areas where the UDF was gaining the upper hand. Many special constables were sent to guard Inkatha officials and traditional leaders and became involved in vigilante and hit squad activities.
- 125 Former 'Caprivi trainee' and special constable Brian Gcina Mkhize [AM4599/97], told the Commission at the Caprivi hearing:

Mr [MZ] Khumalo told us that our task is to infiltrate the Special Constables, to go and get deployed with the Special Constables who work in Pietermaritzburg. While in 'Maritzburg, we will be able to further our aims to hit directly at the ANC.

- 126 At the same hearing, Mr Daluxolo Luthuli said of the special constables:

As they were police, they knew very well that they have to work under the instructions of the IFP, for example, killing people who were UDF members. They were doing that while they were police and they were not taking instructions from police ... they were taking instructions directly from the IFP.

- 127 The special constables deployed in the townships around Pietermaritzburg soon became associated with acts of extreme criminal brutality. In the first year of their deployment in the Pietermaritzburg area, 137 special constables had their services terminated. Of these, 102 deserted their posts and the remainder was dismissed as a result of criminal charges that were brought against them.

- 128 Former Security Branch Divisional Head for Pietermaritzburg, General Jac Buchner, conceded at a section 29 hearing that the special constables, far from assisting the SAP in maintaining law and order, had in fact contributed to the problem of political violence. Senior Riot Unit officer, Daniel Meyer, told the Commission at the 'Seven Day War' hearing that:

I don't think it's a state secret that Special Constables was one of the single biggest mistakes made by the police in KwaZulu-Natal.

- 129 He conceded that the special constables had not been deployed under proper control and that Riot Unit members operating with special constables engaged in serious criminal acts.

THE COMMISSION FINDS THAT AN AUXILIARY FORCE OF SPECIAL CONSTABLES WAS TRAINED AND THEN DEPLOYED IN AND AROUND PIETERMARITZBURG IN 1988-89, AND THAT THIS FORCE BECAME INVOLVED IN VIGILANTE ACTIONS AND OTHER CRIMINAL ACTS, INVOLVING KILLINGS AND ACTS OF SEVERE ILL-TREATMENT, TARGETING MEMBERS AND SUPPORTERS OF THE UDF UNDER THE DIRECTION OF MEMBERS OF THE RIOT SQUAD OF THE SAP. THE SAP IS HELD ACCOUNTABLE FOR THE VIOLATIONS ARISING FROM THE ACTIVITIES OF THE SPECIAL CONSTABLES.

- 130 The special constables were deployed to the Pietermaritzburg-based Riot Unit 8, a unit that had already gained notoriety during the latter half of the 1980s for its active collusion with Inkatha supporters in the political conflict. The unit was headed by Major Deon Terreblanche (now deceased), described by General Jac Buchner as a 'military man' who was very close to Inkatha.¹⁹ Terreblanche was named by Brian Mitchell as the mastermind behind the Trust Feed massacre (see below). He was also named by Daluxolo Luthuli as having provided arms and ammunition to Inkatha, particularly in the Mpumalanga township.

- 131 Former special constable Nhlanhla Philemon Madlala [AM0174/96] was deployed in Mpumalanga, guarding the homes of various Inkatha leaders. He told the Commission that during the day they would go on patrols (by foot or in lorries) with the Riot Unit. When they came across UDF members they would assault them and tell them to join Inkatha. When they shot someone they would report it to the commander, Sergeant Willem de Wet, who in turn reported it to Terreblanche. Terreblanche would instruct them that they should continue with the killing. At sunset they would return to the homes they were guarding.

- 132 Mr William Basil Harrington [AM0173/96], a member of Riot Unit 8 from 1988 until his arrest in 1991, told the Commission at the 'Seven Day War' hearing that he was told to keep a home-made firearm in his vehicle at all times in case

¹⁹ General Jac Buchner, Section 29 hearing

he accidentally shot somebody dead. He should then plant this firearm on the person to make it look like a case of self-defence. Harrington said that, as a result of their working in close association with the Inkatha-supporting special constables, the Riot Unit members naturally sided with Inkatha:

The Specials were all Inkatha members and supporters, and the ANC and UDF were shooting at us. They hated us and the Specials hated them, and I hated them because I nearly died on several occasions as a result of their actions. For that reason, I saw myself as on the side of Inkatha. I was taught by the NP and the chiefs in the Riot Unit that the ANC/UDF alliance was our enemy, that they were terrorists, and as a policeman it was my duty to combat terrorism. The war between us and the ANC was very severe, was intense. To combat terrorism I allied myself with Inkatha....

I often came upon groups of Inkatha Specials, about between ten and twenty people, at night, where they were on their way to specific areas to attack an ANC home. I then thought it a good idea to convey them in my own vehicle and to take them to such a house or area. I never specifically took part in these raids myself, because my objective was to stand back, to keep my distance, to prevent ANC supporters from running away from this area.

- 133 Another former special constable attached to Riot Unit 8, Mr Nelson Shabangu [AM3676/96], made twenty-six statements to the Commission in which he implicated members of Riot Unit 8 and the Port Natal Security Branch in as many as fifty killings and several acts of torture. These were just the incidents that Shabangu said he was able to recall clearly. Shabangu was a member of a special sub-unit established in 1989 to help the CID with arrests. The sub-unit, under the command of Sergeant Willem de Wet, was disbanded in January 1990 following community pressure.
- 134 De Wet's unit worked in a large area that included Pietermaritzburg and surrounds, Mpumalanga, Richmond, Greytown, Mphophomeni, Inchanga, Table Mountain and Bulwer. They worked in a clandestine way, using pseudonyms and vehicles with false/changed registration numbers. They generally operated at night and wore civilian clothes and balaclavas when engaged in a covert operation. While the unit injured and killed indiscriminately at times, they targeted mainly UDF activists, who they interrogated, tortured and/or killed. Methods of torture included electric shocks to the body with a dynamo taken from a telephone, suffocation with a car tube, and the 'helicopter treatment' described earlier.

ARISING FROM THE NUMEROUS ALLEGATIONS MADE AGAINST HIM, AND IN TERMS OF SECTION 30 OF THE ACT, THE COMMISSION MADE FINDINGS OF MORE THAN SIX COUNTS OF SEVERE ILL TREATMENT, MORE THAN TWENTY COUNTS OF KILLING, SIX COUNTS OF CULPABLE HOMICIDE, TEN COUNTS OF ACCESSORY TO KILLING, TWO COUNTS OF ATTEMPTED KILLING AND TWO COUNTS OF DEFEATING THE ENDS OF JUSTICE AGAINST SAP SERGEANT WILLEM DE WET.²⁰ DE WET IS HELD ACCOUNTABLE FOR THE PERPETRATION OF THE GROSS HUMAN RIGHTS VIOLATIONS ARISING FROM THESE UNLAWFUL ACTS.

- 135 The Trust Feed massacre of 1988 provides a window into the operations of the special constables and the SAP in the Midlands during the late 1980s.

The Trust Feed Massacre

In the early hours of 3 December 1988, gunmen opened fire on a house in the Trust Feed community, near New Hanover, killing eleven people and wounding two. In October 1991, seven serving and former members of the SAP stood trial on eleven counts of murder and eight of attempted murder. The accused were Captain Brian Mitchell, Station Commander at the New Hanover police station at the time of the massacre, Sergeant Neville Rose and Captain Jakobus van der Heever (both of the SAP), and four former SAP special constables, Mr Kehla Ngubane, Mr Thabo Sikhosana, Mr Dumisani Ndwane and Mr David Khambule.

Brian Mitchell, his colleague Sergeant George Nichas and two Security Branch members, together with the Inkatha leader in the area, Mr Jerome Gabela, were involved in setting up the Inkatha-aligned Landowners' Committee in opposition to the largely UDF-supporting Trust Feed Crisis Committee. Gabela was also, at the time, in the ad hoc employ of the Security Branch as an informer on trade union members at the bakery where he worked in Greytown.

At a meeting at the Inkatha headquarters in Edendale in August 1988, attended by Terreblanche, Mitchell, David Ntombela, Gabela and two other Inkatha members, an attack on the Trust Feed area was planned for December 1988, involving members of Inkatha and special constables. After a police 'clean-up' operation to disarm and round up UDF suspects, the police would withdraw, leaving Inkatha members and the special constables to launch an attack on UDF members.

On 29 November, Constable Willem de Wet brought four special constables to New Hanover police station. They wore civilian clothing and lodged with Mr Gabela, who provided them with firearms. On the following day, Captain

²⁰ Details of the incidents on which these findings against De Wet have been made appear elsewhere in the Commission's report.

Van der Heever arrived to run the operation from the police and Riot Unit side. He requested Mitchell to assist in 'sweeping' the area after the operation, picking up used shells (doppies) and removing evidence.

On 2 December, about thirty to forty policemen rounded up known UDF members, videotaped them all and detained them under state of emergency regulations. The police were then withdrawn from the area. At midnight, Mitchell, who had been drinking heavily, went to see how the operation had gone, accompanied by two police reservists. Disappointed that only a building had been burnt and no one had been killed, he instructed the special constables to attack and burn the shop of Mr Faustus Mbongwe, chair of the Crisis Committee, and to attack a particular house. These instructions were carried out, and the doppies disposed of in a long-drop toilet at Gabela's house.

In the attack on the house, which became known as the Trust Feed massacre, eleven people were killed. The victims had been attending a night vigil following the death of a relative. The deceased were Mr Mseleni Ntuli, Ms Dudu Shangase [KZN/KM/728/PM], Mr Zetha Shangase, Mr Nkonyeni Shangase, Mr Muzi Shangase, Ms Filda Ntuli, Mr Fikile Zondi [KZN/KM/735/PM], Ms Marita Xaba [KZN/KM/736/PM], Ms Sara Nyoka [KZN/KM/706/PM], Mr Alfred Zita and Mr Sisedewu Sithole. Ms Ida Hadebe and Ms Nomagoli Zulu were injured. None was a member of the UDF.

Following the massacre, Mitchell reported to Major Deon Terreblanche who was the first senior officer at the scene, joined by acting Greytown District Commander Davies and Brigadier Marx who, according to Mitchell, knew of the special constables' involvement in the attack. When the two police reservists who had accompanied Mitchell volunteered information to the investigating officer, Mitchell informed senior officers of the Security Branch in Pretoria. He was told not to worry. Indeed, he told the Commission that he had never worried that he might be arrested, and was sure the evidence would be covered up.

At an informal inquest into the deaths of the massacre victims at New Hanover, the magistrate found that Mitchell and the special constables were all involved in the killings.

Warrants of arrest were issued for the special constables but were never circulated or sent to the criminal record register in Pretoria. Almost immediately after the massacre, the special constables were taken into hiding by certain senior KZP and Inkatha officials. They were hidden for some time at the Mkhuze

camp (which fell under the command of KZP Captain Leonard Langeni) and continued to receive their salaries. Later they were taken to the KZP barracks in Ulundi, and then to the homes of various Inkatha-supporting chiefs. In 1990, they were assisted in joining the KZP.

In July 1991, SAP Captain Frank Dutton took over the investigation of the case. He traced the addresses of the special constables and was able to arrest two of the four: Khambule, who was in Mpumalanga using a false identity document, and Ndwalane who was in hiding at the home of an Inkatha-supporting Chief Khawula on the South Coast. Both were still serving KZP members. They both made full admissions of guilt. Mitchell was arrested on the 2 August 1991 in Mooi River, despite being warned by colleagues of his impending arrest.

Immediately after this, General Van der Westhuizen, Colonel Langenhoven and Captain Kritzinger from Pretoria were sent to Natal, ostensibly to assist with the investigation. It soon became clear to Dutton that they had been sent to obstruct the work and prevailed on the Attorney-General to remove them from the case.

Captain Dutton traced the other two special constables via the then Commissioner of the KZP, General Jac Buchner, who arranged for them to be delivered by Langeni from their hiding place at Mkhuze within days. In his section 29 hearing, Buchner confirmed the cover-up and conspiracy in Trust Feed, claiming the involvement of not just one or two individuals, but many.

JMC records seized from the Wartburg police station during the investigation implicated Mitchell in the creation of the Trust Feed Landowner's Committee as a STRATCOM project.

In court, Mitchell, the special constables and Mr Jerome Gabela changed their evidence to exonerate Captain Van der Heever. However, Van der Heever was implicated in Mitchell's amnesty application. During the trial, it became evident that the special constables were to take full responsibility for the massacre. They demanded separate legal representation, which set about exposing the role of Mitchell's command. By this time, Mitchell could not implicate his senior officers without revealing his earlier perjury.

In his judgement, Mr Justice Andrew Wilson called for a full, open inquiry into the matter of SAP cover-up and rejected a departmental investigation. He questioned, amongst other things, the actions of General Van der Westhuizen and his two officers, the promotion of Mitchell despite knowledge of his complicity, and other areas where the police failed to investigate. He also

questioned the readiness of the Commissioner of Police to authorise the employment of senior counsel to assist a police officer who, on the face of it, appeared to have acted improperly.²¹

THE COMMISSION FINDS THAT ELEVEN PERSONS – MR MSELENI NTULI, MS DUDU SHANGASE, MR ZETHA SHANGASE, MR NKONYENI SHANGASE, MR MUZI SHANGASE, MS FILDA NTULI, MR FIKILE ZONDI, MS MARITA XABA, MS SARA NYOKA, MR ALFRED ZITA AND MR SISEDEWU SITHOLE – WERE KILLED AND TWO PERSONS – MS IDA HADEBE AND MS NOMAGOLI ZULU – WERE INJURED ON 3 DECEMBER 1988 IN AN ARMED ATTACK PERPETRATED BY SPECIAL CONSTABLES OF THE SAP AND COMMANDED BY OFFICERS OF RANK IN THE SAP.

THE COMMISSION FINDS THAT SENIOR INKATHA MEMBER DAVID NTOMBELA ATTENDED THE AUGUST 1988 MEETING AT MARAWA HOUSE IN PIETERMARITZBURG, WITH THE LATE SAP MAJOR DEON TERREBLANCHE, FORMER SAP CAPTAIN BRIAN MITCHELL AND THREE INKATHA MEMBERS, MR JEROME GABELA AND TWO OTHERS. AT THIS MEETING, AN ATTACK ON THE TRUST FEED AREA NEAR NEW HANOVER WAS PLANNED TO TAKE PLACE IN DECEMBER 1988, INVOLVING MEMBERS OF INKATHA AND SPECIAL CONSTABLES OF THE SAP. DETAILS OF THE ATTACK WERE DISCUSSED AT THE MEETING BY NTOMBELA, TERREBLANCHE AND GABELA. ON 3 DECEMBER, THE PLANNED ATTACK TOOK PLACE, RESULTING IN THE BURNING OF A NUMBER OF HOUSES AND BUILDINGS, THE DEATHS OF ELEVEN PEOPLE AND INJURY TO TWO OTHERS.

THE COMMISSION FINDS THAT MR DAVID NTOMBELA'S ACTIONS CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS: CONSPIRACY TO KILL, ATTEMPTED KILLING, KILLING AND ARSON.

THE COMMISSION FINDS THAT, ON 3 DECEMBER 1988, SGT WILLEM DE WET TRANSPORTED A NUMBER OF SPECIAL CONSTABLES OF THE SAP TO TRUST FEED NEAR PIETERMARITZBURG, IN THE KNOWLEDGE THAT THESE SPECIAL CONSTABLES WOULD LATER THAT NIGHT UNDERTAKE AN UNLAWFUL ATTACK ON RESIDENTS OF TRUST FEED. DE WET FAILED TO TAKE STEPS TO PREVENT THE ATTACK FROM TAKING PLACE AND FAILED TO BRING THIS UNLAWFUL INCIDENT TO THE NOTICE OF THE APPROPRIATE AUTHORITIES. THE COMMISSION FINDS THAT DE WET IS AN ACCESSORY TO THE KILLING OF ELEVEN PEOPLE AT TRUST FEED ON THE NIGHT OF 3 DECEMBER 1988 AND THAT HIS ACTIONS CONSTITUTE A GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE ACTIONS OF SGT NEVILLE ROSE CONSTITUTE A GROSS VIOLATION IN THAT HE WAS AN ACCESSORY AFTER THE FACT TO THE KILLING OF THE PERSONS WHO DIED AT TRUST FEED, AND DEFEATED THE ENDS OF JUSTICE BY FAILING TO TAKE ANY STEPS TO ENSURE THAT THE PERSONS RESPONSIBLE WERE CHARGED AND PROSECUTED.

THE COMMISSION FINDS THAT THE ACTIONS OF THE THREE OFFICERS WHO WERE APPOINTED TO ASSIST POLICE OFFICER FRANK DUTTON IN THE INVESTIGATION, NAMELY GENERAL RONNIE VAN DER WESTHUIZEN, CAPTAIN KRITZINGER AND COLONEL LANGENHOVEN, CONSTITUTED GROSS HUMAN RIGHTS VIOLATIONS IN THAT THEY ATTEMPTED TO DEFEAT THE ENDS OF JUSTICE BY DELIBERATELY HAMPERING AND ATTEMPTING TO COVER UP THE INVESTIGATIONS INTO THE

²¹ On 29 April 1992, Mitchell was sentenced to death eleven times for his role in ordering the attack. The four former special constables were each sentenced to fifteen years' imprisonment. Rose and Van der Heever were acquitted. Mitchell's sentence was commuted to life imprisonment in April 1994 by former State President F W de Klerk. His first and second applications for amnesty were turned down, although the Currin committee recommended his release. President Mandela, on the advice of the Minister of Justice, Dullah Omar, turned down the application, despite approving the applications of the four special constables. Brian Mitchell's amnesty hearing with the Commission began on 15 October 1996. The civil claims by the victims of Trust Feed were paid out on the second day of the hearing, nearly eight years after the massacre. The victims opposed the granting of amnesty to Mitchell but, after a meeting between the commissioners and community members, they expressed their willingness to try to forgive Mitchell if he would involve himself in the reconstruction of the community he had been responsible for destroying. Mitchell's application was approved by the Amnesty Committee and he was released from prison in November 1996.

KILLING AND ATTEMPTED KILLING OF THE PERSONS ATTACKED AT TRUST FEED ON 3 DECEMBER 1988.

THE COMMISSION FINDS THAT GENERAL MARX, THEN HEAD OF THE CID SERVICES IN NATAL, DEFEATED THE ENDS OF JUSTICE BY ADVISING MITCHELL, WHEN HE ADMITTED COMPLICITY IN THE TRUST FEED KILLINGS, THAT THE INCIDENT WOULD BE COVERED UP. MARX'S ACTIONS AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH HE IS HELD ACCOUNTABLE.

Covert Security Branch activities

136 The Commission received numerous reports of disappearances of family members, some of whom were thought to have left the country to join MK or the ANC in exile. In other cases, family members suspected that Security Branch members or *askaris* may have abducted them. The Commission's Investigation Unit was able to solve a number of these cases, and in some instances succeeded in exhuming the remains of those who had been killed. The following represent some of the cases of disappearances that were successfully solved by the Commission.

The Case of the Chesterville Four

Vlakplaas operatives killed four members of the Chesterville Youth Organisation in an undercover operation using askaris in May/June 1986. The deceased were Mr Russell Mngomezulu, Mr Muntuwenkosi Dlamini, Mr Russell Mthembu and Mr Sandile Khawula. In the November 1989 inquest into the deaths of the four men, a Durban magistrate found that the police, who had fired between sixty-seven and eighty-eight rounds at the victims, were acting in reasonable self-defence. Vlakplaas operatives Willie Nortje [AM3764/96], Izak Daniel Bosch [AM3765/96] and Colonel Eugene de Kock [AM0066/96] applied for amnesty in respect of these four killings.

The Case of the Quarry Road Four

On 7 September 1986, members of the Security Branch in Quarry Road, Durban, killed four men believed to be part of an MK cell in Durban: Mr Blessing Mabaso, Mr Thabane Memela, Mr Percival Luvuyo Mgobhozi and Mr Mbongeni Zondi. A quantity of illegal weapons was found in the vehicle in which the four deceased were travelling. The police claimed the four deceased were responsible for an attack on a home in KwaMashu on the previous day as well as an AK-47 and hand-grenade attack on a home in Umlazi on 22 August 1986, in which Ms Evelyn Sabelo [KZN/NM/209/DN], wife of Inkatha member Winnington Sabelo, was killed and her four children injured.

Durban inquest magistrate, Mr F M Vorster, found that police were justified in killing the four men. In spite of their exoneration by the inquest magistrate, three members of the Security Branch applied for amnesty for 'defeating the ends of justice' in respect of the killing of the Quarry Road Four, declining to furnish further detail of their roles in this incident.²²

The Killing of Ntombi Khubeka

In May 1987, a group of C-Section Security Branch members from Vlakplaas and the Natal Security Branch from Durban were allegedly responsible for the death of MK member Ms Ntombi Khubeka, who was allegedly involved in liaison between the local and external units of MK.

The Security Branch members had information that a locally trained ANC combat unit was operating in KwaMashu and Inanda. Ms Khubeka was alleged to be responsible for stashing weapons, accommodating external operatives and gathering intelligence on possible targets. Two of her brothers were at the ANC headquarters in Lusaka.

In May 1987, she was abducted by Vlakplaas askari Jimmy Mbane and taken to Winkelspruit where she died under interrogation by members of the Security Branch. They buried her body at Inanda Newtown.

The Commission's investigation unit exhumed her body and found that she had a gunshot wound at the back of her head²³. [JB03477/02 Police Station]. The family implicates Durban Security Branch members Vusi Myeza and 'Sikheshekheshe' Ntombela in her killing. Warrant Officer Basson is now deceased.

Colonel ARC Taylor [AM4077/96, now deceased], Captain HJP Botha [AM453/97], Lieutenant Sam du Preez [AM4130/96], Sergeant LG Wasserman [AM4508/96], Mr CA van der Westhuizen [AM4388/96], Mr Zola 'Jimmy' Mbane [AM8066/97], MD Ras [AM5183/97], Captain Adrian David Baker [AM5284/97] applied for amnesty.

The Killing of Phila Portia Ndwandwe, aka MK Zandile

Ms Phila Portia Ndwandwe, otherwise known as 'MK Zandile', [KZN/NNN/018/DN], was the acting commander of MK activities between Natal and Swaziland and was responsible for the infiltration of ANC cadres into Natal. She was also believed to have given orders for a number of violent MK

²² Amnesty applications of Mr J A Steyn [AM453/97], Mr L G Wasserman [AM4508/96] and Mr M C Botha [AM7560/97; KZN/NN/002/DN].

²³ Amnesty applications of HJP Botha and ARC Taylor. More information in regard to the death of Khubeka is available in a final investigation report.

actions in Natal, including the killing of Durban Security Branch policeman, Warrant Officer Sokhela, in August 1986.

Ndwandwe was abducted from Swaziland by Durban Security Branch members Lieutenant Sam du Preez, Sergeant Lawrence Wasserman, Colonel Andy Taylor, Mr J A Steyn and Mr J A Vorster in October 1988 and taken to their farm or 'safe house' at Elandskop, outside Pietermaritzburg. She refused to co-operate with the police.

The police officers, lacking admissible evidence on which to prosecute her, decided to kill her. Her body was buried on the Elandskop farm and was exhumed by the Commission.²⁴

The Killing of Jameson Ngoloyi Mngomezulu

Swaziland-based MK commander, Jameson Ngoloyi Mngomezulu [KZN/NNN/340/EM], was abducted from his home in June 1985 and taken to Piet Retief where he was assassinated by members of Vlakpaas and the Jozini Security Branch. Gert Schoon [AM5006/97], Paul van Dyk [AM5013/97], Almond Nofemela [AM0064/96], Colonel Eugene de Kock [AM0066/96], Johannes Koole [AM3748/96] and askari Mr Thapelo Johannes Mbelo [AM3785/96] applied for amnesty for the abduction and/or killing of Mngomezulu. Other Vlakplaas members were named as participating in the operation, but did not apply for amnesty.

The Killing of Stanley Bhila

MK member Stanley Bhila [KZN/NJ/004/DN] was acquitted in the Durban trial of Dudu Buthelezi and nine others in February 1987. The ten trialists were accused of involvement in thirteen attacks in the Durban area. Security Branch members suspected that Bhila was also involved in a fatal bombing at Amanzimtoti in December 1985 (see below).

On 18 February 1987, days after his acquittal, he was abducted and killed by members of the Durban and Vlakplaas Security Branches, on the instruction of Colonel Andy Taylor.

The following members of the Durban Security Branch and Vlakplaas unit of the SAP have applied for amnesty: Mr Frank McCarter [AM4063/96], Mr Adrian Rosslee [AM4378/96], Sergeant L G Wassermann [AM4508/96], Mr Izak Daniel Bosch [AM3765/96] and Colonel Andy Taylor [AM4077/96].

²⁴ Amnesty applications of H J P Botha [AM453/97], Sam du Preez [AM4130/96], LG Wasserman [AM4508/96], ARC Taylor [AM4077/96], JA Steyn [AM453/97], JA Vorster [AM4390/96].

The Killing of Dion Cele

MK member Dion 'Charles' Cele (real name Mzimela), based in Swaziland, was involved in smuggling arms to South Africa. He was also allegedly responsible for a number of explosions in the country and for recruiting cadres for internal and external training.

Cele was abducted from Manzini, Swaziland, in July 1987 by Security Branch members Sergeant Lawrence Wassermann and Mr Hentie Botha, with the help of an unknown informer, and taken to a house in the eastern Transvaal for questioning. When he refused to co-operate he was taken to the Security Branch farm at Elandskop, Natal. His hands were tied and a bag was forced over his head. He was hit with a heavy piece of wood on the head and finally shot in the head.

The following security policemen have applied for amnesty for the abduction and killing of Cele: Sergeant LG Wassermann [AM4508/96], Colonel Andy Taylor [AM4077/96], Mr H J P Botha [AM453/97], Mr J A Vorster [AM4390/96], Mr J H S Labuschagne [AM5005/97] and Mr A E Verwey [AM5018/97].

The Killing of Phumezo Nxiweni

Mr Phumezo Nxiweni²⁵ was a student at the University of Natal Medical School. He was arrested in February 1987 in connection with two explosions in Durban during 1985. The first was a limpet mine explosion at the XL tea-room on 19 June 1985 in which seven people were injured; in the second incident a bomb exploded at the Spar Foodliner in St George's Street, Durban.

In May 1986, Nxiweni was one of ten accused in the Dudu Buthelezi trial in connection with thirteen attacks committed in the Durban area. He was acquitted in February 1987. Security Branch members also suspected Nxiweni of involvement in the fatal Amanzimtoti bombing in December 1985 (see below).

In November 1988, Nxiweni was abducted and taken to the Security Branch farm at Verulam for interrogation, where he was killed and buried.

Seven Security Branch members applied for amnesty in respect of the killing of Nxiweni: Mr H J P Botha [AM453/97], Mr J A Steyn [AM453/97], Mr J A Vorster [AM4390/96], Lieutenant Sam du Preez [AM4130/96], Colonel ARC Taylor [AM4077/96, deceased], Mr C van der Westhuizen [AM4388/96], and Sergeant LG Wasserman [AM4508/96]

²⁵ Umtata hearing, [EC0246/96WTK].

The Killing of Bhekayena Raymond Mkhwanazi

Mr Bhekayena Raymond Mkhwanazi, [KZN/FS/121/DN], known by his MK name 'Tekere', left the country in 1984 after being harassed by the police. According to the amnesty applications of a number of Security Branch members, 'MK Tekere' was caught while on a mission to place bombs in the Durban area. He was abducted and taken to the Security Branch farm at Elandskop, where he was killed.

The following members of the SAP have applied for amnesty: Lieutenant-Colonel JA Vorster [AM4390/96], Colonel ARC Taylor [AM4077/96], Mr S du Preez [AM4130/96] and Mr LG Wasserman [AM4508/96].

The Killing of Mxolisi Penwell Khumalo, aka 'MK Mubhi'

MK operative Mxolisi Khumalo aka 'MK Mubhi' was killed on 30 July 1988 at Pietermaritzburg in an incident in which, according to the police, a hand grenade in Khumalo's possession exploded.

The Commission conducted a special investigation into Khumalo's death following allegations contained in a statement made by a retired member of the Greytown Security Branch, a Warrant Officer Gwala. Gwala alleged that Pietermaritzburg and Greytown Security Branch members, notably Sergeants Simon Makhaye, Thulani Kleinbooi, Zimu and Mzolo, were responsible for Khumalo's death. He told the Commission that Khumalo was deliberately lured to a place in Sobantu where he was killed²⁶.

Khumalo's mother, Ms Joyce Ntombiyise Khumalo, told the Commission that her son went into exile in 1986. In July 1988, he came to see her at home. About two to three months later, she heard that her son might have been killed in a bomb blast at Magogo soccer field in Sobantu.

Sergeant Simon Makhaye was subpoenaed to appear before the Commission in terms of section 29 of the Act. He told the Commission that he had been present at the time of Khumalo's death, accompanied by Sergeants Kleinbooi, Zimu and Mzolo. He said they had obtained information about an MK operative in the area and had found Khumalo, who was allegedly known to Zimu. According to Makhaye, the four policemen tried to arrest Khumalo, but he reached for a grenade in his pocket and a struggle ensued. Makhaye stepped away to avoid the explosion. Kleinbooi allegedly shot Khumalo, who threw the grenade at Zimu, injuring him slightly in the explosion.

²⁶ Gwala died during the course of the Commission's investigation.

Commission investigators established that neither the Mountain Rise police station nor the Pietermaritzburg mortuary had any record of Khumalo's killing. It was later discovered that Khumalo's remains had been buried in a pauper's grave at the Mountain Rise Cemetery on 8 August 1988, under the name of 'Thembille Gladman Sithole'. The inquest report number handed to the Commission concerned a pedestrian accident in Edendale that bore no relation to either Khumalo or one Thembille Gladman Sithole.

The Commission arranged for Khumalo's remains to be exhumed. This was done on 11 May 1998. State pathologist Dr Steve Naidoo attended the exhumation and conducted a thorough examination of the remains. He told the Commission that, although there had been some erosion of the bone matter in view of the normal passage of time, the skeletal frame was largely intact. Bone fragmentation found at the base of the skull was consistent with a gunshot wound to the head. Dr Naidoo said that there was no evidence that would indicate an injury by hand-grenade explosion.

In his Section 29 hearing, Sergeant Makhaye indicated that Sergeant Zimu knew Mr Khumalo, yet the police claimed that his true identity could not be established and he was buried under false documentation. Although no inquest was held, documentation from the former Security Branch states that an inquest was finalised.

IN REVIEWING EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS PERPETRATED BY THE STATE IN NATAL AND KWAZULU DURING THIS PERIOD, THE COMMISSION FINDS THAT THE SECURITY BRANCH OF THE SAP ENGAGED IN UNLAWFUL COVERT ACTS RESULTING IN THE DISAPPEARANCE AND TORTURE, AND IN MANY SUCH CASES, THE DEATHS OF POLITICAL ACTIVISTS OPPOSED TO THE SOUTH AFRICAN GOVERNMENT. THE COMMISSION FINDS THAT IN SOME CASES POLITICAL ACTIVISTS WERE DELIBERATELY KILLED BY MEMBERS OF THE SAP. THE SAP IS HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS REFLECTED BY THESE ACTS.

Contra-mobilisation

137 The early 1980s saw a steady increase in groups of vigilantes who used terror to quell the growing revolt among rural youth against the old order. By and large, vigilantism was closely allied to the South African government's institution of homeland administrations and black local councils. In many areas, and particularly with the rise of radical anti-apartheid opposition in the early 1980s, those associated with these structures often found themselves isolated and reviled, particularly by radical youth. They started to defend their interests (and sometimes their very lives) through the formation of vigilante 'armies' drawn from the more traditionalist and uneducated of the local population.

138 Vigilante activities appeared to have the support, both covert and overt, of the security forces. A review of the evidence, based on *affidavits* submitted to the Commission by amnesty applicants Mr Shabangu, Mr Harrington and Mr Madlala, enabled the Commission to confirm the findings of the Human Rights Commission, that the security forces colluded with Inkatha vigilantes in the following ways:

- a Through acts of omission: staying away from the scene of vigilante attacks, or arriving excessively late; not responding to forewarning of attacks; not countering, deflecting or dispersing attackers; not charging or prosecuting attackers, and refusing to accept charges laid by injured parties; failure to solve murders, even when evidence was readily available; failure to remove weapons from vigilante bases;
- b Through acts of commission: indiscriminate attacks on township dwellers with tear gas, guns, rubber bullets, etc.; dispersing, arresting or detaining township dwellers and removing their means of defence; escorting and even transporting vigilante groups to and from scenes of attack; collaboration in the planning and execution of attacks and in the identification and targeting of specific individuals; provision of weapons and other materials to vigilante groups; training and funding of vigilante groups²⁷.

139 In 1982, residents of the Lamontville township in Durban South formed the Lamontville Rent Action Committee to oppose rent increases announced by the Port Natal Administration Board (PNAB). In early 1983, similar committees from several PNAB-administered townships (for example, Hambanathi and Chesterville) came together to form the Joint Rent Action Committee (JORAC). Besides opposing rent increases, JORAC also opposed plans, already underway, to incorporate a number of PNAB townships into KwaZulu.

140 A vigilante group calling itself the 'A-Team' was formed to counter support for JORAC in Lamontville and Chesterville, both of which, along with Clermont and Hambanathi, had been identified for incorporation into KwaZulu. The conflict and violence which beset each of these areas for the next four years was to some degree centred around those involved in the incorporation question, including councillors and vigilantes.

The Killing of Harrison Dube

On 25 April 1983, Lamontville councillor and JORAC chairperson Mr Harrison Msizi Dube was shot dead after returning from a JORAC meeting. Dube's

²⁷ Human Rights Commission, 1992 'Checkmate for apartheid? Special report on two years of destabilisation July 1990 to June 1992'. SR-12, Johannesburg: HRC, p. 23.

death sparked outrage. His community went on the rampage, attacking councillors' homes and buildings belonging to the PNAB and killing three alleged police informers. The violence quickly spread to the Chesterville township.

In Lamontville, five people, including the Inkatha-aligned mayor, Mr Moonlight Gasa, were arrested on 22 June 1983 in connection with Dube's killing. All five were subsequently convicted of the murder. Mr Vakuthethwa Yalo, Mr Ebenezer Mngadi and Mr Julius Mngadi were sentenced to death (later commuted to life imprisonment). Mr Bangu Mbawula was sentenced to eight years' imprisonment and Mr Moonlight Gasa to twelve years' imprisonment [KZN/DQ/001/DN; AM1334/96].

- 141 In Chesterville, JORAC members and supporters were targeted for attack by an Inkatha-supporting and state-sponsored vigilante group set up in the township in 1983/4, also known as the 'A-Team'. The group was based in Road 13. Statements made to the Commission alleging human rights abuses by the A-Team refer to incidents between 1985 and 1989. These included at least ten killings, several cases of attempted murder and severe ill treatment and arson attacks.
- 142 The picture painted by witnesses at the Commission's public hearings in Durban was that the A-Team established a reign of terror in Chesterville over a number of years. They took over Road 13, illegally occupying houses and burning surrounding houses in order to make a safe area for themselves. They also allegedly brought in Inkatha youths from other townships to bolster their power base. Their sole aim was to target members of youth and other UDF-linked organisations. This they did with the active complicity of the SAP, including the Riot Unit and the Security Branch.
- 143 In his amnesty application, former Durban Riot Unit member Frank Bennetts [AM4059/96] gave evidence of the extent of Security Branch involvement in and collusion with members of the A-Team. At a section 29 hearing, he described the A-Team as:

A group of Inkatha supporters who were acting in their capacity, or so I believed, in assisting the police in the curbing of the growth and support of groups and organisations opposed to the government and the order of the day.

- 144 According to Bennetts, the A-Team assisted the Riot Unit by identifying alleged UDF activists to be detained and passing on other information to the security forces. In return, the Riot Unit offered them protection by putting extra patrols

into their street and escorting them in and out of the township. Bennetts told the Commission that, despite good cause to do so, A-Team members were never detained under the emergency regulations. Had the police done so, he said, the violence in Chesterville would have been reduced “by 99.99 per cent”. In his words, the A-Team “wrecked half the township”. Nevertheless, the Riot Unit openly and blatantly sided with the gang, perceiving them as a legitimate ally in their struggle against the UDF.

- 145 Bennetts alleged that the A-Team was started by a military intelligence agent employed by the Natal Provincial Administration as the township manager to oversee the administration of Chesterville. He denied that the Riot Unit paid them or provided them with weapons. However, he had good reason to believe that either the military or the security police provided them with monetary and logistic assistance (firearms, petrol bombs and ammunition). He said further that “in all likelihood” some of the atrocities committed by the A-Team were planned by some unit of the security forces.

THE COMMISSION FINDS THAT, AT THE BEHEST OF SEVERAL UNNAMED INKATHA-SUPPORTING TOWN COUNCILLORS AND UNNAMED MEMBERS OF THE SAP, VIGILANTE GROUPS WERE ESTABLISHED AND BECAME ACTIVE IN SEVERAL TOWNSHIPS IN THE PROVINCE FROM 1983.

THE COMMISSION FINDS THAT THE A-TEAM, ACTIVE IN LAMONTVILLE AND CHESTERVILLE DURING 1983-4, WAS RESPONSIBLE FOR UP TO TEN KILLINGS AND AN UNKNOWN NUMBER OF ACTS OF ATTEMPTED KILLING, SEVERE ILL TREATMENT AND ARSON, TARGETING MAINLY UDF SUPPORTERS AND CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH UNKNOWN MEMBERS OF THE A-TEAM ARE HELD ACCOUNTABLE. MEMBERS OF THE SAP UNLAWFULLY SUPPORTED THE ACTIVITIES OF SUCH GROUPS AND ARE HELD ACCOUNTABLE FOR THE VIOLATIONS ARISING FROM THE ACTIVITIES OF THE A-TEAM.

The Killing of Philemon Khanyile

Chesterville community leader Philemon Khanyile was stoned and burnt to death in his car by an angry crowd of residents when he attended the funeral of Mr Harrison Dube. The crowd had been led to believe that he was a police informer. Khanyile was a member of JORAC and a teacher at the Chesterville High School.

Bennetts told the Commission that the Riot Unit had deliberately framed Khanyile as an informer. Bennetts and a colleague had visited Khanyile's sister and handed her an envelope containing R500 in cash, which they asked her to give to her brother.

146 According to Bennetts, this tactic was used on numerous occasions. Another tactic used by Riot Unit members was to pick up an activist, keep him for half an hour, and then take him along to uncover a firearm they already knew about. This would be done in full view of the community. The Riot Unit members would then release the activist, who would in all probability be labelled as an informer and possibly be killed. Bennetts admitted at his section 29 hearing that “a hell of a lot”, “a couple of hundred” people had been framed in this manner, and that “quite a few” had died as a result: “I’d say about five. But a lot just vanished, never to be seen again.”

The Killing of the Mdluli Family

On 8 January 1987, the A-Team petrol-bombed and burnt down a number of houses belonging to UDF supporters. Mr Musa Mdluli [KZN/GW/006/DN; KZN/SELF/113/DN], a Chesterville resident, was at work when he received a phone call telling him that members of the A-Team were attacking his house. He rushed home to find his five children inside the burning house. One of them (Nokwazi, aged twenty-five years) was already dead. Three other children died in hospital. They were Bongzi (5), Brenda (2) and Sithabile (6 months). A-Team member Bheki Mdlalose was sentenced to twenty-seven years’ imprisonment for his part in the attack (Durban hearing).

147 Bennetts said that, in 1987-88, some members of the A-Team moved out of Chesterville and operated from a house in Umlazi and Ntuzuma. The Riot Unit would escort them into Chesterville, where they would carry out a ‘hit’, after which they would be escorted out again. The community came to fear and hate the Riot Unit because of its demonstrated partiality towards the A-Team. Bennetts told the Commission:

We were shot at on a regular basis. We had wires put up, telephone wires, washing-line wires put up just at the perfect height that an oke [guy] could come round a corner and take a shot at the police van. Jump out and chase him. He runs round the corner. He knows where the wire is. He put it there. He would duck and take you out in the throat. I had soldiers there with throats almost cut off with wires.

It became a war in Chesterville, if I can call it that, involving numerous little parties, no one actually maintaining some sort of control as to what was going on. You had the UDF/ANC conflict on the go. You had the police – the Riot Unit in there and the army. I’m talking about your – just your down to earth, uniformed guy who was there to go and patrol. They were getting

shot at on a regular basis. Every road in that location basically, bar [Road] Two, is a dead-end road. Drive in there some time and try and turn a row of two or three Casspirs around. Guarantee you've got things thrown at you.

The situation for us as the members working inside there came to the point there when you went to work tonight you didn't know whether you were going home tomorrow. You just had no idea ... We became hardened to the extent that eventually it just didn't matter whether that person burning lived or died. It didn't matter what side he was on. My interest there was to go home tomorrow morning and that was it.

- 148 In KwaMashu, the *AmaSinyora* gang, a group of Inkatha-supporting vigilantes based in K Section, KwaMashu, north of Durban, was set up in 1987 to oppose UDF-aligned activists in the township. The gang was allegedly responsible for attacks on many non-aligned residents of the township and was described as carrying out a reign of terror from the late 1908s through to 1991, resurfacing temporarily in 1994.
- 149 In 1991, one of the founder members of the *AmaSinyora* gang, Mr Bheki Mvubu, made an *affidavit* to the LRC in which he implicated himself in burning at least eight to ten houses and in participating in attacks in which about forty UDF supporters were killed. All these took place in KwaMashu K Section. During house raids, the relatives of UDF supporters were sometimes killed. Another founder member, Mr Dumisani Zondo, a member of the SADF, allegedly assisted in training the gang members and supplying weapons and ammunition.
- 150 According to information handed to the Commission, the group was supported by the KZP stationed at KwaMashu. Detective Zondi, now deceased, of the KwaMashu KZP, was the father of one of the *AmaSinyora* members and allegedly kept the group informed of complaints laid against them at KwaMashu police station. Another KwaMashu KZP member, Mr Khetha Shange, also worked with the *AmaSinyora*, providing them with bullets and occasionally joining in attacks.
- 151 According to Bheki Mvubu, in 1988 the *AmaSinyora* gang was introduced to Lindelani IFP leader Thomas Shabalala (see below), who supplied them with three shotguns and several boxes of bullets and praised their activities. They met with him several times to request money, guns and ammunition.

- 152 In January 1988, the *AmaSinyora* began collecting 'protection money' from residents of K Section. The gang began reporting to the local councillor and Inkatha chairman in K-Section, Mr Zwane, who took control of the 'protection money'.
- 153 According to Mvubu, the KZP stopped charging the *AmaSinyora* members for killings or other criminal activities once they joined Inkatha. For example, Mvubu was arrested after killing a young UDF supporter by the name of Jomo in mid-1989. He and a few others were still standing around the corpse when the KZP arrived. They were all arrested and taken to the police station, where they denied the killing. They were released after about four hours and dropped off in K Section.
- 154 The LRC received *affidavits* from up to twenty KwaMashu residents in which allegations of serious criminal activity were made against the *AmaSinyora* and the KZP. The LRC noted:
- As a result of the perceived bias and non-responsive attitude of the KZP, most victims of AmaSinyora attacks have stopped reporting incidents to the KZP. On several occasions, K Section residents have attempted to secure the assistance of the SAP, either in the form of immediate protection or investigative action and arrests. Invariably the SAP have refused all requests on the basis that as KwaMashu falls in KwaZulu, the SAP have no jurisdiction to operate in the area.*²⁸
- 155 Mvubu said that, to his knowledge, no *AmaSinyora* members were convicted as a result of KZP investigations. In July 1990, a joint SAP–KZP investigation team launched an investigation into the activities of the *AmaSinyora*, which resulted in a few arrests and convictions.
- 156 According to the LRC and the Human Rights Commission²⁹, the *AmaSinyora* were implicated in 291 attacks in 1989–90, including approximately 100 killings. During the same period, approximately 400 homes in K Section were abandoned.
- 157 During 1989, the *AmaSinyora* joined up with one Mr Shozi, an Inkatha leader from Z Section, Umlazi, who allegedly provided them with weapons from time to time and used some of the stronger *AmaSinyora* members to fight for him in Umlazi, transporting them in his vehicle and accommodating them in his Umlazi home.
- 158 The term 'warlord' first came into common currency in the late eighties as an analytical, though initially pejorative, description of a number of 'vigilante' and

²⁸ Legal Resources Centre (Durban) & Human Rights Commission (Durban), *Obstacle to Peace: The Role of the KZP in the Natal Conflict*. Joint Report. June 1992, p. 137.

²⁹ Legal Resources Centre (1992) p 136.

Inkatha leaders who had risen to prominence in the growing party conflict in the province. It is believed that the appellation was first used by academics involved in unrest monitoring, and was soon taken up by the media. This suggests that the term strove to denote something more than simply a leader in violent activities, seeking to describe the nature of the relationship of such leaders to other forces in society.

159 In the KwaZulu-Natal context, a warlord is a powerful local leader who gets and keeps political power in an area by paramilitary or military force and who has an ambiguous or only nominal allegiance to a higher authority. During the period under review, this authority was usually Inkatha but also, in a sense, the police, who represented the central government and demonstrated its tolerance of such unofficial local or district 'government'. The warlord tends to gather a group of professional strong-arm men around him and pay for their services by extracting fees, fines and protection money from the local populace. Though self-interest and the acquisition of personal wealth often play a strong role in the seizure or maintenance of the warlord's power, political allegiance plays a significant role in his rise to power.

160 The Commission heard that some ANC leaders also behaved in a warlord-like way. Mr Harry Gwala, the Natal Midlands ANC leader, gained considerable notoriety as a warlord, though he did not derive particular material benefit from his position of authority. Gwala's popularity with the militant ANC youth in the area derived from the uncompromisingly aggressive line he took towards Inkatha leaders and members. At an ANC rally in April 1992, Gwala said he would not discourage people from attacking IFP warlords: "Make no mistake", he said, "we will kill [Inkatha] warlords".³⁰

161 Gwala gathered around himself a group of 'strongmen' who intimidated and threatened people who clashed with him within the ANC and SACP. On occasion, he ordered assassinations, though they were not always carried out³¹. He had the charisma associated with warlords and his confrontational leadership style resonated with ANC supporters in the Natal Midlands who had borne the brunt of Inkatha and police attacks for years.

THE COMMISSION FINDS THAT MR HARRY GWALA, NOW DECEASED, FUNCTIONED AS A SELF-STYLED ANC WARLORD IN THE GREATER PIETERMARITZBURG AREA, AND THAT HE ESTABLISHED SELF-DEFENCE UNITS IN THE AREA UNDER HIS CONTROL. GWALA'S POLICIES AND PUBLIC UTTERANCES ACTIVELY FACILITATED A CLIMATE IN WHICH GROSS HUMAN RIGHTS VIOLATIONS

³⁰ *Business Day*, 6 April 1992.

³¹ Gwala was suspended from the SACP in July 1994 after ordering the assassination of party supporters Mr Blade Nzimande and Mr Ben Dikobe Martins. His bodyguards refused to carry out the order.

COULD TAKE PLACE. THE COMMISSION FINDS THAT IN CALLING FOR THE KILLING OF PERSONS OPPOSED TO THE ANC, GWALA INCITED HIS SUPPORTERS TO COMMIT GROSS VIOLATIONS OF HUMAN RIGHTS, INCLUDING KILLING, ATTEMPTED KILLING, SEVERE ILL-TREATMENT AND ARSON, FOR WHICH HE IS HELD ACCOUNTABLE. THE ANC CONSISTENTLY FAILED TO REPROACH, DISCIPLINE OR EXPEL GWALA FROM ITS RANKS, AND THEREBY ENCOURAGED A CLIMATE OF IMPUNITY WITHIN WHICH GWALA CONTINUED TO OPERATE. TO THIS EXTENT, THE ANC IS ALSO HELD ACCOUNTABLE FOR THE PREVIOUSLY MENTIONED VIOLATIONS.

- 162 Former ANC leader Sifiso Nkabinde of Richmond also gained notoriety as a warlord for the considerable power he wielded in the area after he led a violent and successful campaign to defeat Inkatha opponents. He soon became a leading ANC figure in the province, though tainted by allegations of complicity in the killing of some ANC youth leaders in Richmond and, in 1996, of three Indian policemen. In April 1997 he was exposed as a long-serving police agent and expelled from the ANC.
- 163 Mr Thomas Mandla Shabalala is representative of the urban warlords who controlled the numerous informal squatter settlements and shacklands ringing the city of Durban. He became the foremost warlord in the Durban region as the self-styled community councillor and self-proclaimed Inkatha mayor of the squatter settlement of Lindelani. He was reportedly elected spokesperson for the community at a residents' meeting in 1984, went on to chair the local Inkatha branch and later become the KLA member for Lindelani, and a member of Inkatha's Central Committee.
- 164 Shabalala set up what he called a 'community guard force' in Lindelani, which was paid for by an informal house 'tax' of R3.00 exacted from every household. He also exacted fees for Inkatha membership cards, school funds, site rental, school teachers and other taxes and rents. In 1988, he owned a fleet of taxis, the only butchery and bottle store in Lindelani, and a development business.
- 165 Shabalala's community guards – described as *amabutho* [a military regiment] – were soon armed with licensed weapons and engaged in attacks on neighbouring areas and on UDF supporters within Lindelani. Many attacks in the early 1980s were related to attempts by KwaZulu to incorporate areas such as Hambanathi and Lamontville into the KwaZulu homeland. The first major attacks by large groups of men took place in August 1985 in response to large-scale unrest in the Durban area, initiated by a COSAS schools boycott. Shabalala himself allegedly led a 300-strong group that attacked the memorial service for assassinated Victoria Mxenge in August 1985, killing seventeen people.

- 166 Vigilantes seized control of Ntuzuma, KwaMashu and Umlazi and continued with increasing intimidation and sporadic conflict for months thereafter. The latter half of 1989 saw about 300 people killed in the townships surrounding Durban.
- 167 Shabalala was also alleged on numerous occasions to have intimidated, assaulted, tortured and killed opponents.

The Case of Belinda and Simon Mfeka

On 26 May 1986, Ms Belinda and Mr Simon Mfeka obtained a temporary interdict against Shabalala because he had threatened them for not paying their Inkatha, Inkatha Women's Brigade, UWUSA and community guard dues. Within an hour of the granting of the interdict, a group of a hundred people arrived to demolish the Mfeka's three-roomed brick house.

- 168 The Commission heard several claims from victims that they had been forcibly taken to Shabalala's house where they were questioned and assaulted, and where some were held in what became known as 'Shabalala's jail'.

The Case of Sibusiso Nkabinde

On 20 May 1989, Mr Sibusiso Nkabinde [KZN/FS/130/DN] was taken forcibly from his home to Shabalala's house where he was assaulted by two persons acting on Shabalala's instructions. Shabalala himself pushed a barrel of a rifle into the back of Nkabinde's head. Nkabinde continued to be assaulted in Shabalala's presence and heard unknown people deciding that he should be killed and his body burnt. He escaped and the following day his house in Lindelani was burnt down.

The Case of Victor Madele

During September 1985, Mr Victor Madele of Lindelani was forcibly taken to Shabalala's house where he was questioned about his activities and held in a locked room for about two weeks against his will. At the end of this period of imprisonment, he was again forcibly brought before Shabalala, who assaulted him by stabbing him in the right eye with a fork.

The Commission heard that Madele was forcibly taken from his home to Shabalala's house on four more occasions in 1988: on 6 June, after which Madele reported the matter to the KwaMashu police station [CR 47/6/1988]; on 19 June; on 1 December 1988, and again ten days later. He reported the matter to the SAP at CR Swart Square in Durban.

The Case of Seven KwaMashu Youth League Members

In 1987, Shabalala was implicated in the killing of seven KwaMashu Youth League members. He was acquitted at a trial in August 1989, but two of his personal bodyguards, Mr Emmanuel Khanyile and Mr Wilfred Phewa, were convicted.

On 25 April 1988, Mr Lindelani Jabulani Msimango, Mr Innocent Mzo Ndlovu, Mr Bheki Gcabashe [KZN/NNN/041/DN] and others were walking near Lindelani when two vehicles stopped near them and a number of men, including Thomas Shabalala, armed with guns and traditional weapons, got out and fired at the group, severely injuring Msimango. The men chased, attacked and killed Gcabashe and attacked and severely injured Ndlovu. Shabalala was arrested for the shooting of the sixteen-year-old Gcabashe, but was released on bail and later acquitted.

The Case of Nkosinathi Mjoli

On 17 June 1990, Thomas Shabalala assaulted Mr Nkosinathi Musa Mjoli at an Inkatha rally at the King Zwelethini Stadium at Umlazi. Mjoli was wearing a T-shirt with the slogan 'Workers demand a living wage', and Inkatha supporters believed him to be a supporter of a COSATU-affiliated union and referred to him as a member of the amaqabane [comrades]. At the end of the rally, Shabalala instructed Inkatha supporters to kill Mjoli who was subsequently stabbed to death in the toilets of the stadium.

169 Shabalala had a presence of armed men in many different parts of the region and was believed to have been involved in conflict in North Coast areas including Eshowe, Mandini, Esikhawini and Ngwelezana. By the end of the 1980s, he controlled a large area around the informal settlement of Lindelani. He continued to exact fees from residents³² and it is alleged that some of the proceeds went into his personal business ventures. In spite of the accumulation of evidence against him, Shabalala has remained seemingly immune to police action.

THE COMMISSION FINDS THAT THOMAS MANDLA SHABALALA IS ACCOUNTABLE FOR GROSS HUMAN RIGHTS VIOLATIONS OVER AN EXTENDED PERIOD IN LINDELANI AND ELSEWHERE IN KWAZULU-NATAL. HE FOSTERED AND FACILITATED A CLIMATE IN WHICH OTHERS UNDER HIS LEADERSHIP COMMITTED GROSS HUMAN RIGHTS VIOLATIONS.

170 When David Ntombela of Mncane in Vulindlela became the *induna* of KwaMncane, the money he collected from people for a 'co-operative store' allegedly went

³² Including, according to one resident in 1989, R5.00 a year for an up-to-date Inkatha card, R10.00 a year for school funds, R3.00 a year for a security guard, R10.00 a month for a site rental and R2.00 per child for a school teacher.

into building his own store. Ntombela became known for spearheading attacks against UDF supporters who had begun to infiltrate the Elandskop area towards the end of 1987.

The Case of the Mkhize Family

The Commission heard that, on the night of 9 October 1987, Ntombela, his brother and six other men went to the home of Mr Mandla Mkhize at Zondi's store, an area in his region. They were looking for Mkhize's sons, COSATU members Mangethe and Muntu. They were out but their mother, Ms Maqhikila Angelica Mkhize, was at home with three children. According to one of the children, Ntombela then shot and killed the mother with a small handgun and the men killed one of the daughters, Petronella.

The inquest magistrate found in 1989 that it was possible that David Ntombela and five others "were in some way responsible for the deaths". To this day, the case has not gone to trial.

- 171 On 31 January 1988, David Ntombela was among a number of people who addressed a large Inkatha rally at Mpumuza in Sweetwaters. Witnesses allege that he said: "Anyone who does not want to belong to Inkatha should be killed". He said he would go to each of the Chiefs' areas and kill those who were not Inkatha. He reportedly asked permission of the Chiefs to stop the meeting so that he could lead the people out and drive the UDF and COSATU from the area. After this meeting, an attack was launched on the township of Ashdown, assisted by the police.³³
- 172 The Commission heard that Ntombela enjoyed a good relationship with senior members of the police and that units of the riot police were often seen at his home. Evidence given at the Commission's hearings in Pietermaritzburg in 1996 and at a 1997 amnesty hearing in Edendale indicates that Ntombela was in regular contact with the police and worked with them in the recruitment, administration and payment of special constables. In April 1997, it was revealed that Ntombela, along with ANC leader Sifiso Nkabinde, had been a long-time police informer and agent.
- 173 Mr Abdul Awetha of Imbali was described as representative of the urban town councillor-type of warlord. Awetha gained prominence through his opposition to the rise of youth resistance in the 1980s. As the pressure on the black township councils increased, he began to gather a number of unemployed strongmen around him. He also built up a lucrative patronage system through the granting

³³ *Natal Witness*, 2 February 1988.

of housing sites and trading licenses. He is said to have used false promises of access to houses to get people to join Inkatha. Awetha played a prominent role in much of the conflict in and around Imbali during this period. He is alleged to have been involved in procuring weapons with the help of security police.

- 174 In 1985, vigilante groups clustered around Imbali town councillors were reported to be going from house to house demanding that all UDF, AZAPO and Imbali Civic Association members be handed over to them. A number of attacks, assaults and acts of intimidation took place. Awetha was one of three people arrested on 9 June 1992 in connection with the death of Mr S'khumbuzo Ngwenya, who chaired the Imbali ANC branch (see below). However, charges were dropped when the state's key witness refused to testify after allegedly being threatened. Awetha has not been prosecuted for the violence in which he is alleged to have been involved or for his corrupt behaviour as a town councillor.

THE COMMISSION FINDS THAT ABDUL AWETHA COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS IN THE NATAL MIDLANDS REGION FOR WHICH HE IS ACCOUNTABLE .

- 175 Recent police investigations and court proceedings have unearthed much evidence of the involvement of the highest levels of the state's security apparatus in the paramilitary training of Inkatha-supporting recruits for deployment against the UDF/ANC in townships and other areas around the province.
- 176 In the face of rising militancy in the UDF, the chief minister and minister of police in the KwaZulu government, Mangosuthu Buthelezi, expressed the embattled position of Inkatha supporters on the ground as follows:

I hardly need to emphasise that we need to be placed in a far better position to defend our property and the lives of our people from those kinds of attacks. We do not intend to be sitting ducks ... In fact, I believe that we must prepare ourselves not only to defend property and life but to go beyond that and prepare ourselves to hit back with devastating force at those who destroy our property and kill us.

It will be a sad day when brother has to defend himself against brother. This is exactly what we will be forced to do if these kinds of incidents escalate.³⁴

- 177 According to a secret State Security Council document³⁵, the Inkatha Central Committee decided during 1985 "that the whole of KwaZulu and Natal must be turned into a so-called 'no-go area' for the UDF, regardless of the consequences".

34 Hansard: KwaZulu Legislative Assembly, 28 May 1984, p. 916

35 Document headed 'Probleemontleding van die onrustsituasie in Natal' [Problem analysis of the unrest situation in Natal], Appendix A to SSVR/535/7/DD, March 1989.

- 178 In late 1985, Chief Buthelezi was alerted to alleged MK plans to assassinate him and turned to the government and SADF for assistance. His requests, as detailed in various military intelligence and State Security Council documents, included the training and deployment of a VIP guard unit, an intelligence structure, a KwaZulu army, the authority to issue firearm licenses, and a paramilitary force. In a Section 29 Hearing of the Commission, former IFP National Council member Walter Felgate recalled discussions in which he had specifically advised Chief Minister Buthelezi of the need for a defensive and pre-emptive capacity for Inkatha. What was envisaged, he said, was a 'strike capacity' for the IFP, not purely a defensive group to look after KwaZulu government VIPs and property.
- 179 One of the outcomes of these deliberations was the clandestine paramilitary training of some 200 Inkatha supporters by the SADF in the Caprivi, Namibia, during 1986, known as Operation Marion. The 'Caprivi trainees' returned to KwaZulu and Natal in September 1986, after six months of special forces training which, they were told, was to equip them to destroy the UDF/ANC. The 'Caprivi trainees' were variously deployed around the province: some to the KLA Protection Unit, some to Inkatha constituency offices and some to KZP stations. The trainees were required to make themselves available to local Inkatha leaders as well as to undertake the training of Inkatha youths in the areas where they were deployed.³⁶
- 180 The role of the 'Caprivi trainees' came under the spotlight in the Durban Supreme Court during the so-called 'KwaMakhutha trial'³⁷ of 1996. The Court found that Inkatha members trained by the SADF in the Caprivi were responsible for the killing in January 1987 of thirteen people, mostly women and children, in an AK-47 attack on the home of UDF leader Mr Bheki Ntuli, in the KwaMakhutha township south of Durban [KZN/MR/031/DN].
- 181 The Commission decided that a hearing should be held to hear testimony from and permit cross-examination of those witnesses whom the state had failed to call in the KwaMakhutha trial. Witnesses included Caprivi trainees as well as their political commissar, Daluxolo Luthuli, and an SADF expert on counter-revolutionary warfare. Evidence was also presented by a Special Forces amnesty applicant who had trained the recruits in the Caprivi.

³⁶ The finding of the Commission on the Caprivi Training is dealt with elsewhere in this Commission's report. In brief, the Commission found that Chief Mangosuthu G Buthelezi conspired with then President P W Botha, then Minister of Defence, General Magnus Malan and other senior members of the military establishment to create an unlawful and offensive paramilitary force to be deployed against the ANC, UDF and their supporters. It is a finding of the Commission that the 'Caprivi trainees' were responsible for an unknown number of gross violations, including killings and attempted killings, in KwaMakhutha, Clermont, Mpumalanga, Sinating and Esikhawini. For these violations, the 'Caprivi trainees' and unknown other Inkatha supporters are held accountable.

³⁷ The State v Peter Msane and 19 others.

182 The Commission has made a comprehensive finding concerning Operation Marion. It is contained in a lengthy document which includes the full reasons for the finding and which can be found in the State Archives. The main features of the finding are as follows:

IN 1986, THE SADF FORCE CONSPIRED WITH INKATHA TO PROVIDE INKATHA WITH A COVERT, OFFENSIVE PARAMILITARY UNIT (HIT SQUAD) TO BE DEPLOYED ILLEGALLY AGAINST PERSON'S AND ORGANISATIONS PERCEIVED TO BE OPPOSED TO OR ENEMIES OF BOTH THE SOUTH AFRICAN GOVERNMENT AND INKATHA. THE SADF PROVIDED TRAINING, FINANCIAL AND LOGISTICAL MANAGEMENT AND BEHIND THE SCENES SUPERVISION.

ACCORDING TO GENERAL MAGNUS MALAN, THE STATE SECURITY COUNCIL SANCTIONED ALL STEPS TAKEN UP TO AND INCLUDING THE LIEBENBERG REPORT. THERE IS A CONSIDERABLE VARIANCE BETWEEN THE TRAINING CONTEMPLATED IN PARA 24. C.I, AND II OF THE LIEBENBERG REPORT AND THE ACTUAL TRAINING RECEIVED. IT CANNOT BE ASSUMED THAT IT WAS AT THIS STAGE THAT THE HIT SQUAD ACTIVITIES WERE FORMULATED.

IT IS CLEAR FROM THE MILITARY DOCUMENTS OF 16 APRIL 1986 THAT GENERAL MAGNUS MALAN, CHIEF BUTHELEZI AND ADMIRAL PUTTER HAD TO FINALISE THE NATURE OF THE TRAINING AND THE DEPLOYMENT OF THE TRAINEES BEFORE THE END OF THE BASIC TRAINING. MALAN CONFIRMED A MEETING WITH CHIEF BUTHELEZI ON 17 APRIL. JAN ANTON NIEUWOUTD OF SADF SPECIAL FORCES CONFIRMED THAT HE WAS SENT TO THE CAPRIVI TO UNDERTAKE TRAINING BY GENERAL GROENEWALD WHO FELL UNDER PUTTER. THIS WAS THE TIME OF THE CONSPIRACY AND THE PARTIES REFERRED TO WERE THE CONSPIRATORS.

TRAINING IN THE CAPRIVI STRIP INCLUDED *INTER ALIA*, THE FOLLOWING FEATURES;

- THE USE OF THE SPECIAL FORCES AS INSTRUCTORS;
- THE USE OF SOVIET WEAPONS;
- THE USE OF HEAVY DUTY WEAPONS SUCH AS MORTARS AND RPG7S;
- THE USE OF EXPLOSIVES, LANDMINES, AND HAND GRENADES;
- TECHNIQUES IN HOW TO CARRY OUT ATTACKS WITHOUT LEAVING CLUES AND TACTICS ON HOW TO AVOID ARREST, DETENTION AND INTERROGATION AT THE HANDS OF THE POLICE;
- ATTACKS ON HOUSES WITH THE AIM OF KILLING ALL THE OCCUPANTS.

PERSONS INVOLVED IN GIVING THE TRAINING AND PERSONS RECEIVING TRAINING TESTIFIED THAT THEY WERE GIVING AND RECEIVING TRAINING IN ORDER TO ENGAGE IN THE UNLAWFUL KILLING OF PEOPLE.

MALAN CLAIMED TO HAVE REPORTED BACK TO THE STATE PRESIDENT PW BOTHA AFTER THE ABOVE. THE PRESIDENT MUST THUS HAVE OF APPROVED OF THIS DECISION.

MZ KHUMALO OF INKATHA WAS THE LINK BETWEEN THE HIT SQUAD, THE SADF AND CHIEF BUTHELEZI. BRIGADIER MATHE OF THE KZP WAS THE PERSON WHO ISSUED FALSE POLICE APPOINTMENT CERTIFICATES TO CAPRIVI TRAINEES. KHUMALO AND MATHE WERE CHIEF BUTHELEZI'S CO-CONSPIRATORS.

THE SADF MEMBERS RESPONSIBLE FOR CARRYING OUT MALAN AND GROENEWALD'S INSTRUCTIONS AS TO THE NATURE OF THE TRAINING IN THE CAPRIVI MUST HAVE KNOWN THAT THEY WERE CREATING A HIT SQUAD. (COLONEL JJ JACOBS, COLONEL JA NIEUWOUDT, CAPTAIN. JP OPPERMAN, SERGEANT A CLOETE AND COLONEL AM BLAAUW AND OTHERS NOT IDENTIFIED).

THE SADF MEMBERS (MORE, VAN TONDER, VAN NIEKERK, COLONEL MA VAN DEN BERG, THE PERSON KNOWN TO LUTHULI AS MAJOR POLBERRY, CLOETE AND OPPERMAN) WHO OPERATED MARION IN 1987 AND BEYOND, AND CAPTAIN BOTHA AND THE LATE MAJOR DEON TERRE-BLANCHE OF THE SAP'S ISU MUST HAVE KNOWN OF LUTHULI AND KHUMALO'S ATTACKS AND AIDED AND ABETTED THEM TO AVOID PROSECUTION.

WITH REGARD TO THEIR ATTEMPTS TO ENSURE THAT CAPRIVI TRAINEES WHO HAD BEEN ARRESTED OBTAINED BAIL AND WERE REMOVED, SAP GENERALS SMIT AND VAN DER MERWE MUST HAVE AT LEAST ATTEMPTED TO DEFEAT THE ENDS OF JUSTICE.

THE SADF'S FINAL WITHDRAWAL FROM THE PROJECT WAS NOT AN ACT OF DISASSOCIATION BUT AN ATTEMPT TO AVOID ITS OWN INVOLVEMENT FROM BEING EXPOSED.

WHEN IT WITHDREW, IT FAILED TO PUT A STOP TO MARION'S UNLAWFUL ACTIVITIES, PAVING THE WAY FOR FURTHER ACTS OF VIOLENCE TO BE COMMITTED. THE ESIKHAWINI HIT SQUAD AND OTHER ACTIVITIES OF THE TRAINEES SHOULD BE SEEN IN THIS LIGHT.

INSOFAR AS IT WAS STRONGLY ARGUED THAT THE COMMISSION SHOULD ACCEPT HUGO J'S FINDINGS THAT THE TRAINING WAS LAWFUL AND THE EVIDENCE OF THE ACCUSED THE FOLLOWING SHOULD BE NOTED:

- THE TRIAL WAS BASED PRIMARILY ON ONE INCIDENT;
- ALTHOUGH A GENERAL CONSPIRACY CHARGE WAS ADDED SHORTLY BEFORE THE COMMENCEMENT OF THE TRIAL, NO EVIDENCE WAS LED TO SUPPORT IT;
- NONE OF THE WITNESSES BEFORE THE COMMISSION TESTIFIED AT THAT TRIAL (COLONEL ROCKY WILLIAMS, GCINA MKHIZE, ZWELI DLAMINI, JAN ANTON NIEUWOUDT AND DALUXOLO LUTHULI);
- HUGO J WAS CRITICAL OF THE FAILURE TO CALL A MILITARY EXPERT AND TO LEAD DETAILED EVIDENCE AS TO THE NATURE OF THE TRAINING;
- HUGO J FURTHERMORE FOUND THAT LUTHULI, VAN DEN BERG AND BLAAUW SHOULD HAVE BEEN CALLED;
- THE CUT OFF DATE OF THE CONSPIRACY CHARGE EXCLUDED SOME OF THE MOST INCRIMINATING MARION DOCUMENTS;
- THE ACCUSED IN THE CRIMINAL TRIAL WERE VERY POORLY CROSS EXAMINED AND NONE OF THE FACTORS WHICH THIS COMMITTEE HAS RELIED ON WERE CANVASSED WITH THEM. MANY OF THE EXTRACTS FROM THE TRIAL WHICH ARE REFERRED TO HEREIN EMERGED FROM THE ACCUSED'S EVIDENCE-IN-CHIEF OR FROM QUESTIONS BY THE JUDGE.

CONSEQUENTLY, THE COMMISSION FINDS THAT THE GROSS VIOLATIONS OF HUMAN RIGHTS COMMITTED IN CONSEQUENCE OF OPERATION MARION WERE PART OF A SYSTEMATIC PATTERN OF ABUSE THAT ENTAILED DELIBERATE PLANNING ON THE PART OF THE FORMER STATE, THE KWAZULU GOVERNMENT AND THE INKATHA POLITICAL ORGANISATION. THE BASIS FOR ACCOUNT-

ABILITY FOR SUCH VIOLATIONS ON THE PART OF THE FOLLOWING INDIVIDUAL MEMBERS OF SUCH ORGANISATIONS IS SET OUT IN ABOVE AND FALLS WITHIN THE DEFINITION CONTAINED IN SECTION 1(IX) (A) AND /OR (B) OF ACT NO. 34 OF 1995. THE INDIVIDUALS REFERRED THERETO ARE:

- MR PIETER WILLEM BOTHA, FORMER STATE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA;
- GENERAL MAGNUS ANDRE DE MERENDAL MALAN, FORMER MINISTER OF DEFENCE SOUTH AFRICAN GOVERNMENT;
- DR M G BUTHELEZI , FORMER CHIEF MINISTER OF THE KWAZULU GOVERNMENT AND PRESIDENT OF THE INKATHA POLITICAL ORGANISATION;
- GENERAL PIETER HENDRIK GROENEWALD, FORMERLY OF THE SADF;
- VICE ADMIRAL ANDRIES PETRUS PUTTER, FORMERLY OF THE SADF;
- MELCHIZEDEC ZAKHELE KHUMALO, FORMERLY PERSONAL ASSISTANT TO PRESIDENT OF INKATHA;
- GENERAL S M MATHE, FORMERLY OF THE KWAZULU POLICE FORCE;
- SIEGFRIED BHENGU, FORMERLY EXECUTIVE COMMITTEE INKATHA;
- MANGAQA MNCWANGO, FORMERLY EXECUTIVE MEMBER INKATHA YOUTH BRIGADE;
- CAPTAIN LEONARD LANGENI, FORMERLY OF THE KZP;
- COLONEL JAN ANTON NIEUWOUDT, FORMERLY OF THE SADF;
- LT COL GERHARDUS MARIO JACOBS, FORMERLY OF THE SADF;
- COL H M BLAAUW, FORMERLY OF THE SADF;
- CAPTAIN JOHAN PIETER OPPERMAN, FORMERLY OF THE SADF;
- SGT ANDRE CLOETE, FORMERLY OF THE SADF;
- COLONEL JOHN REEVES MORE, FORMERLY OF THE SADF;
- GENERAL CORNELIUS JACOBUS VAN TONDER, FORMERLY OF THE SADF;
- COLONEL CORNELIUS JOHANNES VAN NIEKERK, FORMERLY OF THE SADF;
- COLONEL MICHAEL ADRIAAN VAN DEN BERG, FORMERLY OF THE SADF;
- COLONEL LOUIS BOTHA, FORMERLY OF THE SOUTH AFRICAN POLICE;
- GENERAL JOHAN VAN DER MERWE , FORMERLY OF THE SOUTH AFRICAN POLICE;
- GENERAL SEBASTIAN JACOBUS JOHANNES SMIT, FORMERLY OF THE SOUTH AFRICAN POLICE.

183 The Commission heard that, in October 1986, approximately fifteen to twenty ‘Caprivi trainees’ were told to report to the police station in the township of Mpumalanga, outside Durban. Although they never underwent any KZP training,

screening or tests and never filled in any KZP application forms, the trainees were issued with KZP certificates appointing them to the rank of detective constable. They were also issued with official police firearms, which they were allowed to take home with them. Most of them were sent to guard the homes of chiefs [amaKhos], *indunas* and councillors in the areas surrounding Pietermaritzburg. Each trainee was expected to identify local Inkatha youth and train them in weapon handling and combat skills.

184 The SAP policed the Mpumalanga township until February 1989, when policing was handed over to the KZP. Under the guise of official law enforcement agents, the 'Caprivi trainee' constables engaged in large-scale hit-squad activities in the Pietermaritzburg/Mpumalanga area for two years, directing their attacks against perceived UDF/ANC members.

185 Mr Zweli David Dlamini [AM3685/96] was part of the group assigned to the Mpumalanga police station. He was issued with a false KZP appointment certificate, a 7.65mm pistol and ammunition. Dlamini spoke of the activities of the trainees in the Mpumalanga area at a special Commission hearing on Caprivi Training:

Dlamini: *At night if there was a chance, we will go out to hit or attack the UDF people.*

Question: *And what prompted you to carry out these attacks, you and these others?*

Dlamini: *We were trained and we knew that we were trained to kill only. There wasn't anything that we knew. Our enemy, the UDF, was operating in those areas where we were working, therefore if you happened to meet a UDF member you have to shoot.*

186 Members of the local KZP station aided the operatives by transporting them to and from the scene of attacks, warning them of possible ANC attacks and providing them with firearms. Certain members of the Pietermaritzburg Security Branch, Riot Unit 8 and Military Intelligence also assisted in the provision of weapons.

187 At the same hearing, former political commissar and commander of the 'Caprivi trainees', Daluxolo Luthuli [AM4075/96], described the role of the 'Caprivi trainees' in Mpumalanga as follows:

During the day the Caprivians worked as police, go out of the police station, do their raids. However, in the evening they have to take off their uniform

and get involved in the struggle. When I refer to 'struggle' I mean it's getting themselves to do what they were trained to do in Caprivi.

188 Luthuli applied for amnesty in respect of his involvement in the conflict in Mpumalanga during this period. He told the Commission:

During this period, there were literally hundreds of incidents where attacks were launched against UDF people, property or homes. It is impossible for me to record the extent of these attacks. The comrades responded by attacking us with equal vigour. A state of war existed between us. I often played a command role in directing our attacks. I did the following: arranged for arms and ammunition; distributed arms and ammunition; gathered fighting men; chose people who would lead the attacks and different aspects of the attacks; decided on the strategy of an attack; decided on the target or area to be attacked.

After the attack, I arranged for injured persons to be medically treated by sending them to clinics or hospitals; collected firearms and ammunition and stored them safely; arranged our defensive structures and strategies; reported back to the planning committee through MZ Khumalo.

The Summertime House Attack

Luthuli gave information about an attack on a UDF meeting at a house named 'Summertime' in Unit 1 South Mpumalanga on 18 January 1988. About 300 people were gathered at the house for the meeting. Luthuli did not participate in the attack himself but sent a group led by Mr Phumlani Xolani Mshengu [AM4075/96] and including Mr Sbu Bhengu, members of the Inkatha youth and other 'Caprivi trainees'. According to Luthuli:

"Phumlani Mshengu and Sbu Bhengu were armed with two of our AK-47 rifles. The Inkatha Youth members were also armed with whatever arms we were able to lay our hands on. The group approached the house and commenced firing on the people who were there. From there they went on and attacked other houses. They destroyed approximately eight houses and killed about nine people." [AM 4075/96]

The Commission established that the deceased included Mr Mfanafuthi Gasa, Mr Kinathi Mabhida, Mr Musa Khoza, Mr Thomas Mncwabe, Thomas's brother and a man identified only as 'Rolla'. People in the area told the Commission that an estimated 200 people were injured during this attack.

Former UDF member John Mazwazwa told the Commission that on the day before the meeting at Summertime house, he and other UDF members had expressed concern for the safety of the school children because the new school term was about to begin. Mr Katiza Cebekhulu, who came from the area, was called in because of his claim earlier that he had a police connection who could protect the UDF against an Inkatha attack. At the Summertime house meeting the next day, Cebekhulu allegedly undertook to telephone the police to tell them of the gathering and to ask them to patrol the area. Within two minutes of Cebekhulu's departure, the attack began.

The attack was registered at Hammarsdale police station under CR184/01/88. The Commission was unable to locate this docket either at Hammarsdale or Mpumalanga. However, it was established that attacks on other houses and people in the area on the same night were listed under Hammarsdale CR182/01/88 to CR202/01/88. Of these, eight dockets were missing. In none of these cases was there a prosecution.

- 189 The activities of the 'Caprivi trainees' extended also to the freehold township of Clermont, north-west of Durban. In the early 1980s, Clermont was one of the townships identified for incorporation into the KwaZulu homeland. The campaign for incorporation was led by leading Inkatha member Bekizizwe Samuel Jamile, then KwaZulu Deputy Minister of the Interior and a resident of Clermont.

The Case of Aubrey Nyembezi

The Clermont Advisory Board, a representative body elected by ratepayers in the township in September 1982, opposed incorporation. The Board was chaired by prominent Durban attorney Aubrey Nyembezi and composed of mainly UDF-aligned businessmen and advocates.

In October 1985, three weeks before scheduled elections for the Advisory Board, Nyembezi's home was set alight whilst he and his wife were inside. The couple survived but their house and its contents were destroyed.

Jamile contested the October 1985 election and was defeated. Nyembezi was returned to his position on the newly elected Board, together with Advocate Vuka Shabalala, Mr Zazi Khuzwayo and Mr Emmanuel Norman Khuzwayo.

- 190 During February 1987, Jamile, together with Inkatha-supporting Chiefs Khawula and Lushaba, were attacked with a petrol bomb in Clermont. Jamile blamed members of the Clermont Advisory Board and allegedly instructed hired hit men to kill members of the Board.

The Attempted Killing of Cornelius Delani Sikhakane, Johannes Sibongumusa Luthuli, Khayelihle Ndlovu, Nkosinathi Sithole and Themba Msimango

During April 1987, Jamile instructed Mr Vela Mchunu and another 'Caprivi trainee' to kill UDF members Cornelius Delani Sikhakane, Johannes Sibongumusa Luthuli, Khayelihle Ndlovu, Nkosinathi Sithole and Themba Msimango who were opposed to the incorporation of Clermont into KwaZulu and had used abusive language to Jamile the previous day. Jamile instructed Msizi Hlophe [AM1779/96] to guide the two attackers to a particular house, where they opened fire on the victims. Cornelius Sikhakane and Johannes Sibongumusa Luthuli were injured in the attack.

The Killing of Bhekuyiswe Khumalo

On 5 April 1987, at Mamba Valley Riverside in the Inanda District, Jamile unlawfully and intentionally killed Mr Bhekuyiswe Khumalo, and attempted to kill Mr Thokozile Shabalala. In 1991 Jamile was convicted in the Durban Supreme Court of murder and received the death sentence, later commuted to life imprisonment.

The Killing of Zazi Khuzwayo

During April 1987, Jamile instructed Daluxolo Luthuli to kill Mr Zazi Khuzwayo [KZN/MM/997/DN], a member of the Clermont Advisory Board. Luthuli instructed Sbu Bhengu and 'Caprivi trainees' Phumlani Xolani Mshengu, Alex Sosha Khumalo [AM4027/96] and Vela Mchunu, who carried out the attack on 9 May 1987. Jamile's son, Hlakaniphani Jamile, transported the hit men to and from the scene. Clermont youth Msizi Hlophe [AM1779/96] pointed Khuzwayo out to the assassins.

Hlophe, Luthuli [AM4075/96] and Khumalo [AM4027/96] applied for amnesty in respect of their role in killing Khuzwayo.

The Killing of Pearl Tshabalala

In October 1987, Jamile instructed Daluxolo Luthuli to kill Ms Pearl Tshabalala, a prominent businesswoman and member of a women's organisation which supported the Clermont Advisory Board. Tshabalala was the wife of board member Vuka Tshabalala. Luthuli instructed four 'Caprivi trainees', including Mr Alex Sosha Khumalo and Mr David Zweli Dlamini, to assist him in the killing. Jamile instructed Mr Msizi Hlophe [AM1779/96] to guide the group as they were not familiar with Clermont.

On 15 October 1987, the men fired several shots at Ms Tshabalala's moving vehicle outside her business premises in Clermont. She survived the attack. On the evening of the 10 February 1988, Pearl Tshabalala was shot dead in front of her five-year-old child as she was leaving her business in Clermont [KZN/MM/992/DN].

The Case of Obed and Zuzwe Mthembu

On 21 February 1988, Mr Obed Mthembu and his wife Zuzwe survived an attempt on their lives. Obed Mthembu, who chaired the North Coast Chamber of Commerce, was opposed to incorporation and had delivered a speech at Pearl Tshabalala's funeral just four days earlier.

The Case of Nicholas Mkhize

Taxi owner Nicholas Mkhize was killed on 15 July 1988. He, too, was a prominent businessman opposed to incorporation. He was shot dead by Mzisi Hlophe [AM1779/96], who was later convicted for this murder.

The Case of Emmanuel Khuzwayo

On 28 February 1988, Jamile instructed a 'Caprivi trainee' to kill UDF supporter Emmanuel Norman Khuzwayo, who was also opposed to the incorporation of Clermont into KwaZulu. Again, Jamile asked Mzisi Hlophe [AM1779/96] to accompany the assassin as a guide. Khuzwayo was killed on the same day.

191 In 1991, Jamile and Hlophe appeared in court facing fifteen charges, including five counts of murder, seven of attempted murder, and three of incitement to murder. In the indictment, Jamile was accused of being involved between 1987 and 1989 in the killing of UDF-associated persons opposed to the incorporation of Clermont into KwaZulu. Two 'Caprivi trainees' who were implicated during the trial, Zweli Dlamini and Vela Mchunu, were hidden by the KZP until it was over. Owing to the inability of the police to trace these two suspects and other witnesses, Jamile was convicted on only two counts: one of murder and one of attempted murder. Hlophe was convicted on two counts of murder. Jamile was sentenced to life imprisonment but was released in terms of the Indemnity Act of 1992. He had served just one year of his sentence. Hlophe was granted amnesty by the Commission in 1996.

THE COMMISSION FINDS SAMUEL JAMILE ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS OF CAPRIVI TRAINEES IN CLERMONT TOWNSHIP.

Resistance and revolutionary groupings

Sabotage and bombings

- 192 In April 1984, Mr Anamalai 'Daya' Rengasamy and Mr Leelavathi Rengasamy were killed and approximately twenty people were injured in a car bomb explosion on the Durban Esplanade. Less than a fortnight later, on 13 May 1984, there was an RPG-7 attack on the Mobil Oil Refinery, Durban. In an ensuing shoot-out at the refinery, four insurgents and three bystanders were killed. The Security Branch claimed that the four dead men could be linked to the fatal car bomb explosion on the Esplanade, as well as other attacks over the previous two years.
- 193 On 12 July 1984, five people were killed and twenty-seven injured in a car bomb explosion on Bluff Road, Durban. Mr Oliver Tambo asserted that the bomb had been intended for a military convoy and condemned the bombers for being "inexcusably careless" by causing civilian casualties.

Amanzimtoti Bombing

Five people were killed and over sixty injured in a bomb explosion on 23 December 1985 in a shopping centre at the upper South Coast seaside town of Amanzimtoti. The limpet mine had been placed in a refuse bin outside the Sanlam shopping centre. Most of the victims were holidaymakers doing last minute Christmas shopping.

Mr Sibusiso Andrew Zondo (19) was arrested in connection with the bombing in February 1986. Two other MK members thought also to have been involved in the bombing, Mr Phumezo Nxiweni (20) and Mr Sipho Stanley Bhila (31), were subsequently executed by the police (see above).

The state's main accomplice witness in the case, a Mr Mofokeng, told the court that he provided the limpet mine and accompanied Zondo to the shopping centre. Mofokeng claimed that the explosion was in retaliation for the South African security forces' raid on Maseru, Lesotho four days earlier, in which nine people were killed.

Zondo, who admitted his role in the bombing, was convicted and given five death sentences. He was executed on 9 September 1986.

Mr Cornelius Smit, whose son Johan died in the explosion, told the Commission that he saw his son as a martyr whose death had helped usher in the new South Africa [JB00193/02/PS]. Other victims of the explosion

who made statements to the Commission included Mr Ian Shearer [KZN/NNN/522/DN] whose wife, Anna, had been killed and Ms Hluphekile Nkabinde [JB0020/03VT] who was taking her employer's son, Willem van Wyk [JB00207/03VT], for a walk when the bomb exploded, killing the child and injuring her [KZN/NG/010/DN].

In her statement to the Commission, Zondo's mother said that Zondo had told his parents when he was in matric that he would leave the country when he finished school, as he was 'fed up with the system'. His parents never saw him again, but he contacted them briefly a week before his arrest. She said that people leaving his memorial service in KwaMashu were attacked and two children killed. Zondo's brother was seriously assaulted and subsequently suffered from epilepsy, which finally led to his death (Durban hearing).

The Magoo's Bar Bombing

On 14 June 1986, three people were killed and about sixty-nine injured in a car bomb explosion at Magoo's Bar on the Durban beachfront. The operation was carried out by Mr Robert McBride, Ms Greta Apelgren and Mr Matthew le Cordier. McBride was convicted of the killings and sentenced to death three times for the bombing. His sentence was later commuted to life imprisonment and he was released in terms of the Record of Understanding in 1992. Apelgren was acquitted on all counts. Le Cordier gave evidence for the state and escaped prosecution. All three applied to the Commission for amnesty.

At his section 29 hearing, McBride revealed that he had been instructed by his MK commander in Botswana, Mr Aboobaker Ismael, to choose a military target for a car bomb attack. He said that he had conducted a reconnaissance exercise to ascertain that the bar was frequented by off-duty military personnel.

However, cross-examination revealed this exercise had been conducted in an extremely amateurish and naive manner. His claim that the Magoo's bar was targeted because it was believed to be a rendezvous for SADF members could not be substantiated. None of those killed or injured had any link to the military or the SAP.

Newcastle Magistrates' Court Bomb

Twenty-four people were injured in two bomb explosions outside the Magistrates' Court in Newcastle on 11 November 1986. SAP Sergeant Vusimuzi Kunene [KZN/KM/642/NC] lost both legs in the explosions.

In August 1987, MK combatants Thuso Tshika, Basil Sithole, Patrick Nkosi and Abraham Mathe faced charges of terrorism in connection with these explosions and others, including a grenade and small arms attack on 10 October 1986 at Osizweni KZP station, in which one KZP officer was injured.

The first three accused were convicted and sentenced to prison terms on Robben Island. Mathe was acquitted.

Attacks on 'collaborators'

The Killing of Ben Langa

Student activist Ben Langa was killed by MK members in Edendale, Pietermaritzburg in June 1984, on suspicion of being a police informer. Mr Clarence Lucky Payi [ECO855/96STK] and Mr Mashayini Siphon Xulu were sentenced to death for the killing. They were executed on 7 September 1986.

Payi's mother told a Commission hearing in Durban in May 1997 that after her son's execution she received death threats and fled her home.

Escalation of conflict

- 194 The assassination of Durban attorney, Ms Victoria Mxenge (see below) marked a pivotal point in the further polarisation of Inkatha and the UDF. After the event, conflict quickly spread to other townships around Durban, Pietermaritzburg and surrounding areas. The Commission heard that, in the months leading up to Ms Mxenge's death, the security forces had made a public show of cracking down on UDF-aligned activists in an attempt to create the impression that the UDF was the main force behind the political violence in the province. The security forces were often seen to be standing by and refusing to intervene in clashes between the UDF and Inkatha supporters. In other reports, the police were alleged to be actively supporting Inkatha in the conflict.
- 195 The conflict spread also to the factory floor. After the strike and killings of COSATU members in Mphohomeni in 1986 (see below), local conflict and violence in and around Pietermaritzburg intensified dramatically. By the early nineties it was being referred to as 'the Midlands war' (see below).

The killing of Victoria Mxenge and its aftermath

The assassination of Victoria Mxenge

At the time of her death, Ms Victoria Mxenge was an executive member of the UDF. To date there have been no prosecutions in connection with her killing. The Commission received submissions from two independent sources. Both named a former Security Branch operative, Mr Bongani Malinga, as Mxenge's assassin.

According to the ANC's second submission to the Commission, Mr Marvin Sefako (alias Bongani Raymond Malinga) from Hillcrest, Durban, was recruited by the Security Branch. His handler was Brigadier Pieter Swanepoel. Malinga allegedly confessed to the ANC that he had killed at least five people, including Ms Victoria Mxenge, saying:

"[NAME DELETED] shot her five times on the chest but she never fell; whereupon I followed her with an axe and chopped her next to her dining room door."

Malinga also allegedly participated in the attack on the memorial service for Victoria Mxenge (see below). Malinga's case was heard by the ANC's People's Tribunal in Lusaka on 7 May 1990. In addition to the killings, he was found guilty of a number of other 'offences' including 'collaborating with the enemy' to infiltrate the ANC with the intention of killing MK Chief of Staff Chris Hani and MK Commander Joe Modise.

A former ANC member and later head of the Returned Exiles Committee, Mr Patrick Mncedisi Dlongwane [AM8028/97], told the Commission that, while he was detained at the ANC's Quatro camp, he had shared a cell with one Bongani Malinga who claimed he had assassinated Victoria Mxenge. According to Dlongwane, Malinga was killed by ANC members in 1991.

The Umlazi Cinema Massacre

A memorial service for Victoria Mxenge was held in the Umlazi Cinema on 8 August 1985. There was a large contingent of police and soldiers outside the cinema. During the service, hundreds of men armed with assegais [spears], knobkierries [clubs] and firearms burst into the cinema and began stabbing and shooting randomly.

Terrified mourners jumped over the cinema balcony to escape the attackers. Witnesses alleged that the attackers included Inkatha vigilantes recruited from the adjacent shack settlements and from Lindelani, north of Durban.

Soldiers and police were allegedly present but took no action to prevent the attack. Seventeen people died in the incident.

David Sponono Gasa [KZN/NNN/229/DN], Chairperson of the Umlazi Residents' Association, had led the memorial service. He told the Commission at the Durban hearing that Inkatha and KLA members Winnington Sabelo (now deceased) and Thomas Shabalala led the attackers, who stabbed and fired on the mourners.

THE COMMISSION FINDS THAT UNKNOWN INKATHA SUPPORTERS ATTACKED MOURNERS ATTENDING A MEMORIAL SERVICE FOR SLAIN UDF MEMBER, MS VICTORIA MXENGE, AT THE UMLAZI CINEMA ON 8 AUGUST 1985, RESULTING IN THE DEATHS OF SEVENTEEN PEOPLE AND THE INJURY OF TWENTY OTHERS. THE DEATHS AND INJURIES ARISING FROM THIS ATTACK CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH UNKNOWN SUPPORTERS OF INKATHA ARE HELD RESPONSIBLE. WHILE WITNESSES NAMED AT LEAST TWO PROMINENT INKATHA LEADERS WHOM THEY ALLEGED TO HAVE LED THE ATTACK ON THE UMLAZI CINEMA, THE COMMISSION IS UNABLE TO MAKE A FINDING AGAINST THESE LEADERS. THE ORGANISATION (INKATHA) DID NOT SANCTION OR REBUKE THOSE INVOLVED AND DID NOT DISSOCIATE ITSELF FROM THE VIOLENCE.

The Attack on David Gasa

Victoria Mxenge's funeral was held in King Williams Town in the Eastern Cape, on 12 August 1985. A few days later, David Gasa's home was attacked and burnt.

A mass funeral for the people killed in the Umlazi Cinema attack was held on 23 October 1985. That same day a busload of Inkatha supporters attacked Gasa's home a second time. The attackers were allegedly led by Mr Winnington Sabelo (now deceased). Gasa was out at the time of the attack but his wife and mother-in-law were home.

The attack resulted in the death of his mother-in-law one week later. Six months later, his wife developed hypertension and died.

The Killing of Jacob Dlamini

Mr Josiah Dlamini [KZN/ZJ/037/DN] was the owner of the Umlazi Cinema and made it available for the memorial service. His son, Jacob, was subsequently killed by Inkatha members in Lindelani. Josiah Dlamini told the Commission:

"Jacob was at Lindelani Station. He was about to take a taxi home. As he was still at the station, he saw Inkatha Freedom Party. He was asked as to what he was waiting for, and they started assaulting him at that point. He tried to plead with them and he told them that his father was very well known. He mentioned my name. That's when they decided they should kill him because they said I had organised a night vigil for Mrs Mxenge. He

stayed for four days at the hospital, and thereafter he died. He had been assaulted and he had injuries all over his body."

- 196 Large-scale violence erupted in Umlazi after Mxenge's killing. A State Security Council document compiled in March 1989³⁸ described the killing of Victoria Mxenge as the turning point in the conflict in Natal and KwaZulu:

The murder of Victoria Mxenge, a radical lawyer from Umlazi, on 1 August 1985 – for which the UDF blamed Inkatha and the SAP – was the biggest contributory factor to the [subsequent] violent conflict between the UDF and Inkatha, especially in the Durban area. Large-scale unrest continued until March 1986 and even the state of emergency (June 1986) could not inhibit the sporadic violent incidents. From January 1987 the situation systematically deteriorated and the focal point of the unrest (especially since September 1987) moved to the Pietermaritzburg area.

Zulu/Pondo conflict

- 197 The violence in Umlazi spread to the neighbouring Umbumbulu district, approximately twenty kilometres south of Durban. In December 1985 and January 1986, intense conflict broke out between Zulus and Pondos living in Umbumbulu, particularly in KwaMakhutha and Malukazi. By the end of January 1986, approximately 120 people had been killed and 20 000 people displaced from their homes in and around the township of KwaMakhutha.
- 198 The conflict was often referred to as 'tribal clashes' or 'faction fighting' and was attributed to intense rivalry for land, water and jobs. The ethnic nature of the conflict supported the state's contention that political conflict in the province was 'black on black', and helped play down the failure of the security forces to intervene in a way that might have limited the scale of the suffering and loss.
- 199 According to researchers³⁹, Durban's squatter population grew from around half a million in 1979 to 1.3 million in 1985. This influx exacerbated the struggle for access to basic resources such as water, land and employment. Amongst those making their way to the city were thousands of Pondos streaming in from the Pondoland area of the Transkei in search of employment. Easily distinguishable from Zulus as a group, they were resented for encroaching on scarce resources. Land was allocated informally by powerful local figures and councillors controlled

38 Headed 'Probleemontleding van die onrusituasie in Natal', Appendix A to SSVR/535/7/DD, para 4.

39 Race Relations Survey (RRS) 1986, published by the South African Institute of Race Relations.

the scarce water supplies. Certain tribal leaders favoured Pondos, resulting in the establishment of Pondo enclaves.

200 In December 1985, the head of the Umbumbulu tribal authority, Chief Bhekizitha Makhanya, allegedly insisted that all Pondos living in KwaMakhutha without his permission should leave and return to the Transkei. The KwaZulu representative for Umlazi, Mr Winnington Sabelo (now deceased), also allegedly warned of more bloodshed if the Pondos did not leave.⁴⁰ The Transkei administration, however, supported the Pondos' refusal to leave the area.

201 Serious fighting broke out between Zulus and Pondos at Malukazi, Umlazi, on Christmas Eve of 1985, resulting in sixty-four deaths and up to forty-seven serious injuries. Reportedly, approximately 2 000 Zulus formed into *impis* and attacked 3 000 homes in the area.⁴¹ On 21 January 1986, a Pondo man was killed near Isipingo Rail. Two days later, some 500 Pondos staged a revenge attack on the home and shopping centre of the KwaZulu representative for Umbumbulu, Mr Roy Mbongwe. About 1 000 Zulu supporters arrived and there was a gun battle on the road between Umbogintwini and KwaMakhutha. The police arrested 553 Pondo warriors and confiscated truckloads of weapons. They were held overnight, charged with public violence and released on a warning. In the meanwhile, several Zulu supporters marched on KwaMakhutha where they looted and set fire to homes belonging to Pondo people. Between 4 000 and 10 000 shacks were razed. Police failed to disperse the attackers. The following day, the charred remains of bodies were found in the burnt-out buildings. It is estimated that forty-five people were killed that day. Estimates of the number of Pondos who fled KwaMakhutha that day range between 20 000 and 40 000 – some back to the Transkei while others sought refuge in and around Durban, hiding in the bush and in disused railway coaches.

202 The Pondo settlement at Malukazi, a few kilometres further south, was also affected by the Zulu–Pondo clashes. On 27 January 1986, the Pondo–Zulu conflict spread to Magabheni on the Natal South Coast. The number killed since December rose to 113. On 10 March 1986, the conflict spread to the factory floor at Umbogintwini AECI factory when about 900 Zulu workers downed tools in protest against management's decision to rehire Pondo workers who had fled the violence.

THE COMMISSION FINDS THAT THE POLITICAL AND ETHNIC CONFLICT WHICH BROKE OUT IN THE UMBUMBULU DISTRICT IN DECEMBER 1985 AND JANUARY 1986 CLAIMED THE LIVES OF UP TO 120 PEOPLE AND RESULTED IN THE DISPLACEMENT OF SOME 20 000 PEOPLE FROM THEIR

40 Race Relations Survey (1986)

41 Race Relations Survey (1985).

HOMES IN AND AROUND THE TOWNSHIP OF KWAMAKHUTHA. THE COMMISSION FINDS THAT CONFLICT BROKE OUT IN THE CONTEXT OF DEMANDS AND THREATS MADE BY AN INKATHA MEMBER OF THE UMBUMBULU TRIBAL AUTHORITY THAT PONDOS LIVING IN THE AREA SHOULD RETURN TO THE TRANSKEI.

Destruction of the Gandhi settlement, Phoenix

- 203 In August 1985, the settlement established by Mahatma Gandhi in 1904 at Phoenix, outside Durban, was destroyed by fire and looting in violent clashes between Indians and Zulu nationalists. Gandhi's house – known as *Sarvodaya* [for the welfare of all] was also destroyed. The settlement was a symbol of non-racialism, self-reliance and peace in South Africa. It was here that Gandhi formulated his philosophy and technique of *satyagraha*, the form of non-violent struggle that eventually led India to independence.
- 204 The then curator of the settlement, Mr Richard Steele, told the Commission that the conflict was sparked off by the killing of Ms Victoria Mxenge in Umlazi and the rapid escalation of violent clashes between supporters of Inkatha and the UDF. He said that Indians and Africans had been living together harmoniously for fifty years. At the time that conflict broke out, Indian families and traders came under a series of sustained attacks which were, according to Steele, "led by modern-day Zulu warriors wielding sticks and spears, shouting slogans to the effect that Indians must leave because this is all Zulu land".
- 205 Forty-seven Indian shops were looted and razed by fire and 500 Indian families forced to flee. Other buildings destroyed included the Kasturba Gandhi Primary School. Steele noted that residents from a nearby informal settlement were seen stripping the buildings of materials for use on their own houses. Twelve wood-and-iron houses belonging to Indian families on the settlement were burnt by Indian vigilantes who wanted to deny Africans the use of any building materials. Steele said that the police did little to intervene in the attacks as the government had already given these families and traders notice to leave Inanda, in terms of the Group Areas Act.
- 206 Attackers broke into and looted the Gandhi Memorial Library and Museum, *Sarvodaya*, Gandhi's original house and the house built in 1944 by Gandhi's son, Manilal. Steele, who was present at the time, said he saw someone leaving the Museum with a paraffin lamp that Gandhi had used while at Phoenix. He went up to him and, through an interpreter, explained that the lamp should not just be in one person's house, but should be available for all people to see,

because of the kind of person Gandhi was. The lamp was returned. Steele was able to rescue most of the books from the library and a few other items of no apparent use to the looters. Following the ransacking of the settlement, however, most of the buildings were reduced to smouldering ruins.

THE COMMISSION FINDS THAT THE SETTLEMENT ESTABLISHED BY MAHATMA GANDHI AT PHOENIX, OUTSIDE DURBAN (INCLUDING A LIBRARY, A MUSEUM, A HOMESTEAD AND OTHER BUILDINGS) WAS DESTROYED IN AN ARSON ATTACK BY UNKNOWN SUPPORTERS OF THE INKATHA MOVEMENT IN AUGUST 1985. IN THE SAME INCIDENT, FORTY-SEVEN SHOPS OWNED BY INDIAN TRADERS WERE BURNT DOWN AND 500 INDIAN FAMILIES WERE FORCED TO FLEE THE AREA. THE MULTIPLE ACTS OF ARSON AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH UNKNOWN SUPPORTERS OF THE INKATHA MOVEMENT ARE HELD RESPONSIBLE.

Clashes in the workplace

207 Clashes between COSATU-affiliated workers and UWUSA members were also reported during this period. One of the first clashes between UWUSA and a COSATU affiliate occurred at the Hlobane colliery, near Vryheid, one month after UWUSA was launched in mid-1986. Eleven miners were killed and 115 others injured in clashes between NUM and UWUSA on 6 June 1986.

The Hlobane Colliery Incident

Tensions developed at the Hlobane collieries in 1985 when management and the mineworkers, members of NUM, deadlocked over wage negotiations. This led to a three-day strike. KwaZulu Minister of Welfare, Prince Gideon Zulu, who addressed the workers at the invitation of management, called on them to join the Zulu union which, he said, was to be launched in the near future.

On the day of the UWUSA launch at Kings Park, Durban, in May 1986, NUM members at Hlobane decided to work. Those who attended the rally reported that they were advised to leave NUM and join UWUSA. Management formally recognised the new union, alienating members of NUM, who accused management of promoting the idea that COSATU (and therefore, NUM) was for Xhosas and UWUSA for Zulu mineworkers.

On 6 June 1986, miners went on strike after a shop steward was dismissed. They gathered in the company hall to attend a meeting with management. At about 09h00, two busloads of Inkatha supporters from Nqutu, Nongoma and Ceza arrived. They were seen talking to the mine security personnel and police who had been called in to monitor the strike, then they allegedly began attacking the strikers in the hall. The police and mine security officials allegedly assisted the Inkatha attackers.

Eleven people died and at least 115 were injured in clashes as the workers attempted to escape the hall. Many Xhosa miners lost their jobs as a result of this incident and had to return to the Transkei (Newcastle hearing). In May 1987, the Pietermaritzburg Supreme Court granted NUM members at the colliery an interdict restraining UWUSA members from assaulting them [KZN/FS/200/NC].

THE COMMISSION FINDS THAT ELEVEN MINERS WERE KILLED AND 115 OTHERS INJURED BY UNKNOWN INKATHA SUPPORTERS IN CLASHES BETWEEN NUM AND UWUSA MEMBERS AT THE HLOBANE COLLIERY, NEAR VRYHEID, ON 6 JUNE 1986, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH UNKNOWN SUPPORTERS OF THE INKATHA MOVEMENT ARE HELD ACCOUNTABLE.

- 208 The township of Mphophomeni, near Howick in the Natal Midlands, was built in 1985 when black residents were forcibly removed from Howick into the boundaries of KwaZulu. Most of the residents were employed at the British Tyre and Rubber (BTR) Sarmcol factory, part of the British-based Dunlop Group.

The Sarmcol Strike

In 1985, Sarmcol workers went on strike in support of demands for recognition of their union, the Metal and Allied Workers Union (MAWU). Management claimed the strike was illegal and, in March 1985, fired all 970 workers.

Virtually the entire township population was without employment and COSATU established a co-op to assist the fired workers. Local, regional and international pressure was applied to have the workers reinstated. Management employed replacement workers, mainly Inkatha supporters, whom the strikers resented as scabs.

The strike-breakers initially stayed on the factory premises for their own protection and later commuted from distant Inkatha strongholds. Although Mphophomeni was administered by KwaZulu, it had become a UDF-dominated area and Inkatha supporters were forced to move out to neighbouring KwaHaza and KwaShifu.

On 5 December 1986, Inkatha held a rally in the Mphophomeni community hall attended by approximately 200 Inkatha supporters, mainly Youth Brigade members. On leaving the hall, they spread out throughout the township, assaulting residents and damaging property. Four prominent MAWU members, Mr Phineas Sibiyi [KZN/SW/001/PN], Mr Micca Sibiyi, Mr Simon Ngubane [KZN/NN/117/PM] and Ms Flomena Mnikathi [KZN/NN/117/PM] were abducted and forced into the community hall, where armed men in KZP uniforms

questioned and assaulted the union members. They were then bundled into a car and driven towards Lions River. Though shot and injured, Micca Sibiya managed to escape. The charred bodies of the remaining captives were found the following day.

A formal inquest (Howick Inquest 13/88) into the killing of the three MAWU members found nine known Inkatha members responsible for the killings. Despite the inquest finding, no one has been charged for these killings to date. One of those named was Mr Vela Mchunu, a 'Caprivi trainee'. In order to prevent Mchunu from testifying at the inquest, KZP Captain Leonard Langeni and Chief Minister Buthelezi's personal assistant, Mr MZ Khumalo, arranged for him to be hidden at the Mkhuze camp. In 1987, Sarmcol signed a recognition agreement with UWUSA, the Inkatha-aligned trade union, set up in opposition to COSATU.

In March 1998, thirteen years after the initial strike, the Appeal Court ruled in favour of the 970 dismissed strikers. The Court found that BTR Sarmcol was, to a large extent, to blame for the strike and that management had "snatched at the opportunity" to dismiss the workers, which it had done in "an unfair and over-hasty manner". In his judgement, Judge Pierre Olivier stated that the BTR Sarmcol's "real desire" had been to get rid of the union and its members. The mass dismissal had been followed by a careful policy of selective re-employment to ensure that the union and its workers did not return to the factory floor.

THE COMMISSION FINDS THE KILLING OF PROMINENT TRADE UNIONISTS IN MPHOPHOMENI TOWNSHIP BY MEMBERS OF INKATHA AND THE KZP SET IN MOTION A LENGTHY PERIOD OF POLITICAL CONFLICT RESULTING IN WIDESPREAD GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH INKATHA AND THE KZP ARE HELD ACCOUNTABLE.

The Midlands war

209 After the strike and killings of COSATU members in Mphophomeni in 1986, local areas in and around Pietermaritzburg became increasingly polarised. The tribal areas surrounding Pietermaritzburg had been strongly Inkatha-supporting, governed by Inkatha-supporting *amaKhosi* and *indunas*. However, in the latter part of the 1980s, many young people began rebelling against tribal authorities and openly expressing sympathy with the UDF. Many adults also renounced their Inkatha membership. Inkatha was in retreat in the Vulindlela Valley. Rumours spread that chiefs and *indunas* had fled for their lives.

- 210 During 1987, as a result of their waning support, Inkatha embarked on a substantial recruitment drive in the Edendale and Vulindlela valleys, bordering on Pietermaritzburg. They were assisted by a number of 'Caprivi trainees' who had been deployed in the area from late 1986. UDF supporters vigorously resisted Inkatha's attempts to make inroads into their areas. The conflict escalated dramatically from 1987 and came to be referred to as the Midlands War.
- 211 At around this time, some 300 Inkatha recruits were trained and deployed as special constables in the greater Pietermaritzburg area in order to bolster the presence of Inkatha, particularly in the Edendale Valley, KwaShange and other sections of Vulindlela. Conflict initially broke out in the Edendale Valley (which included Imbali, Ashdown, Caluza, Harewood) and then spread into the Vulindlela valley. Strong allegations have emerged of collusion between Inkatha and the SAP in attacks on UDF supporters. UDF members were detained in their hundreds while, at most, a handful of Inkatha supporters were detained.
- 212 So intense was the fighting in the township of Imbali during the latter half of the 1980s that a foreign journalist likened it to Beirut. Statements made to the Commission indicate that, with perhaps one exception, a few prominent Inkatha supporters were repeatedly implicated in violent crimes in the township.
- 213 In 1983, the South African government attempted to impose a local town council on Imbali in terms of the new Black Local Authorities Act.⁴² This brought tension between Inkatha, which sought to gain control of the new town council, and UDF supporters and community residents who actively resisted the imposition of the government's local authority structure. In October 1983, at council elections in Imbali, only three of the six seats were contested, and 248 votes cast. Patrick Pakkies was elected as mayor and councillors included Jerome Mncwabe and Abdul Awetha (see above).
- 214 Pietermaritzburg Security Branch member, Warrant Officer Rolf Warber, was frequently named in statements made to the Commission in connection with harassing and intimidating non-Inkatha supporters in Imbali. During the Trust Feed Trial (see above), evidence emerged to the effect that Warber had assisted in the purchase of twenty-four revolvers on behalf of Inkatha members in Imbali in 1988. Three of those for whom he bought firearms were implicated in murder cases. They were Mr Abdul Awetha, Mr 'Skweqe' Mveli and Mr Toti Zulu.

THE COMMISSION FINDS THAT PIETERMARITZBURG SECURITY BRANCH MEMBER ROLF WARBER DELIBERATELY AND UNLAWFULLY, AND IN BREACH OF STANDING SAP REGULATIONS, INCITED

⁴² Black Local Authorities Act No 102 of 1982

SPECIAL CONSTABLE TRAINEES, ON THEIR DEPLOYMENT IN NATAL, TO ATTACK AND KILL MEMBERS OF THE UDF. THE COMMISSION FINDS THAT, AS A RESULT OF SUCH TRAINING AND INCITEMENT, THE TRAINEES DID IN FACT ENGAGE IN UNLAWFUL ACTS INCLUDING KILLING. SUCH ACTS CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH WARBER IS HELD ACCOUNTABLE.

The Case of Vusumuzo Khambule

The vice-president of the Imbali Youth Organisation during the 1980s, Mr Vusumuzo Khethokwakhe Khambule [KZN/NNN/290/PM], told the Commission that he was repeatedly intimidated and harassed by both the Special Branch and Inkatha members in Imbali during the 1980s.

In 1984, Khambule was detained, tortured and interrogated by members of the Security Branch. On his release, the police attempted to recruit him as an informer. In 1986, both his house and car were petrol-bombed and destroyed by Inkatha members Dika Awetha, Mandla Madlala (now deceased) and one other. Also in 1986, he alleged, Inkatha supporter Thu Ngcobo (now deceased) attempted to poison him at his workplace. He further alleged that Awetha tried to run him over.

To his knowledge, there have been no prosecutions in relation to any of these incidents.

The Case of Hansford Shangase

Mr Hansford Thabo Shangase [KZN/PMB/210/PM], a UDF supporter, was attacked by Inkatha supporters at the Imbali sports ground during an inter-school sports meeting on 17 July 1986. The attack left him unconscious and in hospital for a year. He remained paralysed and confined to a wheelchair.

Shangase told a Pietermaritzburg hearing of the Commission that shortly after his discharge from hospital, he was attacked again, this time while defenceless in his wheelchair. He said:

"I was discharged in hospital in 1987. When I was outside the main road next to my house was always crowded with these people. They used to scream at me and tell me that, 'Are you still here? Are you still here? We will come after you.' And I just didn't take them into consideration, I kept on staying at home. And then one day they came by a combi [minibus]. Two guys got off. And in that combi there were also policemen, and they came to me and they said they are here to fetch me because they need me from the police station. So when I asked them, 'Whose combi is this?' one guy took a gun out and shot at me next to my mouth, my cheek, and at my back. After that,

I was admitted in hospital. That was the end of the story because there was no case afterwards. I was discharged from hospital. I went back home."

Shangase told the Commission that the group of Inkatha supporters and KZP included Toti Zulu and Wasela Awetha, aka Sean Hoosen Awetha.

The Case of Busisiwe Paulina Mbeje and Others

Around November/December 1987, 'Caprivi trainees' Zweli Dlamini and Trevor Nene were posted to guard Councillor Jerome Mncwabe (now deceased) at Imbali. While they were there, fighting broke out in the area. Mr Daluxolo Luthuli arrived at Mncwabe's home with additional support in the form of more 'Caprivi trainees' (Mr Alex Sosha Khumalo, Mr Sbu Bhengu, Mr Phumlani Xolani Mshengu, Mr De Molefe, Mr Thulani Vilakazi and one other).

As they arrived it appeared to them that a large UDF group was about to attack Mncwabe's house. Luthuli and his men decided to attack first and approached the group, Luthuli shouting instructions to the trainees. They started by throwing stones and then fired shots, which were returned by the UDF group. The shooting carried on until a police helicopter arrived.

By that time, the attack had moved about 800 metres from Mncwabe's house into a cemetery. According to Dlamini, about ten people were shot dead and many others injured. The Commission was unable to confirm these figures.

However, it is believed that Ms Busisiwe Paulina Mbeje was one of those killed during this incident. Mbeje's grandmother, Ms Lorra Msimango, told the Commission that Paulina was killed on 30 December 1987 at the Sinathing cemetery, together with other children, by Jerome Mncwabe and his Inkatha supporters. She told the Commission that these Inkatha supporters were not from the area and were thought to have been brought in by Mncwabe for the purpose of attacking the UDF.

Others who were injured in the attack include Ms Bongiwe Mbeje, Mr Simangaliso Mkhathshwa and Ms Sibongile Mabuza.

Alex Sosha Khumalo [AM4027/96], Daluxolo Luthuli [AM4075/96] and Zweli Dlamini [AM3685/96] have applied for amnesty in respect of this incident.

215 Following this attack, the 'Caprivi trainees' under Luthuli gathered at Mncwabe's house and planned several counter-attacks. Together they made petrol bombs that they then used in an attack on the home of a UDF supporter. According to

their amnesty applications some people died in the attack, others were injured and the house was badly burnt.

The Case of the Ndlovu Family

On 21 May 1989, the Imbali home of COSATU shop steward Ms Jabu Ndlovu [KZN/MPN/001/JB] was attacked by well-known Imbali Inkatha supporters, including Mr Jerome Mncwabe, Mr Thulani Ngcobo, Mr Michael Thu Ngcobo and Mr Sichizo Zuma, who were seen knocking at the Ndlovu's door. Jabu's husband, Mr Jabulani Ndlovu, who opened the door, was shot fifteen times.

The attackers then set the house alight. One of the Ndlovu's two daughters, Khumbu, tried to escape, but was shot and forced back into the burning house. Jabulani died at the scene. Jabu and her daughter both died later as a result of their burns.

In August 1989, Thulani Ngcobo, Mr Petros Ngcobo and Mr Fredrick Mhlaluka, all of Imbali, were charged with the killings of Jabu, Jabulani and Khumbu Ndlovu. They were denied bail. In a separate hearing, Jerome Mncwabe was also charged with the three murders. He was granted bail of R750.

Mncwabe was killed in May 1990. Michael Thu Ngcobo was killed on 1 January 1990. His killing led to the acquittal of his brother, Petros, who told the court in August 1990 that Michael Thu had often borrowed his gun, which had been ballistically linked to the killings of the Ndlovus. Petros Ngcobo told the court that he knew nothing of the attack on the Ndlovus and others for which he was charged. The judge accepted this evidence and Ngcobo was acquitted. No further convictions have followed.

■ 1990-1994

Historical overview

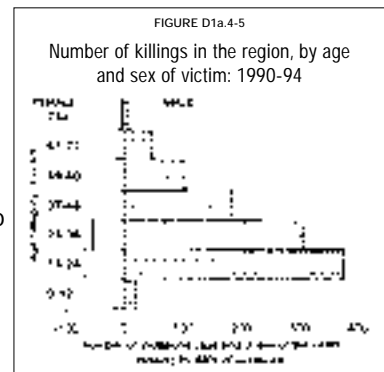
216 The political transition to democracy in South Africa, heralded by the unbanning of the ANC and the release of Nelson Mandela in February 1990, was marked by a renewed escalation of civil strife in the province. One of the major expressions of this was the so-called 'Seven Day War' in the lower Vulindlela and Edendale Valleys south of Pietermaritzburg at the end of March 1990 (see below).

217 In July 1990, Inkatha was formally constituted as a political party – the IFP –and embarked on recruitment campaigns in KwaZulu and Natal. At the same time,

many UDF activists and affiliates were engaged in open political campaigning as members of the now unbanned ANC.

218 The political climate in the province during this period was characterised by a gross political intolerance and growing enmity between the ANC and the IFP. This was particularly true of areas known to be party strongholds, where efforts to establish freedom of political activity and association often resulted in violent clashes and forced dissenting individuals to flee with their families. The battle for territorial control led to frequent and widespread outbreaks of conflict and violence in the province. Tens of thousands of people were affected by the violence, suffering death, injury, maiming, bereavement and displacement on a large scale.

219 Youth were in the front line on both sides of the conflict. While whole families were drawn into the violence, the evidence before the Commission indicates that most of the casualties of war were in the thirteen to twenty-four years age group, followed by the twenty-five to thirty-six years age group. The traditional notions of the relationship between old and young had shifted perceptibly. Many parents told the Commission that the political conflict had mobilised their children beyond the reach of the parental protection they needed. *Ukuhlonipha* [respect], the cornerstone of African cultural and social life, had broken down substantially.



220 Parents and elders living in the tribal areas had had little if any exposure to the ANC and/or UDF and chose to stay with what they knew – the IFP. As a result, many families were divided along generational lines. Some parents disowned their children; others were attacked for failing to control their children and allowing them to join the ANC. As a result, many young people took to living in the forests and bush. They were unable to attend school for fear of being attacked.

221 While two sides were clearly perceptible in the political conflict and violence, allegiances were at times complex and ambiguous. Inkatha had an independent existence and support base, but was seen by the state as an essential ally in its attempt to withstand ANC/UDF resistance. At least one ANC leader who rose to considerable power and prominence in the Midlands was later exposed as an informer for the security police and became associated with the activities of a prominent Inkatha warlord in the area.

- 222 The theory of a 'third force' involved in the unfolding conflict was often used to explain and analyse events in this period. The term, however, came to carry a multiplicity of meanings. ANC president Oliver Tambo had used it earlier to label non-ANC opposition groups, especially those associated with Black Consciousness and Africanism. By the mid- to late-1980s, it came to be used in the province to refer to various activities that seemed to fall outside the conflict between the ANC and Inkatha. At times, it was used to refer to activities with chains of command running all the way up to ministerial or even presidential level. At others, it referred to the local police who took sides in incidents involving Inkatha and the ANC. It was even used to explain purely criminal activity. Amnesty applicant Captain Brian Mitchell said that the special constables deployed in the Midlands in the late 1980s were the 'third force', created by the SAP and deployed specifically to destabilise UDF areas and kill UDF supporters.
- 223 The Commission received reports of partisanship and intolerance displayed by traditional leaders, IFP-supporting township councillors and the KZP, preventing the ANC from making inroads into their areas. Indeed, the first ever ANC gatherings to be permitted on the North Coast (in Ngwelezane and Esikhawini) were in March 1993, some three years after the organisation's unbanning. At worst, ANC supporters became the targets of violent attack.
- 224 In 1990, an amendment to the Natal Zulu Code of Law virtually legalised the carrying of dangerous weapons and the arming of the *amaKhosi*. The Chief Minister's department could issue G-3 semi-automatic rifles to chiefs and headmen for the protection of KwaZulu government property, thereby circumventing normal weapons licensing regulations. State functionaries were able, by way of permits, to issue these weapons to 'tribal policemen' or 'community guards'. By law, these weapons were to be used to protect KwaZulu government buildings and property. However, evidence points overwhelmingly to the fact that they were also used in clashes between ANC and IFP supporters.
- 225 Evidence has also emerged that the IFP was receiving arms and ammunition from right-wing organisations and sections of the security forces. Statements made to the Commission by both victims and perpetrators contain many allegations of SAP and security force complicity with IFP supporters. In July 1991, a *Weekly Mail* investigation revealed that the security police had secretly funded Inkatha rallies held in November 1989 and in March 1990 to the tune of R250 000. The government admitted to the allegations and said that secret funding to Inkatha had ceased after March 1990. This was disproved in November 1991 when the

Weekly Mail published evidence that security police had funded an IFP rally in Umzumbe (South Coast) in January 1991. The security police admitted to funding this rally.

- 226 By the beginning of the 1990s, the conflict had spread to rural areas which – apart from some ‘faction fighting’ – had escaped much of the political turbulence and violence of the preceding decades. The political struggle was taken to the rural areas by unionised workers and youth. Many of the rural youth had attended township schools where they were exposed to the ANC and to political activism. Back home, they directed attacks at IFP-supporting chiefs and local councillors whom they labelled as non-representative, non-democratic and, in some cases, corrupt. They questioned the decision-making processes under the tribal system and developed a general disrespect for and rejection of tribal officials. Violence was perceived as a way to replace autocratic tribal institutions with democratic structures.
- 227 IFP-supporting chiefs who lost their lives in the conflict included Chief J Ndlovu from Ixopo, Chief Duma from Donnybrook, Chiefs Memela and Molefe, both from Bulwer and Chiefs Nyela Dlamini and Majozi, both from Richmond. The IFP’s submission to the Commission lists more than twenty *indunas* (headmen) who died in political conflict.
- 228 In 1990, three IFP residents of Mahwaqa ward, Mtwalume (South Coast), successfully secured a court interdict restraining their chief, Bhekizwe Luthuli, and his supporters from threatening, intimidating, destroying their properties or engaging in any unlawful attacks on any persons resident in Mahwaqa ward [Case no 3046/90]. In their *affidavits*, Chief Luthuli was cited as the main aggressor who mobilised and led his *amabutho* to attack their homes on 3 March 1990 – leading to the destruction of more than 200 houses belonging to ANC supporters. Chief Luthuli was alleged to have ordered his people to kill all UDF children in his area. He was also alleged to have led armed men in three consecutive attacks at Mahwaqa between 23 and 25 March 1990, in which eleven people were killed.
- 229 On 14 September 1991, the ANC and IFP were party to the signing of the National Peace Accord, binding themselves to adopt certain procedures and to change the strategies and tactics currently employed by their supporters. In practice, however, the Peace Accord did little to change the situation.
- 230 The Peace Accord made provision for the establishment of “voluntary associations or self-protection units in any neighbourhood to prevent crime and to prevent any

invasion of the lawful rights of such communities” (clause 3.7.1). It stated unequivocally that “all existing structures called self-defence units shall be transformed into self-protection units” (clause 3.7.6) and that “no party or political organisation shall establish such units on the basis of party or political affiliation, such units being considered private armies” (clause 3.7.2). In reality, neither of these clauses was adhered to. The ANC continued to use the term ‘self-defence unit’ (SDU) to describe its paramilitary, community-based ‘defence’ units, while the IFP adopted the term ‘self-protection unit’ (SPU) in place of previous terms such as tribal policemen or community guards.

- 231 ANC-aligned SDUs emerged in the mid-1980s following a decision by the external mission of the ANC to become more involved in internal politics. The SDUs underwent formal paramilitary training under MK, primarily outside South Africa’s borders. Informal training was conducted in a number of local communities as well as in the Transkei. The ANC gave arms and assistance selectively to areas hardest hit by violence, such as the Transvaal and Natal. The SDUs also drew upon community resources to arm and sustain themselves. The Commission heard that arms were also procured for some ANC-aligned union leaders. Amnesty applicant Alexander Erwin⁴³ [AM6091/97] told the Commission that in 1988 he was in command of a defence operation for NUMSA leaders in the province. Weapons procured under his command were used in offences committed in various places around the province.
- 232 The SDUs were most organised in the townships/urban areas. They were composed largely of radicalised youth, many of whom had abandoned their education and chosen to rebel against their elders and the local authorities. The militaristic and highly politicised nature of the SDUs bred a culture of violence and lawlessness, which was especially harmful to impressionable township youth. This led to many of the SDUs turning into criminal gangs. In some Natal communities, the SDUs became uncontrollable and unaccountable to the residents. Internal divisions and conflict became a feature of SDU activity, particularly in rural communities where the ANC was less organised.
- 233 In September 1993, the IFP and KLA embarked on what was to be the biggest training project of IFP supporters yet. The SPU training project was based at the Mlaba camp near Mkhuze in Northern Natal. By April 1994, over 5 000 IFP supporters had received so-called self-protection training at the Mlaba camp (as well as at the Emandleni-Matleng camp).

43 At present Minister of Trade and Industry

234 By mid-1993 the province had become a jigsaw puzzle of party political strongholds and 'no-go' areas. Townships and tribal authorities were divided into ANC and IFP sections. Arson attacks, involving the widespread burning of houses, became a means of forcing residents to flee their homes, thereby facilitating the consolidation of a party stronghold. The incidence of such attacks increased dramatically in the period leading up to the national elections in 1994, affecting the lives of hundreds of thousands of people. The Commission heard evidence to the effect that supporters of the IFP were overwhelmingly responsible for pursuing this means of eradicating their opposition.

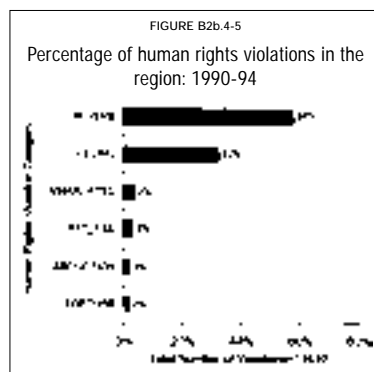
235 Mr Fred Kockett, a journalist who spent five years reporting on the Natal violence, described it as follows⁴⁴:

In the townships, people are confronted with violence at every turn. On their way to work, at work, in the city, at home, at play, at weddings, [at funerals and night vigils], at community meetings, in their beds at night. Life in the townships, never normal under Apartheid, was now very abnormal. Coping with threats or the death of a friend had become as habitual for residents of the townships as it was for people in suburbia to lock their front door security gates when they left home each day.

236 These conditions remained unchanged until a few days before the April 1994 national elections when the IFP, which had maintained a policy of non-participation, agreed to contest the elections.

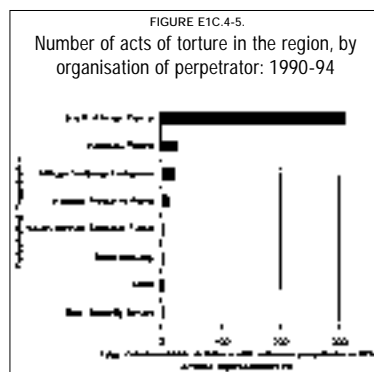
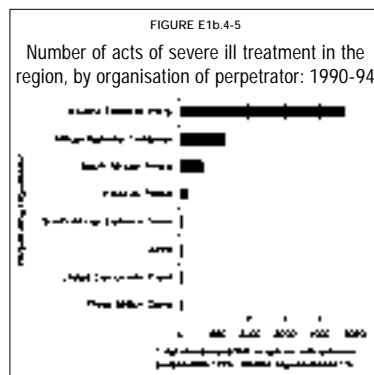
Overview of violations 1990 – May 1994

237 More cases of severe ill treatment and politically motivated killings were reported to the Commission for this period (1990-1994) than for any other. This accounts for the apparent decline in numbers of acts of torture reported for the period. The statistics show the following: severe ill treatment 58%; killing 32%; associated violations 3%; attempted killing 3%; torture 2%; abduction 2%.



44 'Natal Violence – There are few innocents', Review (November 1990 –11).

238 Statistics drawn from evidence before the Commission show that the overwhelming majority of acts of severe ill treatment and politically motivated killings were attributed to members and supporters of the IFP. The great majority of reported cases of severe ill treatment were attributed to supporters of the IFP. While the number of reported acts of torture was substantially lower for this period, by far the majority of these acts were attributed to members of the SAP. The majority of associated violations reported in the province for this period were attributed to supporters of the IFP, followed by those attributed to the SAP. A substantial number of associated violations were attributed to supporters of the ANC.



Police misconduct

Riot Unit Activities

239 Mr William Basil Harrington [AM0173/96], a member of Riot Unit 8 from 1988–91, told the Seven Day War hearing that:

When the ANC was unbanned, I never went to a lecture or anything like that which would explain to me that they were no longer regarded as terrorists. I continued my war, because the ANC war against myself and us showed no signs of abating. For that reason I did not stop taking Inkatha members in small groups to areas at night, and for that reason I assured the safety of the Inkatha members and supporters by accompanying them to certain

areas, and for that reason also I allowed the special constables to fire shots at ANC people from my vehicle whilst we were busy performing patrols, and for that reason I wanted to chase away the ANC when the ANC people and Inkatha wanted to attack each other.

240 Special constable Nhlanhla Philemon Madlala [AM3432/96], who was based with Riot Unit 8, told the Commission that the Riot Unit sold guns to the IFP/Inkatha in Greytown (around 1990).

SAP Murder and Robbery Unit

The Killing of Simon Msweli and Michael Mthethwa

Two well-known ANC members in KwaSokhulu were killed by a member of the Empangeni SAP Murder and Robbery unit in August 1992. Former Detective Warrant Officer Hendrik Jacobus Steyn [AM0069/96] was sentenced to eighteen years' imprisonment for the killing of Mr Simon Bongani Msweli (24) and Mr Michael Mthethwa. He has applied for amnesty.⁴⁵

During the early hours of the 14 August 1992, the SADF (SADF) surrounded the house where Msweli and Mthethwa had spent the night. A battle ensued, the details of which are not certain. Witnesses allege that the two men were dragged into a nearby SAPPI forest where they were viciously assaulted. It appears that the SADF then loaded the two men into their vehicle, allegedly to take them to hospital. The SADF vehicle was intercepted by Steyn who dragged the men out of the vehicle and shot them both dead.

In his amnesty application, Steyn, an IFP member, said that he felt it was necessary to 'eliminate' the two men in order to stabilise the area:

"Sedert die persone se dood is daar, na wat verneem word, geen onrus meer nie" [from what one hears there has been no more unrest since the person's death].

At the Empangeni hearing, Simon Msweli's mother, Ms Josephina Msweli [KZN/MR/205/EM], said:

"I think they were assaulted until they died because we couldn't even identify him. His eyes had been gouged out. He was never shot. He was tortured. He was violated. He was also mutilated. We could not identify him. I only identified him through his thumb. There was a certain mark on his thumb."

45 According to Steyn, Msweli was wanted by the police in connection with at least thirty-eight offences, including seventeen killings and other cases of attempted murder, arson, public violence, theft, etc.

KZP

- 241 After the ANC was unbanned in 1990, the KZP made efforts to frustrate the movement's attempts to gain political ground in KwaZulu. Residents of some townships, notably KwaMashu, KwaMakhutha and Esikhawini, went so far as to describe the KZP as inflicting a reign of terror in their areas. A number of KZP members gained particular notoriety for killing people perceived as UDF/ANC sympathisers. They appeared to be immune from prosecution. Two examples are Detective Constable Siphwe Mvuyane from Umlazi, who allegedly claimed to have killed "more than twenty but not more than fifty people", and Constable Khethani Shange from KwaMashu.
- 242 Calls for the disbanding of the KZP gained momentum during 1990, with a national stay away and countrywide marches. In March 1990, 15 000 residents of KwaMakhutha protested against the presence of the KZP and handed over a memorandum of grievances against the local KZP. In April, over 50 000 Umlazi residents marched and handed over a memorandum calling for the immediate withdrawal of the KZP. In June, Madadeni residents marched to the KZP station and demanded the removal of the KZP from the township.
- 243 Many successful interdicts and restraining orders were brought against the KZP during the early 1990s.
- 244 During 1992, the KZP was investigated by the Wallis Subcommittee of the Goldstone Commission, recommending that certain KZP members should be suspended and/or investigated. This was not followed up.
- 245 In late 1993, three members of a KZP/IFP hit squad operating in the Esikhawini township near Richards Bay were arrested. In February 1994, the then Commissioner of the KZP, Major-General Roy During, admitted to the Transitional Executive Council (TEC) that he knew of the existence of hit squads within the KZP. He resigned a few months later.
- 246 The Wallis Subcommittee of the Goldstone Commission stated:

The fact that there is incompetence of this magnitude in a police force having a responsibility for policing one of the most sensitive areas of the country in the run-up to the elections due to take place on the 27 and 28 April 1994, is of itself a cause not only for grave concern but a cause for steps to be taken to remedy that situation.

247 The KZP took over policing of the KwaMakhutha township (in the Umbumbulu district, south of Durban) from the SAP in June 1986. Within the first three weeks, residents filed more than twenty *affidavits* of assault by KwaMakhutha KZP members, some of which led to successful prosecutions. In October 1989, a large group of women in KwaMakhutha met with the Umlazi station commander to complain about the KwaMakhutha KZP.

The Killing of Raphael and Winnie Mkhize

Two UDF activists, Mr Raphael and Ms Winnie Mkhize [KZN/NN/022/DN], were killed in an attack on their KwaMakhutha home in the early hours of 9 March 1990. Their son, Duduzi Mkhize, was wounded. In May 1990, eight people, including four KZP members, were arrested in connection with the killings, namely Constables Patrick Mbambo (25), Wellington Mncwango (26), Mohande Whu and Cyril Ngema (27). They were released on bail.

248 Constable Cyril Ngema, a 'Caprivi trainee', subsequently disappeared, failing to appear in court on 21 January 1991. A warrant for his arrest was issued two days later. The investigating officer, Jacobus Willem Bronkhorst of the SAP Detective Branch, said that the KZP told him that Ngema had left the KZP. For over two years Bronkhorst searched unsuccessfully for Ngema, making inquiries at the KZP Headquarters in Ulundi, the KwaMakhutha police station and the KZP Murder and Robbery Unit, as well as to Captain Hlengwa.

249 Eventually in late 1993, Bronkhorst traced Ngema to Pongola and arrested him. Ngema was on duty as a policeman at the time of his arrest.

The Case of Mkhanyiseni Mngadi

Two of the KZP police officers who had been arrested in connection with killing the Mkhizes – Mr Wellington Mncwango and Mr Mohande Whu – were convicted in January 1992 in connection with the attempted murder of KwaMakhutha community leader Mkhanyiseni Eden Mngadi [KZN/NNN/556/DN]. Mngadi, the secretary of the KwaMakhutha Peace Committee, was shot three times in a 02h00 attack on his home on 13 March 1990, just four days after the killing of Raphael and Winnie Mkhize.

250 Following the killing of the Mkhize couple and the attempt on Mr Eden Mngadi's life, a general stay away was called for the 14 March to call for the withdrawal of the KZP from KwaMakhutha. More than 15 000 KwaMakhutha residents marched to the KZP station and handed over a memorandum to Colonel Cele of the

KwaMakhutha KZP. The memorandum listed incidents that had taken place during the first two weeks of March 1990: not responding to emergency calls; insulting and assaulting residents and conniving with warlords who were accommodated at the police barracks; disrupting funeral vigils; failing to take action against vigilantes; constantly raiding the homes of UDF members.

- 251 In April 1990, two SAP members living in KwaMakhutha made a successful, urgent application to the Supreme Court for an order restraining the KZP from attacking any person in KwaMakhutha. One of these, an SAP member of thirty-two years' service, Detective Sergeant Joseph Kabanyane [KZN/KM/508/DN], told the Supreme Court:

The KZP in KwaMakhutha have shown themselves to be a completely partial force who seem to be incapable of maintaining law and order in the area. Repeatedly they have been seen to be actively supporting one group in their actions against township residents. Through their conduct in attacking and shooting residents at random and for no apparent reason, they have shown themselves to be highly reckless and are a real danger to the livelihood and wellbeing of local residents.

- 252 Kabanyane himself had twice been assaulted by KZP members when he attempted to intervene in unprovoked attacks on ANC-supporting residents.

- 253 In 1990, the International Commission of Jurists (ICJ) released a report entitled 'Signposts to Peace' in which they said:

In areas like KwaMakhutha, where there is the clearest possible evidence of misconduct, the KZP must be suspended from duty and be replaced by the SAP.

- 254 Detective Constable Siphiwe Mvuyane joined the SAP in 1986 and transferred to the KZP in 1987-88. He was stationed at the Umlazi police station known as G Police Station (see above). In a report published in June 1992, the LRC listed nineteen killings in which Mvuyane was implicated in Umlazi between February and September 1992.⁴⁶

- 255 Mvuyane was suspended from the KZP in mid-1992, pending the outcome of criminal investigations against him. He was shot dead in May 1993. At the time of his death, he was facing fifty criminal charges, including the killing of ANC activists. From statements made to the Commission, Mvuyane was found to be

⁴⁶ Legal Resources Centre (Durban) and Human Rights Commission (Durban), Obstacle to Peace: The Role of the KZP in the Natal Conflict. Joint report. June 1992, p. 209.

the perpetrator of at least twelve gross human rights violations, including nine killings. All the incidents occurred in the period 1990–92.

The Attack on the Bhengu Family

The KwaMakhutha home of UDF/ANC supporters David and Maria Bhengu [KZN/NNN/013/DN] was attacked on 19 January 1990, allegedly by KZP and IFP members including Mvuyane. Maria and their two children, Siphelile and Hlengwa, were shot dead. David Bhengu survived by escaping through the window. The house was looted.

The Killing of Austin Zwane

A school pupil, Austin Zwane [KZN/NN/006/DN], was shot dead in his Lamontville home on 7 August 1990 by a group of four KZP members, led by Mvuyane. After killing Zwane, the policemen forced his friends to load his body into the police van. Mvuyane himself was shot dead the day before the case was to be heard (Durban hearing, 9 May).

- 256 Mr Mfanafuthi Khumalo [KZN/NN/026/DN] told of being shot by Mvuyane in Umlazi on 26 April 1992, when he was sixteen years old. Khumalo was sleeping over at a friend's home when Mvuyane and a colleague came looking for him. Mvuyane told the other youngsters to leave and remained behind with Khumalo.

[Mvuyane] said to me I should sit on the sofa, and I asked him what he wanted from me. He said I should not ask him any questions, I must just sit on the sofa. And I moved from the bed and I went to sit on the sofa. As I was sitting there he started insulting me. He abused me verbally and he started hitting me on the chest. When I asked him the reason why he was hitting me he did not answer me. He just asked me where I was shot before. I said on the knee. As I was still answering him he shot me on my other knee. He said to me he knew that I didn't die due to gunshots.

Then he gave me a knife and he said I should kill myself. And I have five wounds. I stabbed myself because he was pointing a gun at me, telling me to kill myself. And I threw the knife down and I told him that I was not able to kill myself. Then he continued to shoot me. He shot me on the right arm.

I stayed there from 4 o'clock in the morning. He did not take me to the hospital. Then I realised that I should just pretend as if I was dead, because I realised that if he saw that I was not dead he was going to continue shooting me. I pretended that I was dead, and I was bleeding profusely. He left me there, believing that I was dead.

257 Khumalo's mother told the Commission what she found when she arrived in the shack in which he had been shot:

When I got to the scene where the whole thing took place, the scene of crime, I found him lying down on the sofa in blood, a river of blood. I just heard him talking, whispering, saying, "Come in. Come in, I am still alive". Siphwe [Mvuyane] was not there, but there were some other policemen there.

He showed me the bullet holes, and I told him that ... I am not going anywhere, and he started shooting me. He shot me all over on the chest. He was shooting me from very close, from a very close distance. He insisted that I should go home. I refused.

I asked, "Why are you keeping this child here? He was shot at 4.00 am. and now it's around six, but you are still keeping this child here." ...

Siphwe came with the station commander ... I think he had gone to fetch him. I said to him, "Oh, we are so happy because you are not going to die. Why would you kill this child so brutally like this?" He said, "Oh, this dog is not dead. I thought it is dead." I said to him, "Oh, you intended to kill him?"

I said to the station commander, "Please take this child to the hospital", and the station commander was just quiet and standing there. He was just standing there looking at me so timidly.

Eventually the policemen put Khumalo in their car and drove to the police station, where they left him in the car with the windows closed and the heater on. His mother found him there an hour later.

Khumalo was admitted to the Prince Mshiyeni hospital approximately five hours after he had been shot. He has since undergone six operations and still does not have the use of his right arm.

Four days after the shooting, the Supreme Court granted an interim interdict preventing Mvuyane from assaulting, threatening or intimidating Khumalo [Case No 2853/92].

258 From statements made to the Commission, KZP Constable Khethani Shange was found to be the perpetrator of at least six gross human rights violations, including two killings. All are related to incidents that occurred during 1990.

The Gumedde Night Vigil Attack

In April 1990, Shange shot and killed KwaMashu ANC activist Themba Gumedde.

At the night vigil for Gumedde, a group of about twenty-five people dressed in KZP uniforms arrived. They ordered the mourners to lie down and opened fire on them, injuring three people.

On 29 May 1991, Shange was convicted of killing Gumedde and attempting to kill three mourners at the vigil. He was sentenced to twenty-seven years' imprisonment. In passing judgement the presiding judge, Mr Justice Gordon, said that Shange appeared to 'revel in his reputation as a hit man and the fear that this instils in others'.

Shange was released after serving just nine months of his sentence, allegedly due to an error by the Ministry of Law and Order. He was re-arrested in February 1998 on a number of charges, including murder.

259 The Commission has made a comprehensive finding regarding the KZP, in which it is described, *inter alia*, as a highly politicised force, openly assisting the IFP – by omission and by active participation – in the commission of gross human rights violations, as well as being grossly incompetent.

THE COMMISSION FINDS THAT THE KZP, FROM THE PERIOD 1986 TO 1994, ACTED IN A BIASED AND IMPARTIAL MANNER AND ACTED OVERWHELMINGLY IN FURTHERANCE OF THE INTERESTS OF INKATHA, AND LATER THE IFP, IN THE MANNER SET OUT BELOW.

THE KZP DISPLAYED BLATANT BIAS AND PARTIALITY TOWARDS IFP MEMBERS AND SUPPORTERS, BOTH THROUGH ACTS OF COMMISSION, WHERE THEY WORKED OPENLY WITH INKATHA, AND THROUGH ACTS OF OMISSION, WHERE THEY FAILED TO PROTECT OR SERVE NON-IFP SUPPORTERS.

THE KZP WAS RESPONSIBLE FOR LARGE NUMBERS OF POLITICALLY MOTIVATED GROSS HUMAN RIGHTS VIOLATIONS (KILLINGS, ATTEMPTED KILLINGS, INCITEMENT AND CONSPIRACY TO KILL, SEVERE ILL-TREATMENT, ABDUCTION TORTURE AND ARSON), THE VICTIMS OF WHICH WERE ALMOST EXCLUSIVELY NON-IFP MEMBERS.

OFFICERS OF THE KZP WERE INVOLVED IN COVERING UP CRIMES COMMITTED BY IFP SUPPORTERS AND KZP MEMBERS. COVER-UP PRACTICES BY KZP OFFICERS RANGED FROM:

- **NEGLECTING BASIC INVESTIGATIVE PROCEDURES;**
- **DELIBERATELY TAMPERING WITH EVIDENCE;**
- **ENSURING THAT KZP AND IFP SUSPECTS IN POLITICAL VIOLENCE MATTERS WERE CONCEALED OFTEN FOR VERY LENGTHY PERIODS IN KZP AND SADF CAMPS;**
- **ISSUING FALSE POLICE CERTIFICATES AND IDENTITY DOCUMENTS TO MEMBERS OF THE IFP WHO WERE INVOLVED IN POLITICAL VIOLENCE, IN ORDER TO PREVENT THEIR ARREST AND CONVICTIONS AND TO FACILITATE THEIR CONTINUED CRIMINAL ACTIVITIES;**

- TAKING PART IN KILLINGS AND PURPORTING TO INVESTIGATE THE VERY MATTERS IN WHICH THEY HAD BEEN INVOLVED AS PERPETRATORS.

AS SET OUT ABOVE, THE KZP IS ACCOUNTABLE FOR THE MANY POLITICALLY MOTIVATED GROSS VIOLATIONS OF HUMAN RIGHTS THAT WERE PERPETRATED BY ITS MEMBERS. THE KZP IS ALSO ACCOUNTABLE FOR THE MANY POLITICALLY MOTIVATED GROSS HUMAN RIGHTS VIOLATIONS PERPETRATED BY MEMBERS OF THE IFP, AS A RESULT OF THE KZP'S FAILURE TO ACT AGAINST SUCH IFP MEMBERS, THEREBY CREATING A CLIMATE OF IMPUNITY WHICH FACILITATED THE COMMISSION OF SUCH GROSS HUMAN RIGHTS VIOLATIONS.

IN CONCLUSION, THE COMMISSION FINDS THAT, ALTHOUGH THERE WERE HONOURABLE EXCEPTIONS TO THE FOLLOWING GENERAL STATEMENT, IN THAT SOME MEMBERS OF THE KZP DID CARRY OUT THEIR DUTIES IN AN UNBIASED AND LAWFUL MANNER, THE KZP GENERALLY WAS CHARACTERISED BY INCOMPETENCE, BRUTALITY AND POLITICAL BIAS IN FAVOUR OF THE IFP, ALL OF WHICH CONTRIBUTED TO THE WIDESPREAD COMMISSION OF GROSS HUMAN RIGHTS DURING THE PERIOD REFERRED TO ABOVE.

Security Branch activities

260 Evidence before the Commission shows a dramatic fall in the number of reported violations, overt and covert, on the part of the Security Branch during this period. This is believed to be due to the state's counter-revolutionary strategy of using surrogate forces to deflect attention from the role of its own security forces in the civil conflict which, by now, had gained a momentum of its own. However, the Commission did hear of several extra-judicial killings of MK operatives, including the following:

The killing of Mbuso Shabalala and Charles Ndaba

MK members Charles Ndaba [KZN/NN/076/DN] and Mbuso Shabalala [KZN/NNN/138/PS] were both involved in Operation Vula.⁴⁷ Both were abducted by Durban Security Branch members on 7 July 1990. The Security Branch claimed that Ndaba was one of their informers and was arrested by mistake by members who did not know this. He helped them to arrest Mbuso Shabalala.

After the Security Branch had taken Ndaba and Shabalala into custody, the government announced that any Operation Vula operatives that were under arrest would not be prosecuted.

Not wanting to release the two men, the Durban Security Branch members decided to kill them, which they did on 14 July 1990. The bodies were dumped into the Tugela River mouth.⁴⁸

⁴⁷ An ANC operation aimed at strengthening local underground structures and bringing exiled leaders into the country.

⁴⁸ Amnesty applications of HJP Botha [AM453/97], Sam du Preez [AM4130/96], CA van der Westhuizen [AM4388/96] and L Wasserman [AM4508/96; KZN/NNN/138/PS].

The killing of Goodwill Sikhakhane

Mr Goodwill Mbuso aka Neville Sikhakhane (born 1961) [KZN/MR/011/DN] was a former ANC member who had undergone military training with MK in Mozambique, Zambia, Tanzania and Swaziland. On his return in 1989, he apparently surrendered to the police. He began working as an askari with the Natal Security Branch, under Colonel Andy Taylor.

At some time during 1991, certain members of the Security Branch decided that Sikhakhane was a threat to the security of their operations. According to Taylor, Sikhakhane was "not a very efficient member ... the information he supplied created the impression that he did not try too hard". He was seen in Swaziland on a number of occasions while on leave, creating the suspicion that he might be working for the ANC as a double agent.

The order to kill Sikhakhane was issued from the highest ranks of the Security Branch in the region. Steyn instructed Andy Taylor to use 'outside' people to do the job. Taylor thereupon requested Eugene de Kock from Vlakplaas to carry out the killing.

A few days later Taylor met with Vlakplaas operatives Willie Nortje, 'Duiwel' Brits and 'Blackie' Swart and put them up at the Lion Park Hotel outside Pietermaritzburg. Local Security Branch member Larry Hanton was sent to assist the Vlakplaas members in getting hold of Sikhakhane. Vlakplaas operative Willie Nortje carried out the assassination in Greytown on 21 January 1991.

According to Nortje, the order to kill Sikhakhane came from Mr Engelbrecht, the commander of C Section. Colonel Eugene de Kock was convicted in 1996 for the killing of Sikhakhane.⁴⁹

Civil conflict

Violence stemming from the unbanning of the ANC

261 A number of incidents of violence occurred during celebrations to mark the release of Nelson Mandela from prison. These incidents were more common in KwaZulu areas than in Natal. Incidents directly related to Mr Mandela's release were reported in KwaMakhutha, KwaMashu, Umlazi, Folweni, KwaNdengezi, Ntuzuma and Mpumalanga.

⁴⁹ Eugene de Kock [AM0066/96], Larry Hanton [AM4076/96], JA Steyn [AM453/97], Willie Nortje [AM3764/96], ARC Taylor [AM4077/96], David 'Duiwel' Brits [AM3745/96] and JJ 'Blackie' Swart [AM3750/96] all applied for amnesty in respect of their involvement in the killing of Sikhakhane [KZN/MR/011/DN].

262 The Commission received several reports of deaths as well as arson attacks, four of which were IFP homes, one ANC and two non-partisan. In Ntuzuma, north of Durban, ANC supporters celebrating the release of Mr Mandela on 11 February burnt down the house of IFP supporter, Nomchule Gowane [KZN/KCD/073/DN]. ANC and Inkatha supporters clashed in Ntuzuma for the rest of the month.

The Killing of Phillip Gasa

On 17 February 1990, Inkatha-supporting Ntuzuma councillor Phillip Muzikayise Gasa [KZN/GM/087/DN] was stabbed to death by unknown ANC supporters. His wife was threatened by the attackers and was forced to flee.

The Seven Day War

263 From the 25–31 March 1990, the communities in the lower Vulindlela and Edendale Valleys, south of Pietermaritzburg, were subjected to an armed invasion by thousands of heavily armed men from the rural, Inkatha-supporting areas higher up in the valleys. Over seven days, 200 residents in the lower valley were killed, hundreds of houses looted and burnt down and as many as 20 000 people forced to flee for their lives. The communities most seriously affected were Ashdown, Caluza, Mpumuza, Gezubuso, KwaShange, and KwaMnyandu.

264 In the late 1980s, communities in the Edendale and lower Vulindlela valleys were pro-UDF/COSATU, whilst those living in Upper Vulindlela tended to be more rural, traditional and pro-Inkatha, living under Inkatha-supporting chiefs and *indunas*. Most UDF supporters who had initially lived in the upper Vulindlela area had fled down to Edendale by 1989. People living in the upper parts were obliged to travel through lower Vulindlela and Edendale to get to Pietermaritzburg and frequently had shots fired or stones thrown at them by the UDF supporters. The tension between the two areas increased dramatically with the unbanning of the ANC and the release of Mr Mandela in February 1990.

265 During February and March 1990, buses carrying commuters from the Vulindlela area were stoned by young UDF and ANC supporters as they drove through Edendale, damaging buses and injuring passengers. Some deaths were also reported.

266 At a meeting at King's Park Stadium, Durban, on Sunday 25 March 1990, Mr David Ntombela addressed a gathering of Inkatha supporters and warned that, should buses passing through Edendale be stoned again, steps would be taken against the culprits, that is, UDF and ANC supporters in that area. That afternoon,

buses carrying Inkatha rally-goers travelled through Edendale and were again stoned, injuring passengers and damaging the buses. Roadside skirmishes were reported between the Inkatha supporters and Edendale residents. At least three people were killed, including UDF supporters Sihle Brian Zondi and his aunt Ms Grace Gabengani Zondi, at the Mabeza store [KZN/FS/258/PM].

267 The next day, Monday 26 March, Inkatha supporters from Vulindlela could not get to work in town because no buses were running on that route. Mr T Mbanjwa from Caluza told the Commission at the Seven Day War hearing that he saw a group of well-armed men descending from the hill:

And as we were still confused as to what was happening, it was apparent that we had to run for our lives because we heard some gunshots, and some people were attacked with pangas and assegais, as well as traditional weapons. And the community tried to get together in order to prevent the attacks, but it was very difficult because we were not armed and we were fighting against people who were armed with traditional weapons as well as ammunition, live ammunition.

But the most deluding thing was that the police would come, and instead of arresting the perpetrators or the attackers they would shoot at the residents and they would throw teargas canisters at the residents. This went on for quite some time.

268 The scale of the attack intensified dramatically the next day. Large groups numbering up to 2 500 men from the Inkatha-supporting Sweetwaters and Mpumuza areas descended into the lower Edendale Valley. The men were armed with traditional weapons as well as firearms. Residents came under heavy fire and many houses were burnt and looted. In a revenge attack on residents of Payiphini, Mpumuza by UDF supporters later that night, one person was killed and nineteen homes set alight.

269 On Wednesday 28 March 1990, David Ntombela held a meeting of Inkatha supporters at his house in the Elandskop area, after which he instructed a member of the SAP Riot Unit to pick up a large group of special constables in a police vehicle and take them to Gezubuso. Ntombela then instructed the constables to proceed on foot with a large group of armed men to KwaShange, and instructed a member of the Riot Unit to follow the group in his vehicle.

270 Father Tim Smith, a Catholic priest posted to Elandskop (upper Vulindlela) in 1983, described that day's events to the Commission as follows:

Early on Wednesday, the call went out by loud-hailer that all people, men and women, were to gather at David Ntombela's house for a meeting with someone from Ulundi. Someone who was there told me that when she arrived, the women were told to go inside the house, take off their clothes and turn them inside out and put them back on again. When they came out of the house, there was a large gathering of warriors, together with some trucks and lorries ... the trucks had their registration plates covered with sackcloth. The warriors were sprinkled with intelezi (traditional medicine to protect them from harm) and then moved off to attack soon after dawn.

Soon we began to hear reports of the invasion of the valley. The areas of Gezubuso, KwaShange and KwaMnyandu were worst hit. About thirty-five people were killed, nearly 150 huts were set alight and people fled down into the eSigodini valley.

271 At KwaShange, the special constables and the group of armed men attacked residents and killed fifteen people,⁵⁰ looted and set fire to an unknown number of houses and drove away cattle belonging to residents of that area. Ntombela instructed a member of the SAP Riot Unit who was present not to interfere with what was going on at KwaShange.

272 The household goods removed from residents' houses in KwaShange were loaded onto the vehicle used by the Riot Unit and taken to Ntombela's house. Cattle taken from residents were driven to Ntombela's house. According to Father Tim Smith:

Many witnesses saw David Ntombela directing the attacks, together with Chief Shayabantu Zondi, Induna Guvaza Khanyile, Lolo Lombo and others. Many said the police were helping the warriors with transport and ammunition ...

In the late afternoon, we began to see the impis returning. Some who came on foot brought stolen cattle with them; others were carrying furniture, TV sets and clothing. Mr Ntombela was apparently displeased with all the looting saying: "You went to kill, not to steal!"

273 Edendale resident Edmund Zondi told the Commission that he saw KwaZulu Government trucks offloading Inkatha men who then began attacking people and cattle, burning and looting homes in his neighbourhood. He packed fifteen people into his small Ford Escort, and they fled to relatives in Imbali:

⁵⁰ Mr Moses Zuma, Mr Israel Zuma, Ms Rose Mtolo, Ms Agnes Sibisi, Mr Mbuzane Ngubane, Mr George Zondi, Mr Khabekile Ngubane, Mr Nkankabula Ngubane, Mr Abednigo Mkhize, Mr Mzomuhle Manjwa, Mr Mfanafuthi Ngubane, Ms Dominica Ngobo, Mr Mzikayifani Mtolo, Mr Makhosonke Phakathi and Mr Mfulathelwa Makathini.

If I can tell you, maybe you will not believe it, because it can only take five people, but the whole family fitted into the car that particular day. I even put some of the children just underneath or next to the pedals, the driving pedals.

274 Since then he has never been able to return to his home.

275 The Midlands Crisis Relief Committee (an organisation set up to deal with the aftermath of the Seven Day War) also received reports that the attackers were transported in vehicles which included about twenty trucks owned by the KwaZulu Department of Public Works, with obscured KwaZulu Government number plates.

276 Democratic Party member Radley Keys and *Natal Witness* journalist Khaba Mkhize chartered a plane and flew out over the Vulindlela and Edendale valleys on Wednesday 28 March:

By mid-morning we were airborne and flying towards Vulindlela. The sight that confronted us was one of a war zone. Scores of houses were burning and the sky was filled with the smoke of burning thatched roofs. We witnessed large groups of men and boys moving through the area. There were a number of dead, or what seemed to be dead, bodies lying on some on the roads and paths ... Over Vulisaka and KwaShange and KwaMnyandu there was devastation and mayhem.

The police helicopter approached our plane and ordered us out of the area. We refused the pilot permission to leave, and instructed him to inform the police to refer to his minister. They attempted to threaten us but we held firm and continued our flight ...

As yet, the police were the only force in attendance and that is exactly what I mean, they were attending and not preventing the wholesale destruction and killing.

277 Thursday 29 March 1990 saw little respite in the attacks from up the Valley. Mr Edmund Zondi described the events of this day:

[They] came on a Thursday, that is on the twenty-ninth. They got there and they killed a woman who had just given birth. They also killed the new-born baby. Even the elderly people who could not run away were killed. It was quite a terrible situation. It was like something from a horror movie.

278 Late on Thursday night, Father Tim Smith was disturbed by a knock at his door. Young people from Songozima had come to report attacks at Khokhwane, very close to the mission. Father Smith went to collect police from Boston and they set off to investigate:

When we arrived at Khokhwane we could see four homesteads burning on the hillside. We went slowly into each one with the policemen. In the first three we found no one alive or dead and presumed that they had had enough time to escape. But in the fourth one, which was well known to me, we found people.

In the main building, we discovered the old man, father of the household, together with several of his grandchildren. He took a long time to come out from his hiding place, he was so shocked. When he did, he told me: Baziqeda izingane zami [They have finished off my children].

He took us to a back bedroom of the house and there lying on the floor was one of his daughters, Emmerentia. She had shotgun wounds in her chest and was obviously dead. Lying underneath her was a small child whom at first I took to be dead also. Then I noticed that the child was breathing. I reached down and lifted the child from beneath his mother and he was indeed alive. He turned out to be Sihle, her son of four years. When his mother was shot through the window she must have fallen backwards and trapped the child under her. He must have been like that for more than an hour before we got there.

Then we went into the last hut in the yard which was burning furiously. There beneath the bed was the body of Celestina, another daughter. She had been shot and set alight and there was nothing we could do for her.

I decided that it would be better if all the survivors slept at the mission ...

After this, my own future at Elandskop was no longer secure. There were various threats and the following week I was moved.

279 Friday, 30 March, was considerably quieter. On Saturday, 31 March, large groups of Inkatha supporters were again seen, gathering at the homes of Chief Ngcobo and David Ntombela. However, only sporadic incidents occurred during the day.

280 Witnesses, victims and violence monitors have made allegations of active police complicity in the attacks. They claimed police fired on ANC residents without provocation. They alleged that policemen were seen transporting the Inkatha attackers and then standing idly by while they attacked people and burnt houses.

They also alleged that special constables participated in the attacks. These allegations were confirmed by a former Riot Unit member and two former special constables who testified before the Commission of their involvement in the Seven Day War.

- 281 Former Riot Unit 8 member William Harrington [AM0173/96] told the Commission that he was on duty during the Seven Day War. He said that Riot Unit members fired on ANC people without provocation, and that off-duty special constables joined Inkatha supporters in the violence:

What I do remember about the Seven Day War is that I started working on a certain day and thirty-six hours later I went off duty. I remember that many houses and shops were burnt down. There were many refugees. Many of the special constables didn't even report for duty at the unit. I noticed some of them in the areas in which I worked. They would have gone to acknowledged Inkatha chiefs' homes, or larger Inkatha groups, and it was these groups of between 50 and 100, sometimes larger, who were responsible for burning down homes ...

At this stage my vehicle crew started firing at groups of ANC people without reason. I authorised it because I was told or commanded that we should do that. It was a radio message which I received. Firing would of course not be permitted against the Inkatha groups because there were special constables in these groups. I myself gave one or two belts [of ammunition] to the special constables who were part of these groups running around.

- 282 Former special constable Nelson Shabangu [AM3676/96] was also on duty when the fighting broke out. He told the Commission that he was directed to take his Riot Unit vehicle to pick up a group of special constables living in the valley. He then drove this group to the outskirts of KwaShange where he, together with other members of his Riot Unit, stood by and watched as the special constables attacked, burnt and looted houses at KwaShange. The special constables then returned with stolen property, which they loaded onto the police vehicle to be taken to Mr Ntombela's home. Cattle which had been stolen from the residents of KwaShange were also driven to Mr Ntombela's home. Shabangu told the Commission that a big party was held at Ntombela's house later, to which the police were invited. At this party they braai'd the meat of cattle they had stolen.

- 283 Another former special constable, Mr Nhlanhla Philemon Madlala [AM3432/96], was not on duty on 27 March 1990 so he fought on the side of the IFP. He told

the Commission that he was amongst the group of Inkatha supporters and special constables who gathered at Ntombela's home before descending into the valley to attack (Seven Day War hearing, 19 November 1996).

- 284 SAP spokesperson Director Daniel Meyer, who was on duty during the Seven Day War, was questioned regarding the role of the SAP during the war:

Did you ever during the Seven Day War disarm the Inkatha people?

No, I didn't. I don't know whether other policemen did so.

Why did you not do it?

There could be many reasons for that. On that specific day we were so busy – I am now talking about the Tuesday. I just had to run from one scene to the other to attend incidents of shooting.

You were so busy that you could not disarm the people who were going to kill other people and burn their houses. You were busy doing what? You were running up doing what, if you could not disarm the people who were going to take lives of the people?

I hear you, Chairperson ...

Are you surprised that the UDF people hated you, as you have just said yourself?

No, I am not surprised. I am not surprised, especially not after all the evidence that I have listened to ...

My last question, and it's probably an unfair question to ask you, but I am going to ask it. If the violence on that scale had happened in a white area, you wouldn't have tolerated that at all, surely?

During those times more than likely no, we wouldn't.

- 285 The Reverend Mr Nsimbi from Edendale criticised the police for being negligent and indifferent. He spoke of how bodies were left to decompose in the streets for days before the police collected them. He told the Commission:

I think it will be my grandchildren who will see the Canaan land. I think I will die here, here in this wilderness.

- 286 The SADF was also criticised for its apparent absence during the Seven Day War. Witnesses alleged that the SADF was deployed in the valley only in mid-April, once the fighting had passed.
- 287 In accordance with the law, the SADF was only deployed in support of the SAP during the Seven Day War. At a joint planning committee meeting between SAP and SADF officers, a decision was taken to deploy the Defence Force resources on the lower Edendale Road to ensure that the road to Pietermaritzburg stayed open. Throughout the week, Defence Force personnel (approximately 100 men) and six military vehicles did not venture beyond Edendale Road. Brigadier Swanepoel, the Commanding Officer of the Pietermaritzburg-based Group 9 at the time of the Seven Day War, told the Commission that he had realised that the situation was bad. He said that he had contacted the SADF headquarters requesting more troops and calling for urgent "intervention on a senior level". The additional troops, four companies from the Transvaal, arrived in mid-April 1990.
- 288 By the end of the week, an estimated 20 000 people had been displaced from their homes. Most, if not all, of these people had lost everything they ever possessed. No disaster relief was forthcoming from the government. It was left to churches and humanitarian organisations to attempt to provide relief and assistance. Most of these people have not returned to their homes to this day. Father Tim Smith described to the Commission the lasting, devastating effects of that violent week:

Drive out to Edendale past Esigodini up the hills to KwaMnyandu, KwaShange and Gezibuso. There, in a band of land about four kilometres wide, you will still see the effects of destruction of that week of March 1990: houses and shops burnt to the ground, schools abandoned, weeds growing in fields and up through the insides of dwellings where a few years ago thousands and thousands of people lived.

- 289 Several witnesses told the Commission that it was not accurate to call these seven days a war, because the word 'war' implied a battle of equals, whereas the overwhelming majority of the victims were from one side. They were caught unawares and many were totally defenceless and unable to fight back. The victims were those who were unable to run away fast enough – women, children, pensioners and the sick. Survivors called it an armed invasion, a political cleansing.

- 290 Reflecting on the events of March 1990, Father Smith had the following to say:

After all these attacks and murders we tried to obtain some justice but without success. We tried the police; we tried to hire lawyers; we tried the

press. I even had an hour's interview with the deputy attorney-general of this province. We failed.

After all that, it seems to me that the people, the ordinary people, have been failed by the organs of government. Indeed, it seems that the criminal justice system had almost completely broken down.

In not a single case that I have mentioned, from the murder of Angelica Mkhize and her daughter in 1987 up to the deaths of scores of people in the Seven Days War in 1990, has there been a prosecution. No one has been found guilty for all the murder, the arson, the damage to property, the theft, the intimidation, the assaults that have taken place in Vulindlela. It is little wonder that the province has experienced so much carnage, when the perpetrators know that they will never be caught and the victims know there will never be justice.

291 Mr David Ntombela was invited to make a public submission at the Seven Day War hearing. Initially he agreed but on the actual day he refused to testify. His attorney read out a statement on his behalf in which he claimed that the Commission in its present form was biased and would not give him a fair hearing. He also claimed that he had not been given sufficient time to prepare for the hearing and had not been able to obtain copies of statements implicating Ntombela in the violence. Some months later, the court found in favour of Ntombela and the Commission was obliged to provide Ntombela with all statements in which he had been detrimentally implicated.

292 The full findings of the Commission on the event which became known as the Seven Day War are recorded elsewhere in the Commission's report. In summary, they are as follows:

THE COMMISSION FINDS THAT FROM 25-31 MARCH 1990, THE COMMUNITIES IN THE LOWER VULINDLELA AND EDENDALE VALLEYS, SOUTH OF PIETERMARITZBURG, WERE SUBJECTED TO AN ARMED INVASION BY THOUSANDS OF UNKNOWN INKATHA SUPPORTERS, AND THAT DURING THIS WEEK OVER 200 RESIDENTS OF THESE AREAS WERE KILLED, HUNDREDS OF HOMES LOOTED AND BURNT DOWN AND AS MANY AS 20 000 PEOPLE WERE FORCED TO FLEE FROM THEIR HOMES. THESE ACTS CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS, AND UNKNOWN MEMBERS OF INKATHA ARE HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT UNKNOWN YOUNG UDF AND ANC SUPPORTERS WHO STONED AND ATTACKED VEHICLES PASSING THROUGH EDENDALE WERE RESPONSIBLE FOR STARTING THE VIOLENCE THAT DEVELOPED INTO THE SEVEN DAY WAR.

HAVING REGARD TO THE TOTALITY OF THE EVIDENCE GIVEN TO THE COMMISSION, THERE IS NO DOUBT IN THE MIND OF THE COMMISSION THAT SUPPORTERS OF INKATHA WHO TOOK PART IN

THE MASSIVE, WELL CO-ORDINATED ARMED ATTACKS ON TUESDAY 27 TO FRIDAY 30 MARCH MUST BEAR OVERWHELMING RESPONSIBILITY FOR THE CRIMINAL ACTS, INCLUDING KILLING, SEVERE ILL-TREATMENT AND ARSON, WHICH TOOK PLACE DURING THAT WEEK. IT IS A FINDING OF THE COMMISSION THAT THE PROVOCATION TO WHICH SOME RESIDENTS OF VULINDLELA HAD BEEN SUBJECTED DID NOT REMOTELY JUSTIFY THE NATURE OF THE RESPONSE THAT WAS METED OUT TO THE RESIDENTS IN THE VALLEY BELOW THEM.

THE COMMISSION FINDS THAT THE SPECIAL CONSTABLES WERE DELIBERATELY ESTABLISHED AND TRAINED TO ASSIST INKATHA AGAINST THE LATTER'S POLITICAL ENEMIES AND THAT SPECIAL CONSTABLES, ACTING ALONE AND IN CONCERT WITH RIOT UNIT 8 OF THE SAP, REGULARLY COMMITTED SERIOUS UNLAWFUL ACTS IN ORDER TO SUPPORT AND ASSIST INKATHA, IN THE PERIOD PRIOR TO AND DURING THE SEVEN DAY WAR. SUCH ACTS INCLUDED THE KILLING OF FIFTEEN PEOPLE AT KWASHANGE, NAMELY MR MOSES ZUMA, MR ISRAEL ZUMA, MS ROSE MTOLO, MS AGNES SIBISI, MR MBUZANE NGUBANE, MR GEORGE ZONDI, MR KHABEKILE NGUBANE, MR NKANKABULA NGUBANE, MR ABEDNIGO MKHIZE, MR MZOMUHLE MANJWA, MR MFANAFUTHI NGUBANE, MR DOMINICA NCGOBO, MR MZIKAYIFANI MTOLO, MR MAKHOSONKE PHAKATHI AND MR MFULATHELWA MAKATHINI. THE SAP ARE HELD ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS INVOLVED IN THESE KILLINGS BY UNKNOWN SPECIAL CONSTABLES DEPLOYED IN THE AREA.

THE COMMISSION FINDS THAT THE GROSS HUMAN RIGHTS VIOLATIONS INVOLVED IN THE EVENTS OF 28 MARCH 1990 TOOK PLACE ON THE INSTRUCTIONS OF MR DAVID NTOMBELA AND THAT NTOMBELA IS HELD ACCOUNTABLE FOR THESE, INCLUDING KILLING, ATTEMPTED KILLING, CONSPIRACY TO KILL, SEVERE ILL-TREATMENT AND ARSON.

THE COMMISSION FINDS IMPROBABLE THE EVIDENCE OF DIRECTOR DANIEL MEYER THAT THE POLICE ACTED IN AN IMPARTIAL AND UNBIASED MANNER AND DID EVERYTHING POSSIBLE TO PREVENT LOSS OF LIFE AND DAMAGE TO PROPERTY. ELEMENTS OF THE SAP RIOT UNIT 8, BOTH AT A SENIOR LEVEL AND AT THE LEVEL OF THE SPECIAL CONSTABLES ATTACHED TO THE UNIT, DELIBERATELY ACTED, BY OMISSION AND COMMISSION, TO ASSIST AND FACILITATE ATTACKS BY INKATHA SUPPORTERS ON NON-INKATHA RESIDENTS DURING THE SO-CALLED SEVEN DAY WAR. THEY FURTHERMORE DELIBERATELY FAILED TO DEPLOY THE SADF IN THE CONFLICT AREAS, IN ORDER TO GIVE FREE REIN TO INKATHA FORCES IN THEIR ATTACKS ON NON-INKATHA RESIDENTS. THE COMMISSION FINDS THAT THE ACTIONS OF THE RIOT UNIT CONSTITUTED GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD RESPONSIBLE.

THE COMMISSION FINDS THAT THE POLICE INVESTIGATION INTO DEATHS OCCURRING DURING THE SEVEN DAY WAR WAS WHOLLY INADEQUATE. WHILE OVER A HUNDRED PEOPLE WERE KILLED IN THE EVENT, NO ACTION WAS TAKEN TO CARRY OUT A SPECIAL INVESTIGATION OR ENQUIRY INTO THE MATTER. IT IS THE FINDING OF THE COMMISSION THAT, GIVEN THE HIGHLY POLITICAL ROLE OF THE POLICE AT THE TIME, THE FACT THAT THIS EVENT WAS NOT COMPREHENSIVELY INVESTIGATED INDICATES, ON BALANCE, A DELIBERATE COMMISSION, RATHER THAN MERE NEGLIGENCE OR DERELICTION OF DUTY ON THE PART OF THE SAP, IN ORDER TO PREVENT THOSE RESPONSIBLE FOR COMMITTING VIOLATIONS FROM BEING BROUGHT TO JUSTICE.

THE COMMISSION FINDS THAT UNKNOWN OFFICIALS OF THE KWAZULU GOVERNMENT MADE AVAILABLE GOVERNMENT VEHICLES TO ASSIST INKATHA MEMBERS IN THEIR UNLAWFUL ATTACKS ON NON-INKATHA COMMUNITIES. IN THAT THE KZP KNOWINGLY PARTICIPATED IN AND THE KWAZULU GOVERNMENT OFFICIALS FACILITATED THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS, THE COMMISSION HOLDS THESE UNKNOWN MEMBERS OF THE KZP AND KWAZULU GOVERNMENT ACCOUNTABLE FOR SUCH VIOLATIONS.

Hit-squad Activity

- 293 Hit-squad activity became widespread in KwaZulu and Natal during the 1990s. From information received by the Commission, it would appear that the hit-squad operations undertaken by the 'Caprivi trainees' and other political networks were predominantly supportive of the IFP, drawing in officials of the KwaZulu government and police force, as well as senior politicians and leaders of the party. As such, hit-squad members had access to KwaZulu Government resources such as vehicles, arms and ammunition. A measure of protection from prosecution was gained through the collusion of the KZP and the SAP with the activities of hit networks.
- 294 The killing of two activists in New Hanover in 1990 and the case of the Esikhawini-based hit squad led by Mr Brian Gcina Mkhize provide two examples of the operation of the many hit-squad networks that existed in the region during this period.

The Killing of Vusi Ngcobo and Bonowakhe Gasa

During 1990, a Roman Catholic priest from the Wartburg area, Reverend Garth Michelson, wrote a letter to the then Minister of Law and Order, Mr Adriaan Vlok, in which he expressed his concern that there was a police hit squad operating in the Mbava area, near Wartburg. His concerns were raised following the killing of two UDF activists, Mr Vusi Ngcobo and Mr Bonowakhe Gasa [KZN/HG/922/NY], in Mbava on 6 January 1990. Vlok responded to Michelson's letter on 30 July 1990 as follows:

"Further to my letter dated 14 February 1990 I wish to advise you that a thorough investigation is being conducted by the SAP. Investigations instituted have proved that so-called hit squads do not exist in the SAP. This is a far-fetched figment which exists only in the imaginations of certain individuals, organisations, etc. and has no foundation whatsoever."

The two activists, Ngcobo and Gasa, had been shot and left to die in a mealie [corn] field in Swayimane on 6 January 1990. Witnesses said that the killing was carried out by one white and three black men wearing light blue shirts similar to the SAP uniform. The four men had been seen arriving at the home of KwaZulu Member of Parliament Thanduyise Psychology Ndlovu in a yellow police van and then proceeding from Ndlovu's home in a white Crusade with a private registration number.

An informal inquest held in 1991 found that 'persons unknown' were responsible for the deaths. A second inquest was held in May 1995. The inquest magistrate,

RA Stewart, found that former special constable Welcome Muzi Hlophe (aka 'BigBoy' Hlophe), SAP Lance Sergeant Peter Smith, KwaZulu government driver Abraham Shoba and a fourth unknown man were prima facie directly responsible for the killings. He also found that the original investigating officer, Major Joseph van Zyl, was an accessory to the killings and recommended that an investigation be opened with a view to a possible conviction of Van Zyl. He further found that the then Secretary of the KwaZulu Legislature, Mr Robert Mzimela, KwaZulu employee Z Mkhize, and then head of the KLA Protection Unit Major Leonard Langeni had been implicated in a cover-up operation. (Mzimela and Langeni were both involved in the operations of the Esikhawini hit squad – see below.)

On receipt of the inquest findings, the Natal attorney-general, Mr Tim McNally, declined to prosecute any but Hlophe and Smith. He further failed to pursue any investigations in respect of the other findings made by the inquest court. Hlophe and Smith were subsequently acquitted in the Pietermaritzburg Supreme Court.

THE COMMISSION FINDS THAT THE INVESTIGATION INTO THE KILLINGS WAS ATTENDED BY A SYSTEMATIC COVER-UP BY MEMBERS OF THE SAP, INCLUDING THE GIVING OF FALSE AND MISLEADING EVIDENCE AND THE REFUSAL BY THE POLICE AND KWAZULU GOVERNMENT WITNESSES TO ANSWER NUMEROUS QUESTIONS AT THE SECOND INQUEST. A HIGH-RANKING POLICE OFFICER ENGINEERED SUCH A COVER-UP BY REMOVING A STATEMENT FROM THE INVESTIGATION DOCKET AND BY DISPOSING OF THE PROJECTILE REMOVED FROM THE HEAD OF THE DECEASED MR GASA. TWO KWAZULU GOVERNMENT OFFICIALS AND A HIGH-RANKING KZP OFFICER FACILITATED THE PLACING OF A GOVERNMENT EMPLOYEE WITH NDLOVU IN ORDER TO ASSIST NDLOVU IN DEALING WITH THE 'TROUBLEMAKERS' IN THE AREA, AND ATTEMPTED IN THE SECOND INQUEST TO COVER UP THE ROLE OF SAID EMPLOYEE IN THE KILLING.

THE COMMISSION FINDS THAT THE DECEASED WERE KILLED BECAUSE OF THEIR PERCEIVED AFFILIATION TO THE UDF AND THAT THE KILLING WAS PLANNED BY A LOCAL INKATHA LEADER AND PERFORMED WITH THE COLLUSION OF THE MEMBERS OF THE SAP AND THE KZP, AS EVIDENCED BY THE COVER-UP WHICH FOLLOWED THE KILLING.

295 In the Esikhawini area, near Richards Bay, politically motivated violence between supporters of the ANC and the IFP erupted and escalated in 1991. The township was predominantly ANC-supporting and the IFP were losing support. J2 section of the township was considered an IFP stronghold and was regularly attacked by ANC supporters. At a certain stage, local Inkatha leaders approached the Inkatha leadership in Ulundi because they were concerned that they were losing the struggle against the ANC in the township.

296 In 1991, as a result of these concerns, Daluxolo Luthuli summoned Gcina Brian Mkhize [AM4599/97] to a meeting in Ulundi. Mkhize was a 'Caprivi trainee' who

had joined the KZP and was posted to the Esikhawini Riot Unit in 1990. The meeting was held at KZP Captain Leonard Langeni's office in Ulundi early in 1991. At the time, Langeni was the officer commanding the then KLA Protection Unit. Others present at the meeting were Luthuli, Prince Gideon Zulu (then KwaZulu Minister of Pensions), Mr M R Mzimela (then Secretary of the KwaZulu Legislature), and Mr MZ Khumalo (then personal assistant to Chief Buthelezi).

- 297 Mkhize told the Commission that he was told at this meeting that “the time had arrived to use the skills acquired at the Caprivi”. He was instructed to take action against the ANC in Esikhawini. It was the intention of those present that unlawful means would be employed against the ANC. He was told to work directly with the Mayor of Esikhawini, Mr BB Biyela, and IFP councillor Ms Lindiwe Mbuyazi and to report directly to Langeni and Luthuli. Mkhize was told to gather reliable people to assist him.
- 298 Initially, the plan was that he would join with Inkatha youth who were already attacking ANC-dominated areas. He worked with, amongst others, Mr Nhlakanipho Mathenjwa, Mr Lucky Mbuyazi and Mr Siyabonga Mbuyazi. Captain Langeni arranged for Mkhize to collect weapons for these illegal activities from Mr Thomas Buthelezi, a ‘Caprivi trainee’ based at Port Durnford.
- 299 The youth were unable to halt the ANC attacks on Inkatha members, and reported this to Langeni and Luthuli. In the subsequent months, the composition and operations of the hit squad were discussed at a number of other meetings in Ulundi and Esikhawini and a decision was made to form a more sophisticated hit squad. Those proposed were Mr Romeo Mbuso Mbambo [AM4598/97], a KZP member, Mr Israel Hlongwane [AM4600/97], who had been involved with Luthuli in the violence in Mpumalanga, and Mr Zweli Dlamini [AM3685/96], a ‘Caprivi trainee’ who had also been involved in violence in both Clermont and Mpumalanga. KZP Constable Victor Buthelezi and at least two other ‘Caprivi trainees’ were also included in the hit squad. Not all members of the hit squad participated in every attack.
- 300 Mkhize was the leader of the group and generally took instructions from Captain Langeni. Ms Mbuyazi and Mayor BB Biyela were aware of their activities and, in specific instances, provided actual support to their operations. Others who were sometimes involved included Prince Gideon Zulu from Eshowe, Chief Mathaba from Nyoni and Mr Robert Mkhize from Empangeni.

- 301 Ms Mbuyazi arranged with the District Commissioner, Brigadier Mzimela, for Mbambo to be transferred to the Detective Branch where he would be in a position to cover up the crimes of IFP supporters and prevent their arrests. Robert Mkhize was already a member of the Esikhawini Internal Stability Unit (ISU) and his instructions were to ensure that patrols would be kept away from where Inkatha was planning to attack. Mbambo's instructions were to ensure that cases against the hit-squad members were not properly investigated, by destroying evidence and making misleading entries in the police docket. The hit squad was to carry out attacks on those nights when Mbambo and Mkhize were on duty and therefore able to carry out these instructions.
- 302 Between 1991 and August 1993 (when Mbambo was arrested by members of the SAP), the hit squad killed an unknown number of people in the Esikhawini area and was also responsible for a number of killings and attempted killings elsewhere, particularly in the Sundumbili/Nyoni, Mandini and Eshowe areas. Prominent Inkatha-aligned officials gave ongoing direction and logistic support (such as weapons, ammunition, vehicles, accommodation and finances). This applied both at the local level (Mr BB Biyela, Ms Mbuyazi, Chief Mathaba, Brigadier Mzimela) and at a regional level (Captain Langeni, Daluxolo Luthuli, Prince Gideon Zulu, Mr MZ Khumalo). A number of hit lists were compiled at meetings with the IFP leaders. The targets were all ANC leaders, members or sympathisers. The hit squad was responsible, *inter alia*, for the following killings: Mr Naphtal Nxumalo, Mr Nathi Gumede, Mr April Taliwe Mkhwanazi, Sgt Dlamini, Sgt Khumalo, Mr John Mabika, and four young MK members killed at a *shebeen*. In addition to targeting particular individuals for assassination, the hit squad carried out dozens of random attacks on *shebeens*, bus stops, buses and streets where ANC supporters were known to gather. On some nights, the hit squad would carry out two or three attacks on different targets; sometimes they would drive around a section of the township known to be an ANC stronghold, looking for people to attack. After every hit, Mkhize would report back to Langeni, either personally or telephonically, to keep him informed of all their operations.

The Killing of April Taliwe

Ms Zanele Cecilia Taliwe [KZN/NG/006/EM] told the Commission about the killing of her husband, April, on 19 April 1992. Mr April Taliwe was a shop steward of a COSATU-affiliated trade union and was employed at the Mondi paper mill in Richards Bay. He was also an active member of the ANC.

Prior to his death, he had received a number of threats. On the morning of his death, he told his wife that, if he died, she should know that Gcina Mkhize would be one of the suspects. Mkhize, Mbambo and Dlamini all implicated themselves in the killing. According to Mkhize, Major Langeni gave the instruction for the killing and Mayor BB Biyela provided the vehicle. Mbambo told the Commission that Luthuli, Langeni and MZ Khumalo congratulated him and expressed their pleasure over the killing when he reported back to them.

The Killing of Sergeant Khumalo

Sgt Khumalo, a KZP member stationed at Esikhawini, was killed on 8 May 1992 by members of Gcina Mkhize's hit squad. Khumalo had been identified for assassination because he was suspected of being an ANC member and of leaking details of dockets to the local ANC leadership. He was killed with the approval of Captain Langeni (Amnesty applications of Gcina Mkhize [AM4599/97] and Romeo Mbambo [AM4598/97; KZN/NNN/507/EM]).

The Killing of Sergeant Dlamini

Sgt Dlamini, a KZP member stationed at Esikhawini, was shot dead on 19 June 1993 by Israel Hlongwane, who was accompanied by Romeo Mbambo, Mthethwa and Gcina Mkhize.

In 1995 Mkhize, Mbambo and Hlongwane were all found guilty in the Durban Supreme Court of killing Dlamini. According to the amnesty applications of the three convicted men, Dlamini was identified for assassination by the local IFP leadership because he was supplying the Goldstone Commission with information regarding the hit-squad activities in Esikhawini. He was also thought to be an ANC supporter as he was allegedly selling ANC T-shirts.

Both Mbambo and Mkhize alleged that KZP District Commissioner, Brigadier Mzimela, assisted in covering up their involvement in Dlamini's killing by tampering with the murder weapon.

In passing judgement on the matter, Mr Justice Van der Reyden said that the court had heard evidence that could only be described as 'disturbing' regarding the initial investigation of Dlamini's death. Van der Reyden said that it would be improper for the court to make specific findings in regard to the initial investigation without giving the other parties an opportunity to reply. He therefore chose to refer the allegations concerning the alleged cover-up to the Minister of Safety and Security for investigation.

The Case of Sam Nxumalo

Members of the Esikhawini-based hit squad led by 'Caprivi trainee' Gcina Mkhize gave details of a conspiracy to murder the local ANC leader, Mr Sam Nxumalo. They allege that KwaZulu Cabinet member, Prince Gideon Zulu, summoned them to a meeting at his home. Those present were Zulu, Gcina Mkhize, Romeo Mbambo, Daluxolo Luthuli, Robert Mzimela, Chief Calalakubo Khawula, Captain Langeni, Chief Biyela, and Mr Nyawuza (Prince Zulu's driver). Zulu told them that he wanted the hit-squad members to kill Nxumalo.

The hit-squad members were provided with a car from the Chief Minister's department and Mkhize, Mbambo, Dlamini and Hlongwane drove to the Eshowe Hospital on the appointed day. Nxumalo appeared to have been warned of the planned attack, because when he saw the operatives he telephoned the SAP who arrived within minutes. The operatives left, deciding to return later. When they returned that night, the hospital was full of policemen, so they postponed the proposed attack.

- 303 In his evidence to the Commission, Mr Israel Hlongwane admitted his involvement in several killings and attempted killings in the Sundumbili area during 1992 and 1993. He alleged that local IFP leaders provided him with a list of the names of people they wanted him to kill. There were about fifteen names on the list. Hlongwane's victims include Mr Siduduzo Cedric Khumalo (an ANC scholar whom he shot dead on 31 October 1992), Mr Siphon Thulani Xaba (also known as 'Gindinga', ANC leader at Odumo High School), Mr Themba Mkhukhu and Mr Mncedisi Kalude (two scholars from the Tugela High School shot dead on 7 August 1993), Mr Daludumo Majenga (shot dead on 29 March 1993) and Mr Canaan Shandu (a COSATU official).

The Killing of Bheki Mzimela

Mr Bheki K Mzimela, an induna located in Chief Mathaba's area of Nyoni, was alleged to be sympathetic towards the ANC because he supported the ANC's call for a ban on the carrying of traditional weapons. Mathaba enlisted the help of the Esikhawini-based hit squad led by Gcina Mkhize to kill Mzimela. Three members of the hit squad, namely Mkhize, Zweli Dlamini and Israel Hlongwane, together with Jerry Mdanda and a man identified only as Dumisani, went to Induna Mzimela's home on the night of 23 March 1992 and shot him dead [Amnesty application of Mkhize and Hlongwane].

304 Mkhize, Mbambo and Dlamini were arrested by the SAP (rather than the KZP) in 1993, following pressure from the Goldstone Commission and Advocate Neville Melville, the police reporting officer. Brigadier Mzimela, Captain Langeni and others attempted to prevent the arrest of Mkhize and Mbambo.

305 In 1994, hit-squad members, Mbambo, Mkhize and Dlamini were convicted of a number of crimes carried out by the squad. In mitigation of sentence, the three argued that the hit squad had been set up by senior IFP, KwaZulu Government and KZP members based in Ulundi and Esikhawini. Accepting their evidence in mitigation, the presiding judge, the Honourable Mr Justice Van der Reyden, said that when the trial commenced he was taken aback by the appalling standard of investigation by the KZP. Later he had realised that, what he had taken for incompetence, was a deliberate design to cover up. He said that the three accused could not have acted alone and called for:

a full investigation into the alleged involvement of those persons identified by the accused as the masterminds and puppet masters behind the Esikhawini hit squad.

306 In 1994, the Investigation Task Unit (ITU) was mandated to investigate the allegations of the three accused in the Mbambo matter. In June 1996, the ITU presented a comprehensive report to the Natal Attorney-General, Mr Tim McNally, in which they recommended the prosecution of eight IFP/KZP/KwaZulu Government officials: Prince Gideon Zulu, Mr M R Mzimela, Major M L Langeni, Mr Robert Mkhize, Ms Lindiwe Mbuyazi, Chief Mathaba, Mr BB Biyela, and Brigadier C P Mzimela. In the report the ITU argued that:

Eight of the individuals identified by the accused [in the Mbambo matter] are suspects in the present cases. All three accused are state witnesses in the present matter. They were the 'foot soldiers' who executed a programme of murder and destruction at the behest of powerful individuals who by virtue of their positions have been protected from detection. These persons utilised their position in the government and police, the very institutions which were meant to uphold law and order, to facilitate a murderous hit-squad network. Such a network, or form thereof may very well persist today. In so doing, the individuals involved have undermined the rule of law and have contributed substantially to the state of lawlessness and violence that is seen in many parts of KwaZulu-Natal today. These persons continue to occupy key positions of power and influence within the regional government and police. The investigation, as directed by the Supreme Court ruling in the Mbambo matter, has been

aimed at exposing and bringing to justice those behind the hit squad ('the suspects'). It is imperative that those who manipulated and used young operatives, who believed that they were acting with impunity, be prosecuted as vigorously as the operatives have been.

- 307 The Attorney-General declined to prosecute any of the suspects in the case on the grounds that there were discrepancies between statements made to the ITU by the key witnesses and statements they had previously made to the Goldstone Commission and the SAP. The ITU argued that these discrepancies were easily explained by the fact that, in the earlier statements, the witnesses were still covering up their personal involvement as well as that of their superiors. Despite the discrepancies there was sufficient evidence, including objective evidence, to press charges against the suspects.
- 308 To date, none of the Esikhawini hit squad's hierarchy nor any of the other operatives have been prosecuted.

IN RESPECT OF THE ESIKHAWINI HIT SQUAD, THE COMMISSION FINDS AS FOLLOWS:

IN 1991, POLITICALLY MOTIVATED VIOLENCE BETWEEN SUPPORTERS OF THE ANC AND INKATHA ERUPTED AND ESCALATED IN THE ESIKHAWINI AREA OF THE KWAZULU NATAL NORTH COAST.

INKATHA LEADERS APPROACHED THE INKATHA CENTRAL AUTHORITY IN ULUNDI BECAUSE THEY WERE CONCERNED THAT THEY WERE IN THE PROCESS OF LOSING THE STRUGGLE.

DALUXOLO LUTHULI, WHO HAD BEEN APPOINTED POLITICAL COMMISSAR OF THE CAPRIVI TRAINEES DURING THEIR TRAINING IN THE CAPRIVI STRIP, SUMMONED GCINA MKHIZE, A MEMBER OF THE KZP BASED AT ESIKHAWINI AND A MEMBER OF THE GROUP WHICH HAD BEEN TRAINED BY THE SADF IN CAPRIVI, TO A MEETING IN ULUNDI.

THE MEETING WAS ATTENDED BY THE ABOVE-MENTIONED PERSONS AS WELL AS CAPTAIN LANGENI OF THE KZP BASED AT ULUNDI WHO HAD HAD A LONG TERM ASSOCIATION WITH LUTHULI AND THE CAPRIVI GROUP, ROBERT MZIMELA, THE SECRETARY OF THE KWAZULU LEGISLATURE, PRINCE GIDEON ZULU, THE MINISTER OF PENSIONS, AND MZ KHUMALO, THE POLITICAL ASSISTANT TO CHIEF MINISTER BUTHELEZI.

AT THIS MEETING, GCINA MKHIZE WAS INSTRUCTED TO TAKE ACTION AGAINST THE ANC IN ESIKHAWINI. IT WAS THE INTENTION THAT UNLAWFUL MEANS WOULD BE EMPLOYED AGAINST THE ANC. MKHIZE WAS TO PERFORM THESE ACTS IN CONSULTATION WITH MS LINDIWE MBUYAZI AND MR BB BIYELA. BOTH WERE LOCAL INKATHA LEADERS AND MR BIYELA WAS THE MAJOR OF ESIKHAWINI. HE WOULD ALSO TAKE INSTRUCTIONS FROM CAPTAIN LANGENI AND DALUXOLO LUTHULI.

INITIALLY THE PLAN WAS THAT HE WOULD ASSIST THE INKATHA YOUTH CARRY OUT ATTACKS IN ANC DOMINATED AREAS. HE WORKED WITH, *INTER ALIA*, THE FOLLOWING YOUTH MEMBERS: NLANIMPU MATENJWA, LUCKY MBUYAZI AND SYABONGA MBUYAZI.

CAPTAIN LANGENI ARRANGED THAT WEAPONS FOR THESE ILLEGAL ACTIVITIES WOULD BE SUPPLIED BY A CAPRIVI TRAINEE BASED AT PORT DURNFORD, THOMAS BUTHELEZI.

THE YOUTH WERE UNABLE TO PREVENT THE ANC FROM CONTINUING LAUNCHING ATTACKS ON INKATHA MEMBERS.

THIS WAS REPORTED TO LANGENI AND LUTHULI BY MKHIZE AND THE DECISION WAS TAKEN TO FORM A MORE SOPHISTICATED 'HIT SQUAD'. MKHIZE WAS NOT PREPARED TO USE THE CAPRIVIANS BASED AT ESIKHAWINI AS SUGGESTED BECAUSE THEY WOULD NOT BE TRUSTED TO REMAIN SILENT ABOUT THE PROPOSED OPERATION OR WERE UNRELIABLE.

MKHIZE PROPOSED THAT KZP COLLEAGUE ROMEO MBAMBO BE APPOINTED AS A MEMBER OF THE HIT SQUAD. HE WAS ACCEPTED AFTER AN INTERVIEW WITH LUTHULI, LANGENI AND MZ KHUMALO. HE WAS GIVEN THE ASSURANCE THAT HE WOULD NOT BE ARRESTED FOR ANY OF HIS ACTIVITIES AND THE MANNER IN WHICH THE HIT SQUAD WOULD OPERATE WAS DISCUSSED IN DETAIL. PRIOR TO THE MEETING, MBAMBO HAD MET WITH MS MBUYAZI WHO HAD SUPPORTED HIS INVOLVEMENT IN THE ENTERPRISE.

LUTHULI APPOINTED THE FOLLOWING TWO MEMBERS WHO FORMED PART OF THE HIT SQUAD:

- ISRAEL HLONGWANE WHO HAD BEEN INVOLVED WITH LUTHULI IN THE VIOLENCE IN THE HAMMARSDALE AREA. HE WAS ACCOMMODATED AT THE HOME OF THE MAYOR, MR BB BIYELA.
- ZWELI DLAMINI, A CAPRIVI TRAINEE AND VETERAN OF THE PIETERMARITZBURG/HAMMARSDALE VIOLENCE. HE WAS ACCOMMODATED AT THE HOME OF MS MBUYAZI.

OTHER MEMBERS OF THE HIT SQUAD INCLUDED: CONSTABLE VICTOR BUTHELEZI, JOYFUL MTHETHWA (A CAPRIVI TRAINEE), CONSTABLE P S NDLOVU (A CAPRIVI TRAINEE).

NOT ALL MEMBERS PARTICIPATED JOINTLY IN EACH AND EVERY UNLAWFUL ATTACK.

MKHIZE WAS, HOWEVER, THE LEADER OF THE GROUP AND, IN THE MAIN, TOOK INSTRUCTIONS DIRECTLY FROM CAPTAIN LANGENI. MS MBUYAZI AND MR BB BIYELA WERE AWARE OF THEIR ACTIVITIES AND IN SPECIFIC INSTANCES PROVIDED ACTUAL SUPPORT TO THEIR OPERATIONS. LESS FREQUENT CO-CONSPIRATORS INCLUDED PRINCE GIDEON ZULU, CHIEF MATHABA FROM NYONI AND ROBERT MKHIZE FROM ESIKHAWINI.

PRIOR TO THE COMMENCEMENT OF THE HIT SQUAD ACTIVITIES, MS MBUYAZI ARRANGED WITH THE DISTRICT COMMANDANT BRIGADIER MZIMELA THAT MKHIZE BE TRANSFERRED TO THE INTERNAL STABILITY UNIT AND MBAMBO TO THE DETECTIVE BRANCH. THE REASON FOR THIS WAS THAT THE COMMANDER OF THE FORMER UNIT WAS SUSPECTED OF SYMPATHISING WITH ANC MEMBERS IN THE AREA, AND ARRESTING INKATHA YOUTH MEMBERS FOR ACTS OF VIOLENCE BUT NOT MEMBERS OF THE ANC. MKHIZE WAS REQUIRED TO ENSURE THAT PATROLS WOULD TAKE PLACE AWAY FROM WHERE THE INKATHA YOUTH WAS DUE TO ATTACK. MBAMBO WAS TO ENSURE THAT CASES AGAINST THE YOUTH WOULD NOT BE INVESTIGATED PROPERLY. IN THIS REGARD, HE WAS REQUIRED TO DESTROY EVIDENCE AND MAKE MISLEADING ENTRIES IN POLICE DOCKETS. HE ACTED IN A SIMILAR MANNER WHEN THE HIT SQUAD ITSELF OPERATED.

MBAMBO ALSO PROVIDED TRAINING TO THE INKATHA YOUTH IN WEAPONS AND ATTACKING TECHNIQUES. THIS TRAINING BORE THE APPROVAL OF MS MBUYAZI, BB BIYELA AND CELANI MTHETHWA WHO ALSO MADE WEAPONS AVAILABLE.

MEETINGS AT WHICH HIT SQUAD ACTIVITIES WERE DISCUSSED AND/OR PLANNED WERE HELD AT MR BB BIYELA'S HOME, MS MBUYAZI'S HOME AND THE NHLANGANANI HALL, ALL SITUATED AT ESIKHAWINI, AS WELL AS AT THE INKATHA OFFICE AT EMPANGENI AND THE HOME OF PRINCE GIDEON ZULU AND CAPTAIN LANGENI'S OFFICE, BOTH AT ULUNDI.

MR BB BIYELA, MR CELE FROM THE KWAZULU GOVERNMENT OFFICES IN ULUNDI AND PRINCE GIDEON ZULU MADE VEHICLES AVAILABLE FOR HIT SQUAD ACTIVITIES. HEARSAY EVIDENCE SUGGESTS COMPLICITY ON THE PART OF MZ KHUMALO AND ROBERT MZIMELA IN THIS REGARD.

THE HIT SQUAD WAS, *INTER ALIA*, RESPONSIBLE FOR THE FOLLOWING ELIMINATIONS.

- ON THE INSTRUCTION OF CAPTAIN LANGENI, THE KILLING OF MR APRIL TALIWE (MKHWANAZI), AN ANC MEMBER SUSPECTED OF SETTING UP SDUS AND SUPPLYING ARMS AND AMMUNITION.
- ON THE INSTRUCTIONS OF CAPTAIN LANGENI, AN ATTEMPT TO KILL MR WELCOME MTHIMKULU, AN ANC MEMBER WHO WAS WINNING POPULAR SUPPORT AWAY FROM INKATHA.
- THE KILLING OF MR NATHI GUMEDE, AN ANC MEMBER WHO HAD LAID A FALSE CHARGE AGAINST ROMEO MBAMBO. THIS KILLING WAS APPROVED OF BY CAPTAIN LANGENI, DALUXOLO LUTHULI AND PRINCE GIDEON ZULU.
- ON THE INSTRUCTION OF PRINCE GIDEON ZULU AN ATTEMPT TO KILL A MALE NURSE BY THE NAME OF NXUMALO IN ESHOWE.
- A RANDOM ATTACK ON A BUS IN AN ANC DOMINATED AREA AFTER SHOTS WERE FIRED DURING THE COURSE OF AN INKATHA RALLY. THIS WAS INSTRUCTED BY PRINCE GIDEON ZULU WITH THE APPROVAL OF MRS MBUYAZI AND MR BB BIYELA.
- WITH THE APPROVAL OF CAPTAIN LANGENI, THE KILLING OF SGT KHUMALO, A COLLEAGUE AND AN ANC SUPPORTER, WHO WAS TRYING THE EXPOSE THE HIT SQUAD'S ACTIVITIES.
- A RANDOM ATTACK ON AN ANC DOMINATED AREA IN ORDER TO AVENGE THE MURDER OF A COLLEAGUE, CONSTABLE DANCA, IN A HAND-GRENADE ATTACK. THIS WAS PLANNED AT THE HOME OF MS MBUYAZI IN HER PRESENCE AND THAT OF CHIEF MATHABA.
- THE KILLING OF SGT DLAMINI FOR THE SAME REASONS AS SGT KHUMALO.
- ON THE INSTRUCTIONS OF CHIEF MATHABA, THE KILLING OF A DISLOYAL *INDUNA* IN NYONI AND AN ATTEMPT, IN THE SAME AREA, TO KILL A COSATU MEMBER BY THE NAME OF JALI.

THE ARREST OF GCINA MKHIZE, ROMEO MBAMBO AND ISRAEL HLONGWANE WAS NOT BY THE KZP BUT BY THE SAP FOLLOWING PRESSURE FROM THE POLICE REPORTING OFFICER AND THE GOLDSTONE COMMISSION.

IN RESPECT OF BOTH GCINA MKHIZE AND ROMEO MBAMBO, AN ATTEMPT WAS MADE TO PREVENT THEM FROM BEING PROSECUTED.

IN THE CASE OF GCINA MKHIZE:

- BRIGADIER MZIMELA ARRANGED FOR HIS TRANSFER OUT OF ESIKHAWINI ONCE HE HAD COME UNDER SUSPICION.

- THEREAFTER HE WAS TAKEN TO CAPTAIN LANGENI BY DALUXOLO LUTHULI AND OTHERS IMMEDIATELY PRIOR TO HIS ARREST IN ORDER FOR ARRANGEMENTS TO BE MADE FOR HIM TO GO INTO HIDING. AT A CERTAIN STAGE DURING THESE ARRANGEMENTS, ROBERT MZIMELA WAS PRESENT.
- WHEN HE REFUSED TO GO INTO HIDING, HE WAS ADVISED TO COMPILE AN ALIBI.

IN THE CASE OF ROMEO MBAMBO:

- MAJOR MCHUNU AND BRIGADIER MZIMELA MADE SEVERAL SUGGESTIONS AS TO HOW THE INVESTIGATIONS SHOULD BE SABOTAGED BY TAMPERING WITH BALLISTIC EVIDENCE.
- MBAMBO WAS ALLOWED TO CHOOSE WHERE HE WISHED TO BE DETAINED AND ALLOWED TO TRAVEL INTO TOWN TO DRAW MONEY FOR BAIL.
- MAJOR MCHUNU RECOMMENDED BAIL OF R500 BE GRANTED AND, WHEN THIS FAILED, HE, BRIGADIER MZIMELA AND AN ATTORNEY (NOW DECEASED) BY THE NAME OF GABELA ARRANGED FOR HIM TO APPEAR BEFORE A COURT NOT IN SESSION FOR BAIL TO BE GRANTED.

IN THE SUBSEQUENT SUPREME COURT TRIAL, MR JUSTICE VAN DER REYDEN COMMENTED ON THE INITIAL INVESTIGATIONS, INDICATING THAT WHEN THE TRIAL COMMENCED HE WAS TAKEN ABACK BY THE APPALLING STANDARD OF INVESTIGATION BUT LATER REALISED THAT WHAT HE HAD TAKEN FOR INCOMPETENCE WAS IN FACT A DELIBERATE COVER UP.

IN PASSING SENTENCE, THE COURT FOUND THAT THE THREE ACCUSED COULD NOT HAVE ACTED ALONE AND CALLED FOR FURTHER INVESTIGATIONS INTO THE ACTIVITIES OF THOSE WHO HAD DIRECTED THE HIT SQUAD.

THE ATTORNEY-GENERAL: KWAZULU-NATAL DECLINED TO INSTITUTE ANY FURTHER PROSECUTIONS.

Assassinations: IFP 400 list

- 309 The IFP provided the Commission with a list of 422 Inkatha/IFP office-bearers allegedly assassinated because of the positions they held in the party.
- 310 Of the 422 listed cases, eighty-one occurred after the Commission's cut-off date of 10 May 1994; another fifteen happened outside KwaZulu-Natal. The Durban office of the Commission investigated the balance of 326 KwaZulu-Natal cases. Of these, 187 were referred back to the IFP for additional information. At the time of writing, no response to this request had been received.
- 311 The Commission's investigation was hampered by the fact that some case dockets were untraceable or had been destroyed. Two hundred and fifty of the cases were still under investigation by the SAPS. In the finalised cases, there had been 182 arrests, leading to twenty-two convictions and eighteen acquittals. The Attorney-General declined to prosecute in twenty-seven of the cases where arrests had been effected, and six suspects were killed before they could be prosecuted.

312 The Commission received amnesty applications in respect of two of the cases listed. In only twenty-one of the 326 cases investigated could it be positively confirmed that the office-bearer died as a result of attacks by UDF/ANC supporters. Seven of the cases were found to be irregular (the person named was not an IFP member, the death was crime-related, or cases were duplicated). Another four of the officials listed were killed as a result of intra-IFP conflict. This investigation is dealt with in greater detail in Volume Two of the Commission's report.

Individual assassinations

313 A large number of senior community members, including professionals, church leaders and party leaders, were assassinated during the 1990s. In some cases, the individuals' links with party politics were tenuous.

The Killing of Reverend Siphon Africander

Imbali priest and chairperson of the Pietermaritzburg Council of Churches, Reverend Siphon Victor Africander [KZN/NN/259/PM], was shot dead on 4 May 1990. IFP supporter Toti Godfrey Zulu, from Imbali, was convicted in 1991 but was later acquitted on appeal.

The Killing of Jerome Mncwabe and others

Imbali councillor Jerome Mncwabe [KZN/MP/062/MP] was shot dead at his daughter's home in Imbali on 16 May 1990. He was thirty-eight years old at the time. It is suspected that he was killed in revenge for the killing of Reverend Africander. Mncwabe was named as a perpetrator in at least six statements made to the Commission.

In what could have been a revenge attack for Mncwabe's killing, Imbali resident Baveni Philemon Ngcobo [KZN/NN/093/PM] was shot dead the next day. Mncwabe's son Nhlanhlazi Luthuli was arrested in connection with Ngcobo's killing. However, he was acquitted after the state's key witness, a policeman who had witnessed the killing, was himself killed.

Then on 23 May 1990, Imbali resident Ndleleni Anthony Dlungwane [KZN/PMB/211/PM] was killed in his home. The attackers blamed him for Mncwabe's assassination. Sean Awetha was arrested in connection with Dlungwane's death but was later released.

The Killing of Dr Henry Luthuli

Dr Henry Vika Luthuli, a young medical doctor, was one of the early casualties in the violence in Esikhwini. He was shot in the consulting room at his Esikhwini home on the night of 2 August 1990 and died in the arms of his wife Dorcas [KZN/SS/013/DN].

Luthuli was one of the first black people to graduate with a degree in community medicine from the University of Natal. Although he was not a member of any political organisation, he used to treat many scholars who were victims of the conflict.

The KZP investigation into this case indicates an extensive cover-up. The initial investigating officer, Detective Sergeant Derrick Ntuli, arrested Vlakplaas Constable Thembinkosi Dube in connection with the killing. Ntuli then searched Dube's homestead and removed police equipment for ballistic testing. Ntuli alleged that high-ranking officers of the KZP reprimanded him severely for searching Dube's home. Members of the Empangeni Security Branch took the equipment he had seized, preventing him from sending it for ballistic testing. Ntuli says he questioned Dube in the presence of Colonel Strydom of the Empangeni Security Branch, who taped the interview. Dube allegedly confessed to killing Luthuli. After this, Ntuli was moved off the case. Dube was subsequently killed in mysterious circumstances.

Ms Dorcas Luthuli persisted in pressuring the police to investigate her husband's killing. She wrote letters to the then State President, Mr FW de Klerk, and to General Jac Buchner, then Commissioner of the KZP, after which she received death threats. Eventually new investigating officers were appointed and an inquest was opened in 1996. The following year, the inquest court found Vlakplaas policeman Thembinkosi Dube responsible for the killing of Dr Luthuli.

The Killing of Arnold Lombo

IFP leader Arnold Lombo [KZN/GSN/073/PM] was shot dead on 31 October 1990 at the Joshua Doore furniture shop, Pietermaritzburg, where he was employed.

Four ANC members were arrested in connection with the killing and applied for amnesty. They are Mr Siphon Motaung, Mr Bhekimpindle Dlamini, Mr Nhlanhla Sibisi and Mr Johannes Sithole [AM3902/96; AM3905/96]. Their applications were all successful. Motaung [AM3902/96] was a trained Umkhonto we Sizwe member. He claimed that the assassination was planned and directed by his superiors (whom he named) "in the furtherance

of the political struggle waged by the ANC against the apartheid regime that existed at the time”.

The Killing of Chief Mhlabunzima Maphumulo

On the night of the 25 February 1991 the President of CONTRALESA, Chief Mhlabunzima Maphumulo [KZN/MR/077/PM; ECO/68/96UTA], was shot dead as he drove up the driveway of his central Pietermaritzburg home.

Maphumulo was a chief from the Maqongqo/Table Mountain area, east of Pietermaritzburg. He had survived numerous previous attempts on his life and had fled from Table Mountain with his family in 1990 after their house was burnt down. His killing has still not been solved.

Maphumulo had been president of CONTRALESA since 1989. He had previously been harassed by policemen and askaris and had led a campaign calling for a commission of enquiry into the violence in the Natal Midlands.

The Killing of Winnington Sabelo

IFP Central Committee member and KwaZulu MP for Umlazi, Mr Winnington Sabelo, was shot dead in his Umlazi shop on 7 February 1992. A customer was also mistakenly killed in the shooting [KZN/GM/006/DN].

At the time of his death, Sabelo was a member of the local peace committee and as such was involved in a number of peace initiatives in the community. Sabelo's wife, Evelyn, was killed in an attack outside their home in August 1986 [KZN/NM/209/DN].

His killing was investigated by SAP member Mr De Beer. The KZP suspected ANC member Sbu Mkhize of involvement in the killing. Mkhize's mother, Ms Florence Mkhize, told the Commission that the police visited the Mkhize home and searched for weapons. They found a firearm belonging to Mkhize's father and took his father in for questioning. His father was killed in the police station. Sbu Mkhize himself was killed in July 1992 during a shoot-out with police at Isipingo.

The Killing of Mr S'khumbuzo Ngwenya (Mbatha)

Mr S'khumbuzo Ngwenya Mbatha [KZN/NNN/290/PM; KZN/GW/004/PM] (more commonly known as S'khumbuzo Ngwenya) was the chairperson of the Imbali ANC branch, member of the ANC regional executive committee and a field worker at PACSA.

He was assassinated on 8 February 1992. He was shot dead while leaving a restaurant in central Pietermaritzburg after dining with PACSA colleagues and visiting American academics. Ngwenya was thirty-four years old at the time. He had been deeply involved in spearheading various peace initiatives in the Pietermaritzburg area during the late 1980s, although his efforts were severely hampered by several detentions and a banning order.

Imbali mayor Phikelele Ndlovu, deputy mayor Abdul Awetha and a sixteen-year-old were arrested on 9 June 1992 in connection with Ngwenya's killing. However, charges were dropped when the state's key witness refused to testify after allegedly being threatened. As a result, no one has been prosecuted in connection with Ngwenya's killing.

The Killing of Reggie Hadebe

On 27 October 1992, ANC Natal Midlands Deputy Chairperson Reggie Hadebe [KZN/SELF/135/DN] was shot and killed when the car in which he was travelling with other senior ANC officials was ambushed outside Ixopo. Hadebe was returning from a Local Dispute Resolution Committee meeting together with ANC Midlands Region Executive member Shakes Cele and ANC official John Jeffries. Cele sustained slight wounds while Jeffries escaped without injuries.

According to Daluxolo Luthuli [AM4018/96]:

"On a Saturday afternoon after the assassination of Reggie Hadebe from Pietermaritzburg there was an IFP march to the Durban City Hall. At the march, I met Bongani Sithole who was a Caprivian. He had in the interim joined the KZP and was attached to the BSI in Mpumalanga. He told me that he was implicated in the murder of Reggie Hadebe. He said that he had used a G-3 rifle which was allocated to Mr Vezi who was the IFP chairman of Patheni near Ixopo. Bongani complained that the SAP was collecting G-3 rifles to compare them to spent cartridge cases which had been found at the scene of the murder. They had approached Mr Vezi and wanted to remove the G-3 that had been used in the murder. Mr Vezi refused to hand them the weapon until he received another in its place."

Imprisoned IFP member Richard Sibusiso 'Sosha' Mbhele [AM4018/96] claimed that Hadebe's assassination was ordered by the late Chief Xhawulengweni Mkhize and discussed at a small meeting at Mkhize's home. The meeting included a former KZP member and a local SPU commander, two unnamed KZP members and a "white man with a neat red moustache"

who “drove a cream car and spoke Zulu very well”. It was decided that Hadebe would be ambushed on one of the corners in the Umkomaas valley area. Mbhele claimed that a KZP member and two other men left to carry out the operation. The KZP member returned home alone in the afternoon some time after 14h00. He appeared to be very happy and reported that he had “finished with Hadebe”. Later Mbhele heard a radio report of Hadebe’s killing.

The Killing of Professor Hlalanathi Sibankulu

Professor Hlalanathi Sibankulu [KZN/MR/166/NC; KZN/MDU/999/NC], a member of the ANC Midlands Executive Committee and long-standing trade union and civic leader from Madadeni, was killed in November 1992 in Madadeni township, outside Newcastle. His body was dismembered and burnt in his car.

Sibankulu was a highly energetic trade union, political and civic activist, and one of the most prominent residents of this large township. He had been detained several times in the late 1980s by the Newcastle Security Branch. He successfully brought two interdicts against the police after being tortured in detention. In 1988, Sibankulu was charged with treason, along with fellow union activist Mandla Cele, but was acquitted after a fourteen-month trial.

Despite a thorough investigation, there were no arrests. The evidence collected by the Commission’s investigating officer points to KZP involvement in the killing. The Commission could not make a conclusive finding on the available evidence.

The Killing of Claire Stewart

The Commission conducted an intensive investigation into the death of Ms Claire Stewart [KZN/NG/028/DN], a British citizen and trained agriculturist who ran a community project in KwaNgwanase in the Manguzi area of KwaZulu Natal.

Stewart’s active membership of the ANC led to an IFP boycott of the project after a speech made by senior IFP official, Prince Gideon Zulu.

On 10 November 1993, she was abducted by unknown persons while driving to a meeting. Her body was found on 24 November 1993 in the Ingwavuma area, with bullet wounds to the head.

The Killing of Michael Mcetywa

On 22 November 1993, Mr Michael Mcetywa [KZN/HD/313/EM], the Pongola ANC Chairperson, was assassinated by a local IFP member Emmanuel Mavuso [AM7921/92]. Mavuso was subsequently convicted and sentenced to twenty-five years for the murder. However, he evaded custody after being given bail pending an appeal.

A co-conspirator to the assassination, Mr Mdu Msibi, in custody for a related murder, claimed that Mcetywa's murder had been planned by the IFP leadership in Piet Retief and members of the Piet Retief Security Branch [Pongola CR 120-11-93].

Mdu Msibi alleged that two leading IFP members (from Pongola and Piet Retief) and a member of the Piet Retief Security Branch decided to eliminate Emmanuel Mavuso while he was in custody and standing trial. Mavuso was allegedly dissatisfied because he had been promised protection from prosecution and Msibi was asked to poison him. Mavuso heard of the plot and stopped eating food given to him. It was then decided to wrest him from police custody when he appeared at the trial. Msibi attempted to do this but was recognised at the court and arrested for a Piet Retief killing. (Msibi was subsequently convicted and imprisoned for murder cases in Piet Retief.)

THE COMMISSION FINDS THAT A LARGE NUMBER OF COMMUNITY AND POLITICAL LEADERS, INCLUDING NON-ALIGNED ACADEMICS, PROFESSIONALS AND MEMBERS OF THE CLERGY, WERE TARGETED FOR ATTACK IN PLANNED HIT-SQUAD OPERATIONS IN THE PROVINCE FROM 1990-94. THE DEATHS ARISING FROM THESE ATTACKS CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS.

Hostel Violence

- 314 In the early 1990s, Inkatha undertook a vigorous recruitment drive in township hostels. Until that time, relations between hostel-dwellers and township residents had been cordial. However, this changed after February 1990 when township residents tended to join the unbanned ANC.
- 315 Hostels became Inkatha's point of entry into the township: all hostel residents were compelled to join Inkatha or leave. Inmates were required to attend all functions organised by Inkatha. Hostels became Inkatha strongholds and no-go zones for township residents. Strangers entering the hostels were frequently suspected of being from the township and were killed.

- 316 Similarly, the townships were identified as ANC strongholds and were no-go zones for the hostel-dwellers. Hostel-dwellers travelling through the township to get to and from the hostel were frequently attacked by township youth. The violence in the Bruntville township outside Mooi River in the Natal Midlands is illustrative.
- 317 The township of Bruntville, near the farming town of Mooi River in the Natal Midlands, was administered by a town council set up under the Black Local Authorities Act of 1982. Around 1990, Mooi River Textiles (Mooitex) was the largest employer in the area. About two-thirds of its labour force lived in the company's hostels located in Bruntville. The hostel-dwellers were predominantly Inkatha-supporting and members of UWUSA. In contrast, the township residents were predominantly ANC-supporting and members of COSATU.
- 318 On 8 November 1990, sixteen township residents were killed by approximately 1 200 hostel-dwellers and other Inkatha supporters who were allegedly brought into the area to assist in a pre-dawn attack. About 1 500 people, mainly women and children, fled their homes.

THE COMMISSION NOTES THE KILLING OF SIXTEEN PEOPLE ON 8 NOVEMBER 1990 IN A PRE-DAWN ATTACK ALLEGEDLY LED BY APPROXIMATELY 1 200 HOSTEL-DWELLERS AND INKATHA SUPPORTERS, AND THE CONSEQUENT DISPLACEMENT OF UP TO 1 500 PEOPLE FROM THEIR HOMES IN THE AREA. AS IN MANY OTHER AREAS WHERE SINGLE-SEX HOSTELS (INHABITED BY THE MORE TRADITIONAL INKATHA-SUPPORTING MEN) WERE SITUATED ADJACENT TO TOWNSHIPS (WHICH HAD ACTIVE CIVIC AND YOUTH STRUCTURES), TENSIONS AND CONFLICT DEVELOPED. THERE IS NO DOUBT THAT INKATHA-SUPPORTING HOSTEL-DWELLERS WERE SUBJECTED TO PROVOCATION AND ATTACKS FROM ELEMENTS OF THE YOUTH.

THE COMMISSION FINDS THAT THIS UNLAWFUL BEHAVIOUR CONTRIBUTED SUBSTANTIALLY TO THE CONFLICT. HOWEVER, THE OVERWHELMING NUMBERS OF PEOPLE WHO DIED OR WERE INJURED WERE NON-IFP TOWNSHIP RESIDENTS. THE SCALE AND EXTREME BRUTALITY OF THE PRE-EMPTIVE ATTACKS CARRIED OUT BY THE INKATHA-SUPPORTING HOSTEL-DWELLERS ON NEIGHBOURING TOWNSHIP RESIDENTS CANNOT BE JUSTIFIED. ELDERLY PEOPLE, WOMEN AND INFANTS WERE KILLED IN A MOST CALLOUS AND BRUTAL MANNER. THE COMMISSION FINDS THAT THE SAP WERE AT BEST HOPELESSLY INCOMPETENT IN THEIR EFFORTS TO PREVENT OR CONTAIN THE CARNAGE AND, AT WORST, COLLUDED WITH THE ATTACKERS BY OMISSION. THE COMMISSION FINDS THAT LOCAL AND REGIONAL IFP STRUCTURES DID VERY LITTLE TO INTERVENE.

THE COMMISSION FINDS THAT THE KILLING OF SIXTEEN PEOPLE ON 8 NOVEMBER 1990 WAS CAUSED BY UNKNOWN SUPPORTERS OF THE IFP FROM THE BRUNTVILLE HOSTEL, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH UNKNOWN INKATHA-SUPPORTING HOSTEL-DWELLERS ARE HELD ACCOUNTABLE.

319 Violence continued throughout the following year.

The Attack on the Majola Family

The chairperson of the Bruntville ANC, Mr Derek Majola, and his wife Mavis were killed on 24 April 1991 when four armed men wearing balaclavas attacked their home. Their four-year-old daughter was seriously injured in the attack [KZN/NN/377/MR].

320 While the township residents were frequently disarmed and subjected to weapons searches by members of the security forces, hostel-dwellers often paraded through the township, openly brandishing their traditional weapons. In October 1991, the ANC called a stay away boycott to protest against what they perceived to be discriminatory treatment.

321 On the night of 3–4 December 1991, eighteen people were killed when large groups of IFP hostel-dwellers launched two large-scale attacks on houses and residents in the township. Many allegations were made that the police were reluctant to intervene in the attack. Victims and survivors say that the police never approached them for statements. There were no prosecutions in connection with the massacre.

322 Pensioner and ANC member Joseph Sabelo Mthethwa told the Commission his story of what happened that night. He arrived home from work at 18h00 and noticed a large group of men gathered outside the hostel. Soon afterwards, he heard gunshots, and people came running past, shouting that Inkatha was attacking them. He remained in his home until the fighting died down. A while later there was a knock on his door. It was someone from the hospital to tell him that his twenty-two year old son, Nkosinathi, had been killed [KZN/ZJ/306/EST]. Late that night, SADF members conducted a weapons raid throughout the township. In the early hours of the next morning, the hostel-dwellers launched a second attack on the township residents. Mr Bongeni Alson Majola lost his wife in the pre-dawn attack:

It was on the third of December. There was some noise outside and the soldiers were moving around the streets, patrolling ... that night, we did not sleep. At about 4.00 am we heard some gunshots from outside and we woke up and looked at White City, and we could see the Inkatha impi at White City, going around burning people's houses. And at my in-laws' place, we saw a certain house, Mr Zuma's house, being burnt down and my wife jumped and

went out. She wanted to go and check my [six-year-old] son, who had gone to my in-laws to visit, and I was left with the daughter.

By the time she got to the place, they had already finished burning the house and they were coming towards our place, and they came across my wife. And there's a certain person I was working with by the name China. His other name was Sidney Zulu. And he tried to hold my wife. Amongst the other people who were hiding themselves they saw him grabbing my wife, and my wife pushed this man and went to knock at the door, and this group of people followed my wife. And the other one took out an assegai and stabbed my wife ...

We tried to get some transport, but people had run away because they were scared that they would be attacked. When I got to her I touched her. I saw a little hole just above her breast, and when I turned her over, I saw that she had been stabbed from the back and the assegai went through to the front. That's when the police came. They took her with [them].

- 323 On being asked whether he had reported his wife's killing to the police, Majola answered:

It was not easy for me to submit a statement because I learnt my lesson at first when Mr du Toit [a policeman] told us that there were some cattle that had been slaughtered, and when we went to the mortuary we realised that he was referring to the people ... They were referring to our loved ones as dead cows which had been slaughtered earlier on, so I did not want to report the matter to the police.

- 324 Ms Janet Madlala (65), her daughter Ria and three granddaughters aged eighteen years, six years and eighteen months lived in one of the homes targeted in the hostel-dwellers' pre-dawn offensive. Ria and the girls were able to climb through a back window and run away. The attackers gave chase and caught up with Thando (18) [KZN/NN/318/MR], whom they stabbed to death, and the six-year-old, whom they pounded with a rock and left for dead. Ria hid in a pit latrine with the baby. When all was quiet again Ria emerged from her hiding place and went in search of her family.

I was rushing home to try and rescue my mother. When I got to the house the house was filled with smoke and I couldn't see anything. I couldn't even see where my mother was. I was not able to go into the bathroom to fetch some water. I asked for water from the opposite house and they gave me water. They also helped me to try and put out the fire until I was able to put out the fire, and I went inside. I found my mother sprawled in the passage.

The way that she had been stabbed the whole place was just a pool of blood. She had twenty-four stab wounds. I think everybody just took his turn to stab. I tried to pull her outside because the house was still burning. I dragged her outside and I was trying to extinguish the fire all at the same time ...

Thereafter we tried to get some transport to ferry these people to the hospital, because I have a strong belief that had she been taken to the hospital in time she would have survived, but the police and the soldiers refused. They said that they were not able and they were not going to take anyone to the hospital.

- 325 The police never took any statements from any of the Madlala family concerning the events of that fateful night. As a result of her experiences of that night, Ria says:

I was very traumatised. I lost a great deal of weight. I wasn't able to eat for quite a long time. I even went to Ladysmith, to my sister, and I became quite reclusive. I couldn't mix with other people. They even had to take my child for a period of two years, and they were also complaining that she was having panic attacks. She was always scared, and at times they would wake up and pray in the evening, pray for my daughter.

- 326 The Goldstone Commission inquiry into the violence in Bruntville on 3–4 December 1991 showed that, of the nineteen people killed, eighteen had died of wounds inflicted by weapons other than firearms (*assegais, knobkierries, pangas* and bush knives).

THE COMMISSION FINDS THAT THE KILLINGS CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH UNKNOWN INKATHA-SUPPORTING HOSTEL-DWELLERS ARE HELD ACCOUNTABLE.

- 327 A total of fifty killings and thirty-eight cases of severe ill-treatment were reported to the Commission for Bruntville and Mooi River for 1991. The corresponding figures for the previous year were six and eleven respectively.

Clashes in the workplace

- 328 In July 1990, not long after the release of Nelson Mandela, workers at the Durnacol mines, Dannhauser, went on strike over a wage demand. The subsequent industrial unrest at the mines developed along Zulu–Xhosa ethnic lines.
- 329 The mine employed mainly Zulu workers. Ms Kate Masiba [KZN/NNN/026/NC] told the Commission that her husband Mr Justice Masiba, a Durnacol employee for twenty years, was killed by other miners on 12 February 1991 because he was Xhosa.

- 330 A Xhosa-speaking worker claimed that the trouble had spread to the Dannhauser mine from the nearby Hlobane Colliery, where clashes between Zulu and Xhosa coal miners had caused at least ten deaths and many more injuries. The National Union of Mineworkers (NUM) claimed that Iscor management wanted to get rid of the union and was actively encouraging Inkatha to attack NUM members. The NUM alleged that mine security and the SAP had watched the attack, but had not tried to stop it.
- 331 As on the mines in the former Transvaal, certain members of the police and certain mine officials, especially the security officials, promoted the separation of Xhosa and Zulu people because this helped them to control the labour force. They encouraged the tendency of workers to join different trade unions according to their ethnic background – Zulu miners joining the UWUSA union while Xhosas joined the COSATU unions.
- 332 At Durnacol specifically, Zulu workers were encouraged to organise themselves separately from the rest of the workforce. They began to hold their own meetings. In late 1991, Xhosa miners were told to return to the Transkei. Fearing for their lives, the Xhosa-speakers fled their workplace. Amongst these was Justice Masiba. After a series of attacks on the homes of people of Xhosa descent, the Masibas fled to Madadeni. After a while Masiba decided to apply for a transfer to Durban and on 12 February 1991 he returned to the mine to collect his transfer forms. A large group of unknown mineworkers chased him back to his home, where he was killed. Ms Masiba remembers:

Most of the people who killed my husband, they didn't even know my husband. They were new employees of that mine. They didn't even know him. ... When they arrived there, they found him inside the house. I heard he tried to run. He hid behind the wardrobe. They broke the door in my brother's bedroom, and neighbours were there watching but they were scared to do anything. They broke the wardrobe, and that's how he was killed. He had twenty-six wounds. They cut his tongue, they cut his genitals, they took his teeth out. They left him there. They put muthi all over his body.

After I received a message, I went there, I went to look for his corpse, and I was so scared because it was terrible. And they told me they don't want to see me and my family, and they wanted to kill everything that belonged to him ...

Sergeant Komandu, who was handling the case, said there was nothing that he could say or do because whites refused him to arrest those people who

killed my husband. So he said there was nothing he could do. That's how he left, and up until today nothing happened.

- 333 Masiba's attackers followed his widow to Madadeni, where she was living with her sister, and burnt all her possessions.

Party strongholds/'no-go zones'

- 334 The rural and urban areas of Natal and KwaZulu were divided into a jigsaw puzzle of party political strongholds or of what became known as 'no-go zones'. Townships were divided according to sections; rural areas according to valleys, rivers, ridges or roads. Often a party flag or graffiti would serve to stake out the party stronghold. It was impossible for people to be non-partisan without fearing for their lives and those of their families. Those people without strong party affiliations had no choice but to support the party in whose stronghold they were living. They were required to join the party, attend its gatherings and participate in its marches, night 'camps' and patrols. Failure to do this could be fatal. Victims who were questioned by the Commission about their political affiliations would sometimes give answers like: "We were under the ANC".
- 335 Many of the attacks at this time were indiscriminate, perpetrated by men from one stronghold on people living in a stronghold of an opposing party. Often the victims were non-partisan but were labelled as IFP or ANC simply because of where they lived. The Commission heard many accounts in which victims were unable to explain why they had been attacked, but said that they lived in the stronghold of one political party and that the attackers were seen or presumed to be coming from a neighbouring stronghold of the opposing party.
- 336 Sokhulu, a rural area north of Richards Bay, was split into an ANC-supporting section and an IFP-supporting section soon after the unbanning of the ANC. Many reports were received of armed men from the IFP side launching attacks on people living in the ANC side. People from the ANC side who went across to the IFP side were killed.

The Killing of Caleb Mthembu and his brother-in-law

On 2 February 1992, Mr Caleb Fana Mthembu [KZN/MR/208/EM] and his brother-in-law, both from the ANC side, went to buy an ox in the area considered to be IFP. They were both shot dead.

- 337 By 1993, both the town of Escort and its dormitory township, Wembezi, had become demarcated into ANC and IFP sections, and even the taxi ranks in town were separated by party. In Wembezi, homes situated on the borders between ANC and IFP sections would be burnt, forcing their occupants to flee to one side or the other. Invariably they would flee to the side that offered them better protection.
- 338 Bergville is a small farming town in the foothills of the Drakensberg and is surrounded by a tribal area falling under the IFP-supporting chief Maswazi Hlongwane. The area became a strong Inkatha enclave. An attempt by some ANC youths to launch an ANC branch in February 1993 was aborted after IFP supporters allegedly intimidated them. A second attempt was made to launch a branch on 20 June 1993.
- 339 The ANC organisers sought permission from the magistrate to hold the gathering at the Woodforde soccer stadium and were issued with a permit to do so. They also informed the Bergville SAP station commander and peace monitors of their intention to hold a rally to launch a branch. When the ANC members began arriving at the soccer stadium for the launch, they found a group of IFP supporters gathered nearby. The IFP supporters were armed with traditional weapons and guns. It was clear to all that a confrontation was looming.
- 340 The police spoke first to the group of IFP supporters and then to the ANC leaders. They told the ANC to disperse, saying that the gathering was illegal because they had not received permission from Chief Hlongwane. After much deliberation and negotiation with the police, the ANC decided to disperse. While they were dispersing, gunshots and shouting filled the air. The ANC soon discovered that IFP supporters had barricaded all the access routes from Woodforde. Despite the presence of the security forces, six ANC members were killed. That night a number of homes were torched and as many as sixty ANC-supporting youths fled the district. It was several months before they were able to return to their homes.
- 341 Mr Thulani Sibeko made a written submission to the Commission on behalf of the victims and survivors of this attack:

What was really painful was the way those who died on 20 June 1993 were buried. They were buried by Inkatha without their parents or families. They were buried in the mountain wherein no one had ever been buried. It is not

known whether they had coffins. Inkatha said categorically that they (the deceased) were Xhosas⁵¹ and should be taken to Transkei to be buried there.

342 Mr Sibeko was to have presented this submission publicly at the 1997 Mooi River hearing. However, he never got the opportunity: one of the alleged perpetrators was seen attending the hearing, so the Bergville delegation left soon after their arrival.

343 The Commission received statements indicating sporadic cases of violence in the northern Natal township of Ezakheni during 1992 and 1994. The bulk of the victims referred to incidents which took place during 1993. At this time, the township was largely ANC-dominated, with the exception of C1 section which was said to be IFP. Residents of C1 section had to pass through E section to catch taxis and buses to and from the township, and were frequently attacked.

The Killing of Thula Nhlabathi and Baloni Msimango

On 31 October 1992, a group of IFP supporters attacked mourners attending the funeral of a prominent ANC member. Two mourners, Mr Thula Alson Nhlabathi and Mr Baloni Richard Msimango, were shot and stabbed to death and a number of houses were set alight and looted [KZN/ZJ/369/LS; KZN/ZJ/366/LS]. The docket was closed as 'undetected' on 15 November 1993.

344 On 9 July 1993, after weeks of mounting tension, IFP supporters attacked E Section before dawn, killing ten ANC supporters, injuring at least eleven others and burning houses. The attack lasted a few hours and bodies were found over a two-kilometre radius. The raid appeared to be in revenge for the attacks on IFP commuters passing through E Section.

345 The incidence of violence increased in the months following the massacre. Scores of houses were burnt down and hundreds of residents forced to flee. The Ndakane High School, situated between C1 (IFP) and C2 (ANC) Sections, was temporarily closed because of conflict between staff and students coming from different sections of the township.

346 As with other areas in the Natal Midlands, the political conflict in the Richmond area flared up in the latter half of the 1980s and was largely characterised by conflict between ANC and IFP supporters, although there was a strong element of faction fighting. The communities worst affected were Patheni, the IFP stronghold led by local IFP leader Mbadlaza Paulos Vezi, and Magoda and Ndaleni, ANC strongholds led by Mr Sifiso Nkabinde. The conflict was alleged to have been

⁵¹ An assumption based on the fact that the deceased supported the ANC, whose leadership was predominantly Xhosa-speaking, as opposed to Inkatha, which was overwhelmingly Zulu.

further fuelled by a 'third force', said to include local right-wing farmers and certain members of the Richmond SAP. This 'third force' not only fuelled the conflict between the two parties but split the organisations internally, pitting former allies against each another.

- 347 The IFP-ANC conflict escalated in 1990, erupting into full-scale violence in January 1991. The fighting culminated in the so-called 'Battle of the Forest' on 29 March 1991, in which twenty-three IFP supporters, including women and children, were killed and the ANC regained control of the major portion of Ndaleni area. A number of prominent IFP leaders in the area were attacked and/or killed: Mr Ndodi Thusi, IFP leader of Ndaleni and family members were killed; Chief Dingiziwe Ndlovu, KwaZulu Legislature member was killed in Ixopo and Chief Majozi (IFP leader) was attacked several times. On 21-23 June 1991, groups of heavily armed IFP supporters attacked ANC supporters in Ndaleni, Magoda and Townlands.
- 348 The Commission received more than ten accounts of the incident. Fourteen people were killed and nine others injured in attacks on seven homesteads in Ndaleni.

THE COMMISSION FINDS THAT TWENTY-THREE PEOPLE, INCLUDING WOMEN AND CHILDREN, WERE KILLED BETWEEN 21 AND 23 JUNE 1991 IN THE RICHMOND AREA BY UNKNOWN SUPPORTERS OF THE IFP, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS. TWO IFP MEMBERS, MR MDUDUZI PITSHANA GUMBI AND MR ROBERT 'VO' ZUMA [AM0433/96] WERE GRANTED AMNESTY FOR THEIR ROLES IN THE ATTACK ON 23 JUNE 1991.

- 349 A Richmond IFP member who took part in these June attacks told the Commission that he and five other IFP supporters had been hand-picked by local IFP chief Mzwandile Majozi in May 1991, and sent to undergo paramilitary training at the Amatikulu camp in KwaZulu. The training lasted one week and was given by IFP member Mr Phillip Powell. On completion of their training, Mr MR Mzimela, the Secretary of the KLA, issued them with G-3 rifles from the Chief Minister's Department. Three weeks after their return from Amatikulu they launched the attack on Ndaleni. The same IFP member also alleged that policemen from the local Richmond SAP station supplied them with ammunition.
- 350 In addition to the many lives that were lost, an estimated 20 000 people were displaced during 1991 in the so-called Richmond war.
- 351 Although the Richmond violence was portrayed as solely ANC-IFP conflict, the amnesty applications of a former SAP member exposed the security forces' role in fomenting the violence. Former Riot Unit constable Nelson Shabangu [AM3676/96] exposed the police collusion with IFP elements in Richmond. He

also accused the police of ignoring cases implicating IFP officials and thus allowing them to take the law into their own hands.

352 Also in 1991, AWB slogans started appearing in Richmond and the first rumours emerged of AWB training taking place on local farms.

353 On 26 March 1992, nine IFP supporters were killed, several others injured and many homes burnt down in an attack on the Gengeshe community. Two ANC supporters, Mr Mandlenkosi Tommy Phoswa [AM3641/96] and Mr Mafuka Anthony Nzimande [AM3095/96], were granted amnesty in respect of the attack. Both were serving fourteen year prison terms for the attack.

THE COMMISSION FINDS THAT NINE SUPPORTERS OF THE IFP WERE KILLED ON 26 MARCH 1992 BY SUPPORTERS OF THE ANC, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS. ANC SUPPORTERS MANDLENKOSI TOMMY PHOSWA AND MAFUKA ANTHONY NZIMANDE WERE GRANTED AMNESTY IN RESPECT OF THEIR ROLES IN THE ATTACK.

354 The Commission heard stories from several survivors of massacres in the Richmond area and from other 'flashpoints' around the province.

355 In Umlazi, fifteen women and three children were killed and twenty-eight other people injured in an attack on the ANC-supporting Uganda informal settlement on 13 March 1992. Two of the children were still toddlers; one was decapitated. The attackers included a large number of KZP members and IFP supporters from the Unit 17 hostel complex in T Section, Umlazi.

356 Residents reported that a large contingent of KZP members was seen escorting hundreds of Inkatha supporters to the pre-dawn attack. The attackers withdrew after the SAP arrived on the scene. This was the third such attack in two months by hostel-dwellers and the KZP in U-section, Umlazi, though the casualties in the previous incidents had not been as high.

THE COMMISSION FINDS THAT EIGHTEEN PEOPLE, INCLUDING FIFTEEN WOMEN AND THREE CHILDREN, WERE KILLED AT UGANDA INFORMAL SETTLEMENT, UMLAZI, ON 13 MARCH 1992 WHEN A LARGE NUMBER OF KZP MEMBERS AND IFP SUPPORTERS FROM THE UNIT 17 HOSTEL COMPLEX IN T SECTION STAGED A PRE-DAWN ATTACK ON THE INFORMAL SETTLEMENT. THE KILLINGS CONSTITUTE GROSS VIOLATIONS FOR WHICH UNKNOWN KZP MEMBERS AND UNKNOWN IFP SUPPORTERS ARE HELD ACCOUNTABLE.

357 At this time, conditions were particularly volatile on the lower South Coast where IFP supporters were the targets of violent attack.

358 At Bomela, twelve IFP-supporting youths were massacred on 4 September 1992 at the home of the local IFP Women's Brigade leader, Ms Thokozile Dlamini, on the eve of an IFP Youth Brigade conference in Ulundi. Children had gathered at the Dlamini home to rehearse songs they were intending to perform at the conference. At about 19h00 or 20h00 a group of armed men wearing camouflage stormed the Dlamini home and opened fire on the children, who fled in all directions. At the time, Ms Dlamini [KZN/KM/543/PS] was sitting outside her house listening to the children singing. At the Port Shepstone hearing, she told the story of that day:

I heard a rumble of guns and there were gunshots all over. And the children started running, calling and saying, "Mum, we are dying". Some of them ran on top of me, and they ran into the house. The other one was crying, and the child was trying to get through the window, but they couldn't. They all fall down, and everything was happening so fast, and it was as if I was dreaming. I didn't know what was happening ... I decided to creep on the floor and went to one of the bedrooms. I couldn't see the condition of the children at that time ... I went out to investigate to see what was happening to the other children who were singing. And I could still hear these sounds. When I looked around the girls were lying all over the floor. One of my daughters was lying down and she was dead.

359 The daughter who was killed, Ms Thandekile Goodness Dlamini, was seven months pregnant at the time [KZN/KM/543/PS]. There have been no prosecutions in connection with the massacre.

THE COMMISSION FINDS THAT TWELVE IFP SUPPORTERS WERE KILLED ON 4 SEPTEMBER AT BOMELA WHEN A GROUP OF UNKNOWN ARMED MEN STORMED A GATHERING OF THE IFP YOUTH BRIGADE. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS. ON THE AVAILABLE EVIDENCE THE COMMISSION IS UNABLE TO MAKE A CONCLUSIVE FINDING ON THIS MASSACRE, SAVE TO SAY THAT IT IS PROBABLE THAT THE DECEASED WERE KILLED BY UNKNOWN ANC SUPPORTERS.

360 At Folweni, in the Umbumbulu district south of Durban, twenty IFP supporters were killed in an attack on a religious ceremony on 26 October 1992. A group of fifteen unidentified assailants armed with AK-47 assault rifles attacked predominantly IFP-supporting persons attending a *sangoma's* (traditional healer's) party at the homestead of IFP member Mbonwa Sabelo. The assailants, wearing SADF uniforms and balaclavas, opened fire on people in two huts in the Sabelo kraal. Eighteen people were killed in the attack and two died in hospital. Another thirty-three people were injured.

AT FOLWENI IN THE UMBUMBULU DISTRICT, SOUTH OF DURBAN, TWENTY IFP SUPPORTERS WERE KILLED IN AN ATTACK ON A RELIGIOUS CEREMONY ON 26 OCTOBER 1992. ON THE AVAILABLE EVIDENCE, THAT THE KILLINGS WERE CARRIED OUT BY A GROUP OF FIFTEEN UNIDENTIFIED ASSAILANTS WEARING BALACLAVAS AND SADF UNIFORMS, THE COMMISSION IS UNABLE TO MAKE A CONCLUSIVE FINDING. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS.

- 361 Several chiefs from the coastal areas were forced into exile following attempts on their lives after they had refused to adopt certain IFP and/or KLA policy decisions. These chiefs included Chief Jabulani Mdlalose of Mondlo, Chief TE Xolo of KwaXolo near Margate, Chief B Shinga of KwaNdelu, near Umzumbe, and Chief E Molefe of Nqutu on the North Coast.
- 362 In 1992, following the Bisho massacre, the ANC stated its intention to march on Ulundi in support of its demand for free political activity. Chief Buthelezi responded by calling on all young men from KwaZulu to be sent by their *indunas* for training as warriors to resist the ANC invasion. In the Nqutu district on the North Coast, a meeting of *indunas* was called which was also attended by Prince Gideon Zulu, who allegedly said they would search for and kill traitors in the Nqutu area as had happened at Isandhlwana. Many of the *indunas* under Chief Molefe failed to comply with the call to take up arms and were threatened with punishment and fined.
- 363 A few weeks later, on the night of 8 November 1992, a group of armed men attacked several homesteads under Chief Molefe's jurisdiction. At least three people were killed, including Molefe's senior *induna*, and several huts burnt to the ground. Police were called, but made no attempt to detain the attackers. Two people were subsequently arrested, including the younger brother of one of the deceased. He was kept in detention without charge from 9 to 30 November and on his release laid charges against police for wrongful arrest.

THE COMMISSION FINDS THAT ON THE NIGHT OF 8 NOVEMBER 1992, THREE PEOPLE WERE KILLED WHEN A GROUP OF UNKNOWN ARMED MEN ATTACKED SEVERAL HOMESTEADS UNDER THE JURISDICTION OF CHIEF MOLEFE ON THE NORTH COAST. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS, AND UNKNOWN PERSONS OPPOSED TO THE ANC ARE HELD ACCOUNTABLE.

- 364 On the night of 7 November 1993, eleven ANC-supporting youths were killed and a number of others injured in an attack on Chief Molefe's homestead. A large ANC rally had been planned for that day and was to have been held in the Nqutu stadium. However, during the week preceding the rally the ANC said it had received information that the IFP was stockpiling weapons and planned to attack the gathering. The rally was called off. That same night, sixty to eighty gunmen wearing balaclavas attacked Chief Molefe's homestead, killing the eleven youths. One of the chief's sons, Tsepo

Molefe [KN/FS/366/VH], was among the deceased; the chief escaped with injuries. He subsequently fled the area and to this day has not returned to his home. He is now destitute. To date, no one has been charged in connection with the massacre.

THE COMMISSION FINDS THAT ON THE NIGHT OF 7 NOVEMBER 1993, ELEVEN ANC SUPPORTERS WERE KILLED IN AN ATTACK ON CHIEF MOLEFE'S HOMESTEAD. THE KILLINGS REPRESENT GROSS VIOLATIONS OF HUMAN RIGHTS. ON THE AVAILABLE EVIDENCE THAT THE ATTACK WAS CARRIED OUT BY SIXTY TO EIGHTY ARMED MEN WEARING BALACLAVAS, THE COMMISSION IS UNABLE TO MAKE A CONCLUSIVE FINDING ON THE KILLINGS, SAVE TO SAY THAT IT IS PROBABLE THAT THE DECEASED WERE KILLED BY UNKNOWN PERSONS OPPOSED TO THE ANC.

Self-defence units (SDUs)

365 Substantial evidence placed before the Commission points to the fact that Mr Sifiso Nkabinde, the person responsible for the establishment of one of the largest self-defence units in the country, was recruited by the SAP Security Branch in 1988 as a registered source. He was recruited by Captain J T Pieterse and his task was to monitor political activists and inform the police about the movements of Umkhonto we Sizwe cadres. His previous handler, prior to his exposure as a Security Branch informer and subsequent expulsion from the ANC in 1997, had been security policeman Shane Morris. An extract from a Security Branch file on source SR 4252 outlines information obtained from Bhekumusi Gabriel Nkabinde, which is Nkabinde's full name. The source is registered under the name of Derrick Nene.

366 Sifiso Nkabinde's SDU structure allegedly became one of the most powerful in the Natal Midlands. This is borne out by criminal trials in which its members were alleged to be conducting offensive operations against the IFP in areas beyond the boundaries of Richmond, such as in Ixopo⁵².

367 Sifiso Nkabinde mobilised support in areas further afield, including Impendle, Bulwer and Mooi River.⁵³ It is alleged that Nkabinde garnered support by providing weapons to ANC members in these areas.⁵⁴ In response, his counterparts in the IFP, namely Mr Ndadlazi Paulos Vezi (IFP leader, Patheni), Mr David Ntombela (IFP leader, Pietermaritzburg), Mr Phillip Powell (KwaZulu Natal urban representative, Midlands, and later IFP senator), Mr Dumisani Khuzwayo⁵⁵ (IFP organiser, Ixopo) and Mr

52 Highflats CR 45 / 09 / 1995, where an IFP leader in Ixopo, Mr JJ Ngubane, was allegedly killed by Mr Simphiwe Dlamini, in concert with other SDU members, NITU, Pietermaritzburg, copy with the Commission's Investigation Unit. Dlamini is also wanted in connection with 45 / 05 / 93 attempted murder in Highflats.

53 This was due in part to the restructuring of the ANC region, which resulted in areas like Richmond falling under the regional headquarters in Durban. It is alleged that Nkabinde saw this as a threat and campaigned for the re-incorporation of Richmond into the Pietermaritzburg sub-region. His supporters staged a sit-in at the Pietermaritzburg ANC office until it was closed.

54 Military Intelligence report, 28 October 1996, reported by the Network of Independent Monitors.

55 Vezi and Khuzwayo were charged and acquitted for the killing of 14 ANC people in Mahehle on 18 February 1994, Human Rights Commission, June 1994.

Gamantu Sithole (IFP leader, Ixopo) began to mobilise IFP supporters. Violence in these areas flared.

THE COMMISSION FINDS THAT ANC SDUS WERE SET UP IN LOCAL COMMUNITIES WITH THE ENCOURAGEMENT OF THE ANC LEADERSHIP AND THAT SENIOR MEMBERS OF MK WERE CHARGED WITH THE RESPONSIBILITY OF TRAINING AND ARMING THESE UNITS, WHICH EXISTED OSTENSIBLY TO UNDERTAKE THE DEFENCE OF THESE COMMUNITIES. AUTOMATIC FIREARMS, INCLUDING AK-47S, PISTOLS AND GRENADES WERE DISTRIBUTED TO SDUS IN THE AREAS WORST HIT BY THE VIOLENCE, PARTICULARLY THOSE AROUND THE METROPOLITAN CENTRES OF DURBAN AND PIETERMARITZBURG.

THE COMMISSION FINDS THAT, WHILE THE TERMS OF THE PEACE ACCORD PROVIDED FOR THE SETTING UP OF LOCAL DEFENCE STRUCTURES, IN SOME INSTANCES MEMBERS OF THE SDUS ACTED IN TOTAL CONTRAVENTION OF THE SPIRIT OF THE PEACE ACCORD, AND CARRIED OUT UNLAWFUL ATTACKS ON HIGH-PROFILE AND OTHER MEMBERS AND SUPPORTERS OF THE IFP. INTERNAL KILLINGS WERE ALSO A FEATURE OF THE SDU'S OPERATIONS.

THE COMMISSION FINDS THAT THE ANC AT A REGIONAL LEVEL IN KWAZULU/NATAL KNEW THAT MEMBERS OF THE SDUS WERE ENGAGED IN UNLAWFUL ACTS, INCLUDING KILLING, ATTEMPTED KILLING AND SEVERE ILL-TREATMENT, WHICH CONSTITUTED GROSS VIOLATIONS OF HUMAN RIGHTS, AND THAT IT FAILED TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH VIOLATIONS WERE DISCIPLINED OR BROUGHT TO JUSTICE. TO THIS EXTENT, THE ANC IS ACCOUNTABLE FOR SUCH GROSS VIOLATIONS OF HUMAN RIGHTS.

368 Simultaneous allegations were made that the police were assisting the IFP in its struggle against the ANC. These allegations were levelled as early as 1989 and were aimed in the main at Major Deon Terreblanche (now deceased) of the Riot Unit, and its members⁵⁶. In addition, community members have consistently alleged that police were involved in attacks. One notable instance occurred on 23 June 1991 when sixteen ANC-aligned persons were killed and their bodies mutilated. Witnesses claimed that police 4x4 vehicles had been used to offload the attackers and one survivor claimed that the attackers wore police camouflage jackets and were speaking English⁵⁷.

369 From about 1991, the SDUs in Richmond were torn by internal conflict, the culmination of which were the killings of a popular leader in the area, Mr Mzwandile Mbongwa and others, allegedly by SDU members mainly from the Magoda area.⁵⁸ On the surface, the conflict appeared in part to turn around a power struggle in the SDU and a battle for resources (such as weapons) between units of the SDUs in

56 *Sunday Tribune*, 17 November 1991. Riot unit members were charged with the killing of an ANC member, Ms Rosemary Ngcobo, in September 1990 but were acquitted. Amnesty applicant Mr Nelson Shabangu claims that he and other Riot Unit members were responsible for her death.

57 H Osborne, *The Richmond War*. End Conscription Campaign, 20 July 1991.

58 Mbongwa and others were killed on 20 March 1994 in Ndaleni [CR85 / 03 / 94].

different areas in Richmond. The alleged justification for these murders was that Mbongwa and others were police informers.

- 370 During 1990 and 1991, the ANC in Richmond sustained heavy casualties in Ndaleni and Magoda areas when large groups of IFP supporters from Nkobeneni and Patheni crossed the borders, burnt houses and killed people. The IFP supporters managed to take occupation of a house in Magoda, which they used as a base from which to launch attacks⁵⁹. As a result of the violence, approximately 20 000 people left the Magoda and Smozomeni areas and took refuge in town⁶⁰.
- 371 With the development of the SDUs, however, the tide began to turn against the IFP in the area, culminating in the so-called 'Battle of the Forest' mentioned earlier. Owing to the violence in the area, the Richmond SDU was established earlier than other SDU structures. According to a member of the SDU's intelligence wing, Mr Nto Zuma,⁶¹ Mr Mzwandile Mbongwa (Richmond ANC Youth League leader), Sifiso Nkabinde (ANC Chairperson, Richmond) and Mr Harry Gwala (Natal Midlands ANC leader) formed the SDU in 1989. The Richmond SDU eventually had at least six members per area (10 areas). In addition to this, it had undercover members (or reservists) which brought the total to about twelve to thirteen members in each area.
- 372 Conflicts arose within the SDUs owing to the perceived favour given to the Magoda SDUs, the area in which Nkabinde had his home. Initially the conflict revolved around the fact that Magoda members were sent on training whilst other areas were not given this opportunity. In addition, in 1990 the SDUs had access to a limited supply of AK-47s and R-4s, which had to be shared amongst areas. This created conflict within the structure. The weapons were held by people from eMaswazini, who were deployed to other areas to defend them from IFP attacks.
- 373 According to evidence supplied to the Commission, it was decided that, in under-resourced areas such as Ndaleni, R50.00 would be collected from each household to purchase firearms. The evidence places Nkabinde at the centre of this project. Money was collected and a number of AK-47s were purchased.
- 374 Throughout the early 1990s, conflict between the Magoda SDUs and other Richmond SDUs arose over a variety of issues. At the end of 1992, Nkabinde

59 The attack on Mr Peter Nkabinde, Sifiso Nkabinde's relative, in November 1990 and the ANC's capture of a R-4 rifle used by the IFP attackers allegedly fanned the violence. Nkobeneni IFP residents sent a letter to Nkabinde demanding the return of the "community weapon". Sunday Tribune, 7 April 1991.

60 H Osborne, The Richmond War, End Conscription Campaign, 20 July 1991.

61 Interview with Nto Zuma, killed before he could provide testimony in trials of SDU members, available on computer disc – comprises 346 pp. The bulk of the information in this section is drawn from Zuma's interview, except where otherwise indicated.

called a meeting to discuss tensions within the SDU. SDU members complained that Nkabinde's bodyguard and senior SDU member, Mr Bob Ndlovu, dispensed ammunition only to the Magoda area and that Nkabinde visited only Magoda and not Ndaleni and Isomozomeni. A further complaint was that Nkabinde helped Magoda SDU members to get released when arrested, but did not do this for other SDU members in Richmond.

- 375 The question of refugees from the IFP stronghold of Patheni also led to conflict within the Richmond SDUs. At a meeting with Nkabinde, it was stated that the Patheni refugees would be safe in the area. After this meeting, however, the Magoda SDU held their own meeting and decided that they would forgive all the refugees except their leader, Mr Zomwakhe Nzimande. The latter was subsequently killed in Richmond by Magoda SDU members. According to witnesses, Nkabinde stated that he agreed with the murder of Nzimande.
- 376 According to further evidence given to the Commission, other issues over which there was conflict included:
- a Conflict over money that was collected to send SDU members for training in the Transkei, but was withdrawn and used by Nkabinde.
 - b Nkabinde's role in preventing a strike at a supermarket at which Ndaleni SDU members were employed. The supermarket belonged to an owner of taxis in which Nkabinde had a financial interest.
 - c Nkabinde's allegation that he had a list of police informers, on which the names of some Ndaleni SDU members appeared. His bodyguard, Bob Ndlovu, incited people to kill police informers.
- 377 As a result of this internecine conflict, a number of senior SDU members were killed, primarily by Magoda SDU members.

The Killing of Zmokwakhe Sibongiseni Mfana Phungula

Mr Zmokwakhe Sibongiseni Mfana Phungula was the Richmond SDU commander and outspoken in his criticism of Nkabinde. He suspected that Nkabinde was a police informer because the Magoda SDU members walked around town openly displaying their firearms and, when they were arrested, Nkabinde would secure their release by speaking to the police.

Phungula was killed, together with Mr M L A Mhlongo, by an informal 'people's court' on 8 October 1993 [CR 41–10–93].

The Killing of Julius Mkhize

Shortly afterwards, Mr Julius Mkhize [KZN/NNN/043/PM], the newly appointed chairperson of the Richmond ANC branch,⁶² was forced to flee to Georgetown where he was killed, allegedly by SDU members [CR 12–10–93].

The Commission was unable to establish conclusively whether the killing was an internal operation by members of an SDU unit, or carried out by unknown persons opposed to the ANC.

THE COMMISSION FINDS THAT SDUS WERE ALSO RESPONSIBLE FOR THE KILLING AND ATTEMPTED KILLING OF AN UNKNOWN NUMBER OF POLICEMEN, AN UNKNOWN NUMBER OF ANC MEMBERS SUSPECTED OF BEING POLICE INFORMERS AND AN UNKNOWN NUMBER OF ANC LEADERS WHO ALLEGEDLY POSED A THREAT TO NKABINDE'S LEADERSHIP.

378 Mr Mnandi Phoswa was murdered on 29 December 1993 by Mr Bob Ndlovu and others, and Mr Mzwandile Mbongwa was murdered on 20 March 1994 along with Mr Musi Ximba, Mr Mzo Mkhize and Mr Mfaniseni Latha⁶³. A pamphlet circulated beforehand accused Mbongwa of being an informer for military intelligence. SDU members alleged that Nkabinde and Bob Ndlovu were responsible for the planning of the murder.

379 In March 1998, Nkabinde's chief bodyguard, Bob Ndlovu, was given three life sentences in connection with the killing of three Pietermaritzburg policemen in Richmond in 1996. The presiding judge, Mr Justice Galgut, found that Ndlovu and his five co-accused (all Richmond SDU members) had acted in common purpose to ambush and kill the policemen, who were following up on cases in Richmond. In passing sentence, the judge said that the SDUs had conducted a reign of terror in Richmond and that the local residents had lived in fear of their lives. Even the police were not safe.

The SDUs were not subject to the law ... they were free to carry on their illegal terror campaign as they pleased ... Such lawlessness is a shocking state of affairs. It belongs in a barbaric community and has no place in an organised society.

⁶² Nkabinde was the Midlands secretary at this time.

⁶³ Mr Melusi Gwala, Mr Southern Zondi and Mr Khayi Mtshali were charged with the killing of Mbongwa and Ximba. They were acquitted after a witness declined to testify for fear of his family's safety. In another case, Mr Khomba Mngadi (ex-IFP, Patheni group SDU), Mr Musa Mkhize (Smozomeni SDU) and Mr Mxolisi Dlamini were charged and convicted for the killing of Mbongwa and Ximba and were sentenced to 25 years imprisonment. Mr Mpa Mtolo was acquitted in this trial. At trial witnesses testified that Nkabinde was present at the killing. No finding was made on the death of Mzo Mkhize and Mfaniseni Latha who were killed by stray bullets. All of the above are Richmond SDU members. Human Rights Committee, June 1996.

380 Nkabinde was charged in 1997 with fifteen murders and acquitted on all charges on a technicality in April 1998.

EVIDENCE TO THE COMMISSION INDICATES THAT FORMER ANC MEMBER OF PARLIAMENT SIFISO NKABINDE WAS RESPONSIBLE FOR THE ESTABLISHMENT OF A NUMBER OF SDUS IN THE RICHMOND AREA OF THE NATAL MIDLANDS. THE COMMISSION FINDS THAT MEMBERS OF THESE SDUS CARRIED OUT MANY OPERATIONS AGAINST MEMBERS AND SUPPORTERS OF THE IFP IN RICHMOND AND BEYOND, INCLUDING BULWER AND IXOPO, RESULTING IN THE DEATHS OF AN UNKNOWN NUMBER OF PEOPLE. AN EXAMPLE OF SUCH OPERATIONS WAS THE KILLING OF IFP MEMBER, MR JJ NGUBANE, AT HIGHFLATS IN SEPTEMBER 1993.

THE COMMISSION FINDS THAT MR SIFISO NKABINDE WAS ALSO RESPONSIBLE FOR THE DISTRIBUTION OF ARMS AND AMMUNITION TO SDUS IN THE RICHMOND AREA. SUCH ARMS INCLUDED AUTOMATIC FIREARMS, PISTOLS AND HAND GRENADES. THE COMMISSION FINDS THAT SUCH WEAPONS CONTINUED TO BE DISTRIBUTED EVEN AFTER THE ANC ANNOUNCED THE SUSPENSION OF THE ARMED STRUGGLE IN 1990. THE COMMISSION FINDS THAT NKABINDE MUST HAVE CONTEMPLATED THAT SUCH WEAPONS WOULD HAVE BEEN USED IN THE COMMISSION OF OFFENCES, AND THAT IT WAS LIKELY THAT LOSS OF LIFE WOULD OCCUR.

THE COMMISSION FINDS THAT NKABINDE WAS RESPONSIBLE FOR PROMOTING AND/OR CONDONING A CLIMATE IN WHICH GROSS VIOLATIONS OF HUMAN RIGHTS, INCLUDING KILLING AND ATTEMPTED KILLING, COULD AND DID TAKE PLACE, AND FACILITATED THE COMMISSION OF SUCH VIOLATIONS. HE IS ACCORDINGLY HELD ACCOUNTABLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS THAT AROSE FROM SDU OPERATIONS IN THE AREA UNDER HIS CONTROL.

THE COMMISSION FINDS THAT THE ANC CONSISTENTLY FAILED TO REPROACH, DISCIPLINE OR EXPEL NKABINDE FROM ITS RANKS, AND THEREBY ENCOURAGED A CLIMATE OF IMPUNITY WITHIN WHICH HE CONTINUED TO OPERATE. TO THIS EXTENT, THE ANC IS ALSO HELD ACCOUNTABLE FOR THE AFORESAID VIOLATIONS.

Self-protection units (SPUs)

381 From the mid-1980s to the April 1994 general election, Inkatha supporters were trained by their leaders and/or by the KwaZulu Government in weapons handling and paramilitary tactics. Many terms were used to describe these trained fighters, including community guards, tribal policemen and *amabutho*. Their training venues included the Amatigulu and Mlaba Camps, both owned by the KwaZulu government.

382 The SPU training project was initiated in September 1993 at the Mlaba Camp, near Mkhuze in Northern Natal, overseen by a former security policeman and IFP member Phillip Powell. Powell told a section 29 hearing of the Commission that the training was lawful and was intended to protect members of Inkatha from unlawful attacks by members of the ANC/SACP/COSATU. The deputy camp commander, Mr Thompson Xesibe, was also an IFP member and a 'Caprivi trainee'. KZP members, former SAP and SADF members, *askaris* and operatives from

Vlakplaas were all involved in giving instruction and training at the camp. These included Vlakplaas Commander Eugene de Kock and Vlakplaas operative Lionel 'Snor' Vermeulen (see amnesty application and De Kock's evidence in mitigation of sentence at his trial). Many of the KZP members who were seconded to Mlaba were former 'Caprivi trainees', and were specifically hand-picked for this purpose. The logistical side of the Mlaba Camp fell under Captain Leonard Langeni, who had previously been associated with the Caprivi training and the operations of KZP and IFP hit squads.

383 Training at the Mlaba camp included ambush and counter-ambush techniques, booby traps, camouflage, house penetration, hostage taking, fire and manoeuvre techniques, patrol formations, combat formations, raids and offensive tactics. A musketry course was also included. Training was given in the handling and use of AK-47s, Uzi sub-machine guns, shotguns, G-3 rifles, 9mm pistols, and hand grenades. In addition, the trainees were taught how to manufacture and use petrol bombs. Shooting practice took place in the Mlaba riverbed.

384 Mr Israel Hlongwane [AM4600/97] participated in the training at Mlaba Camp. He said that, at his passing-out parade, the trainees were addressed by the KwaZulu Minister of Justice, the Reverend Celani Mthethwa, who told them that "the purpose of this training was to guard the Chiefs, to eliminate the ANC and to stop the people from going to vote in the April 1994 elections."⁶⁴

385 The Commission heard that Mthethwa told the trainees that there were no other duties assigned to them besides killing ANC members. As a leader of his platoon at Mlaba Camp, Hlongwane was appointed leader of Inkatha in his area.

386 Mr Thami Hebron Ngubane, an SPU member from Ixopo, told the Commission:

On the day of passing out, our instructors/commanders gave us instructions that we must endeavour by all means to eliminate the ANC members. We were also told by them (the commanders) that we would later be integrated into the KZP. There were no other duties assigned to us except that of killing the ANC members.

As I was a leader in my platoon at the camp, I was again appointed as a leader of Inkatha protectors in my area. Whenever there was a fight between ANC and Inkatha in my kraal, I used to mobilise my troop-mates and assist Inkatha to destroy the ANC by killing the ANC members ...

⁶⁴ Statement to the ITU, July 1995.

I was arrested for killing ANC members and further taken to court but all cases were withdrawn against me because of the insufficient evidence.

- 387 In April 1994, 1 000 of those who had graduated from the SPU training were recalled to receive further training as special constables. It was intended that those who received the special constable training would be incorporated into the KZP's ISU. On 15 March 1994, a secret memorandum was presented at a special KwaZulu Cabinet meeting. It proposed that a "battalion/regimental sized paramilitary unit be set up within the KZP immediately which would enhance the role of the KZP ISU". The unit was to include 1 000 selected graduates of the KwaZulu government SPU training project appointed as special constables, 100 KZP members who had been trained by the SADF in the Caprivi during 1986 and a small group of professional advisors drawn from former SADF or SAP officers. Powell denied that the memorandum was his.
- 388 However, the training of these would-be special constables was brought to a halt with a joint SAP/TEC raid on the Mlaba premises on 26 April 1994, the day before the national election. The police raid was planned after information came to light in early 1994 that illegal weaponry was being kept at Mlaba and being used in the training of the SPUs. When the trainees observed an officially marked police helicopter over the camp, they acted aggressively and attempted to stone it. There was therefore a delay before General Van der Merwe of the SAP ISU could arrive at the camp. In their search of the camp, police found a large quantity of weapons and medical supplies in the rondavels, including twenty-six M-26 hand grenades, five rifle grenades, seventy-six G-3 rifles, forty-nine shotguns, eleven cases of 7.62mm rounds of ammunition, twelve cases of shotgun rounds and one big box of 9mm ammunition. These were seized by the SAP, together with a number of documents. A search of Phillip Powell's vehicle revealed boxes of ammunition, a Ruger semi-automatic firearm and a 9mm pistol. A home-made shotgun was found concealed under the front seat, which was not volunteered by Powell. Natal Attorney-General Tim McNally declined to prosecute Powell on any charges arising from these incidents.
- 389 In its report, the TEC Task Group found that the discovery of hand grenades and spent AK-47 cartridges pointed to unlawful military training having taken place at the camp. It called for an investigation into the training, the stockpiling of weapons and the conduct of the security forces in failing to prevent the departure of trainees without processing by the police.

The Case of Thulani Myeza

SPU member Thulani Myeza [AM6198/97] of Mpumaze Reserve, Eshowe, applied for amnesty in respect of three killings and an attempted murder which he committed between November 1993 and April 1994 in Gezinsila and Umlalazi.

Myeza underwent SPU training at the Mlaba camp during 1993. On completing his training, he said that he was given a certificate signed by Phillip Powell, commander of the SPUs. Myeza said that Powell gave orders to the graduated SPU members to kill ANC leaders. Myeza said that, as an SPU member, he received a bi-monthly salary of R2 800 and that Nyawose supplied him with food and clothing.

Myeza told the Commission that Mr Dzulani Nyawose,⁶⁵ the driver of the then KwaZulu Minister of Pensions, Prince Gideon Zulu, had convened a secret meeting of SPU members in Ulundi during 1993. At this meeting Nyawose told the SPU members that they were to kill all the ANC leaders in Eshowe, Esikhawini, Mtubatuba and elsewhere. Myeza said the motivation for killing these ANC leaders was to ensure that the ANC did not win the elections in April 1994.

He said KZP members had provided the SPUs with weapons and vital intelligence needed to carry out attacks on the local ANC people. On one occasion, the KZP had transported the SPU members to the scene of an attack in a KZP Hippo (armoured vehicle).

He claimed that all three killings for which he had applied for amnesty were committed under orders from senior IFP leaders and in furtherance of his organisation's objectives.

390 On 1 December 1993, nine ANC supporters were killed in the Bhambayi informal settlement, Inanda. Mr Soshu Mbhele [AM4018/96], the area commander of the Lindelani/KwaMashu SPU, claimed responsibility for the massacre. Initially Mr Patrick Dlongwane [AM8028/97], chairman of the Returned Exiles Committee, had claimed that the armed wing of his group was responsible for the killings.

THE COMMISSION FINDS THAT, DURING THE PERIOD 1993-1994, THE SELF-PROTECTION UNIT PROJECT (SPU), ALTHOUGH OFFICIALLY PLACED WITHIN THE AMBIT OF THE PEACE ACCORD AND CONTAINING AN ELEMENT OF SELF PROTECTION, WAS ALSO INTENDED TO FURNISH THE INKATHA FREEDOM PARTY WITH THE MILITARY CAPACITY TO, BY FORCE, PREVENT THE CENTRAL GOVERNMENT AND THE TRANSITIONAL EXECUTIVE COUNCIL FROM HOLDING ELECTIONS WHICH DID NOT ACCOMMODATE THE IFP'S DESIRES FOR SELF-DETERMINATION.

⁶⁵ Nyawose, also referred to as Nyawuza, was also allegedly linked to hit-squad activities in Eshowe.

IT WAS ADMITTED AT THE TIME BY THE PERSONS NAMED BELOW THAT SUCH ARMED RESISTANCE WOULD ENTAIL THE RISK OF UNLAWFUL DEATH AND INJURY TO PERSONS.

CONSEQUENTLY, IT IS THE CONTEMPLATED FINDING OF THE COMMISSION THAT THE SPU PROJECT CONSTITUTES A GROSS VIOLATION OF HUMAN RIGHTS WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE IFP AND MEMBERS OF THE THEN KWAZULU GOVERNMENT AND POLICE FORCE.

THE FOLLOWING INDIVIDUAL MEMBERS ARE ACCOUNTABLE FOR THE VIOLATION IN THE MANNER DESCRIBED IN SECTION 1(IX)(B) OF THE ACT:

- MR PHILIP POWELL OF THE IFP, WHO ON HIS OWN ADMISSION RAN THE PROJECT AND CONSPIRED WITH THE FORMER MEMBERS OF THE SOUTH AFRICAN GOVERNMENT'S SECURITY FORCES TO ACQUIRE EXTENSIVE WEAPONS AND SUPPLY LETHAL TRAINING TO TRAINEES.
- DR MG BUTHELEZI IN HIS CAPACITY AS THE CHIEF MINISTER OF THE KWAZULU GOVERNMENT.
- GENERAL SM MATHE IN HIS CAPACITY AS ASSISTANT AND/OR ACTION COMMISSIONER OF THE KZP.
- MEMBERS (NOT INDIVIDUALLY IDENTIFIED) OF THE KWAZULU LEGISLATURE AND CABINET WHO KNEW OF THE PROJECT'S UNLAWFUL AIMS AND SUPPORTED IT.
- CAPTAIN LEONARD LANGENI AND OTHER MEMBERS OF THE KZP 9 (NOT INDIVIDUALLY IDENTIFIED) WHO KNEW OF THE PROJECT'S UNLAWFUL AIMS AND WHO PROVIDED TRAINING IN SUCH UNLAWFUL AIMS.

Forced recruitment

391 The Commission heard that during the 1990s, with violence now endemic in many communities, men were often required to attend night 'camps', to participate in patrols and to attend all political gatherings convened by the party in whose stronghold they resided. People who failed to participate in these activities were suspected of being supporters of the opposing party and were frequently attacked as a result.

392 The term 'camping' was used to refer to the gathering of men at a vantage point to keep watch and protect their area from attack by supporters of the opposing party. While the men 'camped', the women and children often congregated at a number of houses where they would sleep for the night. A number of people told the Commission how men who had refused to attend such 'camps' were targeted.

The Killing of Gcina Maphumulo

Mr Peter Maphumulo's [KZN/NNN/139/PS] father, Mr Gcina Geoffrey Maphumulo, an ANC member from Murchison, went to visit his wife who lived in an IFP stronghold. He was confronted by IFP members who wanted him to join their 'camp'. He refused and was killed.

The Killing of the Gumede Family *On 11 September 1992, six members of the IFP-supporting Gumede family were shot and burnt to death when their home in Gobandlovu reserve, outside Esikhawini, was attacked. Earlier, a group of IFP members patrolling the area had stopped at the Gumede home and asked why their nephew Tholithemba did not join their patrols and 'camps'. They then started burning the Gumede's house.*

When Mr Jameson Gumede confronted the IFP leadership about their supporters' conduct, the group returned and attacked the whole family, killing Gumede, his wife Joyce and their four children Gugu, Sindisiwe, Thokozani and Nomusa.

Six-month-old Thabile escaped death but was seriously burnt on her face and upper body. Now five years old, she has lost her left ear and the use of her left hand, and is badly disfigured. Two local IFP leaders were arrested in connection with the attack but were later released without being charged [KZN/SS/025/EM].

The Attack on Makhosezwe Mthethwa

Mr Makhosezwe Mthethwa [KZN/KM/552/PS] from Murchison told the Commission how in June 1992 he was shot and left for dead after he stopped attending the night 'camps'. Mthethwa said that he had become tired of the 'camps' and decided he was no longer going to attend. One of those who allegedly shot him was the IFP member who organised the 'camps' in the area.

Internal party conflict

393 Internal party conflict developed in both the ANC and IFP in KwaZulu and Natal and resulted in several deaths. The causes of these internal divisions included leadership struggles and suspicions that one or other party member was a spy or traitor.

The Killing of Bafana Kunene

The Commission heard that on 4 January 1990, Mr Bafana Julius Kunene [KZN/MR/057/PM], an IFP supporter in the Mphophomeni area, was found hacked to death after being fetched from his home to attend a night 'camp' of the IFP.

His widow, Ms N Kunene, told the Commission that, shortly before this event, Mfana Kunene had attended a night 'camp' meeting at which "they were given some orders that in the time of war they must distinguish between the 'comrades' and the IFP people".⁶⁶ At the meeting, he was told to kill his brother, who was a 'comrade'. Kunene felt that he could not do this and left the meeting.

The following night, he and his wife were woken up by men telling him that he must go with them to attend an Inkatha 'camp'. He dressed and went out to join them. He never came home at all that night. The next morning his wife found his badly mutilated body.

394 Conflict broke out in Bhambayi, an informal settlement at Inanda, north of Durban, in December 1992. The conflict, triggered by competition for limited resources in the settlement, divided the community into two ANC-supporting factions, which came to be known as the 'Greens' and the 'Reds'. In time, the smaller 'Green' faction felt itself being increasingly marginalised by the local (Bhambayi) and regional (Durban) ANC leadership. As a result of the high level of conflict, an ISU base was set up nearby and there were continuous ISU patrols in the settlement. As the 'Greens' were in the minority and occupied a small area in the heart of the settlement almost completely surrounded by the 'Reds', the ISU tended to position itself on the border between the two factions. This led to accusations from the 'Reds' that the ISU had sided with the 'Greens'. In addition, there were numerous allegations that ISU members themselves were carrying out attacks on the 'Reds'. These allegations of collusion only served to heighten the division between the two factions and further to marginalise the 'Greens'.

395 In April or May 1993, the 'Greens' made approaches to the IFP and, a while later, people living in the 'Greens' section began identifying themselves as IFP supporters. In August 1993, an IFP branch was launched. Nine people were killed, eleven injured and eighteen houses burnt down on the day of the launch. From that time, the conflict in the community was perceived as an ANC/IFP conflict. By July 1993, monitors estimated that as many as 200 Bhambayi residents had died violently.

⁶⁶ Pietermaritzburg hearings, July 1996.

The Killing of the Zulu Family

On 4 September 1991, the home of Mr James Zulu in Port Shepstone was attacked and four members of his family massacred. At the time, Zulu was a respected community leader and an ANC member, although he had fallen out with some of the younger activists. The police's main suspect in this case, ANC activist Alson Ngwazi, was killed on 25 May 1992. The Network of Independent Monitors (NIM) had the following to say regarding Zulu in their submission to the Commission:

"It is our suspicion that this massacre was the work of some 'third force' with support from the SAP for purposes of fuelling the local conflict ... The brutal murder and mutilation of his family was blamed at the time by the SAP on the ANC and it appears to have turned Zulu into an anti-ANC warlord."⁶⁷

Revenge attacks

396 A former IFP youth leader from Izingolweni, inland of Port Shepstone, applied for amnesty in respect of fifteen murders and eight attempted murders committed between 1991 and 1992. Mr Goodman Muswakhe Ngcobo [AM5632/97] was convicted in September 1993 on ten counts of murder and four counts of attempted murder and sentenced to death six times. His death sentence was later commuted to life imprisonment. In passing judgement, the presiding judge, Mr Justice J Combrink, said:

It is clear that you terrorised the local inhabitants. You caused people to flee from their homes and you started and continued with a reign of terror.

397 Ngcobo began his killing spree after his mother was killed on New Year's Day 1990. He believed that ANC supporters had killed his mother and set out to avenge her killing. His first victim was an ANC youth, Mr Dan Cele, who Ngcobo held responsible for his mother's death. However, some of the other killings or attempted killings appear to have been random attacks on ANC supporters with whom he crossed paths, as opposed to targeted attacks. He told the Amnesty Committee that he viewed all ANC members as his enemies.

Arson/burnings

398 The Commission received reports of arson attacks on homes, business premises and vehicles. Most of the victims of arson attacks told the Commission that they

⁶⁷ See further below.

had subsequently fled the area and had never returned to their homes. The majority of these people are now living in shack houses in informal settlements. Many of them also lost their jobs as a result of having had to flee.

- 399 The large-scale burning of homes, particularly in the rural areas, was used by political groups as a way of forcing their opponents to leave an area, and thereby consolidating their political power base. Hundreds of thousands of people were displaced during this period. The incidence of house burnings increased noticeably in many areas in the run-up to the 1994 elections as party supporters attempted to expand their constituencies. While there was hardly a community not affected in this manner, the areas worst affected were Eshowe, Ndwedwe, Sundumbili/Mandini and Izingolweni.

Commuter attacks

- 400 A common tactic used by supporters of both parties during the 1990s was to ambush vehicles transporting supporters of the opposing party. Attacks on buses, minibus taxis and trucks transporting people to or from party strongholds occurred across the length and breadth of the region. The Commission received reports of buses being attacked whilst transporting people to work or to a political rally, as well as reports of armed attacks on commuters waiting at bus stops or taxi shelters.
- 401 The violence in the Midlands town of Estcourt and its satellite township, Wembezi, was dominated for a time by such commuter attacks. By 1993, both the township and the town was demarcated into ANC and IFP sections. IFP supporters used the taxi rank in Alexander Street in the IFP part of town or faced the risk of losing their lives. Similarly, ANC supporters had to use the rank in the ANC part of town. Frequent drive-by shootings occurred on these taxi ranks. There were also many attacks on taxis and private vehicles transporting residents from Wembezi to Estcourt and back.

Attack on School Bus

On 2 March 1993, six schoolchildren were killed and seven others injured when unknown armed ANC supporters ambushed a bus transporting children from an IFP area to school.

THE COMMISSION FINDS THAT SIX SCHOOLCHILDREN WERE KILLED AND SEVEN OTHERS INJURED AT TABLE MOUNTAIN ON 2 MARCH 1993 BY UNKNOWN ANC SUPPORTERS WHO AMBUSHED THE BUS TRANSPORTING THE CHILDREN TO SCHOOL FROM AN IFP AREA.

UNKNOWN SUPPORTERS OF THE ANC ARE HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS CONSTITUTED BY THE KILLINGS AND ATTEMPTED KILLINGS.

Revenge Ambush of a Bus

In a revenge ambush by IFP supporters on 5 March 1993, ten people were killed and six others injured. IFP members Nkanyiso Wilfred Ndlovu [AM4058/96] and Mabhungu Absalom Dladla [AM4019/96] applied for amnesty for their part in the second attack. Both applicants had been convicted and sentenced to over sixty years' imprisonment for their roles in the attack.

Ndlovu told the Commission that he and his fellow IFP attackers had in fact ambushed the wrong vehicle. They had intended to ambush a particular vehicle transporting ANC supporters, but the vehicle they attacked was carrying IFP supporters as well. Five of the ten deceased were IFP supporters.

THE COMMISSION FINDS THAT TEN PEOPLE WERE KILLED AND SIX OTHERS INJURED ON 5 MARCH 1993 BY IFP SUPPORTERS WHO ATTACKED A VEHICLE IN THE TABLE MOUNTAIN AREA AND OPENED FIRE ON ITS PASSENGERS. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS. NDLOVU AND DLADLA HAVE BOTH APPLIED FOR AMNESTY IN RESPECT OF THEIR ROLES IN THE INCIDENT.

Alusaf Smelter Bus Attack

On 22 July 1993, ten men were killed by unknown IFP supporters in a planned attack on a bus transporting employees of the Alusaf smelter. The employees were all from KwaMthethwa, considered an ANC stronghold. It was further alleged that all employees of Alusaf were COSATU members and therefore ANC supporters.

The bus was stopped in Enseleni, an IFP stronghold, by men in balaclavas who boarded and chose ten men from amongst the passengers. They took them outside, made them lie face down on the ground and shot each one in the back of the head. One of the deceased, despite being from KwaMthethwa, was an IFP supporter.

THE COMMISSION FINDS THAT ON 22 JULY 1993, TEN MEN WERE KILLED BY UNKNOWN IFP SUPPORTERS IN AN AMBUSH ON A BUS TRANSPORTING PEOPLE TO THE ALUSAF SMELTER AT ENSELENI. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS AND UNKNOWN SUPPORTERS OF THE IFP ARE HELD RESPONSIBLE FOR THEM.

Children

402 Many children were victims of gross human rights violations in Natal and KwaZulu. While some of these children were caught in crossfire, or were victims

of large-scale indiscriminate attacks on party strongholds, some of them were deliberately targeted.

The Killing of Frances Khanyisile Mabaso's Children

Ms Frances Khanyisile Mabaso [KZN/MR/225/EM], from the Matshana tribal authority, North of Empangeni, told the Commission of an attack on her home in March 1992 while she and her young children were sleeping.

Mabaso woke up in the middle of the night to find people pouring petrol on her house and setting it alight. While she was waking her children, telling them to flee the house, she was shot twice, in the arm and in the back. She fell to the floor and could not move. She could hear her children's screams and the attackers outside saying that they were going to kill the whole family because they were ANC. Her children came back for her and dragged her outside. They watched their house burn to ashes.

It was then that Mabaso discovered that her four-year-old daughter was bleeding profusely from her head where she been hacked with a panga, and that her sixteen-year-old son Njabulo had been shot in the eyes. Mabaso told the Commission that she was not aware of any police investigation into the matter.

- 403 The Commission was also told of the pain that parents endured when they were required to go to the mortuaries and identify the bodies of their children. Mr Lawrence Fanizani Dladla [KZN/FS/124/PM] of Mpumalanga told the Pietermaritzburg hearing that his four UDF-supporting sons were killed in succession. The first was Molo (18) who was killed in November 1988. Dladla went to the mortuary to identify his son:

I went there with them because I wanted to see my son's body, and my heart was torn apart when I saw bodies, corpses, being packed on top of each other ... There was no space where you can put your feet because there were corpses all over the place.

And I looked around and my heart was torn apart, and I saw my son. I looked at him. I saw one big hole on his chest and I said to myself, "Oh my God, my son is lying there forever".

- 404 Five months later, in April 1989, a second son was killed. Again, Mr Dladla was required to identify the body:

[When] I saw my son, my son had been cut like a goat, and that hurt me very much. I even felt that it was better if they shot him rather than cutting him.

- 405 In September 1989 and April 1991, two other sons were killed. To his knowledge, there was not one prosecution in respect of any of his sons' killings.
- 406 IFP supporter Ms Nomusa Shandu [KZN/LPM/100/EM] told the Commission at the Empangeni hearing how her seven children and grandchildren were killed just metres away from where she was hiding. The incident occurred in Umgababa on 20 July 1990. She believes that the attackers were ANC supporters. The Shandus had recently moved to Umgababa from KwaMakhutha. She had been led to believe that Umgababa was free of political tensions. Only once they had moved did she discover that they were living in an ANC stronghold. However, she did not expect that they would be victimised for being IFP supporters, since they attended all the ANC meetings in the area.
- 407 Within a day or two of arriving in Umgababa, their house was attacked by ANC supporters and burnt to the ground. Shandu told the Commission she was paralysed with fear when she heard the attackers coming. She wanted to close the door, but could not move. She managed to crawl into hiding from where she heard her three children and two grandchildren being killed, one by one:

They were not firing twice, they were firing only once and I could count them, 1, 2, 3, until they were finished. After they finished, only one was safe. That's when they started pouring petrol on those bodies and then they lit all the corpses and when the fire caught the wardrobe my other grandchild, the one who was inside the wardrobe, got away. Linda, Thulile were on fire. They couldn't get away. They were crying. They were not shot, but they were burnt.

Bethwell, Mafike, Linda, Zipporah, Primrose and Thulile, those are the only people who died on the 20th, and Mafike as well. Mafike was the last one to die, because after they've burnt the corpses and I was – from where I was hiding myself I could hear Mafike. I heard one of the attackers saying, "I want him dead. Don't let him loose", and I heard him crying and then they shot him and they burnt him outside the house. They put a big plank and they burnt him.

- 408 The following people, all ANC supporters, were convicted in respect of this incident: Mr Sibusiso Cele, Mr Nkosi Mseleku, Mr Ronny Bheko Luthuli, Mr Nke Zikhali, Mr Goodman Luthuli, Mr Dumo Petros Mfeka, Mr Ba Cyril Mseleku, Mr Dumisani Sibiyi, Mr Qinisele Mbatha, Mr Rickman Simo, Mr Jet Gumede, Mr Sipho Mkhize, Mr Michael Luthuli and Mr Sinqbile Gumede.



- 409 While many women told the Commission of what happened to them, thousands came to the Commission to tell of what had happened to others – to their husbands, their children, their parents and their friends. These women tended to underplay the suffering that they had themselves experienced as witnesses and survivors of these tragedies.
- 410 As with children, the majority of women who were victims of gross human rights violations were not deliberately targeted but were caught in crossfire or were victims of indiscriminate attacks on party strongholds. The majority of victims in massacres of households were women. However, a number of women were specifically targeted for their political activism, their relation to male activists or in order to strike terror into the heart of communities. The Commission heard that both ANC and IFP supporters were guilty of extreme violence against women.
- 411 Although not easily quantifiable, a significant number of women told the Commission that they had been sexually abused in the name of politics.
- 412 Sixteen-year-old Ms Bajabulile Nzama [KZN/MR/094/DN] from Inanda told the Durban Hearing that she was abducted by ANC ‘comrades’ during 1990. Although she was non-partisan, her captors accused her of sympathising with the IFP because IFP supporters used to congregate near the bridge outside her house. She was taken to a house in B Section, Inanda.

That’s where they raped me. What is worse is that I was only sixteen years, and I was still a virgin, and I had told myself that I wanted to be like my mother. I used to admire my mother because she only went out with one man, that is my father, and I tried to save my virginity and this is what happened to me.

They raped me, the three guys. That was the end of my story. I got pregnant there. And when I came back home, I was pregnant and now I have a child whose father I don’t know.

There was a certain girl whom I found in that house and she was also abducted, she said she was from Richmond Farm. They used to come and rape us, both of us, and they will take us to a forest and in that area, there were a lot of bodies, dead bodies. And they used to tell us that this is what we will become. They used to assault us. They never used to give us food. They took my clothes, my money. They used to give us a bad porridge, which was black.

413 Bajabulile was kept locked up in the house and raped repeatedly over a period of one month. During this time, her captors told her to point out buses transporting people to IFP areas. One day they told her to point out the house of a certain well-known IFP supporter. That was the day she managed to escape. She reported the matter to a policeman with whom she was acquainted. Her case went to trial in 1992 but, according to Bajabulile:

The judge told me that I was just a concubine in that area, I am lying; they didn't rape me.

414 Bajabulile still sees her attackers in her neighbourhood and one of them taunts her, saying that the child is his. She is unable to make friends because they ask who her child's father is, and she cannot bring herself to speak of what happened to her..

415 In the rural area of Ndwedwe, not far from Inanda, forty-two year old Ms Bongini Besta Mbatha [KZN/NG/255/DN] was attacked by ANC supporters on 20 October 1991. They were looking for her nephew Mr Siphso Langa, an IFP member. When they could not find Siphso, they attacked her instead. She told the Commission:

They beat, stabbed and shot me. This happened in the forest where I was dragged. I was set on fire. I lost consciousness. It was dark when I gained consciousness. I crawled out of the forest, which took me a long time. Police came and took me to King Edward Hospital where I spent four months.

416 Ms Doris Ngubane [KZN/FS/226/DN], told the Commission how she was raped by four members of the *AmaSinyora* gang during March 1992. Ngubane and her husband Meshack had been married for thirty-two years and had seven children, one of whom, Xolani, was an active UDF/ANC member. They lived in K Section, KwaMashu, where there was a great deal of conflict at the time, with people being killed, houses set alight and residents fleeing their homes. On one such day in early March, Ms Ngubane (41) witnessed a group of IFP, KZP and *AmaSinyora* members attacking her neighbour's home and killing a young man who lived there.

417 The next day Ms Ngubane and the two children who still lived with her left their home and joined the many other residents who had taken refuge at the Tholemandla School. Meshack Ngubane refused to leave the house, wanting to stay to look after their possessions. The following day Ms Ngubane returned

home to collect bedding. As she was entering the yard, she was approached by four youths, one of whom was known to her as KZP member Justice Nkwanyana⁶⁸. The four youths were the same age as her youngest child.

- 418 They pushed her inside. Meshack Ngubane came out to see what was happening and the couple was pushed into the bedroom where they were repeatedly assaulted. Mr Ngubane was then forced into a chair.
- 419 Justice Nkwanyana tore Ms Ngubane's pinafore with a knife and stabbed her on the feet. The others joined in the assault and she was held on the bed whilst Nkwanyana raped her in front of her husband. The others stood next to Mr Ngubane and, when he averted his eyes or bowed his head so that he could not see what was being done to his wife, they hit him and forced him to watch.
- 420 After Nkwanyana had finished raping her, he poured a jug of water over her vagina. The youths then took turns raping her, pouring water over her after each one had finished. When they hurt her and she cried out, they stabbed her and hit her all over her body with implements. They told her that they were doing this to her because her son was a UDF supporter. She eventually lost consciousness. The group then left, taking with them chickens from the yard.
- 421 Mr Ngubane left his unconscious wife and ran to get help. Their son Xolani arrived home and when he discovered what had happened to his mother he rushed to the Polyclinic to get an ambulance. The ambulance service refused to drive into K Section, but said that they could collect her from Mandela Road. Mr Ngubane, Xolani and four of Xolani's friends together carried the unconscious woman to Mandela Road to meet the ambulance.
- 422 When Ms Ngubane regained consciousness in the hospital, she discovered that the doctors had had to perform a hysterectomy. She remained in hospital for three weeks. On being dismissed, she went to lay a charge at the KwaMashu police station. The sergeant who attended to her refused to take a statement or to lay a charge. Ms Ngubane told the Commission:

I don't know how to describe the pain and anger I felt about this experience. When I went to KwaMashu police station, I was told that they do not take matters from the location. I don't know why they did this because they were supposed to help us.

⁶⁸ Justice Nkwanyana was a KZP member stationed at KwaMashu. He was found to be a perpetrator of a number of gross human rights violations reported to the Commission. He is now deceased.

- 423 The family left K Section and went to live in a shack. Mr Ngubane became epileptic after his traumatic night and was not able to return to work. Ms Ngubane does not attend any functions where people gather and she wishes to live in a place where they are not known. She says that she is not able to socialise normally with people and prefers to stay within the confines of her shack.

It's the most humiliating thing that can happen to anybody. These boys took away my dignity. I don't have the words to express the kind of pain and anguish I experience. I think about this every day. My husband has since been mentally disturbed. Life's very difficult.

Killing of witnesses

- 424 Several deponents told the Commission that potential witnesses in politically motivated killings were murdered before they could give evidence in court.
- 425 Murchison resident Ms Hilda Memela [KZN/NNN/110/PS], whose 21-year-old son Nelson, an ANC supporter, was shot dead, told the Commission at the Port Shepstone hearing that the police warned witnesses that their lives would be endangered if they made statements:

We sat there for quite some time up until the police arrived, and the children said they could actually show us the perpetrators, those marauders, and the police said, "Where will you live after pointing those people, after identifying those people, because it won't be peaceful?" Then that was scary enough for the children not to identify those [perpetrators]. They were still around, the perpetrators.

After some time the car that carries the corpse from the police station came and took the corpse, and there is nothing that we gave to the police. There was no statement whatsoever that was made to the police up until to this day.

Pre-election violence

- 426 In July 1993, the TEC announced that South Africa's first non-racial general elections would take place on 27 April 1994. On hearing the announcement, the IFP expressed its opposition. IFP National Council member Mr Walter Felgate was quoted in the national media as threatening that the IFP would "make it impossible for an election to take place, by embarking on a campaign of mass action, street action and disruption" (*Natal Mercury*, 10 September 1993). On 19 April 1994,

with less than a week to go, the IFP announced that they would be contesting the elections.

- 427 In the months leading up to the elections, KwaZulu and Natal experienced the worst wave of political violence in the region's history. The incidence of politically motivated human rights violations rose dramatically following the announcement of the election date.
- 428 IFP supporters are alleged to have launched attacks on the party's opponents in KwaMakhutha, Umlazi and KwaMashu. In KwaMashu, Umlazi and Mondlo, opponents allegedly occupied stadiums reserved by the ANC, resulting in heightened political tensions and violent conflict in these areas. Voter education efforts were disrupted, leading to violent deaths (see below).
- 429 On 25 August 1993, the KLA took a resolution to establish an SPU training project financed by the KwaZulu Government. In October 1993, such training began at the Mlaba camp, near Ulundi (see above). Between October 1993 and April 1994, approximately 5000 people were trained at Mlaba camp and at a second camp known as Emandleni Matleng, in remote areas of the KwaZulu homeland. Training at Emandleni-Matleng began on 14 January 1994, to accommodate an overflow of trainees at Mlaba. Between December 1993 and April 1994, a third training project was run at the Dinizulu camp near Ndumo in Northern Natal.
- 430 Mlaba camp commander Philip Powell, an IFP member and former security policeman, was placed in overall command of the SPU training project. Under his command, training was carried out in part by members of the KZP, former Vlakplaas Commander Eugene de Kock, former Vlakplaas operative Lionel 'Snor' Vermeulen, former political commissar of the 'Caprivi trainees', Daluxolo Luthuli, and a number of other 'Caprivi trainees'.
- 431 Weapons training was conducted using unlicensed weapons and ammunition which were not KZP issue, including Z88 9mm, Scorpion, AK-47, Makarov, RPG-7, HMC and Uzi firearms; explosives included M-26 hand grenades, rifle grenades and limpet mines. These weapons derived from a consignment of weaponry, ammunition and explosives that Powell had requested from Eugene de Kock in September 1993.

- 432 On 1 October 1993, De Kock facilitated the transfer of a large quantity of weapons, including AK-47 rifle ammunition, rifle grenades, hand grenades, rocket propelled grenades, mortars, detonators and explosives. These weapons were loaded onto four KwaZulu government trucks and thereafter returned to Ulundi where Powell stored the weapons at his residence. On 20 October 1993, a further large quantity of similar weaponry was loaded onto two KwaZulu government trucks at the premises of Mechem in Johannesburg and transported to Powell's house in Ulundi. The weaponry was hidden in buildings in the residential complex where Powell lived.
- 433 In the latter part of 1993, certain KwaZulu/Natal IFP leaders engaged in arms smuggling. Former Security Branch members Izak Daniel Bosch [AM3765/96], Wouter Mentz, Willie Nortje [AM3764/96], Lionel Snyman, Dries Van Heerden and Eugene de Kock [AM0066/96] all applied for amnesty for supplying arms to Inkatha between 1990 and 1993. These arms were allegedly sent to Mr Themba Khoza (the IFP leader in the Transvaal) and to Philip Powell in KwaZulu/Natal.

Creighton

- 434 On 18 February 1994, fifteen ANC youths were massacred in the rural Mahehle village near Creighton in the Natal Midlands. Earlier that day they had been involved in putting up posters announcing a voter education workshop. Four prominent IFP leaders, Mr Mbadlaza Paulos Vezi, Mr Dumisani Khuzwayo, Mr Gamuntu Sithole and Mr Thulani Dlamini, were arrested in connection with the massacre. They were later acquitted due to conflicting evidence given by the state witnesses [KZN/ZJ/420/IX; KZN/ZJ/417/IX; KZN/ZJ/418/IX; KZN/MR/468/CT; KZN/MR/465/CT].

KwaMashu

- 435 On 20 March 1994, the ANC booked the Princess Magogo stadium in KwaMashu for an ANC election rally. IFP supporters, mainly from the KwaMashu hostel and the neighbouring settlements of Lindelani and Richmond Farm, began occupying the stadium the day before the planned rally. In an attempt to avoid clashes, the ANC held their rally in the adjoining street. Conflict erupted nevertheless and continued for two weeks, resulting in the deaths of over fifteen people. Up to 3 000 residents were forced to flee their homes.

436 In an attempt to end the violence that had engulfed the township, the local ANC leadership approached their IFP counterparts and scheduled a peace meeting for 29 March 1994. On that day, the ANC delegation went to the house of an IFP leader in the IFP-supporting KwaMashu hostel complex where their meeting was to take place. They were initially locked in the house, then taken by minibus to another section of the hostel complex where five of them were executed. The chairperson of the KwaMashu Hostel IFP branch, Mr Themba Alton Khanyile, was subsequently found guilty on eight charges of kidnapping, five of murder and two of attempted murder and was sentenced to twenty years' imprisonment. His three co-accused, Mr Charles Mavundla, Mr Khulumethule Msomi and Mr Themba Zulu, were acquitted after one state witness, who had allegedly been threatened, changed his testimony and was declared a hostile witness.

Ndwedwe

437 On 12 April 1994, nine employees of a private company were distributing IEC pamphlets in the Ndwedwe area north of Durban when they were confronted, accused of being ANC supporters and severely tortured. Eight were executed; the ninth managed to survive the attack and took three days to crawl to safety. Five IFP supporters were arrested in connection with the massacre. One of these, Mr Qaphela Dladla [AM6599/97], *induna* and leader of the *amabutho* at Ndwedwe, was subsequently convicted. The other four were acquitted because of contradictory evidence.

Ulundi

438 On 17 April 1994, ANC canvasser Muzi Mchunu was shot dead in the Ulundi KZP station by a KwaZulu Correctional Services member, Mr Thokozani Alvation Sithole [AM5112/97]. The KZP originally claimed that Mchunu had committed suicide, but *post mortem* results showed that he was shot in the back at an angle and from a distance that ruled out suicide. Sithole was charged and convicted for the murder. In his plea for mitigation, he claimed that his brother-in-law had been killed during the so-called Shell House shootings the previous month.

Civilian right wing

439 Overt right-wing violence first emerged in KwaZulu and Natal during the 1990s. An informal alliance between the right wing and the IFP emerged after the formation of the Concerned South Africans Group (COSAG) in 1993 and was reflected in weapons smuggling and paramilitary training (mostly on white farms and KwaZulu

nature reserves). There were a few cases where IFP members and right-wingers took part in joint attacks. The most notable of these was the bombing of the Seychelles restaurant in Port Shepstone. Mr Christo Brand [AM6422/97], Mr Morton Christie [AM6610/97], Mr Harry Jardine [AM6178/97], Mr Patrick Pedlar, Mr Roy Lane and Mr Andrew Howell [AM5961/97] all applied for amnesty in respect of the bombing of the Seychelles restaurant in February 1994 and of the attack on the Flagstaff police station in the Transkei, also in February 1994. Prominent South Coast IFP leader James Zulu ([AM5864/97], now deceased) was involved in both of these attacks for which he too applied for amnesty. The applicants also revealed that they had conspired to bomb the Port Shepstone offices of both the NP and the ANC, but had abandoned these plans because of the commotion caused by the bombing of the Seychelles restaurant.

- 440 Mr James Zulu was a major focal point for the investigation of political violence in the lower South Coast region. The Commission found that he had close links with the local and regional SAP as well as with senior members of the white right wing, and that he used these links to his full advantage in his campaign to extend his own power base and to rid the area under his control of anti-IFP elements. His extremely aggressive and abrasive public personality contributed substantially to instability and violence in the greater Port Shepstone region.
- 441 Three AWB members from Richards Bay applied for amnesty for the 9 October 1990 attack on a Putco bus in Duffs Road near KwaMashu and Inanda. Two people were killed and dozens of others injured. The applicants claimed that the attack was in revenge for an alleged Pan African Students Organisation (PASO) attack on the Durban beachfront in which one person was killed. (Eugene Marais [AM0054/96]; David Botha [AM0057/96]; Adriaan Smuts [AM0056/96; KZN/SC/001-012])
- 442 IFP member Allan Nolte [AM2501/96] applied for amnesty for adding cyanide to the water system in Umlazi. He named six other right-wingers whom he alleges to have been party to the poisoning.

Resistance and revolutionary groupings

PAC/APLA

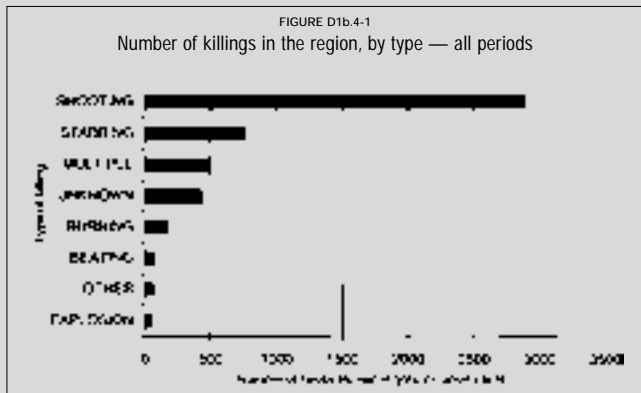
- 443 Three cases of PAC/APLA violence were referred to the Commission.

- 444 APLA member Nbobba Mgengo [AM6386/97] applied for amnesty in respect of the bomb explosion on a bus in central Durban on 30 November 1993.
- 445 On 16 January 1994, the PAC announced that it had suspended the armed struggle that had been conducted by its armed wing, APLA, for the past thirty years. On 17 January 1994, three men were killed in a shoot-out with policemen in Pine Street in central Durban. Two of the deceased were allegedly attackers; the other may have been a bystander. The police alleged that the SAP satellite office at the Pine Street parking garage was attacked on that day by APLA members armed with AK-47s, 9mm pistols and a grenade. The SAP had allegedly received prior warning of the operation and had therefore deployed a number of policemen ready to counter the attack. One of those killed in the ensuing shoot-out was Mr Mosheen Jeenah [KZN/NN/400/DN], a student at ML Sultan Technikon and an alleged APLA member. The PAC denied involvement in the incident.
- 446 Evidence led at the inquest alleged irregularities in the initial investigation carried out by Warrant Officer Van Biljon and state pathologist, Dr Book. Two policemen who had been present during the shooting claimed they were fired on first and only then did they return fire. However, no AK-47 or handgun bullets (alleged to have been fired by the deceased) were found in the Pine Street satellite office. Further, the weapons used by the police who fired on the deceased were not sent for ballistic testing.
- 447 One APLA and two PAC members applied for amnesty in respect of the attack on the Crazy Beat Disco Club in Newcastle on Valentine's Day 1994. Ms Gerbrecht van Wyk was shot dead and several others injured during the attack. The applicants, Mr Bongani Golden Malevu [AM0293/96], Mr Andile Shiceka [AM5939/97] and Mr Walter Falibango Thanda [AM5784/97], alleged that they had been sent by their commanders in the Transkei to Newcastle to 'identify areas where whites gather'. They said they targeted the disco because it was frequented by white patrons. All three were serving prison terms for their involvement in the attack. Thanda and Shiceka were both involved in several APLA attacks in the Cape Town area for which they also applied for amnesty.

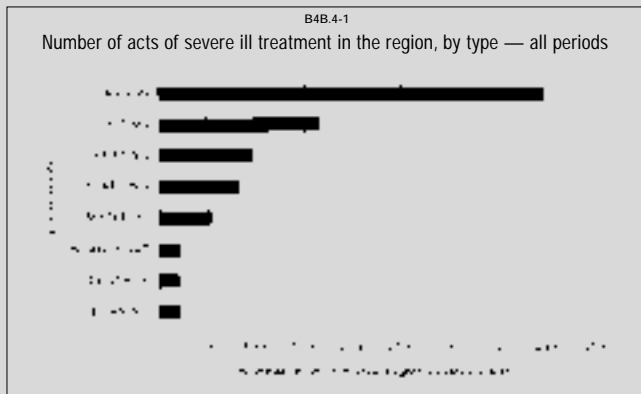
Statistics on Violations in Natal, KwaZulu and the Orange Free State

■ NATURE OF THE VIOLATIONS

1 The data gathered from the region covered by the Durban office is different to that gathered by the other three offices in many regards, and reflects the violent shifts in the political landscape in the early 1990s. The pattern of deaths, however, is similar to the national pattern. The top eight causes of death are: ►



2 Shootings account for the greatest number of the killings, followed by stabbings. As in the national pattern, death by multiple causes was very common; usually a consequence of victims being shot, stabbed and/or burnt at the same time.

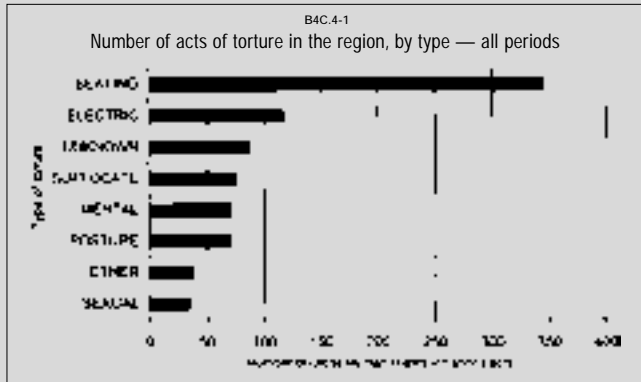


3 The pattern of severe ill treatment is very different from the rest of the country, with arson dominating the chart: ►

4 Arson was by far the most common type of severe ill treatment, with nearly 4 000 cases reported, followed by shooting, beating and stabbing. Material losses, destruction of property and burning also feature in the top eight types of severe ill treatment. All these reflect the nature of the violence in this area, in which whole communities were targeted.

5 The pattern of torture is also slightly different: ►

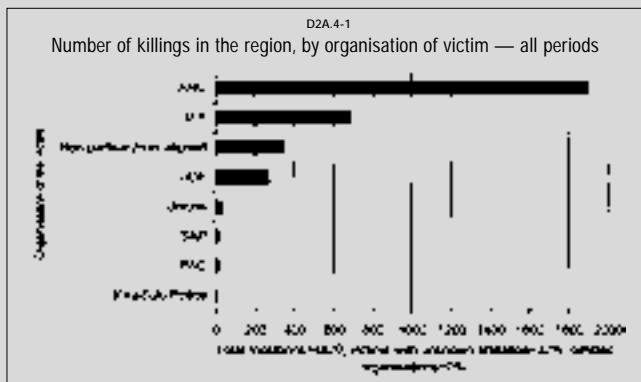
6 As in the other regions, beating was the most common type of torture reported to the Commission, but this region differs from the others in that electric



shock was the second most common form of torture. Relatively fewer cases of torture by forced posture were reported in the areas covered by the Durban office than in other areas.

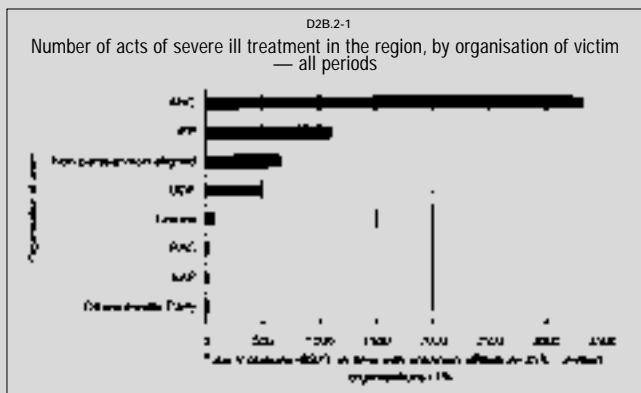
Victim organisations

7 The breakdown of violations by victim organisation shows how differently the conflicts of the past played out in the region covered by the Durban office. Victims who were members of the African National Congress (ANC) were still in the majority, but Inkatha Freedom Party (IFP) victims featured as the second largest group. The numbers of killings were as follows: ►



8 Around 1 900 victims were ANC members and nearly 900 were IFP members. Non-partisan or non-aligned victims suffered the third highest number of killings, followed by members of the United Democratic Front (UDF).

9 The pattern of severe ill treatment violations presents an almost identical picture: ►



10 Again, ANC members suffered the highest number of violations, followed by IFP members. As with killings, the number of violations suffered by non-partisan or non-aligned people was far higher in the Durban office area than in the rest of the country.

11 Interestingly, the pattern of torture does not match that of killings or severe ill treatment at all: ►



12 The torture pattern is much closer to that of the national picture, with the bulk of torture cases involving ANC, UDF and Pan Africanist Congress (PAC) members. Very few IFP members were tortured in comparison to the numbers who were killed or suffered severe ill treatment.

Perpetrator organisations

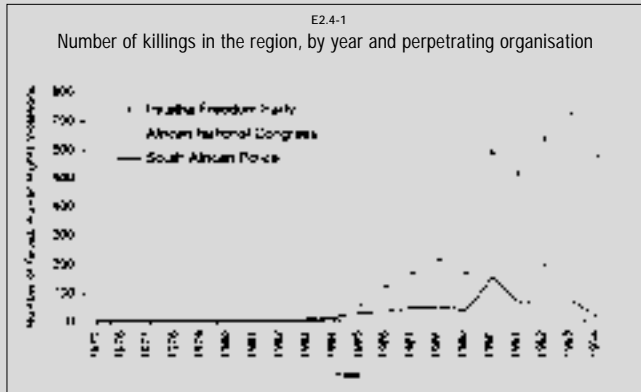
13 Deponents attributed killings in the region covered by the Durban office mainly to the IFP, ANC and the South African Police (SAP). The top eight responses for instances involving killings were as follows: ►



14 Nearly 4 000 killings were attributed to the IFP, followed by the ANC with over 1 000. The SAP and KwaZulu Police (KZP) accounted for the third and fourth largest numbers of allegations.

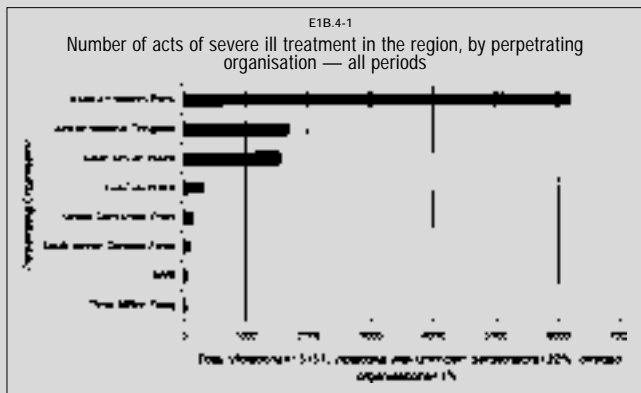
15 In contrast to the rest of the country, most of the killings took place in the early 1990s. ►

16 In the killings allegedly committed by the IFP, the chart shows an increase in the late 1980s, then two steep peaks in 1990 and 1993. The killings attributed to the ANC and SAP increase more slowly to form a smaller peak in 1990.



17 The pattern of severe ill treatment is similar to that of killings, with the SAP, IFP and ANC at the top of the list of alleged violations: ►

18 The greatest number of instances of severe ill treatment are attributed to the IFP, followed by those attributed to the ANC, with a slightly lower number of allegations against the SAP.



The pattern over time also differs from the national picture and is similar to the pattern of alleged killings: ►

19 As with killings, the number of severe ill

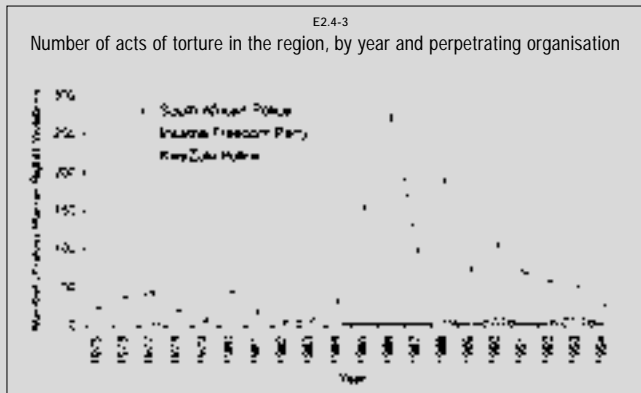
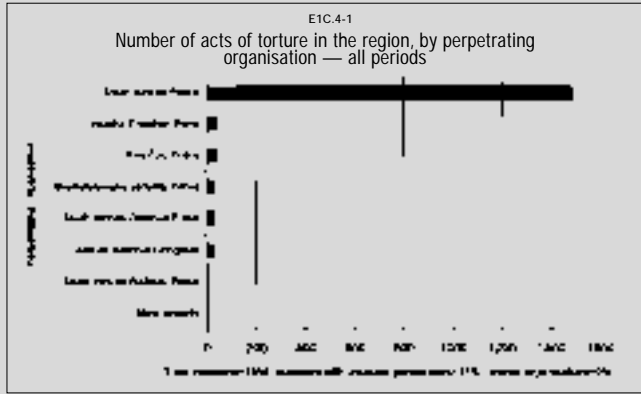


treatment violations allegedly committed by the IFP starts rising in the mid-1980s and increases steadily throughout the early 1990s. Those attributed to the ANC start to increase later, in 1988, and peak in 1990. The violations allegedly committed by the SAP do not show the same increases as those of the other two organisations, but remain steady at around 200 violations per year.

20 The eight organisations against whom the most allegations of torture were made are as follows: ►

21 Again, the police are in the overwhelming majority of those alleged to have used torture. There are a few allegations against the ANC and IFP, but deponents attributed the bulk of torture to the SAP. The three organisations linked to the highest numbers of allegations of torture during the states of emergency. ►

22 The cases attributed to the SAP are greatest in 1986, and then drop steadily, tailing off in the period leading up the 1994 elections.



Regional Profile Orange Free State

■ OVERVIEW OF THE REGION

Historical background

- 1 In the late eighteenth and early nineteenth centuries, much of what is now the Free State was inhabited by Sotho-speaking people. The first white settlers began crossing the Orange River in the south around the turn of the eighteenth century. This movement increased after 1836, when many Boer farmers moved north with the Great Trek, in search of freedom from British rule in the Cape Colony. However, the territory was annexed by the British in 1848 and remained under British rule as the Orange River Sovereignty until 1854, when it became the Boer-dominated independent Orange Free State. The territory continued to be highly contested by the Basotho, leading to many skirmishes until part of the Sotho-held territory was finally annexed to the Orange Free State. In 1900, the Orange Free State was again annexed by Britain and became known as the Orange River Colony. Boer self-government was restored in 1907, and three years later the colony became the Orange Free State province of the Union of South Africa. It remained so after 1961 when the country became a republic. Since 1994, the province has become known simply as the Free State.
- 2 Throughout this report, the province has been referred to as the Orange Free State, the name by which the territory was known during the years covered by the mandate of the Truth and Reconciliation Commission (the Commission).

Demography

- 3 During the period under review (1960–94), the Orange Free State was the second smallest of South Africa's four provinces, covering an area of just over 129 000 square kilometres. It was land-locked, with the Vaal River forming its northern border with the Transvaal and the upper Orange River forming its southern border with the Cape Province. To the east lay Natal and the independent Kingdom of

Lesotho. When the provincial boundaries were re-drawn in 1994, the borders of the Free State remained largely unchanged.

- 4 Though fertile and verdant in parts, particularly in the mountainous eastern areas, the landscape of the Orange Free State reflects harsh conditions and a semi-arid climate in the south. In the west, it gives way to sandy, desert-like terrain and successful cultivation is possible only under irrigation. With its low annual rainfall, the province experiences long periods of drought, making survival difficult.
- 5 The population of the Orange Free State makes up roughly seven per cent of the national population. The province's total population more than doubled during the period under review, from just over 1.2 million in 1960 to 2.8 million by 1993. Even so, the latter amounted to only 21.7 people per square kilometre, linking the Orange Free State with the Northern Cape as the most sparsely populated areas in the country. The overwhelming majority (84 per cent) was African, followed by whites (13 per cent) and coloureds (3 per cent). Southern Sotho was the most widely spoken language (55 per cent), followed by Afrikaans (14 per cent) and Xhosa (9 per cent). The population density tended to increase towards the north, with Bloemfontein and the north-western gold fields (centred around Welkom, Virginia and Odendaalsrus) being the most densely populated regions. Once the QwaQwa homeland was established (see below), it had a population density of 400 people per square kilometre – even though more than a third of the area was too mountainous for habitation.
- 6 Other African ethnic groups represented include the Zulu to the north-east, the Xhosa, who lived mainly in the cities, and the Tswana. Of the white population, the great majority were Afrikaans-speaking, with English-speakers tending to concentrate in the cities and industrial centres.
- 7 From the time of the Boers' arrival with the Great Trek, Afrikaners dominated both the farming life in the rural areas and the political and social life of the urban areas. The province became a bastion of Afrikaner culture, known for its austere and moralistic character. This seems to be at the root of the perception that the powerful Afrikaners of the Orange Free State were both products and originators of the conservative ideologies and laws that gave rise to the policy of apartheid. Indeed, the province's administrative capital of Bloemfontein was also the judicial capital of the Republic.

8

The Orange Free State was considered by many to be the most 'verkrampte' (conservative) part of the country's power base. Its rural nature and its remoteness from South Africa's largest cities seemed to isolate it from the evolving cosmopolitan identity and the sense of enlightenment associated with the large melting-pot cities of Johannesburg, Durban and Cape Town. Residents of the other provinces tended to think of the Orange Free State as a backwater, 'in the middle of nowhere'.

Homelands

- 9 Two homelands were established in the Orange Free State: QwaQwa in the north-east and, about midway between Bloemfontein and Maseru, a small portion of Bophuthatswana incorporating the village of Thaba'Nchu. (The remaining fragments of the latter homeland were scattered in the Transvaal and northern Cape.)
- 10 QwaQwa was concentrated around Witsieshoek, near the meeting point of the Orange Free State, Natal and Lesotho. It was originally designated as the homeland for the Southern Sotho people of South Africa, but only a small percentage of its intended citizens lived there. The territory covered only 183 square kilometres and was noted for its social hardships, including overcrowding and poverty, soil erosion and a lack of natural resources.
- 11 QwaQwa became a self-governing territory in October 1974, with a Legislative Assembly consisting of twenty traditional leaders (chiefs and headmen) appointed by the two tribal authorities, and twenty elected members. In the first QwaQwa elections, in April 1975, nineteen of the twenty seats were won by members of the Dikwankwetla (strong men) National Party (DNP). The leader of this party, Mr Kenneth Mopeli, went on to become Chief Minister.
- 12 The DNP dominated official political life in QwaQwa throughout the 1970s and 1980s, though a splinter group left to form the National Party of QwaQwa in 1978. The leader of the new party, Mr JM Mohlahli, challenged the DNP to hold elections to prove its credibility, efficiency and competence. Five parties nominated candidates for the elections, held in March 1980, but opposition parties accused the ruling DNP of various forms of electoral malpractice and threatened to have the results declared invalid. In the event, Mopeli and the DNP won all twenty seats and all opposition candidates lost their deposits.

13

Numbers swelled in the territory as many people were forcibly removed to the homeland in the mid- to late seventies and many others were compelled to leave urban areas because of lack of employment. The resettlement township of Phuthaditjhaba at Witsieshoek was developed to accommodate families of migrants who commuted daily to work in Bethlehem or Harrismith. In October 1974, more than 2 000 families were relocated to Tseki at Witsieshoek. Most of them had been ordered out of Kromdraai, Bophuthatswana, by the homeland authorities there; others were evicted from farms. Tseki lacked any health and education facilities, even basic necessities like clean water. The people erected rough corrugated iron shelters and dug pit latrines. No local employment opportunities existed. Chief Minister Kenneth Mopeli campaigned vigorously throughout the 1970s for more land to be allocated to the territory, but only a relatively small area of adjoining land was added.

- 14 In the 1970s and 1980s, a police force and a defence force were established in QwaQwa to see to law enforcement and to protect the homeland from internal opposition. The homeland security forces also assisted the South African Defence Force (SADF) in local and regional military operations against the opponents of apartheid. QwaQwa defence structures formed a vital part of Pretoria's defence system, especially in view of the homeland's proximity to the South African border with Lesotho. QwaQwa security forces joined the South African Police (SAP) in skirmishes with insurgents of the liberation movements. It should also be noted that the Lesotho Liberation Movement, the armed wing of the Basotholand Congress Party, which was forced underground after the abortive 1970 general elections in Lesotho, established a command in QwaQwa, where it received increasing support from the South African government and security forces.

Botshabelo

- 15 Between May 1979 and January 1980, an estimated fifteen to twenty thousand non-Tswanas (excluded by ethnic background from the nearby Bophuthatswana homeland) were resettled on the farm 'Onverwacht', some sixty kilometres east of Bloemfontein, near Thaba'Nchu – and some 330 kilometres from QwaQwa, of which it was designated to become a part. The farm, later renamed Botshabelo, had been acquired by the South African government for the purpose of 'relocating' people from white farms and from the deproclaimed townships of the Orange Free State. The terrain consisted of rocky, barren veld on which plots were marked out by tin toilets. Employment opportunities were few. Residents were forced to travel the ten kilometres to Thaba'Nchu or the sixty kilometres to Bloemfontein if they were lucky enough to have a job. Schooling and health facilities remained

totally inadequate.

- 16 Botshabelo became the largest single relocation area in the country. Most of its residents were Southern Sotho-speakers who came from the Kromdraai squatter area near Thaba'Nchu, where they had been rejected by the Bophuthatswana authorities. Children who were not Tswanas had been barred from attending schools in Bophuthatswana.
- 17 A report of the South African Council of Churches (SACC) noted that Botshabelo amounted to no more than a rural slum from which three stakeholders stood to benefit. QwaQwa stood to gain additional territory – although separated by three hundred kilometres from the homeland centred at Witsieshoek; the Bophuthatswana authorities were able to evict the thousands of non-Tswana squatters who had refused to accept Bophuthatswana citizenship, and the central government was able to consolidate its policy of ethnically based homelands.
- 18 Although Botshabelo had been earmarked for incorporation into QwaQwa almost from the outset, the process was dogged by misinformation and rumour. All moves towards incorporation were vigorously opposed by Botshabelo residents, particularly students, who protested and boycotted schools. The issue became a further cause for conflict between the DNP and its opposition. In February 1987, Chief Minister Mopeli, apparently in an attempt to avoid exacerbating student protests, issued a statement denying rumours of incorporation. In the same month, however, the *New Nation* reported him as telling a DNP meeting in Excelsior that he would “act mercilessly” against anyone opposing incorporation.
- 19 In July 1987, the DNP party organised a ‘secret ballot’, getting people to sign a petition stating: “We the residents of Botshabelo want to be incorporated into QwaQwa homeland of peace this year”. When, in spite of DNP efforts to keep them in the dark, high school students came to hear about the petition, they boycotted school in protest. Further rumours of incorporation set off a series of protests, some of which became violent.
- 20 Those who signed the petition, mostly senior members of the party, said that they had been given to understand that a refusal to sign might put their pensions in jeopardy. Chief Mopeli claimed that 11 000 people had signed a petition in favour of incorporation, which was favoured by most Botshabelo residents. A Human Sciences Research Council survey found, however, that most were opposed to it.¹

Botshabelo was incorporated into QwaQwa by presidential proclamation in December 1987. In response to a court challenge by Botshabelo teacher Gauta Lawrence Lefu, the Bloemfontein Supreme Court found in August 1988 that the incorporation had been invalid. The proclamation had not been authorised by the statutory powers on which the State President had purported to rely when he issued it. Justice JP Malherbe said that the incorporation did not accord with the intention of the legislature as expressed in the enabling provision of the its Constitution Act of 1971, as it did not promote the political development of Botshabelo residents in their national context. While 70 per cent of Botshabelo residents were indeed Southern Sotho, their culture and way of life differed radically from that of the inhabitants of QwaQwa, which had no historic claim to Botshabelo. QwaQwa had progressed through the various constitutional stages attached to homeland status, whereas Botshabelo had been established as a town with little development of political structures and had undergone very different political processes.

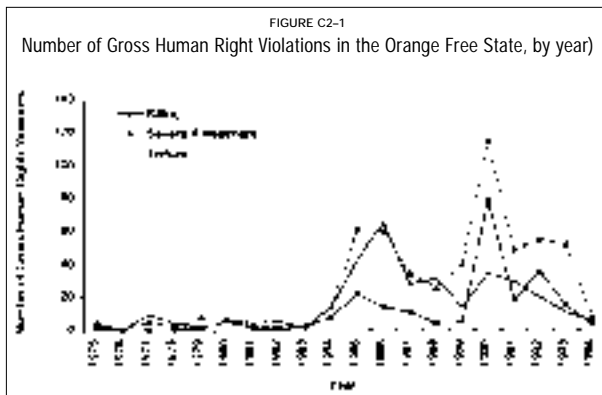
- 22 The State President and the QwaQwa administration appealed against this decision, and Botshabelo remained incorporated into QwaQwa until, on 2 March 1990, the Appellate Division of the Supreme Court upheld the earlier judgement and declared the incorporation invalid.

Overview of Violations

- 23 The KwaZulu-Natal regional office of the Commission was allocated the task of administering the submissions received from victims of violations in the Orange Free State. To this end, officers of the Commission were assigned to sub-regional offices in the Free State, and teams of statement-takers were sent to towns around the province in order to gather a wide range of evidence of violations. The Amnesty Committee and the Human Rights Violations Committee of the Commission held hearings in the main towns in the province. Comparatively few statements were received from the Orange Free State, the total representing no more than a fifth of all the statements received and administered by the Commission's Durban office.
- 24 Most of the reports of human rights violations from the Orange Free State were received for the late 1980s and early 1990s, when resistance to apartheid structures and policies was at its most intense in the province and in the country as a whole.

25

Up to 68 per cent of statements referred to violations that resulted from police action. Of these, 45 per cent of cases related to shooting by the police (40 per cent fatal), and 27 per cent to torture and assault, predominantly of detainees. Families often bore the brunt of this conflict as they suffered bereavement and loss, often of



economically active members or potential breadwinners. A remarkable number of violations perpetrated by the police resulted in permanent physical disability and psychological damage. Twelve cases of blinding as a result of police shooting were reported.

26 Other areas of social and political life in which violations were recorded by the Commission focused on civil conflict due, *inter alia*, to local councils imposing rental and service charge increases on township residents, vigilante activities and the conflict surrounding attempts to incorporate the township of Botshabelo into QwaQwa. Violations were also recorded in clashes between protesting students and the police during school boycotts, and between workers and the police, together with other groupings, in the course of labour activities. By the mid-1980s, young people (aged thirteen to twenty-four) were at the front line of resistance activities that resulted in clashes with the security forces.

27 Many deponents from the Orange Free State told the Commission that they had been victims of assault and attack, including social and economic deprivation, purely on the basis of race. The Commission was not always able to make a positive finding in respect of such cases, particularly when no clear-cut political motive was identifiable. There was a substantial number of reports and allegations of the frequent eruption of conflict between white farmers, white political organisations and the security forces on the one hand, and ordinary black farm workers and township residents on the other. This supports the impression that race relations in the province were particularly strained and social conditions deeply repressive in the province. It is against this background of racial tension, inequality and polarisation that the Commission has considered the submissions received from victims of violations in all spheres of social life in the province.

A review of the violations reported by victims in the Orange Free State reveals a steady increase in the number of politically-motivated killings and cases of severe ill treatment throughout the 1980s, both peaking in the nineties. Perpetrator groups appear to become more diversified towards the end of the 1980s and in the early 1990s. Whereas most reported violations in the 1960–83 review periods are attributed to the state security forces, later periods show an increase in the number of abuses perpetrated by groups allied to the liberation movements – the African National Congress (ANC) self-defence units (SDUs), the Azanian People’s Liberation Army (APLA), vigilante groups and other surrogate forces.

■ 1960–1975

Historical overview

- 29 The wave of political repression that followed the April 1960 banning of the ANC and the Pan Africanist Congress (PAC) ushered in a period of demoralisation in the political life of the Orange Free State that persisted throughout the sixties. Members and supporters of the resistance movements found themselves the victims of security force brutality that ranged from harassment to extreme torture and even death in police custody. Statements from victims of severe ill treatment expose the variety and severity of torture methods used by the police.
- 30 During this period, key apartheid legislation was enacted to crush resistance to the National Party (NP) government’s policy of dividing and subjugating the people of South Africa. ANC and PAC supporters were detained and sometimes convicted for furthering the aims and objectives of these banned organisations, as well as for mere membership.
- 31 One of the principal arenas of conflict in the Orange Free State was a growing popular rebellion against the imposition, over the years, of various local government bodies. Although no violations in this regard were reported for the 1960s, it is noted that most township residents responded with increasing resentment to the creation, in 1961, of Urban Bantu Councils (UBCs) which were to take over the administration of townships from white local authorities. The UBCs, situated at Bethlehem, Bloemfontein, Kroonstad, Odendaalsrus, Parys, Virginia and Welkom, failed to offer black citizens meaningful political representation at local levels. When these bodies failed to meet their mandate to provide and sustain adequate services in

townships, and later imposed hikes in rentals and service charges in order to meet their budget deficits, the protests erupted into conflict and violence, resulting in loss of life and the destruction of property.

- 32 It is important to note concurrent political developments in the Kingdom of Lesotho, which shares a substantial border with the province. South African activists and political refugees crossed at various points along this border to join the liberation movements in exile, and insurgents returned to conduct operations in the country. Equally, and increasingly, members of the South African security forces crossed the border to conduct raids on refugee camps and what they believed to be operational cells of the ANC military wing Umkhonto weSizwe (MK) based in Lesotho.
- 33 In 1970, during the first general elections held in Lesotho since its independence in 1966, Prime Minister Chief Leabua Jonathan intervened to declare the electoral proceedings invalid, simultaneously suspending the constitution and declaring a state of emergency in Lesotho. He did so at a time when the opposition Basotholand Congress Party (BCP) appeared to be leading in the polls. Jonathan claimed that there had been voting irregularities, intimidation of voters and violence at the polls and promised that free elections would be held under a new constitution.
- 34 In the same year, South African Prime Minister BJ Vorster declared that the Republic would not interfere in the internal affairs of Lesotho. However, hostilities arose when it became clear that the South African security forces were rendering military and other support to the now banned BCP and its military wing, the Lesotho Liberation Army (LLA). The fact that the Jonathan administration was favourably disposed towards the South African refugee community in Lesotho exacerbated the hostility, and both ANC and PAC refugees became increasingly vulnerable to abduction and attack by the security forces. The Commission received several reports of exiles and cadres of the liberation movements being abducted from Lesotho to be tortured at police stations in the Orange Free State.

Overview of violations

- 35 During this period, several activists were charged with attempting to leave the country to join the ANC and MK in Lesotho.
- 36 The Commission received relatively few reports of violations from the Orange Free State during this period. Most cases concerned police brutality.

State and allied groupings

Torture in custody

- 37 The few reports of detention and torture of detainees in the Orange Free State received by the Commission for this period present a particularly severe picture of police brutality. Assault and torture of detainees by means of electric shocks was commonplace.

The case of Leepo Lawrance Moleke

Mr Leepo Lawrance Moleke told a hearing of the Human Rights Violations Committee that, in 1972, he was detained and severely tortured in Bloemfontein for his membership of the ANC. In custody, he was accused of conspiring to overthrow the government, was blindfolded, had his hands and feet cuffed together and was repeatedly electrocuted by means of an electric cord connected to the running engine of a car.

He was held in custody for a further two weeks and told the Commission that, as a result of his torture, he suffered permanent paralysis in the right leg as well as significantly impaired hearing and sight [KZN/TDM/006/KRS].

IN REVIEWING EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS PERPETRATED BY THE STATE IN THE ORANGE FREE STATE DURING THIS PERIOD, THE COMMISSION FINDS THAT THE SAP PERPETRATED ACTS OF ASSAULT AND TORTURE ON DETAINEES AND OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT, ESTABLISHING A PATTERN OF ABUSE THAT INCREASED IN INTENSITY THROUGH SUBSEQUENT PERIODS.

Resistance and revolutionary and groupings

- 38 Most of the security trials, restrictions and detentions in this period occurred in response to political activism in organisations, such as unions and community organisations, rather than from sabotage and related acts. People were prosecuted for membership of banned organisations, for possession of banned literature, for recruiting for banned organisations and for undergoing military training.

■ 1976-1982

Historical overview

- 39 The 1976 Soweto uprising triggered a surge of student protests in centres around the Orange Free State, bringing young people into the frontline of anti-apartheid protest. A number of influential student organisations were formed during this period. 1978 saw the establishment of the Azanian People's Organisation (AZAPO) whose aim was to work, within a Black Consciousness framework, towards a common education and political system for all people. The Congress of South African Students (COSAS) was formed in June 1979 with the aim of striving for an education system that would meet the needs and aspirations of the post-1976 situation. In the Orange Free State, both organisations involved themselves in a range of community concerns, such as organising commemoration and funeral services for students shot by police and participating in marches to protest against removals, increases in rent and bus fares, and detention without trial. These activities often brought them into direct clashes with the police.
- 40 Early in 1980, boycotts started in black secondary schools in Cape Town and gradually spread countrywide. Although initial grievances concerned mainly the quality of education offered to blacks, it became clear that students were challenging not only the educational system but also the political system. Indeed, student organisations like COSAS promoted the idea that the struggle for quality and equality in education went hand in hand with all other struggles in society.
- 41 Students continued with sporadic protest and boycott actions and, in November 1980, the Department of Education and Training closed seventy-seven secondary schools across the country. Three of the five secondary schools for black pupils in Bloemfontein were amongst those that were closed indefinitely. Schools in that city had responded to the call for a schools boycott in April 1980, leading to several outbreaks of violence. Violence also broke out in schools in Onverwacht (later known as Botshabelo) at Thaba'Nchu in July 1980, where up to 600 pupils boycotted classes. Boycott action also occurred in schools in QwaQwa during 1980.
- 42 Disturbances, protests and boycotts spread to schools around the country and many students experienced intimidation, harassment and detention at the hands of the police. In the Orange Free State, student organisations came to play an important role in representing the interests of victims of police brutality, since

only a few of the many hundreds of non-governmental organisations which took root in centres around the country during this period were established formally in the Orange Free State. The Commission received several reports of students who were detained and tortured during this period.

- 43 There were a number of convictions under the Terrorism Act for, amongst other things, sabotage and conspiracy to commit sabotage, receiving military training outside the country, possession of firearms and ammunition and the possession of 'terrorist' propaganda. In some cases, activists were allegedly assaulted and forced to make statements before being charged. Many convicted activists from the province were sent to Robben Island to serve their sentences.
- 44 In May 1977, Ms Winnie Mandela's banning order restricting her to Orlando, Soweto, was changed to an order restricting her to Brandfort in the Orange Free State. During her eight-year banishment to Brandfort, Ms Mandela became an important political figure for many students and youth in the area.
- 45 The Community Councils Act of 1977 replaced the Urban Bantu Councils Act and gave the community councils more duties and power than previously enjoyed by the UBCs. Community councils had a mixed reception in the Orange Free State, being accepted in Bloemfontein, for example (though with a 29 per cent poll), but rejected from the outset by UBC councillors in other townships, because of a lack of proper consultation with local representatives.
- 46 The Black Community Development Bill No 112 of 1982 proposed yet further changes to black local authorities, expanding the functions of community councils to include tasks previously undertaken by administration boards and town councils. One of the purposes of the Act was to bolster the status and autonomy of the black authorities. They were vested with specific powers and responsibility for services including waste disposal, sewerage, electrification, health, sport, recreation, housing and so on, but without commensurate sources of revenue. Finance had to be raised from a number of sources including increases in service charges, site rent, fines for infringing by-laws and the sale of sorghum beer. It was the efforts of councils to raise finance, particularly by increasing rent and service charges, that eventually brought them into direct conflict with township residents (see below: 1983–89).

Overview of violations

- 47 The Commission received twice as many reports of violations in the Orange Free State for this period as for the preceding period. Most reports referred to police brutality, including torture and assault in detention. Two of these incidents resulted in deaths in custody.
- 48 Many detentions were recorded for this period, arising largely out of the 1980 school boycotts and the disturbances that preceded them. Students and student leaders were detained, including members of AZAPO, the Young Christian Workers (YCW) and the Bloemfontein Students' League. Some students detained during this period reported to the Commission that they were tortured in detention.

State and allied groupings

Torture in custody

- 49 The first reports of torture at the 'Adami House' police premises in Bloemfontein were recorded in this period.

The torture of Alfred Raymond Thabo Pieteron

The Commission heard that, in June 1978, Mr Alfred Raymond Thabo Pieteron of Young Christian Workers was detained by the Security Branch in Bloemfontein and taken to Adami House where he was questioned about the activities of his organisation and was tortured. He was later taken to a police station in Vredefort where he was again tortured. In December of the same year, Pieteron was detained again in Bloemfontein and tortured by means of electric shocks [KZN/PJM/032/FS].

Public order policing

- 50 In April 1980, following a national call to students, students in Bloemfontein engaged in protest and boycott actions. The police appeared initially to act with restraint in their response to these school boycotts. However, reports soon emerged of the use of unnecessary force to break up crowd demonstrations, including the use of baton charges and mass arrests. Student protests in Bloemfontein and Thaba'Nchu were dispersed by police. In May, police dispersed a crowd of 2 000 demonstrating pupils at Witsieshoek in QwaQwa.

- 51 Police shootings were also reported in the course of policing the 1980 student protests, often resulting in injury and, in some cases, death.

The death of Daniel Thabo Malotolo

Sixteen-year-old Daniel Thabo Malotolo was shot dead on 21 May 1980 while participating in a student march in Bloemfontein [KZN/TIS/008/BL].

IN REVIEWING EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS COMMITTED BY THE STATE SECURITY FORCES IN THE ORANGE FREE STATE DURING THIS PERIOD, THE COMMISSION FINDS THAT THE SAP ASSAULTED AND TORTURED DETAINEES AS PART OF A SYSTEMATIC CAMPAIGN TO SUPPRESS AND SILENCE OPPOSITION TO THE APARTHEID POLICIES OF THE SOUTH AFRICAN GOVERNMENT. THE SAP IS FOUND TO HAVE ACTED WITH LESS AND LESS RESTRAINT AGAINST PUBLIC DEMONSTRATIONS AND PROTESTS AND RESORTED READILY TO THE UNJUSTIFIED USE OF DEADLY FORCE, FIRING ON CROWDS WITH LIVE AMMUNITION, RESULTING IN DEATHS AND INJURIES TO MEMBERS OF THE PUBLIC.

Cross-border activities

- 52 Refugees and exiles living in Lesotho were increasingly subjected to surveillance, raids and bombings during this period. In July 1978, six South African exiles were seriously injured when one of them opened a parcel bomb disguised as copies of an ANC publication.
- 53 Reports of cross-border abductions were also received. Witnesses were not always able to tell the Commission who was responsible for the disappearances of individuals from the exile community in Lesotho. However, several applicants for amnesty told the Commission that they had been personally involved in targeting individuals in exile, some of whom were known to be MK operatives.

The attempted assassination of Chris Hani

In his application for amnesty, Eben Frederick Coetzee told the Commission that, in 1980, he was given the order by senior members of the Security Branch to kill Mr Chris Hani, then MK commander in Lesotho, because of Hani's perceived growing influence in the ANC/South African Communist Party (SACP) alliance. At the time, Coetzee was a department head of the SAP Security Branch in the Orange Free State.

An attempt was made to place an explosive in Hani's car in Maseru, but the explosive went off prematurely, injuring Mr Tumelo Ernest Ramatlala (Ramotalo), who was responsible for placing it. According to former senior Security Branch member Dirk Coetzee, Ramatlala was a Lesotho national and a member of

the Lesotho Youth Organisation. He was an informer for the Bloemfontein Security Branch and allegedly a close confidant of Chris Hani.

Ramatlala spent three months in hospital under police guard and was charged for the explosion. On being granted bail he fled to South Africa and was taken to Vlakplaas to prevent him from revealing information about the planned killing [AM4079/97].

The kidnapping of 'Comrade A'

Amnesty applicants Mr Almond Nofemela [AM0064/96] and Mr Dirk Coetzee gave information about the attempted killing of 'Comrade A' (Lehlohonolo) in Maseru in 1981. Coetzee, then stationed at Ladybrand Security Branch, near the Maseru Bridge border post, said he equipped Nofemela and another police officer with firearms and a hand grenade and instructed them to enter Lesotho via Ficksburg Bridge. They were to go to the Maseru home of 'Comrade A' and to shoot him when he opened the door in response to their knocking. In the event, the victim did not open the door. The hand grenade was thrown through a window, injuring both 'Comrade A' and a child.

SADF Raid on Maseru

The most significant cross-border attack launched by members of the South African security forces from military bases in the Orange Free State was the SADF raid on Maseru on 9 December 1982, in which forty-two people were killed, twelve of whom were Lesotho nationals. (This event is documented elsewhere in the Commission's report.)

- 54 LLA attacks were also reported, involving cross-border activities between Lesotho and the Orange Free State.

The case of Seisa Seisa and others

In November 1981, LLA member Seisa Seisa, with others, bombed a bus stop at Motshepan, Magogoeng, in Butha Buthe. The Commission heard that they then went to Clarens in the Orange Free State where, ironically, they were arrested and taken to Bloemfontein. Here they were beaten and tortured because police thought they were members of MK.

When it was discovered that their commander, Mr Ntsu Mokhehle, was working with officers of the South African security forces, the authorities

tried to negotiate with Chief Leabua Jonathan to exchange them for Chris Hani. Jonathan refused. They were then given a limpet mine and driven through a roadblock by Dirk Coetzee to undertake an LLA mission in Lesotho [KZN/SMB/102/LB].

THE COMMISSION FINDS THAT THIS PERIOD WAS CHARACTERISED BY A DRAMATIC INCREASE IN ILLEGAL CROSS-BORDER ACTIVITIES BY THE SAP AND SADF, AND AN INCREASING NUMBER OF COVERT OPERATIONS IN LESOTHO WHICH RESULTED IN LARGE NUMBERS OF GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP AND THE SADF ARE HELD ACCOUNTABLE.

Resistance and revolutionary groupings

Sabotage attacks

- 55 The national sabotage campaign launched by MK in the 1960s was felt in the Orange Free State during this period. A series of explosions, mostly in and around Bloemfontein, caused considerable damage to key installations and various sites associated with the apartheid administration, among them:
- a The destruction of eight fuel tanks in a series of blasts at Sasol and Natref on 1 June 1980. While no injuries were recorded, damage was estimated at R58 million.
 - b The cutting of power lines at Vrede as part of anti-Republic Day protests on 25 May 1981.
 - c An explosion at the Fort Street railway bridge at Bloemfontein station on 27 January 1983, shortly after a passenger train had passed. One man was found fatally shot at the scene.
 - d The bombing of the South Free State Administration Board offices in Bloemfontein on 8 February 1982, killing two people and injuring seventy-five.
- 56 On 7 February 1979, YCW members Mpho Peterose Makae and Jacob Mosiuoa Tlelima, both from Kroonstad, were charged with conspiring to commit sabotage. The state alleged that they had planned to blow up the Kroonstad power station, a military camp, the magistrate's court, a police station, an office of the Security Branch and other buildings during a general strike of black workers. They were convicted and sentenced to five years, but the conviction was set aside by the Orange Free State Supreme Court in November 1982.² In July 1982, Elliot Zulu,

Jacob Thabethe, Alfred Malema and Frans Kekana were also charged with conspiracy to sabotage a power station and a training college in Kroonstad³.

THE COMMISSION FINDS THAT MEMBERS OF THE ANC PARTICIPATED IN ACTS OF SABOTAGE AGAINST STATE INSTALLATIONS AND THAT SOME OF THESE ACTS LED TO DEATHS OF AND INJURIES TO INNOCENT PERSONS. SUCH DEATHS AND INJURIES WERE GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE ANC IS HELD ACCOUNTABLE.

Banishment of Winnie Mandela

- 57 At the beginning of the period under review, Ms Winnie Nomzamo Mandela, who had been restricted under various banning orders since 1961, was restricted to her home township of Orlando, Soweto. In May 1977, a new order was served on her during a dawn raid, banishing her to the Orange Free State town of Brandfort. She was taken there immediately, together with her daughter Zindiswa (Zindzi), and was allocated a three-roomed house without electricity or sanitation. She was to remain at Brandfort for eight years.
- 58 Soweto had become a boiling cauldron of political tension in the months following the June 1976 uprising. Mandela's banishment to the remote town of Brandfort was apparently intended to weaken the ties between the influential community leader and the Sowetan youth who looked to her for political leadership.
- 59 However, from 1977 to 1985, Ms Mandela made her mark on the small community of Brandfort and became a particularly important political figure for young activists in the township. When she defied her banishment order by returning to Soweto in 1985, she left behind her a legacy of resistance upheld by a militant group of 'comrades'.
- 60 During her time in Brandfort, Mandela contributed to the life of the local community through a variety of projects. She initiated a feeding scheme and a day-care centre for the children of working mothers and set up a small clinic in her back yard. She also encouraged township residents to plant their own food gardens. Her efforts did not go unnoticed by her detractors, however. In 1980, white residents of Brandfort applied to the Minister of Justice to have her presence in the town reconsidered as it was causing 'unhappiness'.
- 61 The parents of township children also expressed ambivalence. By the 1980s, Ms Mandela had established herself as an influential figure in the township and her presence was beginning to have a polarising effect on the community. Some residents

² Focus 2

³ Focus 46

felt anxious about her influence over the children and their powerlessness to intervene. Her home had become a hub of activity for township children and youth.

- 62 Brandfort became one of the more volatile urban centres in the Orange Free State. The Commission received reports of brutality by the police and by the so-called 'anti-comrade' groups associated with the police and municipal structures in the Brandfort area.
- 63 In addition to her banishment to Brandfort, Mandela's banning orders prevented her from meeting with more than one person at a time and from talking to any other listed person. To monitor her compliance with these orders, a police sergeant was specifically assigned the task of keeping surveillance on her movements and was assiduous in the harassment of her friends and visitors. Zindzi Mandela, though neither banned nor banished, was also harassed and intimidated while she lived with her mother at Brandfort. This compelled Mr Nelson Mandela, then imprisoned on Robben Island, to bring an urgent restraining order against two police officers to prevent them from harassing his daughter and her friends.
- 64 By the 1980s, police were using methods that were insidious. In particular, a number of secondary school students were recruited into a gang to undertake vigilante-type actions in the township. The activities of this gang persisted well after Ms Mandela's departure from Brandfort, and are discussed in more detail below.
- 65 In August 1985, Mandela's home in Brandfort was petrol-bombed. Mr Mphithizeli Nelson Ngo, formerly a member of the SAP, told a hearing of the Amnesty Committee that all instructions to target Mandela's property in Brandfort came from Security Branch headquarters in Bloemfontein. The attacks had been intended "to scare her a bit". He said that it was known in Security Branch circles that Mandela's house was being used for meetings. The clinic was also believed to be a meeting place.
- 66 At the time of the attack, Ms Mandela was in Johannesburg for a medical examination. She moved back to her house in Soweto and did not return to Brandfort in spite of a letter from the police saying that the house had been repaired and that she was required to return there by 4 November of that year. On 20 May 1987, the Brandfort home was attacked again, causing extensive fire damage to both the house and the clinic. As with the 1985 attack, no one was injured.

■ 1983-1989

Historical overview

- 67 This period saw the emergence of several youth and civic organisations, many of which were affiliated to the United Democratic Front (UDF), formed in 1983. AZAPO and student organisations such as COSAS were particularly active in organised protests against apartheid in general and in activities focusing on student grievances.
- 68 From 1984, many towns in the Orange Free State, particularly Bloemfontein, Parys and Welkom, experienced the worst civil unrest since the Soweto uprising of 1976. Continuing student dissatisfaction with the education system was the primary focus of conflict. As in the previous period, the youth and particularly the students bore the brunt of police brutality in the course of school boycotts and other protests, as well as being disadvantaged academically by the disruptions.
- 69 In the industrial sphere, striking workers, too, came up against heavy-handed security force action. The Commission received a total of twenty-three reports of alleged police brutality against striking workers in the Orange Free State, involving assault, torture and shooting, and resulting in two deaths. Fourteen of these cases were reported for the period 1983–89.
- 70 The South African Institute of Race Relations documented more than 1 000 strikes across the country in 1987, involving over half a million workers most of whom were concentrated in the mining industries. Twenty thousand workers in the Orange Free State gold fields went out on strike during 1986/87. Reports received by the Commission indicate that striking miners in the province suffered harassment, assault and dismissal by mine-owning companies, by the police and by vigilante groups. The vigilantes, referred to as ‘the Russians’ on some mines and ‘*witdoeke*’ on others, appeared to be working with the common purpose of repressing all strike action by workers.
- 71 Economic hardship also played a part in fomenting conflict in black townships. The announcements of service charge and rental increases were not welcomed by black consumers already hard-hit by inflation and the rise in sales tax from 6 to 7 per cent.

- 72 Black South Africans expressed growing dissatisfaction with their exclusion from the system of government ushered in by the 1983 introduction of the Tricameral Parliament. Protest activities ranged from boycotts of elections for new black local authorities to violent attacks on local government buildings and the homes and businesses of councillors in townships.
- 73 When local authorities sought to increase rents and service charges in the early 1980s, township residents protested by refusing to comply with the increases or by withholding all payments to the local authorities. Even before the increases, rent and service costs had been financially crippling. Many residents were falling behind with payments; some in the poorest communities had never paid for township services at all.
- 74 Rent boycotts were often accompanied by demands from township residents and community organisations for the resignation of local councillors. Later, this action erupted into more militant forms of protest, sometimes including violence. Rent boycotts occurred around all the main towns of the province in 1984, particularly in Tumahole (Parys), Zamdela (Sasolburg) and other Vaal triangle townships, and continued throughout 1985. The Commission heard accounts of brutality on the part of councillors themselves and on the part of groups or gangs apparently organised by councillors and deployed in vigilante activities. These activities took place in response to the growing militancy of residents, usually associated to some extent with the UDF, who rejected local government in communities. Vigilantism became a widespread phenomenon in the province during this period. The Commission heard claims that vigilante groups such as the *Phakathis* (or 'A-Team') in Thabong, the 'A-Team' in Tumahole, the 'Eagles' in Brandfort and the 'Three Million Gang' at Kroonstad created a reign of terror in these areas.
- 75 Former SAP member Mphithizeli Nelson Ngo told a hearing of the Amnesty Committee that the unlawful use of gangsters to attack political activists was not only sanctioned by the police, but that three vigilante groups were recruited and trained by Security Branch officers posted to Brandfort for special duty in 1985/86. These three groups were the Eagles, the 'Anti-comrades' and the Three Millions. The Commission also heard of the activities of several other vigilante groups known simply as 'anti-comrade' groups, many of which appeared to be unchecked or even openly supported by members of the SAP.
- 76 By the mid-eighties, civil protest and resistance had reached new levels of intensity in the Orange Free State. The July 1985 proclamation of a state of emergency

affected only one area in the province, namely Sasolburg, and this was lifted after six months. However, the whole province was affected by the June 1986 emergency, which was renewed annually until February 1990. The emergency regulations empowered police to detain any person for up to fourteen days if, in the arresting officer's opinion, the maintenance of public order justified such detention. Restrictions were placed on public gatherings and funeral ceremonies.

Overview of violations

- 77 The overwhelming majority of violations reported in the Orange Free State occurred in this period, 1983–89. Around 70 per cent of the reports implicated members of the police force, including members of the Bophuthatswana and QwaQwa security forces, in assault, torture, shooting and arson.
- 78 For this period also, the Commission received reports of violations allegedly perpetrated by political organisations, including members of the Afrikaner Weerstandsbeweging (AWB), the UDF/ANC and members of the DNP. Reports were also received of violations perpetrated by white farmers acting in concert with members of the police force and of the civilian right wing.
- 79 The first reports of aggression by and towards local councillors in Orange Free State townships referred to his period. Reports included several violations by members of vigilante groups, corresponding with the rise of vigilantism in 1985. The overwhelming majority of such reported violations was allegedly committed by the A-Team of Thabong, also known as the *Phakathi* group. Reports of attacks on vigilantes by members of civic organisations were also received.

Police brutality

- 80 It is difficult to draw clear distinctions between types of threatening and violent behaviour on the part of the police. What became clear through the testimonies of many victims of violations in the Orange Free State is that psychological battery on the part of the police, including verbal and emotional abuse and threatening, degrading and humiliating treatment, often produced post-traumatic symptoms similar to those of physical harm.
- 81 Many individuals told the Commission that they had never lodged complaints or reports with the police of incidents where police were culpably implicated.

- 82 Submissions by many families who lost loved ones in police custody or as a result of police shooting indicated that families were, by and large, ignorant of their rights in respect of the deceased. They did not know of their rights to a proper investigation into a death, to a *post mortem*, to the issuing of a death certificate and to custody of the corpse in preparation for burial. In fact, many families reported that they had never heard whether investigations had been conducted, suspects identified or charges laid, or whether an official inquest was held and what the findings might have been.
- 83 Equally, it is difficult to separate police brutality in a *politicised* context (such as the shooting of protesters in the street or the torture of activists in detention) from police brutality in a *related* context, where victims are not the direct targets for attack, but become targets accidentally.
- 84 Some activists claimed that the police attempted to co-opt the support of their families as a means of pressurising them to stop their political activities or to return from exile. At least two witnesses reported that police had offered them money to travel to Lesotho and persuade their sons, exiled in that country, to return home. Reports were also received of detainees who were threatened with the lives of their families and friends at home if they failed to co-operate under interrogation. Family homes were regularly subjected to police raids in search of members who were politically active. Many reports described the personal injury and extensive damage to property resulting from such raids.

The case of Polediso Motsoeneng

Perhaps one of the most moving cases of the disruption of family life to emerge from the Orange Free State is the story of Mr Polediso Hubert Dihlelele Motsoeneng, who was detained without trial in Bethlehem for a total of eleven months during the 1986 state of emergency.

In detention, he was beaten and threatened with death. The first period of detention was for six months in 1986, the second for five months in 1987. During the latter, he said, police threatened to throw him from the third or fourth storey of the building in which he was detained.

Motsoeneng told the Commission that the security police, including Major Stephenson, forced his father to beat him in front of the police. His father gave him fifty lashes. The victim was denied medical assistance after the beating. He said that his parents' marriage broke up as a result of the incident and his mother disappeared. He still did not know where she was [KZN/MR/268/FS].

The children's hearing in Bloemfontein

- 85 At a hearing convened in Bloemfontein on 23 June 1997 especially to hear the stories of children, the Commission heard of the effects of political conflict, unemployment, forced removals, poverty and inadequate education on the lives of children in the Orange Free State. In order to attend farm and township schools, children would often have to travel long distances and many would have to endure a day at school, and sometimes a time of working in the fields, without adequate nutrition to sustain them. Bereavement and displacement of families owing to political conflict would often produce trauma symptoms and behavioural disorders such as truancy, crime and aberrations of conduct in children. The inadequate social services were not equal to supporting the children and families in need.
- 86 The Commission heard from children whose parents were detained, tortured or shot by police and who were subsequently unable to fulfil the ordinary emotional and financial responsibilities of a parent in the home. Two reports were received from children whose homes were firebombed because their fathers were members of the police force.

State and allied groupings

Torture in custody

- 87 In September 1982, the Detainees Parents' Support Committee presented the Minister of Law and Order with seventy statements from detainees and ex-detainees claiming that systematic and widespread torture was being used by police in detention cells around the country. The claims listed the following types of torture and abuse: sleep deprivation, electric shock torture, mid-air suspension, suffocation, enforced standing, enforced exercise, punching, kicking, slapping, beating with sticks, batons, hosepipes or gun butts, assault on genitals, being kept naked for long periods during interrogation, being subjected to humiliating and degrading experiences such as deprivation of toilet facilities, verbal abuse and ridicule, 'hooding' to produce disorientation and fear, death threats, having a cocked firearm held in one's mouth, and threats of harm to one's children, spouse or close friends. Almost all the above forms of abuse were represented in the reports received from victims of police brutality in the Orange Free State for the 1983–89 period.
- 88 Poisoning was increasingly favoured as a method of torture during this period. Dirk Coetzee, who was based with the Security Branch in Bloemfontein in the

early 1980s, told the Commission that a senior Security Branch member, described by Coetzee as “one of the meaner security police stalwarts”, discussed with him the use of poison as a means of “disposing of activists”.

The poisoning of Samuel Malie

Poisons were used in the torture of Mr Samuel Mokhele Malie [KZN/SMB/119/FS] in a Bloemfontein police cell where he was held in 1983. He was allegedly forced to drink poisoned liquor and was rushed to Pelonomi hospital where he died the same day.

- 89 Members of the student organisations, AZAPO and the local civic organisations were particular targets of the police in their attempt to repress student resistance in the province. The police response to student protests often involved dogs, tear gas and baton charges, and sometimes shooting directly at demonstrators with live ammunition. Police also detained large numbers of people in an attempt to isolate and remove student leaders from the community.

The case of Richard Sello

One of the most humiliating forms of brutality perpetrated by the police against a student activist is found in the story of Mr Richard Retshidisitswe Sello who was actively involved in the Students' Representative Council (SRC) at his school in Mamafubedu, Petrus Steyn in 1987.

Sello told the Commission that, when student protests broke out at the school on 12 August 1987, the police raided the homes of SRC members. They kicked down the doors of the Sello family home and assaulted Sello's mother.

Sello was detained and tortured during interrogation. His arms were tied behind his knees, his face covered with a cloth and an electric device placed around his stomach. He was kicked and his head was hit against a wall, and he began to bleed heavily. He was thrown into a van with Lesotho registration plates and taken to a police station in Kroonstad. Police then took him to a kraal where they stripped him naked and poured milk over him. A calf was made to drink from his penis. The victim resisted and was detained in Kroonstad where he received medical attention whilst in prison [KZN/JRW/057/PET].

- 90 The Commission heard several accounts of the torture in detention of union organisers, members of student organisations and local youth congresses. Several people detained under various sections of the Internal Security Act claimed they were tortured while in custody.

The case of White Mohapi and others

The Commission heard of the torture of some twenty UDF activists who were arrested while trying to cross the border into Lesotho in April 1986 with the intention of joining the ANC in exile. They were apprehended by the SADF, kept in the veld overnight and then taken to the security police camp at Ladybrand where they were interrogated. They were then sent to Security Branch offices at the Fountain Police Station in Bloemfontein where they were tortured, electrocuted and beaten.

Two individuals were singled out. Mr White Mohapi [KZN/TIS/038/BL] was taken to an office where he was tied to a chair and suffocated by Sergeants Mamome and Motsamai using the 'tubing' method. This happened two or three times, and on each occasion, Mohapi was asked to inform for the Security Branch. He consistently refused, refusing also to make a statement about the group crossing the border to Lesotho. His refusal brought on hours of assault from a number of officers, whose names he gave to the Commission.

Mohapi's interrogation continued on the third day when two senior Security Branch officers allegedly took turns at assaulting him. By this time, Mohapi claimed, he could not speak or eat. On the fourth day he was taken to the doctor, who dispensed a mild painkiller.

Sergeants Mamome and Motsamai have applied for amnesty for their part in this case. In his application for amnesty before the Commission, Nelson Ngo spoke of this incident and said that Colonel Coetzee allegedly instructed Lieutenant Shaw and another senior Security Branch officer to divide the Security Branch members into two groups, to be headed by the two of them. The group of activists was also divided, and Coetzee and Colonel Stevenson allegedly ordered that assaults and interrogation of 'comrades' should proceed in the two groups.

Ngo said that the activists were forced to drink 2.5 litres water each, then to do frog-jump exercises, push-ups and high jump whilst they were assaulted. They were denied food and were offered opportunities to become state witnesses or informants against their fellow 'comrades'. Some of the activists agreed to do this. Those who refused were assaulted further. Ngo said that some of the detainees were bleeding through the ears as a result of heavy beatings. Some of the detainees were forced to write statements; some turned state witnesses. The rest were charged under the Terrorism Act.

The torture of Isaac Maduna

Mr Isaac Mokoeng Maduna told the Commission that he was arrested by police in October 1987 while he was addressing Sasol workers gathered at a Parys bus stop. Maduna was a member of the Disciplinary Committee of the South African Chemical Workers' Union and was reporting to the assembled group the decisions of a meeting of the Committee.

He was taken to Parys police station where he was beaten with sjamboks and sticks by Security Branch Constable Hennie Sochiva and others. He was later taken to Sasolburg police station where he was forced to make a statement and again tortured [KZN/JRW/058/PS].

The case of Sam Totolo

COSAS activist Sam Nqaba Totolo was detained on numerous occasions during 1984. He was tortured in detention and poisoned with chemicals injected into his feet, causing them to swell up. He was also beaten and given electric shocks. On one occasion in 1986, he was taken to Viljoenskroon police station where white police constables would switch off the cell lights and enter the cell in order to assault him. He told the Commission:

"The worst form of torture was when they would kick me on the chest with my head facing down. The result thereof was spitting of blood through the mouth from the chest. This happened on several occasions. The district surgeon would always, when making check-ups, claim that I'm still physically and psychologically fit, whereas I could feel that I was dying slowly because of inner pains I was feeling." [KZN/AT/004/FS.]

- 91 From evidence presented to the Commission by detainees in the Orange Free State, it appears that district surgeons' fortnightly visits to detainees, provided for by the Internal Security Act of 1982, were neither regular nor reliable. Two witnesses alleged that the seriousness of their conditions was not diagnosed by doctors who examined them after police assault. In one case, a mild painkiller was dispensed to treat someone who was seriously injured as a result of police torture.
- 92 Not one long-term detainee giving evidence to the Commission in the Orange Free State referred to routine or regular visits by a district surgeon to the detention cells at police stations. Witnesses reported being referred to a doctor when their injuries were serious enough to require hospitalisation. Further, reports indicated that police gained admission to hospital wards in order to restrain detainee-patients by handcuffing them to hospital beds and, in at least one reported case,

assaulting the detainee even further. The Commission also heard of a case where a senior hospital administrator gave false information to a deceased's family about the death of a patient and sent the family on a spurious search for a permit before giving them access to the corpse.

- 93 At the Welkom hearing of the Commission, claims were made that black patients were denied treatment at 'white' and 'mine' hospitals for injuries sustained as a result of police action, obliging them to travel great distances for medical treatment, even in emergency situations.

Deaths in custody

- 94 Five cases of death in detention were reported for this period. As in other parts of the country, deaths in custody were often explained by the police force as 'suicide', or as occurring 'while escaping from police custody'. Official police statements following deaths in custody were often at variance with the evidence of witnesses and families of the deceased.
- 95 The deaths of individuals who were last seen being arrested by police officers have often remained entirely unexplained.
- 96 The Commission heard accounts of several activists who were allegedly abducted by the police between 1986 and 1989 and have never been seen again. Four of these reports emanated from the Welkom area in 1986 alone.
- 97 Reports were received of bodies of victims found along roadsides or in the veld, days, sometimes hours, after the victim was arrested by police. Some individuals died after being admitted to hospital for the treatment of injuries sustained during a period of detention. Next-of-kin of such victims reported incidents where police officers and, on occasion, hospital staff denied families access to the corpse of the victim. Reports suggest that in some cases family members were only permitted to view parts of a corpse and not to inspect the whole.
- 98 Both COSAS member Siphon Mutsi and AZAPO member Petrus Mahlomola Maitse lost their lives at the hands of the police, Mutsi in detention and Maitse when police opened fire on a public demonstration. Both these cases are described below.

The death in detention of Siphon Mutsi

Mr Siphon Mutsi (20) was the first COSAS member to die in detention. A regional organiser for COSAS and part-time student from the Odendaalsrus

township of Kutlwanong, Mutsi was arrested at a bus stop in the town on 4 May 1985. He was taken into custody at the Odendaalsrus police station, in terms of the Criminal Procedure Act of 1977 “for questioning in connection with charges of public violence”. His mother, Ms Pulane Irene Mutsi, told the Commission that her son was dead on arrival at the Pelonomi hospital in Bloemfontein on 5 May 1985.

A police spokesperson said that Mutsi had experienced convulsions while his personal particulars were being recorded and had fallen over backwards from the chair in which he had been sitting. His mother had confirmed that Mutsi had a history of epilepsy. A post mortem on 9 May 1985, attended by an independent physician representing the Mutsi family, found the cause of death to be severe brain haemorrhage.

At an inquest held in the Welkom Magistrate’s Court in December 1985, Warrant Officer Maxwell Sithole and Detective Constable Magwesa Moya, who had interrogated Siphon Mutsi at the Odendaalsrus police station, stated that Mutsi had sat handcuffed on a chair in front of an iron table during the interrogation. They confirmed the official police version that he had suffered an epileptic attack and had fallen backwards, striking his head on the cement floor. The police officers conceded that when Mutsi had been brought to the police station there had been nothing wrong with him and that any injuries he had at the time of his death must have been sustained during the interrogation. Moya could not say how Mutsi had incurred injuries all over his arms, legs, and body, allegedly consistent with sjambok marks.

A further hearing took place in the Welkom Magistrate’s Court in April 1988. Counsel for the family of the deceased said that it was unlikely that he had suffered epileptic attacks as alleged by police. Rather, his death had been caused by the brutal assault on his person by Warrant Officer Sithole and Constables Mashabe, Makhube and Moya. During the inquest, a former detainee, Mr Sello Dithebe, said that he had seen a police officer kick Mutsi in the face and Warrant Officer Sithole had placed a wet canvas bag over his head [KZN/ZJ/115/BL].

IN REVIEWING EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS BY THE STATE AND ALLIED GROUPS IN THE ORANGE FREE STATE DURING THIS PERIOD (1983–89), THE COMMISSION FINDS THAT THE SAP MADE WIDESPREAD AND ROUTINE USE OF ASSAULT, TORTURE AND EMOTIONAL AND PSYCHOLOGICAL ABUSE, AS PART OF A SYSTEMATIC PATTERN OF BEHAVIOUR.

THE PERIOD WAS ALSO CHARACTERISED BY AN INCREASE IN THE NUMBER OF DEATHS IN POLICE CUSTODY. THE COMMISSION FINDS THAT SUCH DEATHS WERE GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

Public order policing

99 The Commission received a large number of statements from victims in Orange Free State townships alleging that they had been injured as a result of police action during the course of mass marches, demonstrations, funerals, and arbitrary attacks on the streets. Many of these injuries were gunshot wounds. Fatal shootings were also recorded. The Commission heard also of injuries allegedly sustained as a result of police swoops on private homes in search of individuals for the purpose of harassing, arresting or assaulting them.

The death of Petrus Maitse

On 18 May 1986, AZAPO member Petrus Mahlomola Maitse participated in a joint AZAPO/UDF protest against the state of emergency and against restrictions on political activity. The police clashed with protesters, sjambokking some and opening fire on others. Maitse was shot and taken to hospital in Sebokeng, Vereeniging, where he died a few days later [KZN/JRW/038/SB].

100 Victims reported the widespread use of tear gas as a means of coercion on the part of the police. From accounts of mass public demonstrations, it appears that police very quickly resorted to the use of tear gas as a means of dispersing crowds. Moreover, several witnesses reported the police's use of tear gas in confined spaces, greatly compounding its suffocating effects. Some victims reported being teargassed in the backs of police vans.

101 A number of submissions reported police intimidation at funerals, usually at the funerals of people whose deaths were associated with political events at the time.

Police open fire on mourners in Tumahole

The Commission heard several accounts of the police opening fire on mourners returning from a funeral in Tumahole, Kroonstad, on 21 July 1985, injuring several and killing at least one person, namely, Mr Gushe Panoshe [KZN/JRL/003/FS].

THE COMMISSION FINDS THAT THE SAP ROUTINELY EMPLOYED UNJUSTIFIED USE OF FORCE TO COUNTER PUBLIC PROTESTS AND DEMONSTRATIONS, RESORTING TO BATON CHARGES, TEAR-GASSING AND SHOOTING OF PROTESTERS. THIS RESULTED IN A LARGE NUMBER OF INJURIES AND DEATHS IN THE ORANGE FREE STATE. THE SAP IS HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS INVOLVED IN THESE UNLAWFUL ACTS.

Arson

- 102 Several cases of arson committed by the police in the Orange Free State were reported to the Commission. Attacks were made on the homes of activists and their sympathisers, often to 'teach them a lesson'. In June 1986, Mr Tumelo Molosioa's house in Mangaung was burnt down by unknown police officers because his father had helped the families of political activists [KZN/SMB/013/BL]. In 1987, Ms Winnie Mandela's house in Brandfort was gutted in an arson attack, along with the clinic on the same premises (see above).
- 103 Statements indicate that police arsonists were usually identified as such and did not go to great lengths to conceal their identity while involved in such attacks or in their support of arson attacks by vigilante groups. In September 1987, however, police burned down Mr Isaac Modise's house in Tumahole with the alleged intention of implicating a certain activist, Mr Mkhonzi, whom they wanted to arrest. Modise refused to pretend that Mkhonzi was the perpetrator of the arson attack on his home [KZN/MP/031/BL]. Modise told the Commission that he was severely beaten by the police during this incident.

THE COMMISSION FINDS THAT UNKNOWN MEMBERS OF THE SAP WERE INVOLVED IN UNLAWFUL ARSON ATTACKS ON THE HOUSES AND PROPERTY OF INDIVIDUALS AND FAMILIES SYMPATHETIC TO THE UDF, AS A MEANS OF EXERTING PRESSURE AND INSTILLING FEAR INTO LOCAL COMMUNITIES.

Cross-border activities

- 104 Refugees and exiles living in Lesotho continued to be subjected to surveillance and attacks by sections of the South African security forces during the mid- to late eighties. In December 1985, six South Africans and three Lesotho nationals were killed in an armed raid on two houses in Maseru. The attack was conducted by members of the Vlakplaas C-Section, led by Colonel Eugene de Kock. Details of the attack appear in Volume Two of the Commission's report.
- 105 Reports were received of skirmishes between the security forces and MK operatives in QwaQwa and along the Orange Free State border with Lesotho. Several cases of abduction and kidnapping of exiles in Lesotho were also reported.

Homeland security forces

- 106 Both the SAP and the QwaQwa Police were deployed in stations around the small homeland, sometimes undertaking joint operations. The Tseki police station at

Witsieshoek was a case in point. Officers from the SAP and the QwaQwa Police allegedly worked together to detain, harass and assault activists from community organisations, particularly those questioning the pre-eminence of the ruling DNP in the homeland's political affairs. Some victims report having been made financial offers to resign from their organisations and to work for the police instead.

- 107 Through reports made to the Commission, the emerging picture of the activities of both forces in the homeland is one of a common commitment to upholding the laws and policies of the apartheid state, to safeguarding the interests of the DNP, and to crushing any form of dissension with a heavy hand.
- 108 Police developed a reputation for dealing extremely brutally with criminal suspects and political activists. Individuals were often arrested, assaulted and tortured before the evidence of their involvement in particular incidents could be reasonably established and before suspects could be brought before due process of law. Electric shocks to the genitals appear to have been a commonplace method of torture.
- 109 Units of both the Bophuthatswana Defence Force and the Bophuthatswana Police Force were posted to Thaba'Nchu. Statements made to the Commission about their activities show that both forces worked closely with their South African counterparts in suppressing all opposition to apartheid. The behaviour of the Bophuthatswana armed forces stationed at Thaba'Nchu echoed incidents commonly associated with the SAP, such as detention without trial (though prohibited by the Bophuthatswana Bill of Rights), torture, harassment of political activists, intimidation of mourners at funerals, and violent clashes with protesters.
- 110 Most reports implicating the Bophuthatswana Police relate to brutality against members of the UDF or ANC.

IN RESPECT OF THE HOMELAND SECURITY FORCES, THE COMMISSION FINDS THAT THE BOPHUTHATSWANA POLICE POSTED TO THABA'NCHU WERE RESPONSIBLE FOR ROUTINE ACTS OF HARASSMENT, ASSAULT AND TORTURE OF POLITICAL ACTIVISTS, AND ACTED IN CONCERT WITH THE SAP IN ITS EFFORTS TO SUPPRESS ALL OPPOSITION TO THE GOVERNMENT.

THE COMMISSION FINDS THAT THE QWAQWA POLICE FORCE CARRIED OUT ITS DUTIES IN A BIASED MANNER, THAT IT OVERTLY SUPPORTED THE DNP, AND THAT IT ROUTINELY ENGAGED IN ASSAULT AND TORTURE OF THOSE WHOM IT PERCEIVED AS OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT. FOR THE GROSS HUMAN RIGHTS VIOLATIONS COMMITTED THROUGH THESE UNLAWFUL ACTS, THE SAP AND THE BOPHUTHATSWANA POLICE ARE HELD ACCOUNTABLE.

QwaQwa

- 111 In 1989, considerable tensions existed between the UDF/ANC groups and the DNP in the township of Botshabelo. The Commission received various reports of arson attacks on the homes of DNP members and of threatening behaviour by 'comrades' towards local councillors, homeland government members and party members. These incidents were to develop into serious clashes between the opposing groups.
- 112 QwaQwa MP Paki Marake, a DNP member, had his house burnt down by unknown people in August 1987 and petrol-bombed again in June 1990. He told the Commission that he believed he had been targeted because of his refusal to join the ANC [KZN/ZJ/090/BL]. Winburg councillor and DNP member Makholela Molaoa had his house destroyed in a fire on 30 March 1990 [KZN/ZJ/155/FS].
- 113 The Commission received further reports of arson attacks on the homes and property of town councillors. Victims reported that the attacks related to their refusal to resign their positions on councils and were part of a sustained campaign to force them to do so. In attacks such as these, perpetrators could not always be clearly identified.

IN RESPECT OF THE ARSON ATTACKS ON THE HOUSES AND PROPERTY OF MEMBERS AND SUPPORTERS OF THE DNP, THE COMMISSION FINDS THAT UNKNOWN PERSONS, AFFILIATED TO OR IN SUPPORT OF ORGANISATIONS OPPOSED TO THE DNP, ENGAGED IN UNLAWFUL CRIMINAL ACTS ARISING OUT OF POLITICAL INTOLERANCE AND CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS.

- 114 The attempt by various authorities to incorporate Botshabelo into QwaQwa (see above) set off a series of student protests followed by incidents of violence and rioting. Buses were damaged and a schoolteacher who tried to prevent pupils from demonstrating was stabbed. Authorities deployed a large contingent of special constables in the area and arrested a number of students.
- 115 During the time that Botshabelo was incorporated into QwaQwa, pending the result of the State President's appeal to the Supreme Court, Botshabelo residents launched mass protests. On 1 October 1989, more than 50,000 people protested in the streets of Botshabelo against incorporation.
- 116 Ms Malefu Miriam Phole told the Commission that she was shot by police while participating in an ANC march from Botshabelo to Bloemfontein on 15 February 1990 to protest against the incorporation. The police halted the marchers at a

roadblock and opened fire. Many protesters were injured in the shooting. Phole, aged fifteen at the time, was shot in the face and lost an eye as a result. She told the Commission that police followed the wounded to the Pelonomi hospital and made arrests. She never brought charges against the police in connection with the shooting incident for fear of police harassment or arrest if she did [KZN/ ZJ/094/BL].

THE COMMISSION FINDS THAT UNKNOWN MEMBERS OF THE SAP USED UNJUSTIFIED DEADLY FORCE AND COMMITTED GROSS HUMAN RIGHTS VIOLATIONS ON 15 FEBRUARY 1990 WHEN THEY OPENED FIRE ON MARCHERS AT BOTSHABELO.

Contra-mobilisation and vigilantes

- 117 In 1984, councils and councillors became targets of opposition and sometimes violent attack by militant youths in Orange Free State townships. The UDF and its affiliates began to demand that councillors resign from and reject the system, which they saw as a poor substitute for full political rights for black South Africans. Orange/Vaal industrial triangle townships like Zamdela (Sasolburg) became sites of major protest during the second half of 1984. These protests gradually filtered into other towns and the province began to witness a number of attacks, some fatal, on councillors and their property.
- 118 The Commission has also received evidence of councillors spearheading attacks on their opponents, sometimes drawing together an informal vigilante group charged with the task of 'cleaning up' areas that were known for their opposition to the system of local government.
- 119 A considerable number of black councillors resigned in 1985, many of them evidently in response to or fear of violent attack. Other reasons cited by councillors included family pressure, lack of protection by the government, ill health, lack of progress and a realisation that the councils were ineffective. When, after his supermarket and butchery had been gutted and broken into, Tumahole community councillor Daniel Hlalele announced his resignation in July 1984, the UDF hailed his resignation as a "courageous and bold step".
- 120 As attacks on councillors increased, so did pre-emptive and retaliatory attacks on activists who were thought to be behind the boycott of rent and service charges and the destruction of the local authorities' property. Allegations of shootings by councillors themselves were also received by the Commission.

- 121 By January 1985, sixteen town councils across the country announced that they would set up municipal police forces to work in tandem with the police to safeguard residents, to protect municipal property and to enforce regulations and by-laws enacted by councils. These forces became known as the 'blou' or 'blue flies' because of the colour of their uniform.
- 122 From 1984, municipal police – trained, supervised and paid by the SAP – were assigned to work under black local authorities in townships around the country to protect council property, prevent and investigate crime and maintain law and order. Although they were not given extra powers in a state of emergency, they were empowered by the Black Local Authorities Act of 1982 to do whatever was deemed necessary to restore law and order in an emergency.

The case of Manko Tsie

The Commission heard that, in January 1986, Mr Manko Joseph Tsie was coming home from work in Welkom when he was accosted by a municipal policeman, accused of stone-throwing and shot at close range. Incidents of stone throwing at local authority buildings were on the increase at the time. Tsie survived the attack [KZN/GM/047/WE].

- 123 Following increasing concern among government officials and other security forces about the rising number of municipal police involved in criminal activities, municipal police finally came under the control of the SAP in November 1988.

THE COMMISSION FINDS THAT THE MUNICIPAL POLICE FORCES ESTABLISHED BY BLACK LOCAL AUTHORITIES WERE POORLY TRAINED AND RESORTED READILY TO ILLEGAL ACTS IN THE CARRYING OUT OF THEIR DUTIES, WHICH INCLUDED THE ASSAULT AND KILLING OF MEMBERS OF THE PUBLIC, CONSTITUTING GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE BLACK LOCAL AUTHORITIES ARE HELD ACCOUNTABLE.

- 124 Vigilante groups proliferated in the Orange Free State from 1985. The Commission heard that individual councillors were responsible for setting up some of these groups because they felt themselves to be under attack from militant township youth. In some cases, councillors were actively involved in vigilante actions, supplying arms and participating personally in attacks on township residents and activists thought to be aligned with the UDF. The Commission heard that some vigilante groups were set up by members of the security forces, under the instruction of senior security police officers.
- 125 The *Phakathi* group emerged in April/May 1985 in the township of Thabong, outside Welkom in the northern Orange Free State. Initially named after its leader,

councillor Albert Phakathi, (now deceased), the group later became known as the A-Team, after the popular American television programme. Several community councillors, including Phakathi and the mayor, Dr E B Tlali, were alleged to be part of the gang. Council property was used in its mission to 'clean up' organised resistance to apartheid. Other members of the gang were alleged to be jobless locals and Zulus recruited from outside the community. In the year before the emergence of the *Phakathis*, Thabong had become the scene of a wave of student protest, developing into arson, stoning, and violent confrontation with the police. The *Phakathis* established a reign of terror in Thabong, meting out arbitrary assaults and severe floggings to residents.

- 126 By May 1985, the Phakathi group was being openly supported by members of the SAP and was making use of police and municipal authority facilities. Witnesses reported being taken to Room 29 of the community council's headquarters at the Philip Smit Centre or to the police station, where they were severely assaulted by the gang. In some cases, gang members would deliver their victims into the hands of the local police.

The assault of Thabo Ramatsa

Mr Thabo Ramatsa told the Commission that he was assaulted by the A-Team at his house in Tlali Park, Thabong in March/April 1985. Members of the gang had arrived in a minibus to collect another member, Mr Tlasi Moetupe, who was Ramatsa's neighbour. They stopped when they saw Ramatsa and attacked him, severely injuring him. The perpetrators were apprehended and the victim identified them in a parade. However, they were not charged [KZN/AT/005/FS].

The shooting of Sello Mofokeng

In May 1985, Sello Ephraim Mofokeng (15) was shot dead, allegedly by a councillor operating with the A-Team. Mofokeng and some friends were doing their homework at home when the gang entered the house and chased the boys through a window. The councillor then fired shots at them as they ran up the street, fatally wounding Mofokeng [KZN/MR/240/WE].

Attack on the Sello Mofokeng vigil

A few days later, members of the A-Team allegedly surrounded the house at which a vigil was being held for Sello Mofokeng. In an altercation between gang members and mourners, a member of the A-Team, Mr John Mahula was killed. In retaliation, the gang entered the house by force and beat the

mourners inside with sjamboks, kierries and pangas⁴. Albert Phakathi himself was stabbed several times in the clash.

Witnesses to the incident say that the A-Team then took the victims in a minibus to the Thabong police station where they were praised by Mayor Tlali for work well done. The victims were held overnight and released the next day. They made statements to the Attorney-General's office. A case was held, but no convictions were secured.

Witnesses testifying to the A-Team attack on mourners were Mr Nthabiseng Sepeeane, who was severely beaten [KZN/AT/008/FS], Ms Nkopodi Joyce Melane, who was sjambokked and kicked in the chest [KZN/AT/009/FS], and Mr Thapelo Jacob Bodiba, who was stabbed on the head and in the left eye, resulting in the loss of the eye [KZN/AT/012/FS].

Attacks on the Kasana home

On at least three occasions in 1985, the A-Team attacked the home of Ms Nomosonto Kasana, assaulting members of the family. On one occasion the Kasana sons, Mbuselo, Mafuza and Peter, attacked the gang with pangas, hitting Phakathi in the face. Phakathi then opened fire with a revolver, killing one and injuring another family member. In a later attack, the victims' father, Mr Moffat Kasana, was also severely beaten with a stick [KZN/AT/010/FS].

- 127 Vigilante action surged again in Thabong in 1986, when parents and elders launched a violent attempt to get children back to school. The council, which had by this time set up an official law enforcement unit, was said to be actively organising adults to beat up children.
- 128 At Meloding, Virginia, parents and vigilantes allegedly combined forces early in 1986 to get the children back into schools. Allegations are that pupils were beaten back to school and that surveillance kept on school premises was so close that pupils were at risk of being beaten if they so much as went on errands.
- 129 The vigilante group active in Tumahole (Parys) was also known as the A-Team. It is alleged to have congregated around a certain member of the police force and her family and friends, and to have been closely associated with the local council and councillors. Both aligned and non-aligned members of the public were harassed and assaulted by the A-Team.

⁴ Whips, clubs and large broad-bladed knives (used for cutting cane).

- 130 When the local council imposed rent increases in Tumahole in July 1984, widespread protests resulted. Township residents clashed with civic organisations and the A-Team, supported by the police. Witnesses told the Commission that, in late 1985, vigilantes stoned and burned community leaders' houses and also stoned activists' homes, threatening families and assaulting primary school children. The property of police officers and councillors was also attacked during rent and consumer boycotts.

The attack on David Nhlapo and Lefu Rasego

In November 1985, ANC/UDF member David Sello Nhlapo (17) was attacked by unknown members of the A-Team in Parys. He was stabbed and severely beaten, and his attackers attempted to necklace him. His friend Lefu Rasego was beaten to death in the incident. Nhlapo was rescued by friends [KZN/ZJ/007/FS].

- 131 The Commission heard that the Eagles Youth Clubs were initiated in schools in Mangaung (Bloemfontein) in 1981, under the auspices of the state. By 1985, it was reported that up to fifty-eight branches of the club, with a membership of 16 000, had been established throughout the province. They were controlled by the Orange Free State Administration Boards until 1986, when they were registered as a private organisation and sponsored privately.
- 132 The constitution of the Eagles Youth Club was said to be based on 'Christian National Principles' and pursued its objectives by means of camps offering a variety of activities, including political education. Lectures in political education covered subjects as diverse as Christianity, Communism and the culture and history of the ANC and PAC. Eagles were encouraged to co-operate with state structures, particularly with the police and the SADF, who were described in the courses as 'your friends'. At the same time, members were encouraged to report 'terrorists' to the police and warned against 'people who are trying to tell you bad things about South Africa'. They were told that 'comrades' organisations in townships were part of the 'enemy' and should be neutralised. Eagles members became sources of information concerning the identity of 'comrades' in townships, and were used to monitor the strategies and plans of 'comrades' organisations, particularly around popular events such as the commemoration of 16 June (Soweto Day).
- 133 By 1986, Eagles members had become visible in local communities, identifiable by their yellow-cuffed, green T-shirts sporting an eagle emblem on the left breast and the name of the club on the back. However, the Eagles also became known

in townships as being aligned to the state, and were perceived to be co-operating with the security forces in the targeting of activists.⁵

- 134 Former SAP member Mphithizeli Nelson Ngo told the Amnesty Committee that the Eagles club was formed by members of the Security Branch who recruited students in Brandfort and sent them to the SADF base at Roodewal for courses in intelligence and counter-revolutionary strategies.⁶ Special instruction was given in suppressing student opposition and crushing student bodies in schools – such as Students’ Representative Councils and branches of COSAS – in order to replace them with the prefect system. Teachers were also co-opted and instructed to support the activities of club members in schools. The Eagles, who were also allegedly paid informers for the Security Branch, were protected and armed by the police for activities such as disrupting political meetings in schools and harassing and victimising student leaders.
- 135 Conflict between the Eagles and members of youth organisations began in Brandfort in 1985. The Commission heard that the Eagles would disrupt community meetings convened by youth organisations to discuss concerns such as health facilities, education and rent increases. At the time, Ms Winnie Mandela (see above) had become an important mobilising agent for ‘comrades’ in the area. In one incident, ‘comrades’ who had gathered at her house were attacked by a force of Eagles, backed up by the police. Other townships around the province also experienced conflict between ‘comrades’ and the Eagles clubs, with deaths reported on both sides.

THE COMMISSION FINDS THAT THE EAGLES YOUTH CLUB WAS ESTABLISHED BY THE SECURITY BRANCH OF THE SAP AND WAS RESOURCED AND CONTROLLED BY THE STATE IN THE FORM OF THE ORANGE FREE STATE ADMINISTRATION BOARD. THE CLUB WAS ESTABLISHED AS PART OF THE STATE’S PREVAILING COUNTER-MOBILISATION STRATEGY IN TERMS OF WHICH SURROGATE OR ‘MIDDLE’ GROUPINGS WITHIN THE BLACK COMMUNITY WERE IDENTIFIED AS ALLIES OF THE STATE IN ITS ‘TOTAL STRATEGY’ RESPONSE TO CIVIL UNREST.

THE COMMISSION FINDS THAT THE CREATION OF GROUPS SUCH AS THE EAGLES, AND THE STATE’S SUPPORT OF OTHER GROUPINGS SUCH AS THE A-TEAM AND THE THREE MILLION GANG, CONTRIBUTED DIRECTLY TO INCIDENTS OF PUBLIC AND POLITICAL VIOLENCE AND FOSTERED A CLIMATE OF VIOLENCE IN WHICH SUCH UNLAWFUL ACTS COULD TAKE PLACE. THE SAP IS HELD ACCOUNTABLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS CONNECTED TO THE UNLAWFUL ACTIVITIES OF SUCH GROUPS, TOGETHER WITH THE GANGS THAT CARRIED OUT SUCH VIOLATIONS.

- 136 Reports of the activities of the Three Million Gang, which comprised forty-five to fifty members, emanated from various centres in the province, although it

⁵ Information gleaned from Dr Ian Phillips, *Report in mitigation of sentence, State v Sishuba and two others*, Supreme Court of South Africa, Orange Free State Division, Bloemfontein, December 1989.

⁶ Recruits to the Eagles club included Mr Papie Mokalake, Mr Butie Sentso and Mr Search Kotoane.

appears to have operated principally in the Troubou area of Kroonstad. The gang was led by Mr George Diwithi Ramasimong (now deceased) and is said to have originated in the early 1980s with no particular political agenda. According to statements received by the Commission, most incidents involving the gang took place between 1989 and 1992. Criminal incidents were reported from as early as 1984.

- 137 As with the other groups, the activities of the Three Million Gang appear to have been aimed at intimidating and attacking UDF activists and student organisations believed to be involved in campaigns against rents and service charge increases. It is evident that the gang acted in collusion with councillors, police and justice officials.
- 138 According to Mphithizeli Nelson Ngo, the gang was created and supported by the Security Branch on instruction from the highest regional level, as part of its counter-insurgency strategy to neutralise and undermine UDF and ANC-aligned activism in the mid-1980s. He told the Amnesty Committee that the Three Million Gang operated on a part-time basis in Brandfort, reinforcing the operations of other vigilante groupings. Leaders of the various vigilante groups would meet with members of the Security Branch at the Brandfort police station to discuss their strategies and to receive equipment, weapons and money as well as tobacco and alcohol from the police.⁷
- 139 Their *modus operandi* was to attack in groups and to stab their victims.

The murder of Majalefa Mpohohle

On 25 December 1984, Mr Majalefa Aaron Mpohohle was stabbed to death in Kroonstad by members of the gang when he went to the rescue of his cousin who was being threatened with rape. Six gang members were charged for the murder, and were convicted in 1988 [CR 25/12/85; KZN/PJM/012/KRS].

- 140 Affidavits made to the Commission also indicate that the police were involved in creating and supporting the gang and that justice officials, including magistrates and prosecutors, worked to undermine criminal prosecutions against gang members. Testifying before the Amnesty Committee, Mr PM Thulo alleged that a prosecutor in Kroonstad supported the gang and helped them evade prosecution. He said that magistrates deciding cases were guided by the views of prosecutors. Thulo named one magistrate in particular who would be called, together with the prosecutor, specifically to deal with cases involving gang members. Their

⁷ Evidence of MN Ngo before a hearing of the Amnesty Committee in Bloemfontein.

sympathy with the gang frequently ensured that charges against gang members were dropped.⁸ This is corroborated by the evidence of JJ de Ru before the Amnesty Committee. De Ru said that, on the recommendation of the prosecutor, gang leader Diwithi Ramasimong was often discharged from custody whilst being held on serious charges.

141 In giving evidence before the Amnesty Committee, MS Taka and FM Taje, the sister of gang leader Diwithi Ramasimong, said that gang members became members of the Inkatha Freedom Party (IFP) in the 1990s. This was allegedly encouraged by the prosecutor and a member of the SAP, who told gang members that criminal cases against them would be viewed as political if they were IFP members.⁹

142 According to PM Thulo, who commanded the ANC SDUs in Kroonstad, a municipal office-bearer assisted the Three Million Gang in a variety of ways. His minibuses were used to transport gang members to an attack on the community of Moakeng and also to ferry gang members to and from town for court appearances.¹⁰ According to police detective JJ de Ru, the Three Million Gang would collect rent and service monies for the council. De Ru claimed that municipal office-bearers supplied gang members with ammunition and paid for their funerals.¹¹

143 Allegations were made that police members accompanied the Three Million Gang on operations against the UDF/ANC, that they participated in attacks, provided weaponry and obstructed criminal prosecutions against gang members. In his evidence to the Amnesty Committee, Mr Dennis Bloem of the Bloemfontein branch of the ANC, said:

You see on various occasions what would happen would be this, for instance. [There was] one case where the Premier Milling Company, their employees, were on their way to go and arrest the Three Million Gang and take them to the charge office. The police, who were already in Troubou there where the Three Million Gang members lived, intervened. The police were waiting in their Casspirs [armoured personnel carriers] on an open piece of land; they were waiting for the Premier Milling employees.

I was present. I was sitting in a car with a certain Mr Touw to see what the police would do. The police chased away these workers, they shot teargas, whilst the Three Million Gang were present amongst the members of the police

8 Evidence of ANC (SDU) amnesty applicant HG Thulo before a hearing of the Amnesty Committee in Kroonstad.

9 Evidence of former Three Million Gang member MS Taka and FM Taje, sister of Ramasimong, to the Amnesty Committee in the application of HG Thulo and others.

10 Evidence of ANC (SDU) amnesty applicant HG Thulo before a hearing of the Amnesty Committee in Kroonstad.

11 Amnesty application of SAP member JJ de Ru, 23 March 1996.

in between the Casspirs so these people were overcome by teargas. I clearly saw that the police did not take any action against the Three Million Gang [who had] weapons [while] these Premier Milling employees were unarmed.

- 144 Mr Bloem told the Commission's Amnesty Committee that a period of relative calm prevailed from about 1986 to 1990 when Ramasimong was in prison for gang-related activities.¹² In 1992, Ramasimong was himself killed and it is claimed that the activities of the gang diminished following his death. An ANC self-defence unit member, Mr Roland Petrus, was convicted in 1992 for Ramasimong's death.¹³
- 145 'Anti-comrade' groups proliferated in towns in the province. Mr Mphithizeli Nelson Ngo told the Amnesty Committee that Security Branch headquarters in Bloemfontein mandated Security Police in Brandfort to recruit an 'anti-comrade' group in Brandfort. This was done with the co-operation of a local councillor. It was said that a prison department sergeant recruited convicted criminals from prisons and assumed a leadership position in the group himself. The group's task was to confront political activists from the UDF or civic organisations where they congregated in shebeens and recreational facilities, pick fights with them and plant knives and firearms on the bodies of people who were killed. This was meant to help in the cover-up of the Security Branch's own activities.

THE COMMISSION FINDS THAT THE SAP DELIBERATELY ASSISTED, AND IN SOME CASES FOUNDED, VIGILANTE ORGANISATIONS AND ITS MEMBERS ACTIVELY DIRECTED SUCH ORGANISATIONS TO COMMIT CRIMINAL ACTS AGAINST THOSE WHOM THE SAP PERCEIVED TO BE ENEMIES OF THE STATE. FURTHER, POLICE ARE FOUND TO HAVE FAILED TO TAKE ACTION TO PREVENT VIGILANTE ATTACKS ON MEMBERS OF THE PUBLIC. THE SAP IS HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS ACCOMPANYING THE UNLAWFUL ACTS OF SUCH VIGILANTE ORGANISATIONS.

Resistance and revolutionary groupings

Sabotage

- 146 Several sabotage attacks occurred in the province during this period, including
- a the detonation of an explosive device on a railway line near Bloemfontein on 11 March 1983, injuring three passengers;
 - b the detonation of a 'thunderflash' in Charles Street, Bloemfontein, on 13 March 1983;

¹² Evidence of Dennis Bloem at a hearing of the Amnesty Committee in Kroonstad in respect of the application of ANC SDU member, HG Thulo.

¹³ Roland Petrus submitted an application to the Amnesty Committee in respect of this killing.

- c the explosion of a parcel bomb at a Bloemfontein café on 14 March 1983;
 - d the detonation of an explosive device under a vehicle, causing damage to buildings in Peet Avenue in Bloemfontein on 23 May 1983;
 - e an explosion on a railway line near Bloemfontein prison on 27 January 1984;
 - f a fatal car bomb explosion in Bloemfontein on 30 June 1984;
 - g explosions at the Transkei Embassy at Botshabelo on 6 April 1984;
 - h an explosion at the Nationalist Party offices in Kroonstad on 4 March 1984;
 - i an explosion in Welkom on 25 August 1985, damaging the Toyota garage;
 - j an explosion on Number 5 shaft of Western Holdings gold mine on 26 August 1985;
 - k an explosion on a street pavement in Odendaalsrus on 26 August 1985;
 - l an explosion on 15 November 1985 near a hotel accommodating the rebel Australian cricket team;
 - m an explosion at Phehello Secondary School Khutloanong, on 17 November 1986;
 - n a limpet mine explosion in Tumahole on 25 October 1988, damaging two houses.
- 147 Orange Free State resident Martin Jacobus Coetzer [KZN/SMB/001/BL] was injured in a landmine explosion at Boshhoek, Volksrust on 10 June 1986.
- 148 On 16 October 1984, Mr Andreas Sejeng of Rocklands, Bloemfontein, appeared in Bloemfontein Magistrate's Court on charges of murder and attempted murder arising out of five explosions in and around Bloemfontein in 1983. Sejeng was also charged with receiving arms training in Lesotho. In April 1985, the Attorney-General instructed the state attorney to stop prosecution against Sejeng on evidence of his severe torture by the Security Branch. Charges were withdrawn and Sejeng was released after almost a year in custody.

- 149 Several alleged ANC and MK operatives were charged during this period for undergoing military, explosives and weapons training and for sabotage-related offences. ANC member Petros Matosa appeared in the Welkom Regional Court, charged with the explosion at Western Holdings in August 1985 and the 15 November 1985 attack directed at the rebel cricket team. On 11 July 1986, Matosa was sentenced to fourteen years' imprisonment for his role in these explosions.
- 150 Mr Aboobaker Ismael and Mr Mohammed Shaik have applied for amnesty in connection with several sabotage attacks, some of which occurred in the Orange Free State. In 1984, they caused an explosion on a pylon in Villiers, damaging the pylon and interrupting the power supply to the area. They also set a limpet mine in Kroonstad in the same year, causing damage to property [AM151/97].
- 151 Several arms caches were uncovered by the police. On 9 May 1985, police uncovered an arms cache between Vredefort and Kroonstad – “the biggest ever found” – including thirty-one limpet mines, AK-47 assault rifles, pistols, grenades and ammunition. In January 1986, Brandfort police uncovered two explosive devices buried in a garden. In the same month, explosive devices were discovered in a metal box at the Maseru Bridge border post. On 15 December 1987, a suspected ANC member was killed by his own grenade at a roadblock near Bloemfontein.

THE COMMISSION FINDS THAT ANC MEMBERS CARRIED OUT A NUMBER OF SABOTAGE ACTIONS AGAINST STATE INSTALLATIONS, SOME OF WHICH RESULTED IN GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE ANC IS HELD ACCOUNTABLE. THEY FURTHER DETONATED EXPLOSIVE DEVICES AT SO-CALLED SOFT TARGETS, DELIBERATELY CAUSING LOSS OF LIFE, WHICH CONSTITUTED GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE ANC IS HELD ACCOUNTABLE.

■ 1990-1994

Historical overview

- 152 Conditions in the Orange Free State remained highly charged in the early 1990s. The Commission received reports of ongoing police brutality in the province in relation to public gatherings and demonstrations. Reports of torture and deaths in custody were also received. New kinds of popular militancy proliferated. Examples of this included the rise of the ANC SDUs and the declaration of an offensive on the part of APLA.
- 153 Statements from all sides of the political spectrum at this time convey an impression of significant political and social instability following the February 1990 release of Mr Nelson Mandela and the call to the security forces to make the necessary

adjustments to their perception of the 'enemy'. Despite this, the Commission heard evidence that members of the SAP continued to target liberation organisations. There is also evidence of extra-judicial executions having taken place with the knowledge and approval of senior police officers. Amnesty applicants told the Commission that most criminal events were regarded as political and that the more brutal and shocking events were likely to be seen as politically motivated. Members of the security forces, along with white farmers and members of civilian right-wing organisations, perceived themselves to be more than ever under siege by resistance and liberation organisations, particularly APLA. APLA, indeed, had publicly identified these groups as the enemy.

154 The PAC and its military component, APLA, launched the so-called 'One Settler One Bullet' campaign in 1990 and later targeted white farms in a bid to reclaim the land and return it to what the PAC perceived to be its real owners, the African people. The white farming community, the security forces and right-wing organisations rallied to counter this threat.

155 Conflict between councillors and activists also intensified during the early 1990s. Councillors who refused to resign risked attacks on their homes and business premises. Increasing numbers did resign, and eventually town councils were no longer able to function. January to July 1990 saw 119 councillors resigning, with a further 139 following suit between August 1990 and September 1991, citing intimidation as the main cause. Only 41 per cent of council seats were occupied at the end of February 1991. The majority of councils no longer had quorums and were being run by administrators. Only twenty-six of the seventy-one were still functioning. In March 1992, the government announced that racially based municipal elections would be suspended pending the establishment of an interim government.

156 Vigilante activity persisted during this period, most notably by the Three Million Gang in the Kroonstad area. ANC SDUs were established with the ostensible objective of protecting communities from a variety of perceived threats, some in direct response to the perceived onslaught of vigilante groups.

Overview of violations

157 As with the previous period, the majority of reported violations for 1990–94 pertained to violations by the police, most commonly in the form of shooting by the police. The second highest figure was for torture in detention.

- 158 This period saw a significant increase in the number of reported acts of aggression on the part of ANC SDUs, involving shootings, stabbings, arson attacks and assault. Other political groups allegedly involved in human rights abuses in the Orange Free State in this period are the AWB, vigilante groups and, to a small extent, the IFP. Further reports were received of attacks perpetrated against members of the DNP.
- 159 Several witnesses told the Commission that their relatives failed to return from exile when this became possible in the early 1990s. Mr Somahlenga Billy Mokhonoana and Mr Leotatle Ishmael Mahlolo were reported to have died while in exile. Mr Edward Vuyo Charles [KZN/ZJ/014/BL] and Mr Mohale were said to have been killed in the course of MK activity within the country. On the available evidence, the Commission was not able to make findings as to how these people died or who was responsible for their deaths.
- 160 A common feature of the evidence provided by families of those who died in exile is that next of kin were often not given reliable information about the deaths. Conflicting facts and other suspicious details led witnesses to believe that information about the deaths of their loved ones was being withheld or distorted for unknown reasons.

State and allied groupings

Torture in custody

- 161 In the early 1990s, police continued to act forcefully against those thought to be organising and leading rent boycotts and protests against local councils. Many reports of police brutality towards detainees in custody were received, particularly from students, members of labour unions and civic organisations. The Commission heard of a variety of torture methods used to coerce individuals to make statements or to act as state witness in unrest-related court proceedings.

The torture of Moloï Kgotsiesile

Mr Moloï Aaron Kgotsiesile was tortured on 26 August 1990 when he refused to appear as witness for the state concerning conflict at a Sasolburg mine during the course of strike action [KZN/JRW/011/ BL].

The torture of a named community leader

In one case reported to the Commission, a community leader was arrested

in 1990 by the police on suspicion of playing a leading role in a rent boycott in the Clocolan area. He alleges that while he was in custody, he was handcuffed and put into a sack with a cat. Water was poured into the sack and the detainee was injured when the animal panicked and attacked him [KZN/LMR/002/FS].

Deaths in custody

- 162 In the 1990s, people were still dying in Orange Free State police cells. Families of victims claimed that police explanations of the deaths were inadequate and that police were unhelpful, if not obstructive, in pursuing investigations.

The death in detention of Joseph Sello

Ms Alta Matseko Moholo told the Commission that her son, Joseph Sello, was arrested by Bultfontein police officers on 15 June 1993 for the alleged possession of an unlicensed firearm. The following day she was called to the station and asked to sign a document granting permission for her son to be examined by a doctor. When she refused to do this, she was informed that her son had committed suicide in the police cell by hanging himself with his tracksuit.

The police refused her permission to examine the whole body. She found scratches and marks on the neck but was prevented from seeing more. She said she was unaware of any inquest into the death or of criminal charges being brought against the perpetrators [KZN/GM/038/BL].

THE COMMISSION FINDS THAT MEMBERS OF THE SAP WILFULLY WITHHELD INFORMATION ABOUT THE WELL-BEING OF DETAINEES FROM THEIR FAMILIES IN AN EFFORT TO CONCEAL THEIR OWN INVOLVEMENT IN THE ASSAULT AND TORTURE OF DETAINEES IN CUSTODY. THE COMMISSION FINDS FURTHER THAT MEMBERS OF THE SAP DELIBERATELY OBSTRUCTED INVESTIGATIONS INTO THE DEATHS OF ACTIVISTS, BY PREVENTING FAMILIES FROM VIEWING THE REMAINS OF VICTIMS WHO DIED IN CUSTODY AND BY FAILING TO INFORM FAMILIES OF PROGRESS IN CRIMINAL INVESTIGATIONS AND INQUEST PROCEEDINGS ARISING FROM THE DEATHS. THE SAP IS HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS INVOLVED IN THESE UNLAWFUL ACTS AND OMISSIONS.

- 163 Ex-SAP officer JJ de Ru [AM1780/96] applied for amnesty in respect of the death in January 1991 of Mr M Rampalile (who was being held in connection with the killing of a Mr Shorty Bezuidenhout on the farm 'Vrisgewacht' in June 1990), and for the death in August 1993 of Mr Z Mofokeng, a suspect in the 1993 killing of one Mr Meiring of Kragbron. De Ru's application gives evidence of police culpability in many deaths in custody in the Orange Free State.

The killing of M Rampalile

Mr De Ru told the Committee that he was instructed by a Security Branch officer of the highest rank to investigate the killing of Bezuidenhout. The officer summoned him to the mortuary to view Bezuidenhout's body and said that the perpetrators should not be allowed to live. De Ru and Officer Majafe took Mr Rampalile, who was a suspect in the killing, to point out the murder scene. While doing so, however, the officers created an opportunity for the suspect to escape. As he walked away from them, De Ru drew his service weapon and shot him dead. De Ru said that his action had met with the approval of his senior officers, including the one who had given the instruction for the investigation. He also said that the practice of shooting criminal suspects in the course of murder investigations of this nature was not only accepted informally by police officers, but happened under instruction from commanding officers.

The killing of Z Mofokeng

De Ru and three other detectives took the suspect, Mofokeng, to the farm 'Beltren', near Kragbron. A similar scenario was set up and the suspect was shot dead.

- 164 De Ru was convicted on counts of culpable homicide for the death of Rampalile, and of defeating the ends of justice and murder for the death of Mofokeng. The sentences for these convictions were five, four and thirteen years respectively.
- 165 De Ru told the Committee that he believed that his actions fell within the ambit of his police duties at the time. Although he did not know the political affiliations of his victims at the time of the killings, he heard later that they were members of APLA. He said he believed that, at the time, APLA was targeting aged persons and farmers in their 'One Settler, One Bullet' campaign. He believed the killings must have been politically motivated because, in his opinion, the age of the victims and the particular cruelty of the killings distinguished them from common criminal acts.

Public order policing

- 166 The Commission heard that demonstrating students continued to clash with the police in the main Orange Free State centres during this period. Student and youth organisations were at the forefront of public protest activity. Issues ranged from those that affected them directly, such as school fees and political polarisation in schools, to the broader social concerns of local communities, particularly rent increases and vigilantism.

The shooting and ill treatment of Ishmael Ramtsieng

Members of the KwaKwatsi Youth League reported that police opened fire on them when they were on their way to the court in Koppies on 30 March 1990. Mr Ishmael Molefi Ramtsieng was one of those shot. He told the Commission that he was taken to a doctor who referred him to a hospital for surgery. When he arrived at the Kroonstad hospital, he found police members waiting for him and was beaten and subjected to humiliating treatment by the police while in hospital. He absconded from the hospital after five days [KZN/JRL/015/FS].

- 167 Several accounts were received of a police shooting incident at Viljoenskroon on 19 April 1990.

Police shooting at Viljoenskroon

Students gathered for a march that started at the Thabang High School and headed for the Mhlabateng Primary School in the township. Mr Moorosi Samuel Tsotsotso told the Commission that students had gathered peacefully and were ordered to disperse within five minutes. Before the time was up, a constable fired a shot into the air, causing the marchers to panic. The police then opened fire on the crowd, killing five youths and injuring many others. Tsotsotso sustained serious gunshot injuries in the incident [KZN/MAM/007/FS]. The Commission received two reports of deaths sustained in this incident and two other reports of gunshot injuries.

THE COMMISSION FINDS THAT UNKNOWN MEMBERS OF THE SAP, BY THE UNJUSTIFIED USE OF DEADLY FORCE, CAUSED THE DEATHS OF FIVE YOUTHS AND THE INJURY OF AN UNKNOWN NUMBER OF STUDENTS IN A SHOOTING INCIDENT AT VILJOENSKROON ON 19 APRIL 1990. SUCH ACTS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS AND THE SAP IS HELD ACCOUNTABLE FOR THEM.

- 168 Several statements were made to the Commission by victims who were unwittingly caught up in township disturbances and school boycotts. The lives of such individuals were irreversibly altered by injuries sustained during the conflict as a result of police action. Perhaps the most poignant stories of innocent people caught in the crossfire are those of children.

The shooting of Ben Enkela, aged five

Ben Kadafie Enkela was five years old when he was shot and injured by police in April 1990 while playing in the yard at his home at Dittlake, Koffiefontein. The police were shooting at youth activists [KZN/JWR/078/FS].

The shooting of Vincent Thipe, aged ten

Vincent Thipe was ten in 1990 when he was shot by police in 1990 outside his home in Dittlake township, Koffiefontein, at the time of school protests. He was eating outside the house when he saw police hippos [armoured personnel carriers] come past. Police opened fire in his direction, injuring him [KZN/JRW/081/FS].

The shooting of Sinah Mosele, aged thirteen

Ms Sinah Mosele Matsie was thirteen when police shot her in the knee in her Senekal home on 11 February 1990. Her grandmother, Ms Adelaide Matsie, and her grandfather were shot in the same incident and were wounded in the thigh and in the hip respectively. The shootings occurred when students engaged in protest action ran into the Matsie house to hide from the police who were pursuing them [KZN/LIT/001/FS].

IN REVIEWING EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS PERPETRATED BY THE STATE AND ALLIED GROUPS IN THE ORANGE FREE STATE DURING THIS PERIOD (1990 – MAY 1994), THE COMMISSION FINDS THAT THE SAP MADE WIDESPREAD AND ROUTINE USE OF ASSAULT, TORTURE AND EMOTIONAL AND PSYCHOLOGICAL ABUSE AS PART OF A SYSTEMATIC PATTERN OF ABUSE DIRECTED AGAINST OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT. IT FINDS THAT MEMBERS OF THE SAP WERE RESPONSIBLE FOR SEVERAL DEATHS OF DETAINEES WHILST IN CUSTODY. IT FINDS FURTHER THAT THE MEMBERS OF THE SAP WERE RESPONSIBLE FOR WIDESPREAD UNJUSTIFIED USE OF DEADLY FORCE, RESULTING IN INJURY AND DEATH. THESE ARE GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE SAP IS HELD RESPONSIBLE.

Contra-mobilisation

- 169 Police continued to act in a heavy-handed manner during public protests against local councils and councillors. On 19 April 1990, residents marched through the township at Viljoenskroon to demand the resignation of councillors. The police ordered them to disperse; they refused and were teargassed. They continued marching and police opened fire into the crowd. Five people were killed and seven injured.
- 170 Some councillors were reported to have taken direct action against the opposition themselves.

The assault of Baili Merae

On 19 August 1990, in Dealesville, Mr Baili Pietie Merae (20), vice-president of the Tshwaranganang Youth Congress, was severely assaulted by a local councillor and his family. Merae said that councillors had organised them-

selves into small groups to assault 'comrades' in retaliation for consumer boycotts against councillors' businesses [KZN/JRW/087/FS].

- 171 Councillors and council property continued to be targeted, particularly after councillors allegedly started using vigilantes as rent collectors and to harass and intimidate defaulters.

The assault of Solomon Motlohi

Ms Mathelo Rebecca Motlohi told the Commission that her husband Solomon Ramahas Motlohi (35) was severely beaten by young ANC members in August 1991 in Botshabelo. Motlohi was a rent collector and was targeted because he encouraged people to pay rent during a rent boycott. It is alleged that the youths took him from his office to a house, where he was assaulted. He died on the way to hospital [KZN/TIS/003/BL].

The case of Koki Singonzo

In his statement to the Commission, Mr Koki Simon Singonzo said that his homes, taxis and business were stoned, petrol-bombed and attacked on a regular basis from 1990 to 1993 by members of the Mangaung Civic organisation and ANC because he refused to resign as a councillor. He said that one of his houses was destroyed in 1991 by an arson attack, and property was destroyed at three of his other houses during stone-throwing incidents and a petrol bomb attack in 1992. His three taxis were stoned and burnt in 1992 and, in the same year, customers were intimidated into a boycott of his business activities. The collapse in business led to the repossession of his supermarket and considerable personal losses [KZN/MT/015/BL].

THE COMMISSION FINDS THAT UNKNOWN MEMBERS OF THE ANC AND OF THE UDF WERE RESPONSIBLE FOR THE PERPETRATION OF GROSS HUMAN RIGHTS VIOLATIONS ARISING FROM A LACK OF POLITICAL TOLERANCE. SUCH ABUSES INCLUDED ARSON ATTACKS, SEVERE ASSAULT, KILLING AND ATTEMPTED KILLING OF INDIVIDUAL TOWN COUNCILLORS AND MEMBERS OF OPPOSING POLITICAL PARTIES. THESE ACTS WERE GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE ANC AND UDF ARE HELD ACCOUNTABLE.

- 172 The Commission heard that the activities of various vigilante groups, particularly the Three Million Gang, continued into the 1990s. In the Troubou area of Kroonstad, gang members allegedly forcibly evicted from their homes people who did not support the gang.

The killing of Tabello Mokoane

On 1 December 1991, ANC member Mr Tabello Clement Mokoane was killed by Three Million Gang members. When his aunt went to collect his death certificate, gang members accosted her, forced her to hand over her house keys, and occupied her house [KZN/TDM/005/KRS].

The dismissal of SAP officer Petros Mzosane

In Kroonstad, SAP officer Petros Mzosane was dismissed after being accused of colluding with the community against the police. Mzosane was investigating offences committed by the gang and was particularly disturbed by the fact that gang members were frequently acquitted when they were brought to court.

He alleged that police members received specific instructions from the station commander to assist gang members with transport in police vans when they needed to make appearances in court. On questioning the partisan role of the police in these matters, he was eventually dismissed from the force [KZN/MBL/005/KRS].

- 173 From 1990, Kroonstad ANC Youth League members formed small SDUs to protect the community against attacks by the Three Million Gang. ANC Youth League member P M Thulo was the founder of the SDUs in Kroonstad and became the general commander of three SDU cells. In Gelukwaarts (Kroonstad), the SDUs formed a gang known as the 'witdoeke'. Other related gangs included the Canada Gang and the *Tsekelekwas*.¹⁴

Resistance and revolutionary groupings

Sabotage

- 174 Several sabotage attacks occurred in the province during this period, including a grenade explosion at a Botshabelo police station on 17 January 1992 and an armed attack by MK on police near Bethlehem on 2 April 1992, killing one policeman and injuring one other.
- 175 Several alleged ANC and MK operatives were charged for sabotage-related offences during this period.

¹⁴ See also ANC SDUs below.

APLA attacks

- 176 In 1989, the PAC and its military component, APLA, designated 1990 as the 'Year of the People's Offensive' and launched the so-called 'One Settler One Bullet' campaign. PAC leader and APLA Commander Sabelo Phama ordered the military exercise known as 'Operation Great Storm' to reclaim the land from white farmers and return it to the African people. Instructions were given to attack farmers and to appropriate items, such as firearms and clothes, which could be used to further the aims of the movement or to assist disadvantaged people. The operation was said to be a joint venture of PAC and a special APLA task force.
- 177 In some instances, APLA members engaged in armed robberies. Amnesty applicants claimed that armed robberies were committed on the instructions of the APLA command as part of the work of APLA 'repossession units', to raise funds and/or obtain weapons and vehicles to enable APLA to carry out its military strategy. Many such robberies involved the killing of civilians. One person was killed in an attack on Checkers supermarket in Bloemfontein on 3 March 1992.
- 178 Civilians died and weapons and vehicles were stolen in a number of attacks carried out on farms as part of 'Operation Great Storm' during this period. Attacks were particularly frequent in the Orange Free State, amongst them:
- a The attack on Wesselsdal farm, Vanstadensrus, Wepener, on 25 July 1993 in which Mr Johnny Smith was killed and his wife Rene was injured.
 - b The attack on Boonzaaier's farm at Virginia on 12 February 1989, in which Mr Johannes Hermanus Boonzaaier was fatally shot, his wife Mercia was assaulted and they were robbed of their *bakkie*.¹⁵
 - c The attack on the Van Tonder farmhouse in Bloemfontein on 10 February 1991, in which members of the family were attacked and killed, and money, arms and a car were stolen.
 - d The killing of Mr Fanie Smith in Bethlehem on 18 March 1992.
 - e The injury of several people in a petrol bomb and grenade attack on a house in Ficksburg on 10 December 1992.

¹⁵ A *bakkie* is a light truck or van with a cabin and an open back.

- f The burning down of a house in Fouriesburg on 10 October 1992. The owner, Mr Edmund Middleton, was shot at on 7 August 1993 [JB06470/99OVE].
- g The attack on one Mr van Schalkwyk in Heilbron on 14 July 1992, in which the victim was shot and robbed.
- h The fatal shooting of Mr Abraham Prinsloo, AWB member from Senekal, on 2 February 1993.

The killing of RJ Fourie

Mr Hendrik Leeuw, Mr Mishek May and Mr Daniel Magoda, all PAC members, applied to the Commission for amnesty in respect of the killing of Mr R J Fourie on the farm 'Stormberg' at Verkeerdevlei.

On 12 February 1992, Fourie and a companion, a Ms May, were returning to his farm from town when the vehicle in which they were travelling was ambushed as Fourie stopped at his farm to open the gate. Fourie was shot dead. Ms May was forced to take the perpetrators to the farm house where they took various items. Leeuw told the Amnesty Committee that Ms May was not killed because she was not a target. He said that she had been beaten to show her what would happen to those who assisted the apartheid regime.

Leeuw said that the instruction had been received from an APLA commander, Mr John Showa (deceased), who was also commander of a task force set up as a separate APLA unit and given specific duties to carry out.

During the amnesty hearing, Fourie's counsel argued that the motive for the events was indeed political. However, Committee members pointed out that the deceased was not anonymous, but known to two of the applicants, both of whom apparently had a grievance with him. This clouded the issue of personal and political motivations for the attack. Leeuw told the Committee that Fourie was attacked because he was an army or police reservist. Mr Mishek May told the Committee that Leeuw had identified the target to his accomplices without giving them any other information about him until after the killing. Had he known of the personal animosity between Leeuw and Fourie, May claimed, he would not have agreed to the killing.

- 179 In 1993, the Goldstone Commission of Enquiry heard that APLA had 120 trained members inside the country and up to 2 700 members outside. The Commission found that APLA was responsible for thirty-four attacks nationally, resulting in

thirty-four deaths and many more injuries. Thirteen of these attacks were on farm houses, three in the Ficksburg area.

- 180 In March 1993, two APLA members, Mr John May and Mr William Mxhoshana, were convicted of attempted murder, the malicious destruction of property and the possession of illegal weapons in the December 1991 hand grenade attack on the Batho police station in Bloemfontein.
- 181 In January 1994, PAC president Clarence Makwethu announced that the organisation had suspended the armed struggle of its military wing, APLA, and although the country witnessed a spate of incidents perpetrated by APLA dissidents, arrangements were made for the integration for APLA cadres into the national defence force.

Attacks on the PAC

- 182 The Commission received a number of reports from PAC members in the Orange Free State who said they had been the targets of attack by the security forces or by the ANC/UDF.

The attack on the home of Joang Likotsi

On 25 May 1993, police allegedly used force to enter the Botshabelo home of PAC member Joang Johannes Likotsi (66) while he and his family were asleep. The family was beaten with guns and their belongings destroyed. Likotsi's son, Thomas Likotsi, was taken to the PAC offices, which were searched. The son was then locked in the offices. The family did not lay charges for fear of reprisals [KZN/ZJ/085/BL].

The case of Isaac Mqayana and others

PAC member Isaac Madodana Mqayana was stabbed by an ANC member at his Botshabelo home in July 1992 after an argument. ANC members followed the victim to his home and attacked him. He retaliated, stabbing his attacker to death.

In his statement to the Commission, the victim's father, Mr Mpitizeli Mqayana, said that his son turned himself over to the police and was released after due process.

On the day of Isaac's release, 17 July 1992, ANC 'comrades' set fire to the Mqayana home. Ms Martha Mannini Mqayana (56) sustained fatal burns in the fire and another son, Mr David Zolisele Mqayana (41) was killed by ANC

'comrades' while trying to put out the fire.

*Isaac Mqayana was killed at his mother's funeral a few days later
[KZN/JRW/104/BL].*

ANC self-defence units

- 183 ANC SDUs emerged in various townships around the Orange Free State in the early 1990s. The Commission heard that, while these units were created by higher commands in the ANC and MK at a national level, they enjoyed a fair degree of autonomy at local level. Their perceived role was to patrol and protect communities from the attacks of vigilante groups and other political foes. The Commission heard that many units came to operate like small private armies, controlled by prominent individuals and seeking to further their own political agendas.
- 184 The great majority of the reported incidents of aggression by SDUs relate to arson attacks on homes. Reports of assault and killing were also received. Consumer boycotts, rent boycotts, labour stay aways, campaigns for the resignation of councillors and school protests have all been cited as contexts in which SDU abuses occurred. The Commission heard that SDUs played a role in enforcing the decisions of community organisations, as happened in the campaign to force Councillors Morgan and Susan Phelane to resign from the Brandfort local council:

The case of the Phelane Family

Mr Jack Menera, who has applied for amnesty for the killing of Councillor Susan Phelane, told the Committee that in 1990, UDF/ANC activists in Brandfort summoned councillors to a meeting and asked them to resign their positions. Councillors Morgan and Susan Phelane did not attend the meeting. A decision was taken to vandalise Mr Phelane's shop and to boycott all his business activities. In response, Phelane allegedly formed a gang to counter these attacks. The gang is claimed to have enjoyed the support both of Inkatha members and police.

Menera said that an underground structure of the SDU took a decision to kill the Phelanes and their 'gangsters'. In 1990, Ms Phelane was hacked to death in the shop, their eleven-year-old son Patrick stabbed and the shop set alight. The couple's other son, Mr Edward Phelane, was also brutally stabbed and his car was burnt.

- 185 SDUs in the Orange Free State appear to have been numerous, usually small in size and of informal constitution. Small groups within an ANC structure like the Youth League could therefore be confused with SDUs, as could certain ANC youth gangs known for their thuggery in the townships. A few cases presented to the Commission describe ANC aggression in the context of conflict between rival branches of the ANC and other UDF/ANC affiliate organisations.

The case of Leaooa Shuping

Mr Leaooa Paul Shuping (17) was shot on 28 March 1992 in Church Street, Bloemfontein by the ANC-aligned '21-Jump Street Gang' [KZN/MOL/019/BL]. He is now disabled as a result of the shooting. His father Abram Bosaeletse Shuping and brother Abel Goitsimodimo Shuping were shot dead in the same incident, apparently for resisting the gang's offensive against dissenting ANC/SANCO members [KZN/JRW/111/BL].

- 186 The Amnesty Committee heard details of the SDU-related killing of a Mr Plaatjies at Tumahole (Parys) in 1993. The case illustrates the complex interaction of events in which ill-judged and impulsive gang activity could lead loss of life.

The case of Mr Plaatjies

Mr WO Thoabala told the Amnesty Committee that he was drawn into a Tumahole SDU by Mr Benjamin Cholota on his return from exile in 1993. Cholota said, following a call by Mr Chris Hani for the enemy to be disarmed, the SDU would conduct searches and disarm police or gang members. On one occasion, Thoabala and Cholota entered a tavern at Tumahole with the objective of conducting such a search. Here they entered into a disagreement with one Mr Plaatjies (who had been identified as allegedly having killed 'comrade' Papi Qwaka).

Later Cholota and Thoabala accosted Mr Phule William Moalosi, whom they knew to be a prison warder and thought to be in possession of a firearm. Moalosi refused to be searched by the men and a fight allegedly broke out, also involving Plaatjies, who was allegedly bashed on the head with a brick.

Moalosi escaped from the scene. He later returned to the tavern, this time armed. A shooting incident ensued, in which Moalosi believed he had hit Thoabala. It transpired that he had shot and killed Plaatjies, a man with whom he had no quarrel.

Moalosi gave himself up to police and was later convicted of Plaatjies' killing. Cholota was convicted of attempted murder of Plaatjies and sentenced to seven years' imprisonment.

The Amnesty Committee approved the three applications for amnesty in respect of the death of Plaatjies.

- 187 In the ANC's submission to the Commission, Mr Thabo Mbeki said that the SDU groups were controlled by communities themselves, not by ANC headquarters. In some instances, the ANC admitted, things did go wrong.

The mob killing in Mshenguville

Another incident in which 'things went wrong' took place on 29 September 1990 at Mshenguville in Kutlwanong (Odendaalsrus). Four white people were brutally killed by a mob, led in its attack by ANC 'comrades'.

Amnesty applicant Philip Matela Dintwe (33), one of those convicted for the killings [AM1504/96], told the Amnesty Committee of a township patrol undertaken in response to rumours of an intended attack by vigilantes or right-wingers. At a meeting to plan the patrol, local secretary Mr Manong, who was chairing the meeting, called on 'comrades' to protect themselves and the community.

Mr Dintwe said he came upon a group of people assaulting four white people, three men and one woman, and joined in, using an iron rod. He alleged that between 500 and 600 people were involved in the attack. The woman was taken aside and raped, and her breast was cut off. All four victims died.

In the trial, the court heard that Dintwe himself had mutilated the woman with an axe. The court heard also that he had, in fact, ordered the killings. Dintwe argued that the purpose had been to prevent attack and to secure the safety of the public of Kutlwanong.

No evidence existed that the four whites involved posed any real threat to the community. The court heard that they had ventured into the township in search of alcohol. Dintwe could not explain to the Amnesty Committee why a mob of 500 was needed to defend the community against four people. Manong and local civic organisations distanced themselves from the killing.

Amnesty applicant, Mr Philip Matela Dintwe was refused amnesty for his part in the attack. Three other applicants were also denied amnesty: Mr

Thami Hlobo [AM1009/96], Mr Jeremia Monare Moika [am1349/96] and Mr Justice Sekgopa [AM0032/96].

Attacks on collaborators

- 188 Several reports of necklacing in the Orange Free State were received. In some cases, motives for the attack were not evident. Ms Ntombizodwa Victoria Ngcana (21), an ANC member, was abducted and killed by burning by 'comrades' in Brandfort on 12 July 1990 [KZN/JRW/100/FS]. ANC member Elias Zamani Khathaza died after being necklaced on 20 July 1990 at Lusaka, an informal settlement outside Theunissen [KZN/TIS/023/BL].
- 189 In two other reported cases, known and suspected members of the police force, or their family members, were targeted for necklace killings.

The case of Olifant Msawuli

Mr Jacob Msawuli told the Commission that his father, Mr Olifant Msawuli (57), was burnt to death by 'comrades' in November 1992. He was targeted because 'comrades' accused his son Jacob of being a police officer.

They took him to a hall in Koppies where they tied his hands and poured burning liquid plastic over his head. They then pulled his fingernails out with pliers before dousing him with petrol and setting him alight.

The four perpetrators were sentenced to twenty-five years each [KZN/TIS/032/BL].

THE COMMISSION FINDS THAT UDF AND ANC MEMBERS, INCLUDING MEMBERS OF ANC SDUS, PERPETRATED GROSS HUMAN RIGHTS VIOLATIONS WHICH RESULTED IN THE INJURY AND DEATHS OF PERSONS PERCEIVED TO BE COLLABORATORS WITH THE SOUTH AFRICAN GOVERNMENT AND OF PERSONS HOLDING PUBLIC OFFICE ON LOCAL GOVERNMENT BODIES.

Civilian right wing, white farmers and the police

- 190 Among the identifiable right-wing groups active in the Orange Free State during this period was a group known as *Toekomsgesprek*¹⁶, an organisation established in opposition to the NP and *Broederbond*. The group was responsible for various sabotage and arson attacks on NP offices. Members of the *Broederbond* were also targeted for attack in an attempt to pressurise them to resign and to oust them from agricultural and municipal organisations.

¹⁶ Meaning discussion or conversation about the future.

- 191 According to Mr Daniel Benjamin Snyders, a member of *Toekomsgesprek*, the organisation set fire to the offices of a Frankfort attorney who had represented black people against white business people during a strike at Vryheid [AM9974/96].
- 192 Right-wing attacks reported to the Commission included racial incidents, attacks by the AWB, by white farmers and by the police. The latter were sometimes alleged to be AWB members themselves, or colluding with AWB members and white farmers. The AWB announced that it would mobilise its ranks in retaliation for the 'One Settler, One Bullet' campaign. Random racial attacks were reported to the Commission in which, for example, ordinary members of the public were accosted on the street and assaulted. The Thaba'Nchu road, in particular, was alleged to be the scene of random attacks on blacks.
- 193 Mr Samuel Chobane Papala reported that three men, allegedly AWB members, abducted him in Hoopstad in 1993 while he was walking in the street wearing an ANC flag. They put him into a *bakkie* [van] and sat on top of him so that he could not see what was happening. He was assaulted, hit with a gun butt and kicked. He was then locked in a garage from which he managed to escape. The attackers were not identified [KZN/BEN/001/FS].

THE COMMISSION FINDS THAT MEMBERS OF CIVILIAN RIGHT-WING GROUPS WERE RESPONSIBLE FOR SEVERAL RACIAL ATTACKS ON BLACK PEOPLE IN THE ORANGE FREE STATE. THESE ATTACKS FREQUENTLY LED TO INJURIES AND DEATHS OF THE VICTIMS AND CONSTITUTE A GROSS VIOLATION OF HUMAN RIGHTS.

- 194 The head of the Free State Agricultural Union, Mr Pieter Jakobus Gouws, told the Amnesty Committee that the farming community perceived themselves to be the targets of APLA and MK, which had intentions of driving them off their farms. He said that they felt under attack as the liberation forces wanted to destroy their economic power and political influence. This perception was derived from acts of aggression on farmers. Farmers had to live with the perceptions, rumours, and the utterances made by these organisations.
- 195 In response to this, the Union appealed to the farming community to protect themselves, to unite with the police and security forces, to form farm watches and to take on security matters themselves. Farmers became actively involved in policing and patrolling their areas in vehicles. The farm watches bound the police, security and defence forces and the farming community together in a direct working relationship. Many farmers enlisted as police reservists (described by Gouws as 'special constables') who dealt not only with security matters but with ordinary criminal matters such as the theft, for example, of copper wire or cattle.

- 196 An atmosphere of siege prevailed, characterised by what Gouws described as a “general psychosis of fear, distrust, aggressiveness”. Gouws said that farmers and police found it difficult at the time to distinguish between acts of a criminal nature and acts of political intention. He believed that the level of brutality witnessed in the attacks set them apart from ordinary criminal activities. He noted that their aim was to instil fear and that the perpetrators were usually very well armed, planned their attacks well and went mainly for firearms.
- 197 Little villages like Vierfontein and possibly Kragbron were bought up by the farming community as safe settlements for elderly Afrikaners, often retired farmers. Security arrangements were tight, with residents and police taking special safety measures. Even these communities were targeted for attack.

THE COMMISSION FINDS THAT THE INJURIES AND DEATHS CAUSED BY APLA MEMBERS IN THE ORANGE FREE STATE PROVINCE BETWEEN 1990 AND APRIL 1994 WERE GROSS HUMAN RIGHTS VIOLATIONS BROUGHT ABOUT BY THE DELIBERATE ACTIONS OF APLA MEMBERS ACTING WITHIN THE MANDATE OF THE PAC’S POLICIES. APLA AND THE PAC ARE HELD ACCOUNTABLE FOR SUCH VIOLATIONS.

- 198 It would appear from the evidence available that white farmers enjoyed close working relations with police officers and would often turn to the police for assistance in dealing with ‘troublemakers’. In the Northern Free State area, poor whites would often aspire to be police officers because this was considered prestigious and was a means of improving their lot in life. Many security force members therefore came from local farming families. In smaller, more conservative communities, police were very much members of the community and more subject to pressure than in larger areas.
- 199 Police appear to have had free reign to deal with ‘troublemakers’ on farms. However, farmers also declared that unless the police dealt with the situation first, they would deal with the criminals themselves. Offenders would be punished, tortured and assaulted, sometimes fatally.
- 200 Reports were received of white farmers in the Orange Free State who assaulted farm workers severely when disputes arose on farms or when workers were thought to be involved with political organisations.

The case of Jonas Mathe

In 1993, on a farm called Lambertina at Clocolan, an ANC member Jonas Matli Mathe was shot and injured by police because he was calling himself ‘Mandela’.

The victim was taken to hospital but is today confined to a wheelchair, paralysed and mentally disturbed as a result of the incident. His parents said that they did not take any action against the police or the farmer for fear that they would be expelled from the farm [KZN/LMR/001/FS].

THE COMMISSION FINDS THAT VIOLATIONS WERE PERPETRATED AGAINST INDIVIDUAL MEMBERS OF THE ANC BY THE SAP AND MEMBERS OF OPPOSING POLITICAL ORGANISATIONS WERE GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

Police farms

201 References in several testimonies before the Commission point to the use of farms for the work of the police. It is possible that the farm 'Bloemanda' was used for interrogations in 1978. The farm 'Roodewal' outside Bloemfontein was allegedly used as a detention centre by the police. These allegations are, as yet, unsubstantiated. It is known, however, that the SADF had a military base at 'Roodewal' to which vigilantes, such as the Eagles, were sent for training courses in intelligence and counter-revolutionary strategies.

Regional Profile Western Cape

■ OVERVIEW OF THE REGION

- 1 The region referred to as the western Cape for the purposes of this report comprises the western part of the old Cape Province – that is, the areas now covered by the Western Cape and Northern Cape provinces. In the past, the northern regions contained some of the larger fragments of the ‘independent state’ of Bophuthatswana. The region has international borders with Namibia and Botswana. For the remainder of this chapter, the term ‘western Cape’ is used to include what is now the Northern Cape, unless otherwise specified.

The Western Cape province

- 2 According to the 1995 government statistics, the province now known as the Western Cape has a population of 3.7 million people, comprising 9 per cent of South Africa’s total population. The major languages are Afrikaans (62.5 per cent home language), English (20 per cent) and Xhosa (15.3 per cent). The 1995 figures also reveal that the majority population group in the region is coloured (at 57.1 per cent), followed by white (23.8 per cent) and African (18.2 per cent). Relatively few Asians are present in the province (0.9 per cent). The Western Cape has the second highest degree of urbanisation (86.5 per cent) of all provinces. While it has the highest Human Development Index (HDI) in the country, the region is marked by extreme inequalities. Three sub-regions can be distinguished, namely the Cape Peninsula, Boland and surrounds, and Southern Cape.
- 3 Around 68 per cent of the population of the province (2.5 million people) live in the Cape Peninsula area. There is little heavy industry, mainly light industries such as garments, textiles (employing over half a million) and food processing with small factories. Only 57 per cent of the labour force is engaged in the formal sector; the remainder work in the informal sector, or are self- or unemployed.

- 4 The Boland and surrounding areas include the Breede River area, the winelands, the Overberg and the West Coast. The Breede River area consists of rural farmlands and agricultural towns of which Paarl and Worcester are the largest.
- 5 The main towns in the Southern Cape are George, Mossel Bay, Oudtshoorn and Beaufort West. The region includes the Little Karoo and the Central Karoo. A substantial migration of coloured families out of the Karoo desert to urban areas has led to a population decline in Karoo towns.

The Northern Cape province

- 6 The Northern Cape is the largest province in the country and also the most sparsely populated, comprising 1.8 per cent of the total South African population. The main home languages are Afrikaans (65 per cent) and Setswana (22 per cent). The annual population growth rate lies far below the South African average, indicating a steady outflow of people. Like the Western Cape, the majority population group is coloured (53.5 per cent), followed by African (29.9 per cent), white (16.3 per cent) and Asian (0.3 per cent).
- 7 The major city is Kimberley; larger towns are Upington and De Aar. The main economic activities are mining (diamonds, asbestos, copper) and farming, mainly cattle and maize. Industrial and commercial activity is limited to areas around Kimberley, Kuruman, Sishen and Postmasburg. Migrant labour comes mainly from the former Bophuthatswana, Transkei and Ciskei. The largest African settlement in the province is Galeshewe near Kimberley, accommodating almost half the African population of the Northern Cape.
- 8 The Northern Cape has a long history of land dispossession and forced removals. Africans were removed mainly to Bophuthatswana, often making way for South African Defence Force (SADF) military camps. Later in the 1980s, independent communal farming settlements such as Leliefontein, Steinkopf and Richtersveld in Namaqualand were privatised by the House of Representatives, leading to impoverishment and protest.

Socio-political features

- 9 Five features distinguish the political and social terrain of both Western and Northern Cape from the rest of the country:
 - a a distinct formulation of apartheid policy declaring the Cape a 'coloured labour preference area';

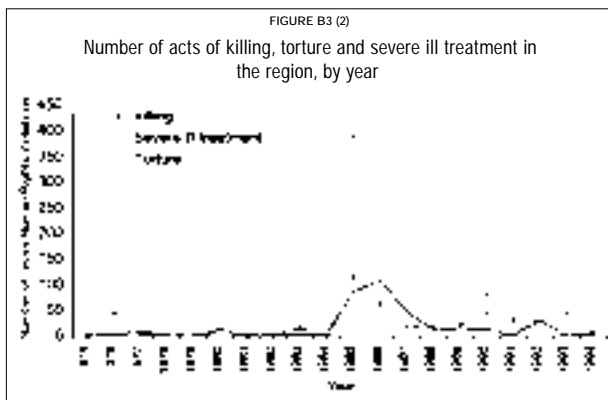
- a unique demographic profile with a coloured majority and an African minority;
 - c extreme social and spatial engineering through the Group Areas Act;
 - d significant divisions amongst Africans between rural migrants and urban residents;
 - e an historical diversity of political groupings and ideological approaches.
- 10 As elsewhere in the country, organisations and protests were silenced in the 1960s. The 1970s saw the emergence of the South African Students' Organisation (SASO) and associated Black Consciousness activity amongst African and coloured students alike in the Western Cape. The 1976 revolt and the 1980s' school protests showed unprecedented militancy amongst coloured people and solidarity with Africans, with a high number of deaths and injuries.
- 11 Specific issues such as the red meat strike, the Fattis and Monis strike and the bus and school boycotts provided the impetus for organisational development and the focus for organisational activities from the early 1980s. Many such organisations made up the core of affiliates for the United Democratic Front (UDF), launched in Cape Town in 1983, giving momentum to the explosion of resistance in the Western Cape in the latter half of 1985. Both protest and repression became violent, and affected coloured as well as African areas. During 1986 the violence was focused on the tension between pro-government squatter leaders and those aligned to the liberation movements. In 1989 the Western Cape played a leading role in the Defiance Campaign and initiated support for the hunger-striking detainees and prisoners, leading to increased repression.
- 12 After the unbanning of organisations in 1990, local communities, particularly in Khayelitsha, the Boland and the Northern Cape, began protests against conservative local authorities. Shadowy 'balaclava' gangs, renegade self-defence units (SDUs) and warring taxi groupings left a trail of killings in the African areas.

Overview of violations

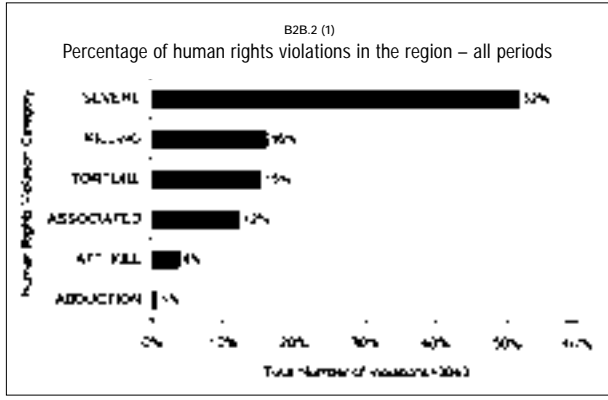
Violations reported

- 13 Of all submissions to the Commission received nationally from victims alleging gross violations of human rights, only 8.4 per cent per cent were from the western Cape.

- 14 Most (57 per cent) of the deponents in this region were male. Male deponents tended to talk about violations that happened to themselves, whereas female deponents much more frequently spoke about others. Statistics show that 36 per cent of women deponents were the primary victims in their submissions, whereas 72 per cent of male deponents spoke of themselves as victims.
- 15 The average age of deponents in the Western Cape is estimated at forty-one years. Female deponents were generally older than male deponents, averages being forty-seven and thirty-nine years respectively. This reflects the tendency for older women to testify about violations to their family members such as their children.
- 16 The incidence of gross human rights violations in the western Cape over the Commission's mandate period reached two sharp peaks in 1976 and 1985/86, while maintaining a fairly constant level in the 1990s. The reasons for these peaks are discussed in the sections dealing with the relevant periods.



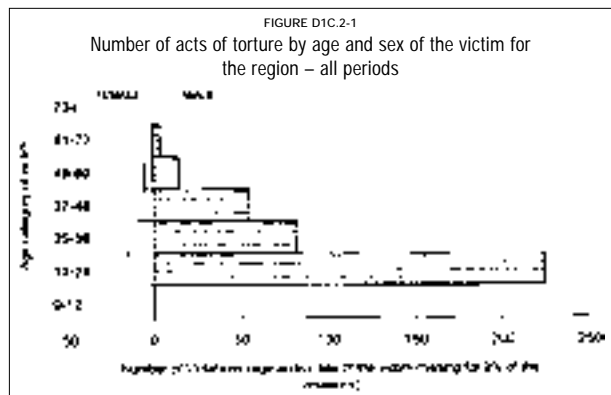
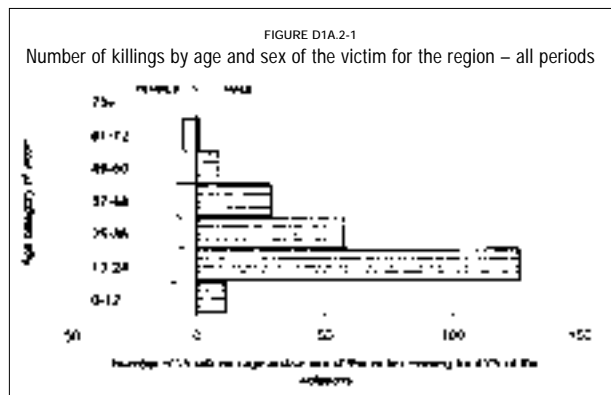
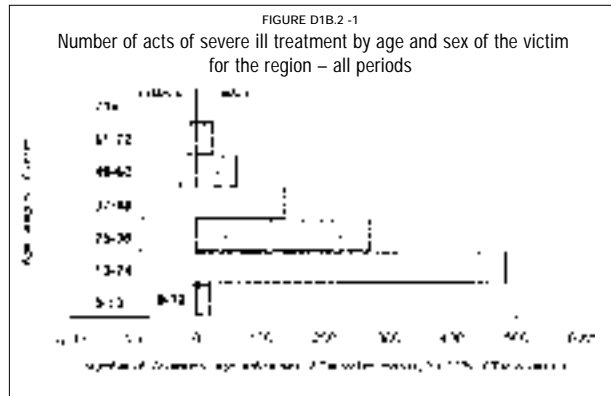
- 17 It is notable that the highest peak is reached in 1985. This pattern is similar to that of the Eastern Cape, but markedly different to KwaZulu-Natal and the former Transvaal, which recorded high levels of violations in the 1990s.



- 18 Severe ill treatment was the dominant violation, accounting for 52 per cent of the violations in the region. The most common form of severe ill treatment reported was beating, followed closely by incarceration and shooting injuries. Males between the ages of thirteen and twenty-four were the primary victims. Amongst women there was a fairly constant level of violations between the ages of thirteen and forty-eight.

19 Killings constituted 16 per cent of the violations in the region. The victims of reported killings were primarily males between the ages of thirteen and twenty-four, followed by males between the ages of twenty-five and thirty-six. Shooting was by far the most common type of killing.

20 The most common form of torture was beating, representing more than double the number of any of the other categories. This was followed by mental torture, suffocation and electric shock. As for the other types of violation, the victim profile here too is largely male and between the ages of thirteen and twenty-four.



Political affiliation of victims

21 The overwhelming majority of victims with a known political affiliation were ANC members or supporters, followed by the UDF. (It must be noted that these two organisations were at times used interchangeably by deponents.) This is true for killings, severe ill treatment and torture. In all these categories, the next greatest largest number of victims were linked to the Pan Africanist Congress (PAC).

Perpetrator groups

22 The South African Police (SAP) was named as perpetrator in the overwhelming majority of violations in the categories of killings, severe ill treatment and torture for the entire period. Supporters of the UDF and PAC were also identified as perpetrators of killing violations, although these accounted for a fifth or less of the number attributed to the police.

23 Killings by the UDF were concentrated between 1984 and 1986, and killings by the PAC between 1992 and 1994. Acts of torture and severe ill treatment by the SAP are spread across the period, with dramatic peaks in the 1980s and the 1990s.

■ 1960-1975

Overview

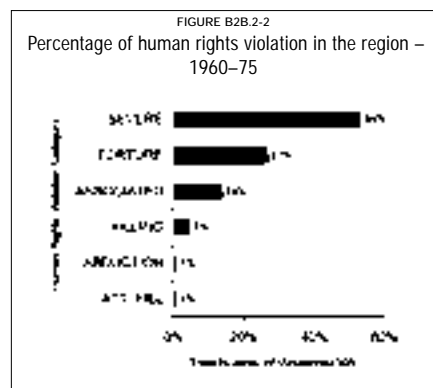
24 Reported violations in the western Cape for this period are similar to those occurring elsewhere in the country, especially those arising from the anti-pass laws protests of 21 March 1960 and subsequent events. These include the detentions, torture and trials that followed the banning of organisations and individual activists. The western Cape, however, also saw political conflict of a regional character emanating from the activities and campaigns of Poqo, a feature shared with the Eastern Cape.

25 The first half of the 1970s was characterised by continued personalised repression in the form of detentions and banning orders along with tighter controls on existing anti-apartheid organisations or bodies. Student leaders were a particular target of banning orders in the western Cape. Many activists and other individuals had their passports withdrawn or applications refused. In 1971 a security swoop across the country, including Cape Town, resulted in numerous long-term detentions. 1974 saw a spate of detentions and trials in the wake of the pro-FRELIMO commemoration rallies held at various campuses.

- 26 In early June 1972, University of Cape Town (UCT) students holding an education protest meeting at St George's Cathedral were baton-charged on the steps of the Cathedral and badly beaten. Fifty-one students were arrested and charged. Eleven students and a university employee instituted legal action for assault against the Minister of Police, resulting in out-of-court settlements.
- 27 The Schlebusch Commission of 1972–73 investigated numerous anti-apartheid bodies such as the National Union of South African Students (NUSAS), the Christian Institute and the South African Institute for Race Relations (SAIRR). This Commission laid the groundwork for a clamp-down on these organisations. Numerous Cape-based people refused to testify and consequently faced legal action and banning orders. The Christian Institute was banned completely in 1977.
- 28 In 1972 a vigilante group calling itself 'Scorpio' began distributing leaflets in Cape Town letter boxes. The campaign attacked white liberals, Jews and others and eventually escalated into violent attacks on property. Two white people were later convicted for these acts.

Overview of violations

- 29 Severe ill treatment and torture were the chief forms of gross human rights violations reported for this fifteen-year period.
- 30 Most of these violations took place in the Peninsula and Boland areas, with a limited number in the Beaufort West region corresponding with trials of Poqo members. In the majority of cases, the victims were aligned to the ANC or the PAC, or were non-partisan. Most reported violations were attributed to members of the SAP.



Public order policing: the anti-pass campaign

- 31 The anti-pass campaign of 1960 saw the first gross violations of human rights in the western Cape in the Commission's mandate period. The PAC had called on all African men to leave their passes at home on 21 March and give themselves up for arrest at their nearest police station. The ANC had planned their anti-pass campaign for ten days later. People responded in both urban and rural areas of the western Cape. At Nyanga, PAC supporters congregated on a rugby field and then marched to the Philippi police station to give themselves up for arrest.

The Langa shootings

- 32 In Sharpsville, Johannesburg, more than sixty unarmed men, women and children died and hundreds more were wounded in the anti-pass campaign on 21 March 1960. When that news reached Cape Town, a crowd of 5–10 000 people assembled at the Langa Flats bus terminus around 17h00 in defiance of a country-wide ban on public meetings and gatherings of more than ten persons. Police told the crowd to disperse “within three minutes”. When this did not happen, they charged with batons and fired tear gas as well as bullets. At least three persons, Mr Cornwell Tshuma, Mr Leonard Mncube and Mr C Makiwane, were killed and many others injured. Cape Times employee Richard Lombard was killed by the crowd in the chaos that followed the shootings.
- 33 The Commission received several statements regarding shooting injuries in Langa on 21 March 1960 or alleging police beatings and assaults related to this period.
- 34 Twelve-year-old Mongezi Hallington Msizi [CT00943] had been selling cakes in the area when the Langa shootings started. Bullets from a passing police van struck him in the lower abdomen and in the forehead, hospitalising him for several months.
- 35 Mr Luyanda Gladman Jack [CT01344] was one of many people, including some journalists, who had climbed onto a block of flats for a better view of the PAC rally. When the shooting began, he jumped to the ground for cover:
- I do not remember when I reached the ground, but what I do remember is that I was shot with pellet bullets in my left leg just above the ankle. I think I fell and became unconscious.*
- 36 He was unconscious when admitted to hospital and needed several years' hospital treatment for his injuries.
- 37 There were persistent rumours that many more people had been killed during this period than was actually disclosed by the authorities. A witness at the Commission's Cape Town hearing in June 1996 spoke of “mass graves” on a farm in Bonteheuwel, bordering Langa. Some of the rumours were that some of the missing persons had been shot by policemen and soldiers driving in Saracen armoured vehicles as they fled into the bushes near Vanguard Drive. Their bodies were allegedly buried in shallow graves and later exhumed and reburied at Ndabeni. A reporter who covered the Langa shootings claimed that he had seen “at least twelve people who appeared to be dead”.

- 38 Mr Clarence Makwetu, former PAC President, was interviewed by the Commission and described the allegations as rumours that gained popular acceptance. Research also indicates that many people fled to the Transkei in the wake of these events, giving an impression of large-scale losses.

WITH REGARD TO THE LANGA SHOOTINGS OF 21 MARCH 1960, THE COMMISSION FINDS THAT THE INTENTIONS AND ACTIONS OF THE MARCHERS WERE NON-VIOLENT AND DID NOT MERIT THE HARSH ACTIONS OF THE SECURITY FORCES. THE KILLINGS AND INJURIES SERVED AS THE TRIGGER FOR THE KILLING OF MR RICHARD LOMBARD. THE SUBSEQUENT SIEGE OF THE AFRICAN TOWNSHIPS AND ASSOCIATED ASSAULTS BY POLICE PRODUCED THE CLIMATE FOR ATTACKS ON OTHER INDIVIDUALS SEEN AS 'COLLABORATORS', SUCH AS CONSTABLE SIMON MOFOKOLO.

THE COMMISSION FINDS THAT THE ALLEGATIONS OF MASS KILLINGS ARE NOT SUBSTANTIATED. THE NUMBER OF PEOPLE SHOT DEAD BY POLICE ON 21 MARCH PROBABLY DID NOT EXCEED THREE PERSONS, BUT AT LEAST FORTY-SIX PEOPLE WERE HOSPITALISED FOR INJURIES.

- 39 On 1 April 1960, eighteen-month-old Boyi Manjathi [CT00728] was shot and killed in Nyanga by a naval guard. Mr Stanley Nkomazibuyi stated that they were taking their nephew Boyi to hospital when they were stopped at a roadblock by a group of soldiers who would not let them pass due to the curfew. As they made a U-turn, they suddenly heard a loud sound and saw smoke in the car. The car had been shot at. The bullet grazed the passenger's head and hit the sick baby on her lap. When he asked the guards for a reason, Mr Nkomazibuyi was arrested and thrown into an armoured vehicle.
- 40 The events of 21 March were followed by a mass strike in the Peninsula for the abolition of passes and a higher minimum wage for African workers. The black townships were under siege for two weeks, with an estimated 95 per cent of the African population as well as a substantial proportion of the coloured community in Cape Town joining the stay away. There were widespread allegations of police brutality during this siege. In April, an African detective constable, Mr Simon Mofokolo, was battered to death at Nyanga by PAC supporters.
- 41 Newspaper reports described the impact on the Western Cape:

Hundreds of heavily armed troops threw tight cordons around the Langa, Nyanga East and Nyanga West [now Gugulethu] Native townships under cover of dark last night, acting under the Emergency Regulations proclaimed yesterday. The troops carried rifles with fixed bayonets, Sten guns and Bren guns and were supported by armoured cars and Saracens. It is gathered that reinforcements were brought to Cape Town yesterday.¹

¹ *Cape Argus*, 31 March 1960

- 42 The funeral of those who had been killed on 21 March was held a week later in Langa and attended by about 50 000 people. Speakers appealed to the crowd not to resort to violence in any form. They did not want hooliganism to mar the campaign and called for acts of violence to be reported to the campaign organisers. On 30 March, a mass march of about 30 000 people streamed into the city centre and converged on the Caledon Square police station to mark their opposition to the pass laws and detention of local leaders. The march was dispersed after the promise of a meeting which never transpired. Instead Mr Philip Kgosana, who had led the march, was detained.
- 43 The impact of the anti-pass campaign was felt even in rural towns, and the Commission received statements regarding these events from as far afield as Hermanus. An anti-pass demonstration in Paarl is recorded to have been disrupted by the police. Similar demonstrations in Stellenbosch and Somerset West were baton-charged by the police, and a march in Worcester was dispersed by tear gas.

PAC/Poqo activities

- 44 The PAC claimed that its 21 March 1960 campaign was only a part of an "unfolding programme of action" which would lead to total independence by 1963. With PAC leaders in prison, the task fell on the regional echelons. The wide media coverage of the anti-pass campaign and the state's violent response increased the PAC's image and membership, particularly in the Western Cape.
- 45 A number of violations during this period can be associated with Poqo's activities in Langa and Paarl, which included forcible conscription drives and attacks on alleged 'collaborators' and 'dissidents' within the movement who opposed their activities.
- 46 Among those killed by Poqo members in 1962 were several people in Paarl suspected of being police informers. Two of these were coloured women accused of keeping members away from the Poqo meetings. Another coloured woman was permanently disabled.
- 47 Mr Milton Chumani Nozulu Matshiki [CT00267] was one of those killed by Poqo members in October 1962. His widow, Ms Nothemba Glenrose Kabane, stated that her husband had left their house on a Saturday in October 1962 for a local bachelors' hostel, but did not come back home in the evening.

On Sunday morning a police car came to my house. We went together in an office where they told me that a body without a head had been found in the bushes, so they wanted me to go and identify the body. I refused because I was not a strong person. ... They brought the clothes and these were my husband's clothes which he was wearing when he left the house on Saturday. On Wednesday the detectives came again to tell me that they needed me to identify the head which could belong to my husband. It was my husband's head.

At that time you could not criticise anything wrong done by Poqo, their activities or methods of struggle. Everyone in the community was not comfortable because one could be attacked for criticising any move by Poqo people.

THE COMMISSION FINDS THAT PAC OR POQO MILITANTS WERE RESPONSIBLE FOR THE DEATHS OF AT LEAST EIGHT PEOPLE IN THE PERIOD UP TO AND INCLUDING 1963. THESE INCLUDED TWO WHITES AND THREE SUSPECTED 'COLLABORATORS' IN PAARL AND AT LEAST THREE POLICEMEN IN THE PENINSULA.

POQO ADOPTED AGGRESSIVE CONSCRIPTION METHODS, ALLOWING NO ROOM FOR DISSENTION, RESULTING IN AT TIMES VIOLENT INTOLERANCE TOWARDS NON-SUPPORTERS OF THEIR METHODS AND TOWARDS CRITICISM BY THEIR OWN MEMBERS OR OUTSIDERS.

POQO MILITANTS TARGETED CIVILIANS INDISCRIMINATELY. SUSPECTED 'COLLABORATORS' WERE PROBABLY MERELY CRITICAL INDIVIDUALS.

48 On 21 November 1962, Poqo members from Mbekweni, Paarl, met and resolved to attack the white town of Paarl. Over 200 men armed with axes, *pangas*, sticks, sabres and possibly a few revolvers gathered at about 02h00 and split into two groups, one to attack the prison and the other the police station. The latter group approached the police station and began attacking police patrol vans. Three were shot dead in front of the police station and others were wounded and several arrested. As the rest of the group fled, they met those who had been planning the prison attack and formed a new group which began attacking houses in Loop Street. Two white people, Ms Rencia Vermeulen (17) and Mr Frans Richards (21), were killed. One Paarl resident chased the attackers away from her house with a revolver, shooting one of them. The final death toll was seven, including five Poqo members: Mr Godfrey Yekiso, Mr Madodana Camagu, Mr John Magigo and Mr Ngenisile Siqwebo. Mr Matthews Mayezana Mali [CT00723] was shot by the SAP on 23 November 1962. Mali was shot in the head and chest while marching in front of a group of PAC demonstrators on their way to the Paarl police station to hand over a list of grievances on the day after the disturbances.

49 Several people were tortured and assaulted in custody in the wake of these events.

- 50 PAC leaders at Langa reported being shocked by the initiative taken by the Paarl branch when it was reported to them, saying they had not had prior knowledge of the actions.²

THE COMMISSION FINDS THAT THE ACTIONS OF POQO SUPPORTERS IN PAARL WERE ESSENTIALLY LOCALLY PLANNED AND EXECUTED. THERE WERE SERIOUS LOCAL GRIEVANCES IN PAARL, RESULTING FROM THE STRONG ENFORCEMENT OF INFLUX CONTROL AS WELL AS THE CORRUPTION OF BANTU ADMINISTRATION BOARD OFFICERS WHICH HEIGHTENED THE POLITICAL ANGER OF LOCAL RESIDENTS. ALTHOUGH NOT OFFICIALLY SANCTIONED BY THE REGIONAL OR NATIONAL PAC LEADERSHIP, THE PAARL ATTACK FELL IN LINE WITH THE PLANNED OVERALL MASS UPRISING FOR 8 MARCH 1963 WHICH SPECIFIED THE TARGETING OF WHITES AND GOVERNMENT AGENTS.

- 51 Of a total of about seventy-one PAC members executed throughout the country between 1962 and 1967, at least twenty-one came from the western Cape, eighteen from Paarl and three from Langa. These were amongst the first death sentences imposed for political activity in the country during the period of the Commission's mandate.

- 52 Mr Gqibile Nicholas Hans [CT00269] was one of those executed from Paarl.

- 53 Those executed from Langa included Mr Vuyisile Qoba, Mr Gladstone Nqulwana, Mr Thwayi Thwayi and Mr Nontasi Albert Tshweni [CT01338]. They were accused of having murdered Sergeant Moyi in Langa in March 1962. Mr Kwedi Mkhaliipi, a member of the local Langa PAC executive, told the Commission that Qoba, although he was a task force leader, was not present at the killing, which was an impromptu ambush.

CONCERNING THE WIDESPREAD EXECUTION OF POQO MEMBERS, THE COMMISSION FINDS THAT JUDICIAL EXECUTIONS FOR POLITICALLY MOTIVATED OFFENCES CONSTITUTE A GROSS HUMAN RIGHTS VIOLATION.

- 54 A unique set of arrests and trials unfolded in the Karoo region of the western Cape in the second half of the 1960s. Poqo networks were alleged to have conspired to rise up against the white population in several small towns. In Victoria West, twenty-six Africans and coloured people were arrested at the end of April 1968 on charges of having conspired with one another and with sixty-five others to commit sabotage. The state alleged that they were members of Poqo and had, between November 1966 and June 1967, planned to storm the police station, kill the police officers and other whites, and steal weapons and poisons for the town's drinking water.

- 55 During November 1968, ten of these men were sentenced to three years each

² Commission Interview on 25 June 1998 with Kwedi Mkhaliipi, former PAC leader in Langa.

for belonging to Poqo and furthering its aims. Their convictions were set aside on appeal in 1969. Twenty-four who appeared in the Supreme Court on the more serious charges of sabotage and Poqo activities spent as long as seventeen months in prison before being discharged because of insufficient evidence. Mr Justice Theron, who presided over the case, said a police spy known as X54 had been the centre of the whole state case. Under cross-examination, it became apparent that his answers were false. X54 admitted that he had lied during a similar trial in Port Elizabeth. Similar cases occurred in Graaff-Reinet, Laingsburg and Oudtshoorn.

- 56 The Commission received several statements from those who were implicated and arrested in the Karoo town trials. While only one deponent, Mr William Makulani [CT00578], alleged torture and severe ill treatment by the police while in custody, others complained of lengthy periods of incarceration and court cases based on fictitious charges and disreputable witnesses. The impact of these trials in such small towns was substantial.

THE COMMISSION FINDS THAT THERE WAS LITTLE IF ANY SUBSTANCE TO THE ALLEGATIONS AGAINST THE ACCUSED AND THAT THE ABOVE-MENTIONED TRIALS WERE A MANIFESTATION OF RACIST INTOLERANCE AND PARANOIA. AS A RESULT, THOSE DETAINED AND ACCUSED ENDURED UNNECESSARY AND VINDICTIVE HARDSHIP.

Detentions and torture

- 57 There were several distinct waves of detentions and torture during the 1960–75 period. The first occurred under the March to August 1960 state of emergency. The next wave, accompanied by severe torture, occurred in 1963 under the ‘Ninety-Day Detention Law’, passed on 1 May, and following the arrest of the Umkhonto weSizwe (MK) high command at the Lilliesleaf Farm in Rivonia, Johannesburg at around the same time. Mass arrests of Poqo or PAC members were followed by extensive torture and trials that led to death sentences for many of the accused. After further intermittent detentions and trials throughout the 1960s, there were the nation-wide arrests of South African Students’ Organisation (SASO) and Black People’s Convention (BPC) members in 1973–74 which extended to the Western Cape as well.
- 58 In the evidence before the Commission, Warrant Officer Hernus JP ‘Spyker’ van Wyk is the individual most consistently associated with torture in the Western Cape over a thirty year period. Mr Theunis ‘Rooi Rus’ Swanepoel is also among those mentioned frequently in submissions to the Commission.

- 59 A special 'screening centre' was created at the Bellville police station, where Poqo suspects were beaten and tortured during interrogation and forced to make statements implicating themselves and their comrades. Mr Sisa Ncapai [C2660/97WTK] told the Commission:

I was arrested in November 1964 and questioned about my political activities, especially the recruitment of the youth for military training in the countries outside South Africa. I was tortured with electric shocks and made to stand on my toes on bricks placed on each other and this act would continue for over an hour, and the arms are stretched out sideways.

An empty twenty-litre paraffin bucket was placed on my head down to the shoulders and a dirty rag dipped in an oily substance that gave a nasty headcracking smell was inserted in the corner of the bucket. The smoke which came from the rag sent me fainting. I was kicked and hit with fists and I stayed without food for hours on end. It was worse when the security personnel led by Sersant van Rooyen, ... Mostert and others brought with them cadres who were arrested on the borders ...

- 60 ANC member Christmas Tinto [CT00477] was arrested in 1963 and was also tortured at the Bellville police station. A bag was placed on his head, electric shocks were applied at his fingertips and he was beaten and kicked. In 1968, he was again detained, beaten and held in solitary confinement for eleven months, followed by more torture in 1972. He described being taken blindfolded at night to a cliff by the sea, where he was taken to the edge and threatened with death.

The following morning I was taken to Pollsmoor prison ... I was put in a big hall. They locked the door and told me to undress which I did. They even forced me to take off my undertrousers and I was left naked. I was told to stand on a chair handcuffed. A rope was thrown over the ceiling rafters and tied around the handcuffs. They put a bag over my head and tied some wires around my fingers, one in each hand, and electric shocks were then applied ... Van Wyk said "Tinto now we are serious and you are going to tell us". He had a pair of pliers in his hand ... He squeezed the cover of my penis with a pliers, pulling all my hair on my private parts till I was unconscious and found myself sleeping in Valkenberg mental hospital for two months. I was charged under the Terrorism Act and sentenced to seven years' imprisonment on Robben Island.

- 61 Some detainees were taken to Pretoria and tortured there, amongst them Western Cape ANC president Mr Zolile Malindi [CT00510], who was detained together

with his wife under the state of emergency regulations in 1960. In 1961 he was banned for two years, was detained again in 1963 under the ninety-day detention law³ and held in solitary confinement in Worcester. Mr Malindi was tortured in Pretoria Central prison by about six Special Branch men including Sergeant Greeff. He was given the 'helicopter' treatment⁴ and was suffocated with a plastic bag. This was followed by electric shock torture on his body. Mr Mountain Qumbelo [CT03711] was beaten, suffocated, forced to hold physical positions and subjected to electric shocks in Pretoria by Sergeant Greeff and others.

- 62 Ms Stephanie Kemp [KZN/SELF/072/DN] stated that Warrant Officer van Wyk "beat me senseless while I was in detention. Viktor came down with one Van der Merwe and kept me standing through the night and longer while interrogating me." Subsequently jailed for sabotage, she was later paid out R2 000 by the then Justice Minister, Mr John Vorster, for torture.
- 63 Mr Johnny Issel and Mr Steven Carolus were amongst six Black Consciousness Movement activists detained in the western Cape in October 1974 under Section 6 of the Terrorism Act. They were taken to Pretoria where a national investigating team, including Van Wyk, was formed to interrogate the 100 black consciousness activists being held in Pretoria Central. Interrogation took place at the police commissioner headquarters (COMPOL).
- 64 Issel reports that he was questioned by a team of fifteen security policemen. They took turns beating him with their fists and kicking him about the room. Later that evening he was made to crouch on his knees. His hands were tied behind his back and he was blindfolded. Wires were attached to the little finger of each hand and he was shocked four times. Each time this happened his body was flung across the floor. The two policemen drank brandy throughout the torture. Interrogation continued and they remained dissatisfied with the answers they were receiving. Issel was blindfolded again and subjected to electric shocks by Colonel Andy Taylor and others. Other forms of torture at COMPOL included spending an entire day doing frog jumps around the room until all sense of co-ordination was lost, and standing against the wall with arms outstretched.
- 65 Issel was released as a state witness after being held for five months at Pretoria Central. He laid charges of assault against the security police, but the matter never reached the courts.

3 Section 17 of the General Law Amendment Act No 37 of 1963.

4 The 'helicopter' technique refers to a method of torture where a victim was suspended from the ceiling, with hands and feet shackled to a stick, and spun around.

- 66 Mr Steven Carolus was interrogated by a panel of security policemen who made him sit on an 'invisible chair' when they were dissatisfied with his answers. Taylor and a German-speaking policeman then gave him electric shocks to his genitals. After about a week of questioning and constant beatings, Carolus was held in solitary confinement for seven months before being released.
- 67 Mr Danile Landingwe [CT01311], also part of the SASO group taken to Pretoria in 1974, states that he faced repeated detentions, assault and torture:

The interrogation started daily. I was assaulted and I lost two teeth. Spyker van Wyk was instructing other security police to beat me. ... You would also be asked to stand next to the wall, carrying a book. You were given fourteen days to do this exercise but on the eighth day you fell. They would start beating you again. I was held for five months and released in 1975.

Deaths in detention

- 68 Western Cape activists Looksmart Ngudle and Imam Haron died in detention during this period. The Commission was not able to make a finding concerning the death of PAC member Bellington Mampe [EC2718/97QTN] in 1963.

The death in detention of Looksmart Ngudle

MK commander Mr Looksmart Khulile Ngudle (41) [CT00504, CT00517, EC0127/96CCK], was detained on 19 August 1963 under the Ninety-Day Detention Act and died on the night of 4/5 September in Pretoria. The police claimed that he had hanged himself in his cell with the cord of his pyjama trousers. Counsel for the State said that Ngudle had killed himself because he had given the police information which led to arrests the day before his death. He was banned posthumously on 25 October.

Evidence by witnesses of electric shock and other torture in detention was ruled by the magistrate as irrelevant. A Pretoria magistrate who visited Ngudle the day before his death reported to the police that he complained that he was assaulted and that he had coughed blood. The inquest magistrate found that the cause of death was suicide by hanging.

The death in detention of Imam Haron

Imam Haron (45), a respected leader in the Muslim community and former editor of Muslim News, was detained under the Terrorism Act on 28 May 1969, held at Caledon Square police station until 11 August and then transferred to

the cells at Maitland police station where he was found dead on 27 September after 122 days in detention. He had apparently been suspected of recruiting PAC members.

The inquest found multiple bruising, which had been caused at different times by 'a fair amount of trauma', and a broken rib. Police claimed that he had fallen down some stairs after losing his balance. Between 17 and 19 September, the Imam had been taken away from the police cells to an undisclosed place for interrogation. The then Major Dirk Kotze Genis and Sergeant van Wyk were responsible for the interrogation. The Haron family's legal representative argued that Imam Haron had been beaten in efforts to extract a statement from him, and that the trauma he suffered caused a pulmonary embolism which triggered a heart attack.

The presiding magistrate found that the likely cause of death was myocardial ischaemia, due in part to 'trauma superimposed on a severe narrowing of a coronary artery'. It was found that the bruises were not caused by the fall. He declined to rule on whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person, finding merely that "a substantial part of the said trauma was caused by an accidental fall down a flight of stone stairs. On the available evidence I am unable to determine how the balance thereof was caused."

A number of publications consulted during the Commission's investigations added weight to the questions raised in the inquest report.

THE COMMISSION FINDS THAT A CONSISTENT GROUP OF INDIVIDUALS WAS RESPONSIBLE FOR DIFFERENT FORMS OF TORTURE OF POLITICAL DETAINEES IN THE REGION DURING THIS PERIOD. THE GROUP CONSISTED OF WARRANT OFFICER 'SPYKER' VAN WYK, A SERGEANT GREEFF, A SERGEANT VAN ROOYEN AND CERTAIN PERSONNEL FROM OTHER REGIONS INCLUDING COLONEL ANDY TAYLOR, SERGEANT FERREIRA AND A CERTAIN MR VAN DER MERWE. THESE INDIVIDUALS WERE DEPLOYED AT BOTH REGIONAL AND NATIONAL LEVEL.

IN THIS CONTEXT, THE COMMISSION FINDS THAT IT IS HIGHLY LIKELY THAT THOSE WHO DIED IN CUSTODY EXPERIENCED TORTURE PRIOR TO THEIR DEATHS, AND THAT THEIR DEATHS WERE A DIRECT OR INDIRECT RESULT OF SUCH TORTURE.

THE COMMISSION FINDS THAT THERE IS EVIDENCE OF WIDESPREAD TORTURE OF DETAINEES IN PRETORIA DURING THIS PERIOD, AND THAT MR LOOKSMART NGUDLE'S DEATH WAS A DIRECT OR INDIRECT RESULT OF SUCH TORTURE. THE COMMISSION FINDS THAT, ALTHOUGH IT IS NOT IN A POSITION TO REVERSE THE FINDINGS OF THE INQUEST COURT, THE DETENTION WITHOUT TRIAL OF THE IMAM ABDULLAH HARON WAS UNDOUBTEDLY A GROSS VIOLATION OF HUMAN RIGHTS, AND HIS DEATH WAS CAUSED DIRECTLY OR INDIRECTLY BY HIS EXPERIENCES AT THE HANDS OF THE SECURITY POLICE.

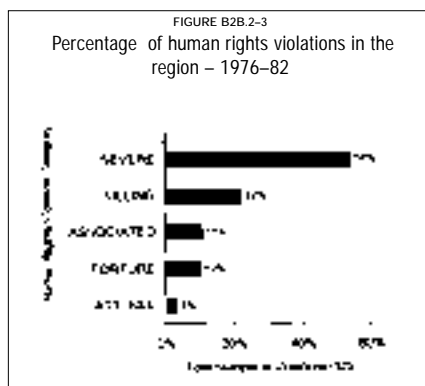
■ 1976-1982

Overview

- 69 This period saw two waves of large-scale public resistance with high numbers of casualties: the 1976 revolt and the violence associated with the 1980 school boycotts. The 1976 revolt began in the Transvaal and spread to the western Cape in August 1976, with an accompanying shift to more violent and intensified repression by the state. After the Transvaal, the Western Cape had the second highest number of deaths and injuries associated with the 1976 revolt. Numerous detentions followed, many with accompanying allegations of torture and at least three deaths in detention in 1976 and 1977. A number of local activists were sentenced to prison in a series of terrorism trials in the late 1970s. Others, mainly student leaders, were placed under banning orders.
- 70 The 1980s school boycotts began in the western Cape and spread to other parts of the country. Conflicts with security forces escalated and continued for several months, resulting in at least forty-two deaths. Other political campaigns such as the meat and bus boycotts were also undertaken that year. Numerous community grassroots organisations emerged in the region. These laid the basis for the formation of the United Democratic Front in 1983.
- 71 Widespread protests emerged after new squatter camps faced demolitions and repression by the state and its security forces. Crossroads squatter camp sprang up from 1975, after the demolition of large squatter camps in the Bellville area. Crossroads faced frequent police raids as authorities tried repeatedly to remove the camp. During one raid in September 1978, Mr Sindile Ndlela [CT00908] was shot dead by police and several others were injured. Local and international campaigns to save Crossroads led to a reprieve in 1979.

Overview of violations

- 72 In this period, severe ill treatment is the dominant form of violation reported to the Commission, followed by killings. This differs from the pattern in the previous period.



73 The increase in killings reflects the 1976 and 1980 periods of street conflict between protesters and the SAP. The police were again the main perpetrators in all of the categories above. Although largely centred in the Peninsula, there was a wider spread of violations in the Boland, the South Cape and the Northern Cape in this period.

Detention, torture and trials

74 There were numerous, largely unsuccessful, court applications to halt assault and torture in custody in the wake of the 1976 revolt. Many high school pupils were assaulted following arrest by the SAP. From the accounts it appears that both the SAP and Security Branch police members were responsible for assaults and torture of school children at the time.

75 A fifteen-year-old pupil who wishes to remain anonymous was arrested in August 1976 with other pupils en route to a meeting. They were taken to Mowbray police station where a police officer identified four of the pupils as “ringleaders” and took them to the commanding officer, who told them he would “beat the politics out of them”. They were brutally assaulted with batons by a group of police members, including the commanding officer. The anonymous deponent suffered a perforated eardrum and still bears scars on his forehead.

76 Mr Mkhululi Brian Mphahlele [CT00194] states that he was tortured and beaten at Caledon Square police station by Security Branch members Swarts and Coetzee in January 1977 while being questioned about the school boycotts. He then served three years for arson. Mr Joseph Ndabezitha [CT03031] also mentions Swarts and Sergeant Greeff in his account of being tortured that year. Mr Toto Mzwandile Ntsohi [CT03097] was beaten and given electric shocks by security policeman ‘Spyker’ van Wyk in 1977 at Caledon Square.

The detention and torture of Yusuf Gabru

Detention and torture were not limited to scholars. Salt River High School teacher Mr Yusuf Gabru was detained in 1976 under Section 6 of the Terrorism Act and held at Caledon Square. Spyker van Wyk, his brother, and two other security policemen interrogated Gabru and beat him with their fists and knuckles. He was forced to sit on his knees for a day. After two weeks he was told that he was being released. He was then taken into the room next door, his belongings were once again removed and, after a

severe beating, was told that he was being redetained. Gabru describes this as the most devastating moment of his detention. Other methods of abuse included trying to force a pork sandwich into Gabru's mouth because he came from a Muslim family. Gabru says that the physical torture was far easier to bear than the psychological torture. On one occasion Spyker van Wyk and another policeman took him up a staircase, spoke about slippery staircases and suicides and pushed Gabru's head over the railings. Spyker van Wyk also told Gabru that Imam Haron had been murdered.

THE COMMISSION FINDS THAT ASSAULT AND TORTURE WERE USED AGAINST PEOPLE ARRESTED AND DETAINED DURING AND AFTER THE 1976 POLITICAL UNREST, BOTH AT THE HANDS OF ORDINARY POLICE PERSONNEL AND THE SECURITY BRANCH. IN PARTICULAR, DETAINEES HELD AT CALEDON SQUARE POLICE STATION EXPERIENCED TORTURE. THE PERPETRATORS MOST FREQUENTLY MENTIONED IN THIS REGARD ARE INDIVIDUALS KNOWN AS SWARTS, VAN WYK, COETZEE AND GREEFF.

Detention and torture following the 1980 protests

- 77 The August 1980 killing of Mr Jansen and Mr Beeton (see below) led to a marathon trial involving veteran activist Mr Oscar Mpetha and seventeen others and resulted in lengthy prison sentences for those charged, many of whom maintained that they were innocent. Among the trialists who made allegations of torture was Mr Christopher Sidlayiya [CT01348], who described being beaten and given electric shocks by Warrant Officer Benzien and others at the Bishop Lavis police station.
- 78 The 1980 South African Institute of Race Relations Survey reported that 123 school students, five teachers, seven lecturers, over ten trade unionists and several community workers were detained in 1980. Journalist Ms Zubeida Jaffer [CT00776], who had given substantial coverage to those killed in the 1980 violence, was detained and was subjected to mental, physical and possibly chemical torture and abuse during her interrogation and subsequent three-month period of solitary confinement.⁵

I was detained by Spyker van Wyk. He said that they were going to break my nose and they were going to beat me up. They started interrogating me virtually immediately and it went on for a good few days. The whole approach that they used was to surround me with all these men and constantly interrogate me for hours on end. At night when I thought I would be allowed to rest and sleep they would keep me awake. And this went on for two days and then they drove me up to Port Elizabeth and took me to the Sanlam Centre [Security Branch HQ]. When we got there, I thought now they're going to let me sleep

⁵ See also *Special Hearing: Women* in Volume Four.

because I haven't slept since I've been detained, but that didn't happen. Another team of people came in and they started interrogating me again and by this stage I was getting completely affected. I couldn't think any more and they didn't really give me food, they gave me coffee and dry bread. They put two people in charge of me to make sure that I didn't close my eyes. Because the whole thing was that I must not be allowed to sleep so that I could lose complete sense of what was going on around me, which was happening; I was beginning to feel very strange in my head.

Captain du Plessis was in charge of the interrogation, he kept on saying to me "your heart is going to give in, your heart is going to in, you haven't slept for three days, you haven't slept for three days, are you a member of the ANC, tell us who you know".

At a certain point he took me to the window – we were on the 6th floor of the Sanlam Centre – and he said that he would throw me down there, because that's where they kill people.

The next thing he came back and he beat me right across the room into the wall and he kept on beating me right into the wall and I felt – I felt myself just going down. And I just found myself lying there on the floor and you know being completely – completely terrified. At that stage another policeman came in and he said to the man, "just rape her, just rape her", and this man came up to me and he ... and he – he didn't actually rape me, but – the threat of it was – I felt that I was going to die at that point. And then he called him away and he said, leave her alone and they obviously were trying to get me completely to a point where I couldn't function any more.

Then he left me in this room with these two policemen and he said to them they must watch me. They made me stand in the middle of the room and I just had to stand there and then at some point they allowed me to sit. I was starting to get very hot and was getting these pains across my chest. But I didn't really think then, I just felt I was getting really ill because I hadn't slept for the few days. And then I started seeing all my veins in my hand dilating. And in my arms, my veins in my hands and my arms and I felt pains across my chest and suddenly I started feeling all my insides were going to come out. And I said to them, "I am going to get sick, I am going to get sick," and the one guy ran with me to the toilet to take me to the toilet and the other guy ran to the phone and he said, "It's starting". Now at that point I didn't think anything of it. I didn't have any idea, I was just terrified. When I explained to the lawyer afterwards upon my release what had happened he

said that I had obviously been drugged and that they were waiting to see what the reaction was going to be. I was just seeing all my veins dilating, it looked like worms – it looked like worms coming out of my hands. It was all standing up I thought my blood vessels were going to burst and I just felt this pains across my chest and I felt I was going to be very, very ill. Then Captain du Plessis came back, and he said “Zubeida you know you’re never going to make it, you going to have a heart attack you going to die. And so we going to give you some paper and we want you to write your life story. And you’ll spent the night writing your life story on this paper.”

So I started doing that and that went on for the whole night. I had to be awake then the whole night. They took a fan and they put the fan over my head and every time I wanted to sleep they said “Maak jou oë oop!” [Open your eyes!] You know, they would shout at me. They had strict instructions not to allow me to sleep. They took me back into the small little room, put me on the chair, gave me more paper and a pen and said I should write. And I sat there and I was unable to write, I was completely unable to do anything. I must have slipped into unconsciousness because I was vaguely aware that they were there and I knew I landed on the floor. I was lying on the floor for many hours unconscious.

- 79 During a terrorism trial of five young people in connection with school boycotts in Kimberley in 1982 and 1983, a number of witnesses and detainees gave evidence of alleged torture and mistreatment by the security police. They described assaults and the ‘helicopter’ form of torture. The magistrate dismissed these allegations.
- 80 The Commission noted that cases of torture were reported as having taken place in the Transvaal Road police station in Kimberley during the 1970s. Mr Matthews Teme [CT00650] described being assaulted there in 1979 by security police officers, including Mr Bennet Mochesane.

Deaths in detention

- 81 Of the twenty-nine recorded deaths in detention during the 1970s across the country, three occurred in the western Cape. All three were described by police as suicides. In July 1977, Mr Phakamile Mabija [CT00635; CT00135] died in detention in Kimberley’s Transvaal Road police station. A high-profile activist, Mr Elijah Loza [CT00257], died in Tygerberg hospital some three weeks later after sixty five days in detention.

The death in detention of Luke Mazwembe

Western Province Workers' Advice Bureau employee Luke Mazwembe (32) died in the Caledon Square police headquarters in Cape Town. His death was officially described as "suicide by hanging". He was arrested on 2 September 1976 at 06h00 and was found dead at 07h40 in the corner of a police cell, hanging from the ceiling by a noose made of strips of blanket tied together with pieces of twine. A razor blade had been used to cut the blanket into strips and to cut the twine. The police were unable to explain how the razor blade and twine had got into the cell.

At the inquest the police asserted that they had not assaulted Mazwembe. The state pathologist said that Mazwembe had several wounds to his body, including neck abrasions, swelling and bruising of his right cheekbone, slight swelling of the lower scrotum, several abrasions over both shoulder blades and abrasions on the left ankle. Under cross-examination, he stated that he could not exclude the possibility that Mazwembe had been killed and then hanged to fake a suicide: the neck wounds were compatible with either explanation. The magistrate ruled that Mazwembe was neither tortured nor assaulted by the police, and assumed that the twine and razor blade had been accidentally left in the cell by an unknown person.⁶

The death in detention of Phakamile Mabija

Anglican Church warden and youth worker Phakamile Mabija (27) [CT04513, CT00635, CT00135] died on 7 July 1977 after ten days in detention in the Transvaal Road Police Station in Kimberley. According to the police, the detainee committed suicide. At the inquest, Sergeant Oscar Ntsiko said that he was escorting Mr Mabija from the toilet when he suddenly broke loose and ran into an office. He rushed after him, only to see him crash through the window. An independent pathologist said Mabija had cuts on his face and hands which could have been caused by clutching glass, and lacerations of the liver that could have been caused by assault. The inquest verdict was that Mabija died of multiple injuries following a jump from a sixth floor window. Nobody was found responsible for the death. The Commission notes that cases of torture took place in the same police station during that period, by a similar group of perpetrators.

The death in detention of Elijah Loza

Elijah Loza (59) [CT 00257] died on 1 August 1977 in Tygerberg hospital

⁶ Information taken from *United Nations Economic and Social Council, Commission on Human Rights*, compiled by the Special Committee against Apartheid, February 1979.

while still in custody after sixty-five days in detention. His death was officially found to be due to natural causes after a stroke. His family alleges he died as a result of torture. Numerous statements confirm that Mr Loza was tortured during his 1963 detention. The Commission finds that he was again tortured during his 1977 detention and that this directly or indirectly led to his death.

IN THE CONTEXT OF THE TORTURE DESCRIBED EARLIER, THE COMMISSION FINDS THAT IT IS HIGHLY LIKELY THAT THOSE WHO DIED IN CUSTODY EXPERIENCED TORTURE AND THAT THEIR DEATHS WERE A DIRECT OR INDIRECT RESULT OF SUCH TORTURE. FOR THESE GROSS VIOLATIONS, THE SOUTH AFRICAN POLICE IS HELD ACCOUNTABLE.

The 1976 Uprising

- 82 A student boycott at the University of the Western Cape (UWC) in early August 1976 developed into protest activities with mass disturbances in Langa, Nyanga and Gugulethu. On 11 August, according to the Cillie Commission Report, twenty-one people were killed during street protest activities. Amongst the first was Mr Ezekiel Xolile Mosi, an eighteen-year-old school pupil from Langa, who was shot and killed by police. Mosi's funeral was one of the first to be restricted following the renewal of the nation-wide ban on open-air gatherings announced on 4 August. Protest action was not just confined to student issues, and often had the active support of workers. Buildings, vehicles and even persons associated with the Bantu Affairs Administration Board were under constant attack.
- 83 Late August and September saw heated protest activities in the coloured residential areas, particularly Manenberg, Bonteheuwel, Hanover Park, Elsies River, Ravensmead, Retreat, Athlone and Grassy Park. One of the first coloured pupils to be killed by the police was fifteen-year-old Christopher Truter [CT00411] of Bonteheuwel, who was shot on 25 August.
- 84 The most serious incidents of street conflict were recorded on 2, 8 and 9 September 1976 with an estimated thirty-nine deaths for those three days of protest in both coloured and black townships. A general strike called on 15 and 16 September was widely supported. The first signs of tension between residents and migrant workers residing in the townships became evident at this stage.
- 85 The Commission received numerous statements concerning assaults and shooting injuries. Deaths reported included Mr Mzoxolo Sogiba [CT03706], Mr Benjamin Desmond Rhula [CT00412], Mr Sifanele Kenneth Nduna [CT00956], Mr Tolika

Mafumana [CT00226], Mr Maxwell Sitshongaye [CT00876], Mr Wiseman Madodomzi Lutya [CT00606], Mr Noel John Adriaanse [CT00316], Mr Gasant Carolissen [CT01103], Mr Andrew Henry Douglas Ferguson [CT00614], Mr Shahied Jacobs [CT01115], Mr Ridwaan Yasin [CT00719], Mr Clive Isaacs [CT00315], Mr Glynn John Peterson [CT00400], Mr Neville Botha [CT00315], Ms Naomi van Kerke [CT00405], Ms Sandra Joyce Adams [CT00122], Mr Thandinkosi Sidwell Dondi [CT00220], Mr Sonnyboy Willie Zantsi [CT00707], Mr Ronald Harris [CT00312], Mr Ronald October [CT00721] and Mr Abdurahman Allie [CT00123].

Migrant Backlash

- 86 In October, township youth launched a campaign against liquor establishments (shebeens and shebeen-owners), perceiving these to be symbols of oppression. Youth clashed violently with shebeen owners and with the police. In December youth activists announced that festive activities over the Christmas period would be limited and instead the deaths of those killed during the uprising over the past months would be mourned. Migrant workers residing in the townships failed to heed the call to mourn rather than celebrate. Over Christmas 1976, Nyanga hostel-dwellers violently resisted attempts by township youth to enforce participation in stay aways, liquor boycotts and memorials. The key targets of youth resistance – liquor and labour – touched migrants directly. They interpreted these actions, as well as the boycott of schools, as criminal activity by gangsters and mobilised around perceived threats to their security and livelihood.
- 87 Over a three-day period, migrant hostel-dwellers wearing white ‘doeks’ (head cloths) moved into Nyanga, burning homes and attacking residents. Approximately twenty-four people were killed (thirteen by police), 106 were wounded and at least 186 Nyanga homes were burnt. Statements were received concerning injuries as well as the deaths of Ms Nosipho Mboma [CT00926], Mr Henry Kwisomba [CT00603], Mr Willie Botha [CT01025], Mr Brian Komani [CT01574], Mr Government Jelemsi [CT00935], Mr Jackson Gishi [CT00624], Mr Sydney Zwelakhe Gongxeka [CT00816], Mr Denis Bantu Dlanga [CT00815] and Ms Ellen Makaluza [CT01579].

The rural areas

- 88 The ripple effect of the 1976 uprising extended to the western Cape in August of that year, reaching the Boland towns in September. The rural towns which featured prominently were Oudtshoorn, George, Mossel Bay, Stellenbosch, and Paarl.

- 89 Student marches in Paarl were baton-charged by police on 9 September 1976. Later that day, arson attacks took place. It was during these and subsequent incidents that Ms Carolina Spasina Hoogaardt (16) [CT08200], Ms Sarah Jane Viljoen [CT00441] and Ms Yvonne Dube (45) [CT00443] were killed by police. Several were injured. Clashes between police and residents, mainly the youth, continued to early October, and a number of government buildings were destroyed. In Stellenbosch, two people were killed by police, including Mr Ronald Charles Carolissen [CT00436]. In Montague, Mr Pieter Afrika [CT08100] was shot dead.
- 90 There was widespread political resistance in the southern Cape in September. In Mossel Bay on 10 September, thousands took to the streets in marches and built barricades; the town's hotel was burnt down in the upheaval. Mr Cornelius Lucas and Mr Isaac Bezuidenhout [CT00341] were killed by police and twenty-one people were injured. In George, twelve-year-old Abida Harris [CT00332] was shot dead. Oudtshoorn saw widespread marches, arson, shooting injuries and one death.

Casualties

- 91 The SAIRR gives the final death toll in the western Cape for 11 August to 28 February 1977 (including December clashes) as 153. The Cillie Commission puts the figure at 149. Of these, 117 were killed by police and thirty-one by members of the public. The Black Sash reported persistent rumours that many more had died than appeared on the official casualty list given to the Commission. A strong feature of the 1976 revolt in the region was the very high percentage of violations involving coloured people. Of the 108 people shot dead by police in the Peninsula, fifty-three were coloured and fifty-five African. All but one of the deaths in the rural towns involved coloured people exclusively.

THE COMMISSION FINDS THAT THE USE OF FORCE IN THE WESTERN CAPE BY THE SECURITY FORCES WAS EXCESSIVE. THE MAJORITY OF PROTESTERS WERE UNARMED AND THOSE WEAPONS USED BY A MINORITY OF PROTESTERS WERE LIMITED TO STONES AND, IN CERTAIN CASES, PETROL BOMBS.

THE COMMISSION FINDS THAT THERE WAS CRIMINAL LOOTING OF PREMISES BY PROTESTERS AND OTHER CIVILIANS. WHILE THE POLICE WERE BEHOLDEN TO ACT IN SUCH CIRCUMSTANCES, THE COMMISSION FINDS THAT DEADLY FORCE WAS USED WHEN NON-LETHAL METHODS WERE AVAILABLE, FOR EXAMPLE IN THE ARREST OF THOSE RESPONSIBLE.

THE COMMISSION ALSO FINDS THAT THE CONFLICT BETWEEN HOSTEL-DWELLERS AND TOWNSHIP RESIDENTS OVER THE CHRISTMAS AND NEW YEAR PERIOD OF 1976-77 EMERGED MAINLY FROM THE ECONOMIC AND SOCIAL DIVISIONS IMPOSED ON THESE GROUPS BY APARTHEID LEGISLATION. HOWEVER, THE COERCIVE ACTIONS OF PROTESTERS REGARDING THE ENFORCEMENT OF WORK STAY AWAYS AND LIQUOR BOYCOTTS PROVIDED THE SPARK FOR THE CONFLICT.

1980–1981 school boycotts

- 92 After the founding of the Congress of South African Students (COSAS) and the Azanian Student's Organisation (AZASO) in 1979, school protests became more organisationally directed. Across the country, up to 100 000 children in coloured and African schools and university students on five black campuses boycotted classes between April 1980 and January 1981. The boycott originated in Cape Town, where it was fuelled by deteriorating conditions in the schools and the mushrooming of local organisations. The greatest impact was felt in the coloured townships of Cape Town and in Kimberley.
- 93 Mr Bernard Fortuin (15) [CT02202] and Mr William Lubbe (19) were shot dead from an unmarked police vehicle in Elsie's River in an apparent ambush on 28 May 1980. These killings resulted in a total stay away.
- 94 Violence peaked on 17–18 June 1980 in the coloured townships of Elsie's River, Lavender Hill and Bishop Lavis when a two-day stay away was held to commemorate the uprising of 1976. Coloured leaders had been detained in advance and meetings and gatherings banned during this time. A fare increase had also precipitated a bus boycott. There were incidents of arson, looting, and street protests, with some speculation about the involvement of gang elements.
- 95 Police responded with tear gas, baton-charges and live ammunition, and declined to issue a casualty list. The number of deaths recorded at five Peninsula hospitals was at least forty-two, including Ms Avril de Bruyn [CT00847], Mr Andrew Saul Christians [CT00660], Ms Johanna Moses [CT02201], Ms Edith Lewis [CT00658], Mr Gavin Godfrey Slavers [CT00662], Ms Glenda Scheepers [CT00845] and Mr William Rose [CT00671]. Over 200 people were injured, including children, young or pregnant mothers and a large number of other women. Police officially confirmed thirty-four deaths, including one in the Boland, and 146 injuries which, they alleged, were mainly stabbing and stoning injuries. At least two fatalities occurred as a result of the actions of those engaged in street protest, including one Constable Hugo, who was stabbed to death in Blackheath during a police baton charge, and a civilian who died when his vehicle crashed after being stoned.
- 96 On 11 August 1980, two white men, Mr Frederick Casper 'Fritz' Jansen [CT00675] and Mr George Beeton, were killed on Klipfontein Road next to Crossroads squatter camp during a week of turmoil and widespread street protest. The men were stopped within half an hour of each other. Their vehicles were stoned, overturned and set

alight. Both drivers died after being dragged out of their vehicles and assaulted. Mr Jansen, who sustained numerous fractures of the skull and lower jaw as well as a stab wound on the head, was also badly burnt. He died in hospital the following day.

WITH REGARD TO THE 1980 SCHOOL BOYCOTTS, THE COMMISSION FINDS THAT THE RESPONSE OF THE SECURITY FORCES TO LEGITIMATE EDUCATIONAL AND SOCIAL GRIEVANCES AND PROTESTS WAS EXCESSIVELY HARSH. MANY OF THE FORTY-TWO PEOPLE REPORTED KILLED WERE UNDER THE AGE OF EIGHTEEN, AND MANY WERE WOMEN.

THE COMMISSION FIND THAT THE KILLINGS OF MR 'FRITZ' JANSEN AND MR GEORGE BEETON, AS WELL AS THOSE OF THE OTHER PEOPLE MENTIONED ABOVE, WERE GROSS VIOLATIONS OF HUMAN RIGHTS.

Armed actions by the liberation movements

- 97 Seven or eight intermittent incidents of sabotage by the ANC took place in the region, targeting buildings containing the offices of state institutions and resulting in one death and several slight injuries. These included a sabotage attack on an administration building in Galeshewe township, Kimberley, on 10 November 1977 and two attacks on state offices in Cape Town and Langa on 9 December 1981 and 20 March 1982 respectively. The only conviction during this period was that of Umkhonto weSizwe (MK) operative Oliver Bekizitha Nqubelani, arrested the day after a briefcase bomb explosion at the Cape Town Supreme Court on 15 May 1979.
- 98 On 4 June 1982 Mr Michael Younghusband (26) was killed when a bomb exploded in a lift in the Cape Town Centre building. The target was presumably the President's Council, which had offices in the building. The ANC acknowledged responsibility for this bomb in its submission to the Commission, but no amnesty applications were received for this fatal attack.

THE COMMISSION FINDS THAT THE SABOTAGE ACTIONS BY THE ANC IN THE PERIOD WERE NOT EXCLUSIVELY AIMED AT INSTALLATIONS. IN A NUMBER OF INSTANCES, SUCH AS THE ATTACKS ON KOEBERG, THE SUPREME COURT AND THE OFFICES OF THE PRESIDENT'S COUNCIL, THERE WAS A HIGH RISK OF HUMAN INJURY. THE ATTACK ON THE PRESIDENT'S COUNCIL OFFICE DID IN FACT RESULT IN THE KILLING OF MR MICHAEL YOUNGHUSBAND. THE COMMISSION FINDS THAT THE PLACING OF THIS BOMB WAS PARTICULARLY RECKLESS, IN THAT THE BUILDING HOUSED MANY OFFICES THAT WERE OF A PURELY CIVILIAN NATURE, AND THAT THE BOMBING CONSTITUTES A GROSS VIOLATION OF HUMAN RIGHTS.

■ 1983-1989

Overview

- 99 The UDF was launched both nationally and in the western Cape region in 1983. Its immediate task was the campaign against the forthcoming Tricameral Parliament elections and the community council elections scheduled for 1984. Political campaigns also focused on the newly formed informal settlement at KTC. The state's response to the development of this new squatter camp led to multiple arrests, shack demolitions, deportations to the homelands and other repressive actions. In the Crossroads informal settlement, a split within the Crossroads committee in 1983 resulted in open conflict that left at least seven people dead.
- 100 The political revolt unfolding in the rest of the country reached the western Cape in 1985. The first six months of 1985 saw extensive unrest in the rural areas of the southern Cape, Karoo, Boland and the northern Cape, while the urban Peninsula remained fairly calm until the second half of the year. The Peninsula's large-scale popular revolt in August to December was accompanied by extensive public unrest-related killings and injuries. The Cape province is said to have accounted for 52 per cent of all fatalities in 1985 ⁷.
- 101 Political activity and conflict in the Peninsula was shaped particularly by two demographic features. Firstly, there was a high level of coloured militancy and participation in public as well as underground resistance activities. The semi-underground youth structure known as the Bonteheuwel Military Wing (BMW) is a particular manifestation of this.
- 102 Secondly, informal settlements in and around Cape Town's formal black townships became conflict 'hot spots' accounting for around 120 deaths in the period 1985 to 1989. The extreme violence of 1986 related to the conflicts between the '*wit-doeke*' and the '*comrades*' and created enduring political divisions within the informal settlements.
- 103 The repeated conflicts of the squatter areas of Cape Town sprang from the extreme controls imposed on Africans in the western Cape. State policy towards urban blacks in the Cape was shaped by the policy that the western Cape should be kept as the home of whites and coloureds only. The Coloured Labour Preference Policy (CLPP) established what was called the '*Eiselen line*'. Only if coloured labour was not available could Africans work in the area between this point and Cape Town.

⁷ SAIRR quoted in *The Star*, 15/1/86

104 This repression created a sharp divide between Africans living legally and permanently in Cape Town and the ‘illegals’ who lived a precarious life of migrancy or concealed residence in the hostels and squatter camps. These policies were ruthlessly policed and caused many of the conflicts that tore communities apart, resulting in deadly outbursts of violence.

105 With some notable exceptions, the high levels of open street confrontation seen in 1985–86 generally subsided during 1986. The countrywide state of emergency imposed in June 1986 led to large-scale detentions in both rural and urban areas. Violations in 1987 and 1988 related largely to the activities of the ‘special constables’, detentions and torture, killings of underground operatives, and the ongoing skirmishes between pro- and anti-government squatter leaders.

106 The resurgence of popular protest in 1989 associated with the Defiance Campaign, in which the Cape played a leading role, was matched by a rise in violations, peaking with the killings and injuries around the ‘whites-only’ election of September 1989.

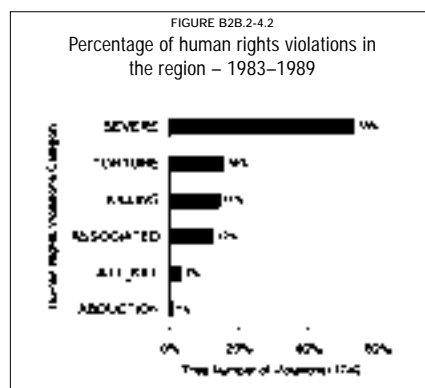
Overview of violations

107 The period 1983–89 generated the highest peak of violations in this region, in both the urban and rural areas. Most reported violations pertained to acts of severe ill treatment, followed by torture.

Public order policing in the Peninsula

108 In the Peninsula, there were five main concentrations of shootings and injuries at the hands of the security forces in the period 1983 to 1989. These were:

- resistance to forced removals from Crossroads, February 1985;
- the Pollsmoor march and the political revolt from August to December 1985;
- the suppression of the Defiance Campaign in September 1989.
- the *witdoeke* conflicts of May and June 1986; (see Contra Mobilisation)
- activities of the ‘special constables’ from 1986 to 1989; (see Volume 2)



Crossroads, February 1985

- 109 The African population of Cape Town more than doubled between 1980 and 1985,⁸ leading to a proliferation of squatter camps. In response to this influx and in an effort to sift out the 'illegal' Africans for deportation back to the homelands, the government announced its decision to create the new township of Khayelitsha. The proposed move to the distant sandy wasteland of Khayelitsha was fiercely resisted by squatters and township residents via the '*Asiyi eKhayelitsha* (We are not going to Khayelitsha) Campaign' adopted by the UDF. Efforts by the state to commence removals in February 1985 were met with an outbreak of street resistance and clashes with police in which at least eighteen people were killed and about 250 injured in the Crossroads/Nyanga area in three days. Those killed include Fuzile Petrus Juqu (15) [CT00712], Mr Anele Mda [CT00102], and Mr Lele Mpushe [CT03501].
- 110 The removals to Khayelitsha were called off and the government announced certain concessions for Africans: a ninety-nine-year leasehold for all Africans in the western Cape; the completion of the New Crossroads development; and the upgrading of Old Crossroads.

1985 Pollsmoor march and aftermath

- 111 Prior to July, urban Cape Town had a relatively low level of public resistance activities, but the Eastern Cape murders of the Cradock Four in 1985 launched the Peninsula into widespread revolt. On 19 July, following a commemoration service for the Cradock Four at UWC, at least eleven people were injured in Gugulethu in mass stonings of vehicles and accompanying police action.
- 112 Street clashes continued intermittently. When school student Sithembele Matiso [CT00738] was killed by a rubber bullet to his head on 29 July, his funeral was restricted by the police and became the subject of a huge combined police and military operation marked by clashes between mourners and police.

As we were preparing for the funeral the white policemen used to come in numbers telling us that only family members were allowed to attend the funeral. The number of people to attend the funeral was restricted to 50. When they were doing this their behaviour was completely inhuman. They were not even afraid to disturb or disrupt prayer sessions. They had no respect at all ... On the day of the funeral the policemen were there in big

⁸ *Cape Times*, 28 February 1991, quoting Urban Foundation

numbers. We managed to bury the deceased though under extreme pressure. On our way back from the graveyard there was another clash between the people and the police. Many people were injured by rubber bullets, tear gas, buckshot or being beaten with batons.

- 113 A hand grenade was thrown at police near the graveyard, injuring the head of the Unrest Unit, Major CAJ ('Dolf') Odendal, and five other policemen. Law and Order Minister Adriaan Vlok later referred to this grenade attack as the justification and motivation for the 20 December 1985 SAP/SADF raid into Lesotho. The raid was conducted by Vlakplaas operatives, killing nine people, including MK commanders responsible for certain western Cape activity, that is, Mr Joseph Monwabisi 'Themba' Mayoli [CT00826], Mr Vivian Stanley Mathee [CT00431] and Mr Leon 'Joe' Meyer [CT00431].
- 114 What began as student boycotts shifted in early August 1985 to broader political mobilisation and a consumer boycott targeting white-owned shops. On 23 August UDF patron Dr Allan Boesak announced plans for a mass march to Pollsmoor prison (on 28 August) to demand the release of Mr Nelson Mandela, but was detained under section 29 shortly before it took place. On the scheduled date, thousands of people gathered at different sites around Cape Town to march to the prison. Police sealed off many routes and used *sjamboks* and firearms against groups that attempted to begin the march, resulting in widespread deaths and serious injuries.
- 115 Those injured outside Hewat College included a group of religious leaders, amongst them church minister Jan de Waal, who lost the sight in one eye after a *sjambok* smashed his spectacles into his eyes. At a Commission hearing, Mr De Waal [CT01434] described events that day:

It was not a secret march – it was in the newspapers. I remember on the 24th or the 25th Dr Boesak was still negotiating with Mr le Grange, then Minister of Police. He sent him a telegram to say that this march will be peaceful and, to a large extent, was a symbolic march. There was no idea that we would physically go into Pollsmoor prison and break Mr Mandela out.

On that Wednesday 28th we arrived with my colleagues from my denomination together with a big other crowd of clergy and people also from other religions to meet at the Athlone stadium. When we came there, it was already chaotic. There was no way you could get in. The previous night they slammed a ban of around 5 km – no one was suppose to come near ... The police were

there in full force and I think there were also quite a number of Army people there as well ... They were clearing that area with sjamboks and batons and shooting tear gas all over the place.

We had to turn back and went to Hewat Training College. We were between 3–5 000 people together there. There was a long debate whether the march should go on or not. In the end there was a sort of democratic consensus, that it will continue. From there we proceeded onto Kromboom Road. And as we drew nearer to the M5 more police arrived and then of course, the Casspirs.

On one side of that road were just vibracrete fences ... We were somehow boxed in. Then we were confronted by the police in full force. Myself and a colleague of mine, Rev Shun Govender, went forward to speak to the police Commander. He had a megaphone there, telling us we have two minutes or five minutes to disperse. I went forward to him and told that it is impossible for five thousand people to disperse, especially where you have all the restrictions on the side of these roads. We asked them to give us some time to talk to the people and see what alternative plan we can work out.

Some other colleagues organised the people to kneel down. They were singing the Lord's Prayer. Yet, towards the end I just realised that we are going to be attacked by the police. We tried to get the clergy up, because they were in front and we locked arms with the hope that we will withstand to protect the people at the back.

But they came so fast – when someone shouted a command, because they also had these loud hailers. And they came. Many people here in front were still on their knees praying. And I think there were a lot of people that got head injuries, because of them kneeling.

I was there in front, I remember there was a young man next to me, who fell. I was trying to get this man up on his feet. Then suddenly I just felt a blow and I was out for a while. One of the policemen hit me with a baton. Now the baton is fairly thick and not so long, but he hit me from the back and that thing bent over, right over my head. I was growing a sort of a Rhinoceros horn in my front head, immediately after that. Unfortunately I was wearing specs at that stage and both glasses broke and the one in my right eye penetrated my eyeball. And even glass in the left eye as well and I couldn't see at all for a brief moment. I managed to stay on my feet, I think, when someone was leading me to a house nearby. And I was standing at a tap outside the house, trying to wash the glass out of my eyes. Until one woman that was helping me said to me "But look – you have no eye".

- 116 At least twenty-eight people, with an average age of seventeen, were killed in the ensuing uproar across the Peninsula. At least 150 were admitted to hospital with serious injuries, predominantly from Gugulethu, Nyanga, Athlone, Philippi and Manenberg. At the SACLA Clinic in Crossroads alone, at least eighty-nine people were treated for riot-related injuries. Major General Wandrag and Lieutenant General Lothar Neethling visited the area and Gugulethu, Manenberg, and Mitchells Plain were barred by security forces to all but residents. At least 172 people were arrested in the period of the march and thereafter. Fifteen policemen were also injured in the fray.
- 117 The Commission received statements regarding at least nine of those shot dead at this time, including a pregnant woman, Ms Sarah van Wyk (21) [CT03201]; Mr Kholekile Charles Maroti, 23 [CT000202]; Mr Lance Henry Phillips (18) [CT00476]; Mr Brian Lucas (16) [CT00476]; Mr Clive Cupido (18) [CT00222]; Mr Manfred Zolile Makasi (28) [CT00114]; and Mr Mbuyiseli Mtuze (16) [CT00112].
- 118 Ms and Mr Paulsen testified about the death of their twelve-year-old son, Lionel Paulsen [CT00625], who died with Quentin Bailey (13) [CT00630]:

Ms Paulsen: *We were going to march in Mitchells Plain on the 29th because the march in Athlone had failed. My son Quentin came home and, like children are, was inquisitive. Then when he went there he was shot and killed. I was at work and they called me and they told me that my son had been shot. My husband and I ran home. His brother Karel was just one year older. Karel couldn't utter one single word. When he saw me he said "Mommy Mommy", and he charged out of the house. We tried to go to the police station but it was terrible. Having arrived there they chased us away like dogs and said, "Go and find your son's body in the morgue". My husband tried to negotiate with them, but they wanted to arrest him. Some friends who were with us had to calm him down.*

Mr Paulsen: *I went into the police station. I hit on the counter and asked who had shot my child. They didn't answer, they were just looking at me. And then I asked again, "Where is my child?" and they said "Go and find him at the mortuary". And then we went to the mortuary and found his body there. For three months I had this pain in my chest. To tell the honest truth, I loved that child dearly.*

Ms Paulsen: *The next day we returned again and then they took us to the Commissioner of Police. He was a white man on the second floor and he said "Please come again on Monday. We don't have time for you now."*

Lionel and Quentin were 13-year-olds and they both died. There were thousands of people but why did the police shoot the children? Karel sat with Lionel while he was dying – now Karel is suffering because he and his brother were like twins.

That day the 29th of August, I still remember that. I had two sons Lionel 12 years and Karel 13 years. That day I lost two sons. Karel did not study any further. They tried to give him psychiatric treatment but even today he is still suffering. We never heard who were the guilty people – who had shot my son.

Aftermath: The Peninsula erupts

- 119 After the Pollsmoor march, the townships of the Western Cape remained in upheaval until the end of the year with ongoing street battles, barricades and stone throwing and arson attacks on institutions, shops and schools. The troubled townships were regularly sealed off by security forces and placed under virtual siege. The key areas of conflict continued to be the Athlone, Bonteheuwel, Manenberg and Mitchells Plain as well as the African townships of Gugulethu, Nyanga and Langa, with Khayelitsha increasingly entering the fray. On 6 September, the government closed 464 coloured schools and tertiary institutions in an acknowledgement of the enormous impact of the school boycotts. By this stage, however, protest had moved well beyond the education constituency.
- 120 The widespread political outrage that followed the mass killings at the Pollsmoor march had galvanised communities outside of the youth and the education sector. People identified as ‘collaborators’ were increasingly targeted in petrol bomb and stoning attacks. The death toll continued to grow at the rate of several deaths per week.
- 121 Mr Ebrahim Carelse (31), father of three, was shot in the head and neck in Salt River in the wake of the Pollsmoor march fracas and died a week later on 10 September. At his funeral in Salt River on 11 September, plain-clothes police constable JJ Farmer (23) was recognised as a policeman and was stabbed to death by the crowd. While under attack he fired a shot, seriously injuring a mourner.
- 122 October 1985 was an extremely violent month, with daily clashes between police and residents resulting in an estimated thirty-seven deaths in the Peninsula and Boland. On 24 October, a week after the infamous ‘Trojan Horse’ killings of three youths by police in Athlone and two people near Crossroads (see below), crowds marching in Cape Town city centre were chased by police wielding quirts and

sjamboks, resulting in numerous injuries. The Western Cape accounted for 70 per cent of all unrest incidents nation-wide in the third week of October.

- 123 The day after the Trojan Horse shooting, an angry crowd gathered at the St Athans Road Mosque in Athlone. A member of the SAP was shot by the crowd, after which police opened fire, killing Mr Abdul Fridie (29) [CT00607]. On 18 October, a massive security force presence was moved into Athlone. Armed soldiers and police lined the streets and searched houses while a helicopter hovered above.
- 124 On 26 October, the state of emergency was extended to the western Cape, which prohibited up to a hundred organisations from holding meetings and also restricted the media. Four hundred people were detained in the first two weeks of the emergency, and the death toll continued to rise. Under these harsh restrictions, political protest adopted more varied forms such as candlelight protests, hunger strikes and church services, many of which were violently disrupted by police. The Divisional Commissioner of Police for the Western Cape, Brigadier Chris Swart, said that the candlelight protests were not innocent, but “deliberate tactics aimed at stirring people’s emotions, which leads them to violent acts”.

THE COMMISSION FINDS THAT THE GOAL OF THE ‘POLLSMOOR MARCH’ WAS SYMBOLIC IN NATURE, NAMELY TO DELIVER A MESSAGE TO MR MANDELA AND DEMAND HIS RELEASE. MANY OF THE GROUPS OF MARCHERS WERE LED BY CLERICS, STUDENTS AND COMMUNITY LEADERS. THE ACTIONS OF THE SECURITY FORCES ON THE DAY OF THE POLLSMOOR MARCH AND THE FOLLOWING FEW DAYS WERE THEREFORE UNWARRANTED AND USED EXCESSIVE FORCE. THE COMMISSION FINDS THAT A MINIMUM OF TWENTY-EIGHT DEATHS ASSOCIATED WITH THE EVENT WERE THE RESPONSIBILITY OF THE SECURITY FORCES. THE COMMISSION FINDS THAT THE HARSH REPRESSION OF THIS ACT OF PEACEFUL PROTEST PROPELLED THE REGION INTO THE MOST EXTENSIVE PERIOD OF PUBLIC UNREST IN ITS HISTORY, LASTING SEVERAL MONTHS UNTIL THE END OF THE YEAR.

Security force units involved in public order policing

- 125 The highest number of security force shootings in the western Cape during the Commission’s mandate period occurred in August to November 1985, constituting the peak of the political revolt in the western Cape. These shootings were largely the responsibility of the Unrest Unit of the SAP, both the local units as well as special national teams that were flown from region to region as required. The local unit was commanded by Major Dolf Odendal under Lieutenant Colonel WS Visser. In the black townships, a particularly aggressive ‘unit within the unit’ appears to have developed, consisting of a cluster of personnel around Warrant Officer HCJ ‘Barrie’ Barnard.

- 126 Warrant Officer Barnard was deployed to the townships of Cape Town in 1976 until his death in 1988. He was central to security force actions in the African townships owing to his extensive knowledge and experience in the area. He worked in conjunction with a number of other units, including the Security Branch and the Unrest Investigation Unit. Warrant Officer Barnard was named as a perpetrator in over sixty reports of violations to the Commission – killings, torture and severe ill treatment.
- 127 The South African Railways Police (SARP) task teams, prior to their integration into the SAP in 1986, were also involved in the suppression of public unrest and have been linked to numerous fatal and non-fatal shootings as well as several high-profile ‘ambush’ cases. This ‘crack’ unit of over thirty members had received special training in security operations and was commanded by Major C Loedolff.
- 128 The Western Province Command of the SADF commanded by Brigadier AK de Jager appears to have played more of a background role. Group 40 was the chief unit from SADF WP Command deployed in unrest situations and at times onto police Casspirs (armoured personnel carriers) and other vehicles.
- 129 These structures were all co-ordinated through the Western Province Joint Management Centre (JMC), as well as in sub- and mini-Joint Management Councils (JMCs) at lower levels. Joint Operation Centres (JOCs) were established to deal with ‘hot spots’, such as the JOC at the Manenberg Police station in 1985 and 1986.

THE COMMISSION FINDS THAT UNITS DEPLOYED IN PUBLIC ORDER POLICING, NAMELY THE RIOT UNIT AND THE SA RAILWAY POLICE TASK TEAM USED IN RIOT CONTROL, USED METHODS THAT WERE CHARACTERISED BY BRUTALITY, RACISM AND A LACK OF CONCERN FOR APPROPRIATE PROCEDURES. THESE PRACTICES WERE CONTRIBUTORY FACTORS IN THE ESCALATION OF PUBLIC PROTEST AND VIOLENCE IN THE 1985 PERIOD. THE COMMISSION FINDS THAT IN THE AFRICAN TOWNSHIPS OF CAPE TOWN, WARRANT OFFICER HCJ BARNARD IN PARTICULAR CREATED A CLIMATE OF TERROR WITH IMPUNITY AND WAS ASSOCIATED WITH A VERY HIGH NUMBER OF VIOLATIONS.

Resurgence of public protest: the Defiance Campaign, 1989

- 130 After the 1986 declaration of the state of emergency, the Peninsula experienced only isolated clashes between protestors and security forces. Of particular note were the large high-profile burials of MK operatives such as the ‘Gugulethu Seven’, Mr Ashley Kriel, Mr Robbie Waterwitch and Ms Coline Williams. The Kriel funeral in 1987, attended by thousands of mourners, was marked by uproar as police failed to stick to undertakings not to interfere in the event. Major Dolf Odendal marched

into the funeral procession and attempted to seize the ANC flag off Kriel's coffin. With such incidents sustaining the political tension, the Peninsula took the lead in spearheading public protest, defiance actions and mass action in 1989.

- 131 The Defiance Campaign against apartheid laws was launched as a national initiative by the Mass Democratic Movement (MDM),⁹ but the Western Cape was to play a leading role. By March 1989, protest actions resulting in arrests had begun in Cape Town. There followed a proliferation of defiance activities targeting a range of apartheid laws, peaking in opposition to the 'whites-only' election of 6 September 1989.
- 132 On 6 August 1989, sixteen restricted activists announced their defiance of their restriction orders at an Athlone church service, sparking off a cycle of arrests and continued defiance. On 8 August, defiance rallies were held at schools and campuses in the Peninsula, and the UDF was declared 'unbanned' by a mass meeting in St George's Cathedral followed by a march under the banners of banned organisations. On 12 August, restricted activists again publicly defied their restriction orders at a National Women's Day rally in Hanover Park, which was then teargassed. Many were detained under the emergency regulations.
- 133 On 19 August, thousands of people set off to defy 'whites only' beaches at Strand and Bloubergstrand in a high-profile act of 'beach apartheid defiance'. Some groups were shot at with birdshot, others were *sjambokked*. There were multiple public protests in the following weeks. On 23 August church leaders, including Archbishop Desmond Tutu, were teargassed on a march in Gugulethu, and a week later 170 women were arrested while kneeling during a women's mass march in town. In a climax of the defiance campaign, thousands of protestors participated in a three-pronged march to Parliament on 2 September. The march was dispersed with batons and a water canon loaded with purple dye, and more than 500 people were arrested. Altogether, over 1000 people were arrested during these defiance activities.

Election day, 6 September 1989

- 134 Election day itself saw an explosion of resistance and police repression in which at least 23 people were killed and hundreds injured. Statements were received regarding the following fatalities: Ms Liziwe Masokanye (23), Stellenbosch [CT00829]; Mr Patrick Muller (13), Bellville South [CT00322]; Mr Joseph Michael Makoma (25), Kalksteentfontein [CT00300]; Mr Leonard Rass (13), Kleinvlei [CT00673]; Mr Pedro Page (18), Grassy Park [CT00416]; Mr Ricardo Levy (11),

9 MDM was the the formulation used by the UDF and its allies after their restriction in 1988.

Kalksteenfontein [CT00313]; Ms Yvette Otto (16), pregnant [CT00300]; Ms Elsie Chemfene [CT008605]; Mr Thembinkosi Tekana, Khayelitsha [CT01535] and Mr Lubalo Mtirara (20), Khayelitsha [CT00217]. On and around election day, several motorists were seriously injured and at least three killed.

- 135 The public horror at the extent of the violence reached into sectors of the western Cape not previously drawn into oppositional activity. This sense of outrage culminated in one of the largest mass marches ever seen in the western Cape on 13 September, the so-called 'Peace March'. The march, led by a range of religious, community and political leaders including the mayor and members of the city council, brought Cape Town to a standstill.
- 136 Simultaneously, a senior policeman 'broke ranks' and publicly criticised the actions of the police. Lieutenant Gregory Rockman described police action in his area, Mitchell's Plain, as 'brutal', saying that the riot squad had "stormed the kids like wild dogs. You could see the killer instinct in their eyes". The SAP were forced to initiate an inquiry into the behaviour of the Riot Squad in these incidents as well as the election night violence.

Public order policing in rural areas

- 137 Rural towns followed a markedly similar cycle of violence. During 1985, protest meetings were often broken up violently by security forces and street protests became more militant. Many towns saw at least one or two deaths of youth activists during 1985, which served to propel the townships into wider protest and attacks on those seen as collaborators. Worcester and Beaufort West are clear examples of this pattern. In certain instances, fatal police shootings were followed almost immediately by fatal attacks on so-called collaborators, as happened in Uptington and Phillipstown. After 1986, police shootings tended to be at the hands of the special constables, discussed later. Certain incidents in rural towns are outlined below.

Worcester

- 138 In Worcester the spark was provided by the killing of Mr Nkosana Nation Bahume, after which a cycle of deaths and injuries took place until the end of the year.
- 139 On 16 August 1985, student activist Nkosana Nation Bahume [CT00547], aged twenty-one, was shot dead by the security forces. On 30 August, the local

magistrate issued restriction orders on the funeral of Bahume, who was to be buried the following day. At the funeral, police fired at mourners, killing Mr Mbulelo Kenneth Mazula [CT00528], aged twenty. An eyewitness testified that “police dragged his body to the vehicle and took him to the mortuary”. People were assaulted, shot and detained by security forces in the uproar.

- 140 Mbulelo Mazula was buried on 8 September without incident. However, on 21 September 1985 Mr Andile Feni [CT08402] and two others were shot and injured by a policeman in Zwelethemba after a crowd had thrown petrol bomb at a police officer's house after a mass meeting that had resolved to chase all police from the area following the killings.
- 141 On 1 October 1985, Mr Thomas Kolo [CT08400], age 18, was shot dead by security forces. He was buried on 11 October and the funeral was restricted by the magistrate. The following day, security forces shot Mr Zandisile Ntsomi [CT00320]. Ntsomi's leg was amputated and he was discharged from hospital back into police custody the following day.

A nurse came along and brought me a wheelchair ... and two packets of pills. I was wearing a hospital night gown. They drove me out of the hospital – I was on the wheel chair, put me in the police van – I was operated yesterday, let me remind you.

Dr Orr: *[indistinct] ... get the sequence of events clear in my mind. You had the operation on the Sunday. Your leg was amputated above the knee.... which is a serious operation and the doctor discharged you the very next day, is that correct? And he discharged you knowing that you were going back to the police cells, not to your home?*

Mr Ntsomi: *Exactly, that's what happened.*

- 142 Ntsomi was then driven in the van to Cape Town and back to Worcester.

'We arrived in Worcester. As we were in the charge office ... they told me that "these were the fruits of what you are doing in the location". I still remember one of the policeman saying to me "you mustn't worry – your leg will grow again". It was funny to me because I have never seen a leg growing again. Seemingly he was very happy of what happened to me ... I am not the same person whom I used to be – or I know myself to be'.

- 143 On 13 October, Douglas Ndzima [CT00821] was shot twice by police in Zwelethemba. That day Ms Martha Nomathamsanqa Mooi's house [CT03026] in Zwelethemba was petrol-bombed by UDF members. Mr Mpazamo Bethwell Mbani (Yiko) [CT03026], her brother-in-law, was shot dead and his body set alight.
- 144 On 2 November 1985, Mr Cecil Roos Tamsanqa van Staden [CT00132] was shot by police and died two days later. The following day, Mr William Dyasi [CT00823] was shot dead by police in Zwelethemba. An inquest was held and Constable Michael Phillip Luff was found responsible for the murder but he was not prosecuted. At the intervention of the Commission the case was reopened, following which Luff applied to the Commission for amnesty [AM3814/96].
- 145 On 9 November, at the night vigil of one of the victims, Mr Buzile Fadana [CT00131], was shot dead after police arrived and an "armed encounter" resulted. His death marked an end to this cycle of killings and injuries that year.
- 146 By November 1985, an extreme environment of repression existed in Zwelethemba, which was declared out of bounds to all except residents. Roadblocks were set up and residents were only allowed to go to their homes on producing identity documents. There were twenty-four hour foot patrols, and searchlights swept the streets at night. Residents reported a heavy presence of Zulu-speaking policemen. Funerals of unrest victims were restricted to only fifty people and the family of the deceased. In one instance, forty young people were detained whilst participating in a funeral vigil.

THE COMMISSION FINDS THAT THE KILLING BY POLICE OF MR NKOSANA NATION BAHUME ON 16 AUGUST 1985 TRIGGERED A SEQUENCE OF VIOLENCE, IN WHICH NUMEROUS RESIDENTS OF WORCESTER WERE KILLED OR INJURED BY POLICE AND A NUMBER OF PERSONS AND BUILDINGS WERE ATTACKED IN RETALIATION. THE DRACONIAN RESPONSE OF THE AUTHORITIES, INCLUDING CURFEWS, ROADBLOCKS AND SWEEPING DETENTIONS, ONLY AGGRAVATED THE SITUATION.

Beaufort West

- 147 On 22 January 1985, Constable PA de Villiers and the three other policemen went to the home of popular local UDF and youth organiser Mandlenkosi William 'Tshaka' Kratshi [CT00563 and CT00570] at 07h30 to arrest him following a stoning incident. Kratshi was cooking porridge for his seven-year-old son Simphiwe and asked to be allowed to finish. After a few minutes a scuffle broke out when police attempted to take him into custody by force. Kratshi was punched and retaliated with a fork, allegedly also biting De Villiers. Shortly thereafter, Constable de Villiers shot him fatally in the chest. Kratshi's funeral was restricted by the local magistrate. Residents

renamed the township 'KwaMandlenkosi'. In October the Beaufort West inquest court found that no one was criminally responsible for the Kratshi's death and that Constable de Villiers had acted in self-defence. That weekend the township erupted in widespread protest in which Mr Andile Amos Klaasen [CT00880] was fatally shot by South Cape Unrest Unit commander Major GP Marx during police action. At least 15 residents and two policemen were wounded.

Colesberg

148 From June to October 1985, local organisations took up a campaign around the lack of facilities. On 2 July, SADF soldiers set up camp outside the residential area, resulting in clashes with youth. The following day police entered the township, firing tear gas. Mr Solani Gcanga [CT01508] was arrested and repeatedly assaulted and driven around the township on top of a Casspir with a *sjambok* around his neck. This precipitated events leading to the killing of the 'Colesberg Four'.

149 Youths marched on the township house of a black policeman and set fire to his car. At about 20h00, police in Casspirs and vans entered the township. When youths approached the houses of two black police officers, police inside the house opened fire, killing four people. They were Ms Funeka Siyonzana (17) [CT01506], Mr Krakra Maciki (17) [CT00392], Mr Mongezi Juda (17) [CT01505] and Mr James Masumo (23). Numerous other residents were injured and were subsequently charged with public violence.

150 In the wake of these events, over seventy residents (sixty children, eleven men and eight women) of the township were arrested. Many in this group were subjected to severe assault and torture while in police custody and were teargassed in their cell. In a subsequent conflict with police on 22 July, fourteen people were injured, including Reverend Mcoyana [CT01528].

Knysna

151 Seventeen-year-old Mr Goodman Tatasi Xokiso [CT00334] was shot dead by police in street clashes at Knysna in March 1986. Several others were injured and/or arrested. Some of these made statements regarding assault and torture after their arrest, including *sjambokking*, beating and suffocation. Restrictions placed on Xokiso's funeral caused tensions between the local 'comrades' and the victim's mother, Ms Esther Johnson, who then left Knysna.

Kimberley

152 On 11 April 1985, Galeshewe student activist Thomas Mmerekhi Morebodi (15) [CT02851] was shot dead by Riot Squad members. Business came to a standstill in the black residential area as thousands of residents flocked to his funeral and police fired on a march that took place afterwards. 'Stratcom' pamphlets to disorganise the funeral were distributed by the local Joint Management Centre. This killing was the trigger for an escalation in the conflicts. Arson and public violence arrests took place and police action with rubber bullets, tear gas and birdshot was commonplace during this period. July to October was a peak period of street resistance and repression.

George

153 During the mid-1980s, serious tensions and conflicts arose between the residents and authorities in George over the proposed forcible removal of people from an informal settlement, Lawaakamp, to a new township called Sandkraal. This contributed to the protests in George that resulted in the deaths of at least five people in early 1986. In February 1986, Mr Rhotsi Mbuyiselo Jonas Jack (22) [CT00558], Mr Skosana Meanwell Lakeyi [CT03065] and at least one other were shot dead by police during street protests. This was followed by the 'necklace' killing of Mr Afrika Nqumse [CT00559], an employee of the Development Board seen as responsible for the forced removals. On 3 March 1986, Oudtshoorn activist Nkosinathi Hlazo [CT00534] was shot dead by Captain GP Marx and others in George, allegedly while fleeing arrest.

AS IN OTHER SITUATIONS WHERE COMMUNITIES WERE SUBJECTED TO FORCED REMOVAL FROM ONE PLACE TO ANOTHER, THE CONFLICTS WHICH AROSE CREATED CIRCUMSTANCES IN WHICH GROSS VIOLATIONS OF HUMAN RIGHTS TOOK PLACE. THE COMMISSION FINDS THAT THE INJURIES AND KILLINGS WERE CAUSED IN THE FIRST INSTANCE BY THE IMPLEMENTATION OF THIS POLICY OF FORCED REMOVALS.

Paarl

154 The surge of unrest from August to November 1985 saw several deaths and injuries in Paarl. The first death in 1985 was that of Mr Adri 'Aaron' Faas [CT03207, CT00434] on the day of the Pollsmoor march. Faas was shot dead by Lieutenant Colonel WH Oosthuizen who used his private firearm. Police officer Captain Clayton, who was on duty that night, described events before the shooting to the Commission.

A white or a yellow Ford Cortina came into the entrance of the police station. And I could see that there was Lieutenant Colonel Oosthuizen and I don't know who the passenger was. And he took out a shotgun which did not look anything like the police issue and his words were: "You people take too long, I am going to shoot a hotnot tonight."¹⁰

- 155 Adri's father, Mr Alexander Faas, described his efforts to establish what had happened:

As we were walking away, two white policemen came there and I asked them: "Please sir, who had shot my child?" ... What broke my heart is that I never could think that white people will also belong to a church, that they could behave like that and this Oosthuizen took his finger and pointed on his chest and said: "I killed your child." And my heart dropped into my shoes.

- 156 Mr Faas described the funeral:

When the hearse stopped, they started shooting at 6, 7, 8-year old kids, and I got out of the vehicle in which I was in and I went to stand in front of the hearse and said to him: "Shoot me, I am at peace with this whole thing." Because by then I was bitter.

- 157 Faas's death was followed by the fatal shootings in October of Mr Neil Moses [CT00439] and Mr Pikashe [CT00282] in street protests.

De Aar

- 158 In the Karoo town of De Aar, several casualties occurred as a result of police or administration board shootings. On 16 June 1985, civic leader Booi Mantyi was shot dead. Thirteen-year-old Leslie Kelemi [CT01517] was shot and seriously injured and blinded in one eye by police in July when fetching paraffin. He was later charged with public violence. On 9 July 1985, in Malay Camp, riot police shot and wounded a seventy-one-year-old woman, Ms Ida Koko Tantsi, her granddaughter, Ms Beauty Tantsi (30) and great-granddaughter Wendy (8) [CT00556]. The two women were then charged with public violence. A consumer boycott was launched until the end of the year to protest at the ongoing shootings and repression experienced by the residents and to demand the release of those detained and arrested. Police records indicate that Ms Vivian Tshadi, who allegedly broke the consumer boycott, was hacked to death and her body burnt in July 1985.

¹⁰ 'Hotnot' is a derogatory term for a coloured person, abbreviated from Hottentot.

159 Incidents in Upington and Phillipstown clearly illustrate the close relationship between police shootings and subsequent attacks on so-called collaborators. They also illustrate the different judicial consequences for police personnel and 'comrades'.

Upington

160 In November 1985, a series of events was set in motion that would dominate Upington for the remainder of the 1980s. On 10 November, a mass meeting in Paballelo to discuss community issues ended in the fatal police shooting of a pregnant woman, Ms Beulin Isaaks [CT04113]. Mr Ronnie Sipho Naphakade [CT04421] was shot, arrested and assaulted. Mr Harold Vuyo Mjethu [CT00699] was shot and injured, resulting in permanent damage to his right arm and loss of hearing in his right ear. Ms Miriam Blaauw [CT00435] was shot and injured and was later also charged with public violence. All three were then charged with public violence, and the first two given prison sentences.

161 On 13 November 1985 a crowd of around 3 000 gathered on a soccer field, hoping to talk to police about the shootings. They were told to disperse and were finally tear-gassed by police. Chaos erupted as the crowd fled. About 200 people gathered in front of the house of policeman Lucas Tsenolo 'Jetta' Sethwale [CT01418]. The house was pelted with stones. Sethwale fired two shots from his bedroom window, injuring an eleven-year-old boy. When he fled from his house, he was chased by the crowd across a field where he was caught, struck down with his pistol, assaulted and burnt.¹¹

162 Police moved in and arrested numerous people, including three women. Twenty-six were accused of murder and tried in a high-profile political trial that dominated both Upington and South African judicial history.

163 Some of those detained, including the accused, were assaulted and tortured in an effort to extract confessions regarding their role in the murder. Mr Justice Bekebeke [CT03074] was beaten with fists and kicked all over his body. He was also made to stand next to a road sign while shots were fired at the sign. Bekebeke applied for amnesty for the killing of Sethwale [AM6370/97]. Mr Zongezile Mokgatle [CT00698] was beaten, *sjambokked* while naked and beaten with branches of a thorn tree by policemen, to force him to make admissions.

164 The trial, presided over by Justice Basson¹², started eleven months after the

¹¹ For information about the consequences of this incident for Sethwale's mother, see chapter on *Reconciliation* in Volume Five.

¹² One of the junior counsel in the trial, Anton Lubowski, was assassinated in Namibia in 1989 by members of the Civil Co-operation Bureau.

murder and continued for eighteen months. A 'trial within a trial' debated the admissibility of the confessions made by some of the accused, but the judge ruled them to be admissible and they served as the basis for the later convictions. Twenty-five of the accused were convicted in April 1988, on the basis of the controversial 'common purpose' doctrine. Fourteen were sentenced to death.¹³

THE COMMISSION FINDS THAT THE USE OF THE PRINCIPLE OF 'COMMON PURPOSE' ASSOCIATION FOR THE PURPOSES OF CONVICTIONS IN POLITICALLY RELATED MATTERS WAS INAPPROPRIATE. FURTHER, THE COMMISSION FINDS THAT THE IMPOSITION OF THE DEATH PENALTY FOR POLITICALLY MOTIVATED OFFENCES CONSTITUTED A GROSS HUMAN RIGHTS VIOLATION. IN THIS TRIAL IN WHICH FOURTEEN DEFENDANTS WERE SENTENCED TO DEATH, THE COMMISSION PARTICULARLY FINDS THE IMPOSITION OF THE DEATH PENALTY ON SIXTY-YEAR-OLD GRANDMOTHER MS EVELINA DE BRUIN TO BE EXCESSIVELY HARSH EVEN WITHIN THE CONTEXT OF THE LEGISLATION AT THE TIME.

Phillipstown

165 On 21 December 1985 Ms Sophie Butele [CT00513] was shot dead by policeman Silingo Tshemese in Phillipstown. Several members of the Tshemese family worked for state institutions and were seen as 'collaborators'. A huge crowd of people gathered outside the Tshemese home and began a prolonged attack. The Tshemese family locked themselves in the house. Some were injured by the flying stones and bricks and others were attacked with an axe. Mr Geelboy Tshemese [CT01518, CT02907] was dragged outside and assaulted with axes and spades, then burnt with petrol and tyres.

166 That evening, police and farmer reservists swept through Lukhanyisweni, beating and arresting residents. Several people were charged with murder, including Mr Nelson Sinxoshe [CT01518], who had found his sister Sophie Butele dying outside the Tshemese house and was allegedly involved in the axe attack. Nelson Sinxoshe has stated that he was severely tortured while in police custody. Along with several others, he was sentenced to thirty-five years in prison. No one was charged for the death of Sophie Butele.

The Trojan Horse and other ambush tactics

167 During late 1985 and early 1986, security force members sometimes adopted ambush tactics against street protestors and others by concealing themselves either in a moving vehicle or at the scene. In each instance, police opened fire without warning, causing deaths and injuries. Those killed or injured were frequently merely curious bystanders. In at least two of the cases quoted below, the victims were youth

¹³ In the early 1990s those sentenced were released as political prisoners.

and women only. The best known of these cases is the 'Trojan Horse' shooting. However, other cases came to light through the work of the Commission.¹⁴

- 168 In the Athlone 'Trojan Horse' incident on 15 October 1985, police hiding in large wooden crates on the back of a railway truck fired directly into a crowd of about a hundred people who had gathered around a Thornton Road intersection, killing Michael Cheslyn Miranda (11) [CT00478, CT00472], Shaun Magmoed (16) [CT00472] and Mr Jonathan Claasen (21) [CT00475] and injuring several others, eight of whom submitted statements to the Commission.
- 169 The event attracted extensive media coverage since several members of the print and electronic media were at the scene and the shooting was captured on video. This placed the actions of the police under intense scrutiny of the local and international media.
- 170 This operation was repeated the following day when security force personnel drove down a road opposite Crossroads in the same truck. They shot and killed Mr Goodman Mengxane Mali (19) [CT00723] and Mr Mabhoti Alfred Vetman (20). Two toddlers were also injured in the shooting.
- 171 The Athlone Trojan Horse shooting highlights the role of the Western Province Joint Management Centre in the region, and its sub-JMC which covered the Peninsula. These structures had established a JOC which met daily at the Manenberg Police station to co-ordinate the activities of the security forces in areas identified as unrest 'flashpoints'. It brought together the command structures of the SAP, the SARP, the SADF and various other agencies. Information was collected by the Joint Intelligence Committee (JIC) and the Security Committee (SECCOM) of the Joint Management Centre.
- 172 A memorandum sent to the JMCs directly concerned with planning action against the unrest gives specific plans for security force actions against 'agitators'. The document states that "the fight against unrest can only be won if problems are foreseen and stopped through pro-active actions". It calls for creative ways and methods to mislead or confuse "agitators" or to lay waste to their plans before they begin.
- 173 Colonel Pieter Janse van Rensburg (Head of Western Province Riot Squad), Major Christian Loedolff (SARP) and Commandant Salmon Pienaar (SADF) were amongst those who decided on and tasked the ten members of the SARP task force (under

14 See, for example, similar incidents in the chapter on the Eastern Cape.

Lieutenant Douw Vermeulen) to obtain a railway vehicle and conduct the first Trojan Horse operation.

THE COMMISSION HAS CONSIDERED THE FOLLOWING:

- THE FACT THAT THIS ACTION WAS PREMEDITATED AND WAS THE RESULT OF ORDERS HANDED DOWN FROM LIEUTENANT VERMEULEN'S IMMEDIATE COMMANDING OFFICER IN THE MANENBERG JOINT OPERATIONAL CENTRE, THE THEN MAJOR LOEDOLFF;
- THAT ALL THE WEAPONS USED IN THE OPERATION WERE LOADED WITH SHARP AMMUNITION, IN VIOLATION OF ESTABLISHED PROCEDURES;
- THAT THERE WAS AN EFFECTIVE COMMUNICATION SET UP BETWEEN THE PERSONS IN THE FRONT OF THE TRUCK AND THE BACK AND THAT THERE WAS COMMUNICATION WITH THE JOC;
- THE PREPONDERANCE OF CHILDREN, YOUTH AND WOMEN AMONGST THOSE SHOT.

THE COMMISSION FINDS THAT THE THIRTEEN SENIOR AND JUNIOR MEMBERS OF THE SAP, SADF AND SARP, IN CONJUNCTION WITH THE RELEVANT STRUCTURES OF THE JMCS, PLANNED AND EXECUTED AN ACTION IN ATHLONE WHICH RESULTED IN SEVERAL GROSS VIOLATIONS OF HUMAN RIGHTS.

174 Six months after the Athlone incident, on 26 March 1986, security forces concealed in a railway truck shot dead three people near Crossroads, namely Mr Lennox Thabang Maphalane [CT00706], Mr Eric Heynes [CT00824] and Mr Goodman Bongani Dastile.¹⁵ Several others were injured. The inquest listed some of the same individuals involved in the Athlone shooting.

175 In a similar incident in February 1986 in Khayelitsha, members of the security forces disguised as ordinary workers in a bakkie fired on members of the public with birdshot according to the statement by Mr Thanduxolo Cingo [CT00739].

176 On 29 August 1985, Riot Unit members Constable E Villet and Warrant Officer P Kruger hid in the garden of a Bellville South house on the orders of Captain Ockert van Schalkwyk. They later leapt out from this 'observation point' and fired at a group of people. Ms Sarah van Wyk [CT03201] was killed and at least four other women wounded. Ms Monica Daniels [CT00151] had to have her arm amputated as a result of the shooting.

The Bongoletu Three shooting

177 On 17 June 1985, three children, Andile Majola [CT00329], Fezile Hanse [CT00330] and Patrick Madikane [CT00533], were shot dead at the house of a

¹⁵ The wife of Eric Heynes described ongoing police harassment until the funeral of her husband. The funeral itself was disrupted by police including Warrant Officer Barnard, leading to the coffin being dumped and opened on the ground. The mother of Thabang Maphalane was visited twice by Barnard after the shooting and threatened.

black security policeman by members of the Riot Unit. Several other youths were seriously injured but were taken into custody by police and subsequently charged with public violence. Mr Xolile Lwana [CT00536] was shot in the head with birdshot, leaving him permanently physically and mentally disabled.

178 Police versions of the event and eyewitness accounts differ. Residents of Bongolethu argue that the shooting was essentially an ambush. Youth gathered at the house did not know that there were policemen waiting in the house. One constable stated that one youth actually went into the front room of the house, but the policemen did not reveal their presence. No warnings were issued and no warning shots fired. In addition, buckshot was used as opposed to the lighter birdshot.

179 An eyewitness, Mr Mzukisi Mooi, described the event as follows:

People believed Mngoma's house was empty. Another boy with a red jersey went to the front door. The next minute I heard a shot going off. Shots were fired continuously. I saw a little boy lying near the gate. I saw a girl crawling across the road. The next moment, policemen came out of the house. One policeman continued firing at the crowd. One of the policemen brought a holder with petrol from the house and threw it in a Fanta bottle. He then put it near the body of the one child.¹⁶

180 The police officers said they had acted in self-defence after a crowd attacked the township house that they were guarding. One policeman testified that one of the youths had sprinkled petrol onto the carpet of the house and that another had matches on him. In order to stop him from striking the match, the policemen in charge shot the child. The other two children were shot in the process of fighting the crowd which had gathered outside the house.

181 After what became known as the 'Bongolethu Three' incident, the townships of Bongolethu and Bridgeton remained in a state of ongoing revolt and political upheaval until the end of the year, with mass detentions and trials continuing in 1986. All black police were driven out of the townships during this period. In 1989, the graves of the Bongolethu Three were desecrated by unknown people.

THE COMMISSION FINDS THAT THE KILLING OF THE BONGOLETHU THREE AT BONGOLETHU, OUDTSHOORN AMOUNTED TO AN 'AMBUSH' CARRIED OUT ON CHILDREN AND YOUTH.

THE COMMISSION FINDS THE ADOPTION OF 'TROJAN HORSE' AMBUSH TACTICS BY THE SECURITY FORCES TO BE ENTIRELY INAPPROPRIATE FOR DEALING WITH CIVILIAN UNREST. THE AMBUSH

¹⁶ Mr Humphrey Joseph and Mr Mzukisi Mooi were later charged for 'publishing untruths' about the police and their actions in this incident in the July 1985 edition of community newspaper *Saamstaan*.

TACTIC WAS USED TO LURE CIVILIANS DELIBERATELY INTO SITUATIONS WHICH THEN RESULTED IN FATALITIES AND INJURIES. RELYING ON CONCEALMENT, SPEED AND SURPRISE, IT RESULTED IN INDISCRIMINATE SHOOTINGS BY THE SECURITY FORCES, INJURING BYSTANDERS AND PROTESTORS ALIKE. IN MANY INSTANCES OF STREET UNREST, THE MAIN PARTICIPANTS WERE YOUTH UNDER THE AGE OF EIGHTEEN.

Detentions

- 182 Most detentions prior to 1985 were under section 29¹⁷. One of the most widely publicised cases was the arrest and detention of Simonstown Naval Commander Dieter Gerhardt and his wife Ruth, pending their treason trial relating to spying activities for the USSR. They were later sentenced to life imprisonment.
- 183 On October 26 1985, the state of emergency was extended to the western Cape. Midnight raids during the night of 25/26 October resulted in mass detentions under section 50¹⁸, targeting predominantly the leaders of UDF affiliates. Sixty-six people were detained that night, and at least four hundred over the following two weeks.
- 184 The first state of emergency in the Western Cape lasted 132 days and approximately 1 300 people were detained, including teachers, clergy, journalists, attorneys, students, unemployed people and pensioners. More than fifty youth were included, some as young as eleven years of age. Most detainees were released by the end of December 1985, but several were subjected to restrictions on their movements and activities. Ongoing detentions occurred until the lifting of the state of emergency in March 1986, while section 29 detentions actually increased during the first six months of 1986.
- 185 The mass swoop was repeated in the early hours of 12 June 1986 with the declaration of a national state of emergency. Approximately 160 individuals were detained immediately and more over the next few weeks, including many of the people who had been detained in 1985. A non-governmental organisation (NGO) recorded 349 detentions in the urban Cape Town area over 1986. The majority of these detainees were released by the end of 1986. Among those detained were a Roman Catholic nun, an entire church congregation of 189 people in Elsie's River, and Worcester UDF activist Christopher Tyawana, whose section 29 detention was brought about by a collaboration between the Security Branch and Allied Bank.

17 Internal Security Act No 74 of 1982: Section 29 provided for indefinite detention for interrogation, and for detainees to be held in solitary confinement.

18 *Ibid.* Section 50 provided for fourteen-day preventive detention, even by a low-ranking police officer.

- 186 Detention became more selective in 1987–89 and often focused on events or campaigns undertaken by the opposition movement.
- 187 A small but significant group of leading activists were held for very lengthy periods, including Mr Trevor Manuel (held for 676 days), Mr Mziwonke ‘Whitey’ Jacobs (560 days), Mr Lizo Kapa (387 days), Mr Ebrahim Rassool (384 days) and Mr Naseegh Jaffer (351 days). Some activists experienced repeated detentions. Mr Willie Hofmeyr embarked on a twenty-eight-day hunger strike in 1989 during his third detention, after a six-month period in solitary confinement during 1988. Detainees were also served with restriction orders on their release, thus continuing their imprisonment beyond the confines of a jail.
- 188 Clusters of individuals were detained and later charged with public violence. A proliferation of public violence trials saw hundreds of young people sent to prisons along with common criminals for lengthy prison sentences. Many of the sentences were based on ‘confessions’ extracted under torture.

Torture

- 189 The Commission accumulated data from human rights violations statements, amnesty statements and statements made to non-governmental organisations (NGOs) regarding the assault and torture of detainees prior to the state of emergency, under the emergency and under section 29.

Cape Peninsula

- 190 In the Cape Peninsula areas, torture and assault in custody took both random and targeted forms. Students reported being arrested and assaulted after street protests, notably at the Brackenfell police station. The police often appear to have used torture to extract confessions for court cases of which examples are provided below. The perpetrators often appear to have been members of special Unrest Investigation Units, particularly the one based at Gugulethu. The Athlone-based unit was involved in widespread torture of youth linked to the Bonteheuwel Military Wing (discussed below). Many of these individuals were forced to implicate themselves in confessions used later in efforts to convict them on public violence charges.
- 191 Mr William ‘Keff’ Thomas was detained under the emergency in 1987 and held for several months. He was taken to the Gugulethu police station where he was questioned and tortured.

The said police officers accused me of attacking a fellow policeman's house and assaulted and tortured me with the purpose of getting a confession as well as to furnish them with names of others ... I was assaulted by Officer Nortjie who had a wet bag placed over my head and proceeded to spray tear gas into it causing me to have difficulty in breathing and/or remaining conscious. The said torture took place at the back of the Gugulethu police cells where I was placed in a container. I was charged in the criminal court with public violence. A trial within a trial was held and the charges were withdrawn against me.¹⁹


- 192 The theft of weapons from special constables in KTC in October 1986 prompted a major security force raid on youth in KTC that resulted in the death of Mpumelelo Rwarwa [CT00864] on 27 October. A group of youth was arrested, and assaulted and tortured both on arrest and at the Gugulethu police station. The torture included wet bag suffocation, electric shocks and beatings with gun butts, while being kept naked. One detainee had a tyre placed around him and petrol poured onto it. The police then threatened to burn him alive. He was taken to the bushes and suspended by a chain from a tree, assaulted, and later given electric shocks.
- 193 After the *witdoeke* attacks of May and June 1986, thousands of refugees were forced to live in schools and churches. Refugees were arrested from these centres and tortured to make them confess to a range of public violence crimes. Torture involved electric shocks, suffocation and near drowning. Mr Hercules Benjamin Booyen [CT00296] was taken from one such refugee centre and severely assaulted by Warrant Officer Barnard and others. It is notable that few if any *witdoeke* were arrested or charged.

Torture and assault under section 29

- 194 During the state of emergency, section 29 detentions focused on individuals suspected of underground military activities. Section 29 detainees suffered extensive abuse, both physical and psychological, mainly at the hands of the Western Cape Security Branch. The same names and *modus operandi* recur constantly in statements regarding torture made to the Commission, in trials and in court interdicts. From 1986, torture appears to be most strongly associated with certain members of the Terrorism Tracing Unit (also known as the Terrorism Tracking Unit, Detection Unit or Anti-Terrorism Unit). The unit stationed at Culemborg, Cape Town, was under the command of the then Lieutenant Liebenberg and included Warrant Officer Nel, Warrant Officer Jeffrey Benzien and Constable Piet

¹⁹ Statement by William Thomas furnished to the Commission for use in the Benzien amnesty application.

Goosen. Some change of membership occurred over time but Liebenberg, Benzien and Nel remained constant throughout. The function of the unit was described as the “expeditious tracing and arrest of terrorists, collection of information and intelligence and the confiscating of weapons and arrest of hangers on”. Others associated with the unit included Constable Patrick Siyali and a number of *askaris* (guerrillas ‘turned’ by the security forces) such as Sergeant David Matamela Musimeke and Lucky ‘Agrippa’ Madubula.

195 Captain Frans Mostert became known for his methods of intimidation, assault, and particularly sexual threats directed at female detainees. Ms Zubeida Jaffer stated that he threatened the life of her child while she was pregnant in detention. He was the subject of a court interdict by Ms June Esau [CT03040] in 1985. 

196 Warrant Officer Jeffrey Benzien became known as one of the principal torturers. He joined the Security Branch in 1986 and was incorporated into the Terrorism Tracking Unit within a year.

197 During his amnesty hearing, Jeffrey Benzien admitted to several acts of torture against Mr Peter Jacobs, Mr Ashley Forbes, Mr Anwar Dramat, Mr Tony Yengeni, Mr Gary Kruse, Mr Niclo Pedro and Mr Allan Mamba. This was done with the knowledge of his superior officer, Lieutenant Liebenberg. His admissions included the ‘wet bag’ method for which he was renowned, electric shocks and assaults. In a moment of high drama during his hearing he physically demonstrated the wet bag method on a volunteer. His admissions were contested by some of those he had tortured and others he denied torturing. They argued that Benzien’s admissions were very limited and did not reflect the full extent of the abuses to which he had subjected his victims. Further, they argued that he was the ‘fall guy’ for the entire group of torturers and that he continued to protect them by denying their presence or participation in acts of torture and abuse.

198 Major General JL Griebenauw admitted to knowledge about acts of torture at the hands of the Security Branch and stated that such acts and knowledge were widespread. Although he did not apply for amnesty for acts of torture, Griebenauw was also directly implicated in the assault and torture of Mr Trevor Wentzel and Mr Mohammed Saleem Badat [CT05005]. Mr Ntozelizwe Thomas Talakumeni reported being tortured by Griebenauw in 1985. He stated in his court case that Colonel Griebenauw took him to the sixth floor of the Paarl police building where he was made to climb through a window onto the roof. He claimed Colonel

Griebenauw then asked if he had any message for his family and girlfriend because this was the last time he would see Paarl. Then Colonel Griebenauw and a Warrant Officer lifted him over the parapet and, holding onto his feet, hung him upside down. This happened four times, he said. He also alleged that a gun was held at his head during an interrogation. In the court case, Colonel Griebenauw said there was no truth in Mr Talakumeni's complaints.

199 Many section 29 detainees suffered serious psychological torture. They were almost without exception kept in complete solitary confinement for six months or longer. It was not unusual for section 29 detention to be extended into a second 180-day period. Several suicide survivors and others were admitted to hospital suffering from acute anxiety or depression. A further form of psychological torture was the threatened or actual detention of family members.

Torture prior to terrorism trials

200 A number of section 29 detentions resulted in terrorism trials. In some instances, a trial-within-a-trial was held to determine the validity of the confession because of frequent allegations of torture to extract confessions. Without exception, the security police denied the torture and the judges ruled the confessions admissible. For example, Lieutenant Liebenberg denied all allegations of torture made by the accused in the terrorism trial of Mr Lizo Ngqungwana and twelve others.

201 Mr Robert Nana Maliti (22) [CT00133] was arrested in Crossroads in October 1988, allegedly in possession of a limpet mine. Whilst in custody he was assaulted so severely by Benzien *inter alia* that he suffered a brain haemorrhage and had to undergo emergency brain surgery. He was later sentenced to five years' imprisonment. Maliti was permanently physically and mentally disabled by the assault.

202 Trialists from the terrorism trial of Mr Ashley Forbes and fourteen others raised aspects of their torture at Benzien's amnesty hearing. Mr Ashley Forbes was arrested on 16 April 1986. He was subjected to the wet bag method while he was naked; a metal rod was inserted in his anus and he was electrically shocked. He was also further assaulted, hit on the head and eyes and had his head hit against the wall until he lost consciousness. His eardrum was broken, he was choked and his nostrils were pulled until they bled. Fellow trialists Mr Niclo Pedro and Mr Peter Jacobs were also subjected to the wet bag method. Pedro was hung from the burglar bars on the window and assaulted.

Trialists from the terrorism trial of Mr Tony Yengeni and thirteen others also allege torture. Mr Tony Yengeni was assaulted and subjected to the wet bag method. Mr Gary Kruser was handcuffed to the office burglar bars with his feet dangling in the air, assaulted and subjected to the wet bag. This was conceded by Benzien.

- 204 Mr Bongani Jonas was shot in the legs by *askari* David Matamela Musimeke and Constable Patrick Siyali [AM7997/97] on his arrest in September 1987. Both femurs were shattered and he was bleeding profusely. En route to Culemborg, Warrant Officer Barnard of the Riot Unit sat on his injured legs. At Culemborg the *askaris* held his hands while his leg was jumped on. Medical attention was withheld from him until he agreed to co-operate with the police and take them to an arms cache in Khayelitsha. He was carried in a blanket and his legs were thrown around violently. He was taken to hospital six hours after being shot.
- 205 Similarly, Mr Mthetheleli Titana was shot four times during his arrest. His injured leg was twisted and wrung repeatedly. "A Warrant Officer grabbed Titana's leg and wrung it around like an old car's starter sling. The Warrant Officer made the noise like a starting car."²⁰ Like Jonas, he was forced to take police in search of arms caches before being given medical treatment.

Torture in rural areas

- 206 Assault and torture of detainees appears to have been very widespread in rural towns. With the smaller pool of police personnel, the same names recur repeatedly in statements alleging torture in rural town police stations.
- 207 In the northern Karoo town of Noupoot, at least two youths were reported to be mentally disturbed after undergoing torture. Yibanathi Mjada [CT00389], aged fourteen, was tortured by having his penis slammed in a drawer. He was later charged with offences and became mentally disturbed. Ms Gladys Ntsizakalo described what happened to her son Siphwiwo Ntsizakalo [CT01504]

He was fifteen years old. The police were always looking for him. They knocked, kicking the doors down. They used tear gas. They took my son with. He was detained for two days. On the third day the police came to tell me at home that my son is ill. He is mentally disturbed – totally confused.

²⁰ *Grassroots*, May 1989.

I asked if I could see my son as he is not well. They refused yet again. The police had no respect – even though I was a parent. They just took my child to Queenstown [to a mental asylum]. When he came back after two months he stayed in detention (for another month). I went to the police station and requested – may I see my son. He was alone in the cell. Both his hands and his legs were tied. When I looked at him as a parent, I realised that he was mentally disturbed. When he saw me – he just cried. I could see that my son had changed. When I asked he said they kept on beating him up – they beat him up – that is why he was deranged. They would take a sack – a wet sack – and then they would cover him with that sack. They would put him in the boot – drive him to a place that he did not know and then when they reached their destination, they would beat him up. After that they would take him back to the cell. Now he cannot do anything for himself. He cannot be independent, because he is mentally deranged.

- 208 Mr Andile ‘Ace’ Kobe [CT06803] was arrested and subsequently beaten unconscious inside the George police station. The police took the unconscious Kobe to the beach in their van and left him there for the night. Kobe was found the following morning and underwent emergency brain surgery for a subdural haematoma. He died shortly afterwards, and his funeral was restricted.
- 209 Three Riot Unit members were charged with his murder. Mr Andre Schutte (19) was sentenced to twelve years’ imprisonment for bludgeoning Kobe to death. His two former colleagues, Mr Pieter Koen (21) and Mr Cornis Serfontein (22), were each sentenced to seven years’ jail for attempted murder. The sentencing of the police was widely criticised for its comparative leniency.
- 210 Statements taken from the Mossel Bay area reflect brutal torture of a range of young teenagers arrested and tortured by the same group of people during 1985 and 1986. Almost all then spent three to five months in state of emergency detention in George prison. Some were subsequently charged with public violence. The Mossel Bay stories of torture show a number of unusual similarities, including a particularly aggressive form of sexual abuse of both males and females. Several males had their genitals slammed in the drawer of a desk.
- 211 Mr Patrick Mzathi [CT06108] was detained in 1986 at the age of fourteen by police in Mossel Bay. He was beaten with a handgun, ‘klapped’ and kicked. Policemen including Sergeant Maritz slammed his penis and testicles in a drawer, which rendered him unconscious. He was kept naked in a cell and was released after nearly three months. A Captain Calitz was among those named for similar torture of other victims.

- 212 Ms Zanele Zingxondo [CT00860] describes the sexual torture and electric shocks applied to her in Mossel Bay in order to get her to implicate herself in the killing of Development Board employee Mr Afrika Nqumse [CT00559], who had been necklaced in March 1986 in George during ongoing conflicts around forced removals.

One of them pushed me on the chair and they took my arms at the back of the chair and they handcuffed me, my one leg was handcuffed to the one leg of the chair. One of these detectives took a piece of cloth and put it over my head. They stuffed some papers and a piece of cloth in my mouth, and my eyes were also closed ...

They clipped pegs on my ears, both my ears and they switched this object on. I realised only then that it was some kind of an electric shock. They did this several times, up until my bladder couldn't take it. They stopped and asked if I was still denying that I was also there, when Africa was murdered. I couldn't speak because my tongue was hurt and I was crying.

They started smacking me, pushing me around also. Captain van der Merwe pulled me up to other side of his desk. They unbuttoned my shirt, and pulled my breast out of my bra, they emptied one drawer and my breast was squeezed in the drawer. They did this several times on each of the breasts up until the white sticky stuff burst out of the nipples of my breast. I cried, but it was of no use, because no-one could hear me.

- 213 Oudtshoorn activist Mr Sipho Kroma [CT05702] was detained together with Mr Michael Lukas and Mr Mxolisi Madikane in Uitenhage after the fatal shooting of bus inspector and former SAP member Mr William Blouw on 15 April 1986. Kroma, Lukas and Madikane were severely tortured and forced to make statements implicating Lukas in the death of William Blouw. The torturers were policemen from Oudtshoorn. Kroma told the Commission:

They put me (handcuffed) in the boot of the car. On the way out of KwaNobuhle township, they stopped again. They pulled me out of the boot and the very same show continued – they kicked me, jumping on top of me. Again I went back to my place – the boot – and we drove to the Church Street police station in Uitenhage. When we got there, they first took Michael Lukas in. The only thing that we could hear was Michael screaming. They dealt with him for about two hours. They finished with him and they called me in. They made me sit. They straightened my legs and they brought the SACP flag and they used the flag to tie my legs. And they brought the electric wiring, all ten of my fingers were wired with this thing ... three of them were sitting

on my legs. The coloured chap's task was to beat me up and he made sure that he was hurting me. Time and again he would deal with my private parts, to grab at my penis, and my testicles, and punch me in my private parts and also kick me in my private parts. The first [indistinct] of interrogation was trying to link Michael who was with me to a case of Mr Blouw who was shot and killed in the township. They wanted me to admit and agree that Michael said to us that he was responsible for the shooting of Mr Blouw.

Mpondo was the one who was using a khaki T-shirt, they would put it in a bucket of water, and tied it around my face, making it impossible for me to breathe. Mngoma's task was to ask a question ... if he is not satisfied with my explanation, he would give a mandate for them to fire. Firing meant to put on the electric shot ... I would be shaking like this when they put on the wire. They dealt with me for about two hours. Then it was the last time that I saw Michael, when I was released from detention and he was charged and ultimately hanged.

- 214 Mr Michael Lukas [CT00535] and two others were subsequently charged for the murder of Blouw. Lukas was sentenced to death in August 1987 and was executed seven months later.

THE COMMISSION FINDS THAT EXECUTION FOR POLITICALLY-MOTIVATED OFFENCES CONSTITUTED A GROSS HUMAN RIGHTS VIOLATION.

- 215 In Worcester, certain police personnel are repeatedly named as torturers, including Warrant Officer Lucas van Loggerenberg. A group of security detainees including Mr Xolile Dyabooi [CT00232], Mr Monwabisi Magoqi [CT00772] and Ms Mary Ngemntu [CCT00404] were assaulted and tortured by Worcester police. Mr Dyabooi stated that:

In 1987 the police who used to take me for torture was Van Loggerenberg ... They used to handcuff me and suffocate me with a plastic bag and tie me in a chair. Then they would punch me and kick me severely. This happened for about three weeks in a row, each and every day.

- 216 The personnel file of Sergeant H MacDonald [39831H/5] refers to numerous charges of assault and torture against himself, Warrant Officer van Loggerenberg and Lieutenant Gerrit Niewoudt by detainees over several years, all of which are denied by those so charged. In each instance, the Attorney-General declined to prosecute.

217 Ms Yvonne Khutwane [CT00530] of Worcester spoke about her experience in custody:

That was the first time when I was arrested ... I was just alone at the back of the hippo [police armoured vehicle] and they were just driving – it was pitch dark outside. They alighted the hippo and then they came to take me out of the hippo. One of them said to me can I see what I have put myself in, and then they asked me when did I last sleep with a man. I was so embarrassed by this question. And I felt so humiliated – I informed them that I have nobody – I didn't have a partner and then they asked me with whom am I staying. I informed them that I was with my family. The other question that they asked me is how do I feel when they – when I am having intercourse with a man. This was too much for me because they were repeating it time and again, asking me the same question, asking me what do I like with the intercourse do I like the size of the penis or what do I enjoy most. So the other one was just putting his hand inside me through the vagina, I was crying because I was afraid, we have heard that the soldiers are very notorious of raping people. This one continued putting his finger right through me, he kept on penetrating and I was asking for forgiveness and I was asking them what have I done, "I am old enough to be your mother". "But why are you treating me like this" – this was very, very embarrassing. At the end one of them – I think maybe God just came inside them – and the other one said "let's let her go", and then at the end they took me back to the police station and then they locked me up in the cell again.²¹

Northern Cape

218 The Repression Monitoring Group reported that at least 166 people were detained in the Northern Cape under the 1986 state of emergency. Some of these detainees were tortured. Mr David Mabeka [CT04407] was detained on 12 June in Barkly West and was taken to the Transvaal Road police station in Kimberley where he was assaulted by security policemen. He laid a charge against the police but fled to Johannesburg after being threatened by them. Mr Rodney Mtyobile [CT04503] was subjected to electric shocks by SAP member Mr Mochesane. Electric shock torture was also reported by Ms Gladys Keitumetse [CT06014], who was detained at Jan Kempdorp on 12 June for a period of about nine months. She also alleged that she was seriously beaten.

219 Excerpts from the submission by Mr Thembani Jacobs James [CT04007] of Kimberley

²¹ For more about this and similar cases, see *Special Hearing: Women* in Volume Four.

provide a window into the torture of UDF members in the Northern Cape. He was detained six times between 1985 and 1989 with frequent assaults and torture.

- 220 On 29 January 1985, Jacobs was arrested after an illegal march during the student school boycott and held until 15 February. He was interrogated and assaulted by a Sergeant:

He was continuously assaulting me all over my body and my left ear. It started at 09h00 and ended at 15h00. I realised that I could not hear properly with my left ear. It was very painful. During the interrogation, the Sergeant said that if I complained about the fact that I was tortured, he will fetch me again.

- 221 A doctor later found that his eardrum had been perforated.

- 222 On 23 February 1985: "I was taken to the CID department. We were beaten ... I was taken to the cells with all my colleagues. Tear gas was thrown into the cells."

- 223 He was again detained when the state of emergency was declared on 12 June 1986. This time he was tortured by (*inter alia*) Mr Gavin Toynam to force him to make admissions. He spent several months in solitary confinement after that. In June 1986:

I was visited by a Sergeant who tried to bribe me to testify against my comrades. He came to me carrying a bottle of Klipdrift brandy. I told him I would not co-operate. He then told me I must forget about being released.

- 224 In detention again in 1988, he was handcuffed, given electric shocks and beaten with a bottle of Coca-Cola. This was done by (*inter alia*) Mr Hendrick Niewoudt and Captain van der Colff at the Kimberley police station. On release from his last period of detention, he was served with restriction orders.

- 225 He finally had an operation on his ear in August 1989. He told the Commission that these traumas affected him deeply, both psychologically and physically.

- 226 Mr Mxolisi Jacobs [CT04205], an active member of the youth organisation in Upington, was detained on 15 June 1986 during a wider pre-June 16 security crackdown under the state of emergency. The prison authorities stated that he was found hanged in his prison cell on 22 October 1986, after 129 days in detention. "Fellow detainees said that Jacobs had been strong and in good spirits when they last saw him seven hours before his death. His aunt said that

she could not accept the circumstances of his death.”²² At the court case, prison warders apparently gave conflicting evidence. The official cause of death was found to be suicide by hanging.

THE COMMISSION FINDS THAT THIS PERIOD SAW THE MOST WIDESPREAD PERPETRATION OF TORTURE IN THIS REGION DURING THE PERIOD OF THE COMMISSION'S MANDATE. THE TWO GROUPS TORTURED MOST CONSISTENTLY WERE INDIVIDUALS SUSPECTED OF PUBLIC VIOLENCE ACTIVITIES, AND INDIVIDUALS SUSPECTED OF BELONGING TO MK. SEPARATE ACCOUNTS OF SIMILAR MEANS EMPLOYED IN EITHER THE SAME PREMISES OR BY THE SAME NAMED PERPETRATORS LEND AUTHENTICITY TO THESE ACCOUNTS.

IN THE PENINSULA, THIS TORTURE WAS NOTABLY ASSOCIATED WITH CERTAIN UNITS OF THE SECURITY FORCES, NAMELY THE SECURITY BRANCH, PARTICULARLY THE TERRORISM TRACKING UNIT, AND THE UNREST INVESTIGATION UNITS. THE COMMISSION FINDS EVIDENCE OF WIDE-SPREAD TORTURE IN RURAL AREAS, PREDOMINANTLY AT POLICE STATIONS SUCH AS THE TRANSVAAL ROAD POLICE STATION IN KIMBERLEY, THE WORCESTER POLICE STATION AND SECURITY BRANCH HEADQUARTERS AT THE SANLAM BUILDING IN WORCESTER AND SEVERAL POLICE STATIONS IN THE SOUTHERN CAPE. THE COMMISSION NOTES A PATTERN OF SEXUAL TORTURE AT THE MOSSEL BAY POLICE STATION.

THE COMMISSION FINDS THAT THE MOTIVE FOR SUCH TORTURE WAS OFTEN INTIMIDATION OR THE FORCIBLE EXTRACTION OF CONFESSIONS. THE COMMISSION FINDS THAT SUCH TORTURE WAS COMMITTED WITH THE COMPLICIT KNOWLEDGE OF THE SUPERIORS OF THE INDIVIDUALS ASSOCIATED WITH ACTS OF TORTURE.

THE COMMISSION FINDS A CONSISTENT PATTERN OF MEMBERS OF THE SECURITY FORCES LYING IN COURT BY DENYING INVOLVEMENT IN ACTS OF TORTURE. THE COMMISSION FINDS THAT MAGISTRATES AND JUDGES WERE SINGULARLY RELUCTANT TO ACCEPT OR BELIEVE ALLEGATIONS OF TORTURE.

Killing of political suspects

227 At least nine MK operatives were killed in the western Cape between 1986 and early 1990, namely Mr Norman Petersen, Mr Zola Dubeni, Mr Ashley Kriel, Mr Mthetheleli Gcina, Mr Nkululeko 'Solly' Mutsi, Mr Anton Fransch, Mr Samuel Baloi, Ms Coline Williams and Mr Robert Waterwitch. This figure does not include the Gugulethu Seven, who were not technically MK operatives. Other individuals who were killed and may have been indirectly linked to MK, or who were suspected of politically motivated acts, included Mr Patrick Welile 'Deks' Dakuse, Mr Ayanda Silika and Mr Mpumelelo Rwarwa.

228 It is notable that Kriel, Dakuse, Baloyi and Mabilo were killed while said to be in possession of a single hand grenade. The security forces were absolved of responsibility for all of these deaths in the inquests.

²² *Focus*, No 68, Jan–Feb 1987, p. 5.

The 'Gugulethu Seven'

Around 07h30 on 3 March 1986, seven young men were shot dead at the corner of Gugulethu's NY 1 and NY 111 and in an adjoining field. They were Mr Mandla Simon Mxinwa (23) [CT00700], Mr Zanisile Zenith Mjobo (21) [CT00116], Mr Zola Alfred Swelani (22), Mr Godfrey Jabulani Miya [CT00818], Mr Christopher Piet (23) [CT00100], Mr Themba Mlifi (30), and Mr Zabonke John Konile [CT00108, CT03054]. All seven were shot in the head, in addition to numerous other gunshot wounds. Police officers at the scene were Warrant Officers Barnard and McMaster, Majors Johan Kleyn, Dolf Odendal and Stephanus Brits, Captain Charles Brazzelle, Sergeants John Sterrenberg, Andre Grobbellar and Riaan Bellingan, and Constable Thapelo Mbelo.

The police claimed that the deceased were known terrorists who had been killed during a legitimate anti-terrorist operation. Security forces had allegedly acted pre-emptively to prevent these terrorists from attacking a police bus ferrying senior policeman to the nearby Gugulethu Police Station that morning.

The 'Gugulethu Seven' were the subject of an inquest in 1986, a trial in 1987 and a re-opened inquest in 1989. Forensic pathologist Dr David Klatzow seriously challenged the evidence of the police, demonstrating unequivocally that the victims were shot at very close range. In the case of Mr Mandla Simon Mxinwa, Klatzow's evidence was that shotgun cartridge wads were found inside the skull of the deceased, indicating that he had been shot at point-blank range. The medico-legal post mortems stated further all the deceased sustained multiple and extensive gunshot wounds; Mr Christopher 'Rasta' Piet sustained twelve bullet wounds in the head. The outcome of both inquests was a finding by the Wynberg magistrate, Mr Hoffmann, that the seven men had died during a legitimate anti-terrorist operation.

Cape Times journalists Tony Weaver and Chris Bateman published an eyewitness account indicating that the police had shot the victims at close range and that police had shot a man as he was attempting to give himself up. Further eyewitnesses reported seeing a white man shooting a man in the head while he was lying motionless on the ground. Weaver was charged with printing untruths about actions of the SAP and was acquitted. These accounts, together with Dr Klatzow's evidence and allegations by the parents of the deceased that weapons had been planted on the victims, provided the first serious counterpoint to the official version. The post mortem photographs, photographs of the deceased as found at the scene, photographs of Sergeant Sterrenberg

posing over a body and of a policeman stepping against the head of a deceased in the mortuary, combined with the celebratory atmosphere of police after the event as captured on the police video of the scene, also raised questions about the attitudes of the police toward victims. The truth remained buried for a decade until the Commission's investigation revealed an extensive cover-up by the security forces involved in this incident, even at parliamentary level.

A dramatic escalation in armed attacks by MK operatives in the mid-1980s led General Griebenouw of the Western Cape security police to call Brigadier Schoon at the Security Branch headquarters in Pretoria and request the assistance of Vlakplaas. Vlakplaas commander Eugene de Kock evaluated the request and chose Bellingan to lead a team of operatives. Other members were a black security policeman known as Thapelo Johannes Mbelo, white Vlakplaas operative Joe Coetzer and several Vlakplaas askaris, including Mr Gladstone Moss, Mr Eric 'Shakes' Maluleke and Mr Jimmy Mbane.

In early January 1986 they drove to Cape Town in three vehicles including a minibus modified to conceal weapons and explosives. They were based at Koeberg and briefed by members of the security branch. After a failed attempt to infiltrate Mbelo into a group in Gugulethu, Mbane and Maluleke were sent in. They were given weapons and grenades and went to home of squatter leader Yamile claiming to be commanders from exile. They opened a concealed panel in the minibus, showing their weapons. Yamile believed the askaris and introduced them to Christopher 'Rasta' Piet. They soon had the core of the group which became known as the Gugulethu Seven.

The askaris started by fixing Christopher Piet's faulty AK-47, then got the youths to write their biographies, as was standard practice in the liberation movements. Mbane claims that he handed these biographies to Bellingan and the latter conceded at his amnesty hearing that this may have been so. Mbane and Maluleke were reporting to Bellingan and Liebenberg on a regular basis and informed both Bellingan and Liebenberg that these were merely youths, not hardened 'terrorists'. Mbane said he specifically informed them that 'Rasta' Piet was the only one among them with any training. Mbane was tasked to train the youths and gave them basic training in military combat over two months while Eric Maluleke provided political education.

When their training was complete the youths, together with the askaris, planned an attack on a police bus which took senior policemen to Gugulethu police station every morning. This plan was reported to both Liebenberg and

Bellingan by Jimmy Mbane. Bellingan has admitted that Mbane pointed out the location for the proposed attack.

Senior officers met the night before the incident, and more than twenty-five heavily armed policemen were deployed after a briefing at Wingfield Naval Base at 03h00 on 3 March. They were aware that two askaris would be part of the group of 'comrades'. The entire area was encircled and saturated by police from 05h00.

Just after 07h25, Jimmy Mbane, driving a stolen bakery van, began dropping off the seven youths at the site. A grenade was allegedly thrown and the deployed policemen started firing from all sides in a small area of combat. It is alleged that the only one who had time to fire back was Christopher Piet.

The two askaris who had set up the ambush were able to escape and were later rewarded with seven thousand rands each – one thousand rand for every victim. In a process presided over by former Minister of Law and Order Adriaan Vlok, security police headquarters used the video of the incident to get Cabinet to increase the Vlakplaas budget.

THE OUTLINE OF EVENTS REPRESENTS ASPECTS OF THE COMMISSION'S INVESTIGATION INTO THE GUGULETHU SEVEN INCIDENT. WILHELM RIAAN 'BALLETTJIES' BELLINGAN [AM5283/97], THAPELO MBELO [AM3785/96] AND XOLA FRANK 'JIMMY' MBANE [AM8066/97] APPLIED FOR AMNESTY FOR THE KILLINGS. THE COMMISSION WAS NOT ABLE TO MAKE A FINDING AS THE DECISION OF THE AMNESTY COMMITTEE WAS PENDING AT THE TIME OF REPORTING.

Samuel Mzuga Baloi from Welkom

Mr Samuel Mzuga Baloi [KZN/ZJ/111/WE] was unarmed when he was executed by askaris acting under the command and control and with the approval of their commanders in the SAP.

The official version of Baloi's death on 22 February 1990, as reported in the newspapers, stated that "Policemen ... confronted the suspect in Gugulethu about 11.45am yesterday. He was carrying a grenade of foreign origin. When he tried to flee, policemen fired, killing him." ²³

Constable Bambatha, a disaffected SAP member in the Eastern Cape who was in charge of a group of askaris in that region, described this incident quite differently in a statement to Minister Sidney Mufamadi in 1995.²⁴ He stated that he was equipped by his senior commander with an attaché case containing grenades and pistols with the instructions to plant these on any MK persons who were killed:

²³ *Cape Times*, 23 February 1990.

²⁴ Constable Bambatha was shot dead shortly after making this statement.

"I recall an incident in Cape Town during late 1989 or early 1990 in Gugulethu Township, when a male person was pointed out by the askaris. After stopping the vehicle, I approached him and informed him that I was a police official whereupon he ran away. As a result of this, the askaris jumped from the vehicle and chased the man whilst firing at him. Myself and Constable Koopman ... tried to stop them but they succeeded in fatally shooting the man. I then approached the body, discovering that he was dead as well as unarmed. I had the attaché case with me and sent the askaris back to the Kombi so that they could not see what I was doing. I then placed a F1 hand grenade in the dead man's pocket under the guise of trying to help him as members of the community were watching. This fact made it impossible to place the Makharov pistol next to him.

"I later also made a statement that I had discovered the F1 hand grenade on his person. After the incident, the Captain complimented me on my actions and pertinently stated that it was better that the terrorists be killed to prevent their possible release."

Bambatha identified askari 'Louis' and others as the killers. It is believed that this askari was subsequently killed in Welkom by members of the SAP.

Zola Michael 'Jabulani' Dubeni

Mr Zola 'Jabulani' Dubeni [EC2653/97UTA] was shot dead by members of the Security Branch on 14 March 1987. Dubeni joined the ANC in exile in 1980 and worked as an MK operative in Transkei in 1985, transferring to the western Cape in 1986. He was arrested in Nyanga on 13 March 1987 by Security Branch and Vlakplaas personnel including Larry Hanton, and about an hour later pointed out an AK-47 and an F1 grenade at two sites in Nyanga.

Police statements in the inquest give the following version of his death. During questioning at the Security Branch offices the day after his arrest, Dubeni told them that he had an arms cache in the bushes at Faure outside Cape Town. It was decided that he should point this cache out. Warrant Officer JL Nel and Sergeant WR Bellingan contacted Warrant Officer PJ Theron, the explosives expert on standby, and took him along to Faure with Dubeni, who directed them to a site in the bushes. Nel gave Dubeni a spade and instructed him to dig until he reached the material, whereupon Theron would remove it. Dubeni, still in handcuffs and leg irons, started digging on a slope about five metres away, but then allegedly dropped the spade, pulled out a plastic packet and produced a grenade. Nel fired one shot in his direction. Bellingan also

opened fire with an Uzi. Dubeni was shot in the stomach and head and died on the scene. The plastic packet, the entire 'arms cache', was found to have contained a total of four grenades. Lieutenant Liebenberg was called to the scene and, being unable to locate the duty officer for the Bellville District, asked Lieutenant Desmond Segal to take over investigation of the scene.

There are serious discrepancies in this version of events. The Commission has established from MK sources that Dubeni had recently been disarmed by vigilantes in Khayelitsha and had been re-armed with only an AK-47 and an F1 grenade by a fellow operative. This is consistent with the weaponry pointed out on his arrest. Secondly, MK sources in charge of weaponry in the region at the time denied the existence of any arms cache whatsoever in Faure. It is improbable that an arms cache consisting of only four grenades would have been established at such a remote site.

The police's own version shows serious violations of the procedures set out in the 1980s Security Branch manual on investigations of terrorist cases:

- no officer was called to be present at the pointing out;*
- no photographer was called. This serious violation of procedure suggests that there was no intention of bringing charges against Dubeni, since the pointing out of the arms cache would have been inadmissible in court.*
- No photographs were taken or reconstruction of the scene done even after the event.*

The inquest itself did not include ballistics tests or reports of where shotgun wads or spent cartridges were found. The post mortem report was cursory and the general description of wounds did not match the photographs of Dubeni's wounds. There was no photograph of the 'entrance' wound in the abdomen. The inquest magistrate, despite an application, refused to take oral evidence.

THE COMMISSION RECOMMENDS THE REFERRAL OF THIS CASE TO THE PROSECUTING AUTHORITIES FOR FURTHER INVESTIGATION.

Mthetheleli Gcina

Mr Mthetheleli Gcina was shot dead by askaris Lucky 'Agrippa' Madubula and David Musimeke who stated to the inquest that early on 27 September 1988 they met with an informant who wished to point out a trained ANC 'terrorist' to them. They then travelled in a minibus wearing civilian clothes. The

informant pointed out an individual in Gugulethu as the said ANC operative. Musimeke and Madubula jumped out of the vehicle and approached him. Gcina allegedly had a plastic bag in his hand and produced a pistol. He then fired two shots while retreating. Both askaris returned fire. Gcina was reportedly wounded on his left cheek and stomach and died en route to hospital. The askaris took possession of a Makarov from him. Lieutenant Desmond Segal arrived at the scene, after apparently hearing shots. Musimeke was involved in the similar attempted killing of MK member Bongani Jonas a year earlier.

Ashley Kriel

Mr Ashley Kriel [CT00307], a young activist from Bonteheuwel, left the country in late December 1985, joined the ANC and underwent military training in Angola. He infiltrated the country in April 1987. The circumstances of his death have been the subject of controversy. On 9 July 1987 Warrant Officer Jeffrey Benzien of the Terrorism Detection Unit together with Sergeant AD Abels went to Kriel's Athlone home. The two allege that they were disguised as council workers and were only intending to reconnoitre the place.

Kriel allegedly opened the door holding a pistol concealed beneath a towel. A scuffle broke out during which Benzien shot Kriel in the back with Kriel's own weapon. There is evidence to contradict this version of events. Firstly, it was established that operational planning was done in the Athlone police station prior to the incident. Secondly, other members of the Security Branch were concealed in the vicinity. Thirdly, forensic evidence contradicts this version of events. Blood was found in the bathroom and the floor between the bathroom and kitchen door. Further, the bullet entrance wound indicated direct contact with the skin as opposed to passing through his clothing.

One grenade was allegedly found under a pillow on the bed by Warrant Officer Nel of the Security Branch. No other weaponry was present. The inquest found no one criminally responsible for the death. Despite applying for amnesty for the killing of Kriel, Benzien [AM5314/97] continued to maintain that the death was accidental. The Amnesty Committee had not made a decision at the time of reporting.

Patrick Welile 'Deks' Dakuse

Mr Patrick Welile 'Deks' Dakuse was shot dead by Murder and Robbery Unit members Lieutenant Desmond Segal and Sergeant Etsebeth on 23 January 1989, allegedly while showing police the site of a buried weapon in the

bushes near Khayelitsha. Dakuse was a well-known militant activist. The Commission also has an affidavit made by Dakuse in 1986 regarding his torture and assault in 1986, three years prior to his killing.

Segal stated to the inquest that after questioning, 'Zola Nzungu' (Dakuse) indicated that he would point out where his weapon was buried. Dakuse then allegedly directed them to a bushy area near Khayelitsha. Segal states that Dakuse dug while handcuffed, then took a plastic bag out of the hole and handed it to him.

"The next moment I heard Sergeant Etsebeth shout 'Watch out, hand grenade.' I instinctively ducked and fell on the ground. At the same time I heard two shots go off and stood up, and I saw that the deceased was lying on the ground and that there was blood on his face. Sergeant Etsebeth reported to me that the deceased had a hand grenade in his hands and that he had fiddled with the detonator. I went through the plastic bag and took possession of a revolver whose serial number was not visible."

The inquest found that Dakuse was killed by police acting in self-defence.

Ayanda 'Ace' Silika

Mr Ayanda 'Ace' Silika (23) was shot dead in Crossroads while allegedly escaping from the custody of members of the Unrest Investigation Unit on 12 May 1986. Silika, a youth activist, was arrested as a suspect in the fatal shooting of Constable Patrick Legong on 25 March 1986. His brother, Mr Guarantee Silika, had been shot dead by police during the street conflicts of 1985. The investigating officer stated:

"The suspect acknowledged to me that he had shot the police officer on 25 March 1986. He did it as revenge because the police had shot his brother dead during unrest the previous year. He told me that he was very shocked by the death of his brother and could not accept that his brother was dead. He had a T-shirt made with his brother's face on it and wore it permanently. The death of his brother tormented him..."

Silika was allegedly taken by the investigation team to Crossroads at 04h00. Certain members then left the Casspir to 'handle other tasks'. Two unit members remained with Silika, who asked to urinate outside. Silika then allegedly attempted to escape and succeeded in breaking away from the grasp of one unit member and running towards the shacks. It is alleged that one unit member pursued Silika, warned him to stop, and then fired four shots at him,

fatally wounding him. The inquest found that no offence had been committed in killing Silika.

Peter Lathli Mabilo

Mr Peter Lathli Mabilo [CT04603] was shot dead on 21 August 1987 in Kimberley. The police (Unrest Unit together with Security Branch personnel) surrounded him in the house early in the morning. When he came out he allegedly threw something at them which they believed to be a grenade. They then shot him dead. The objects which he allegedly threw at them were an empty plastic cup and an old shoe. An F1 hand grenade was allegedly found in his pocket. No other arms or weapons at all were found on him or on the property. The ANC in the Northern Cape confirmed to the Commission that he had no weapons on him at the time, making the single hand grenade allegedly found in his possession suspect.

Nkululeko 'Solly' Mutsi and Anton Fransch

Mr Nkululeko 'Solly' Mutsi and Mr Anton Fransch died in similar circumstances in shoot-outs with police. Mutsi died on 5 July 1988 in Gugulethu after a four-hour gun battle with police. The inquest states that although he had been shot in the chest by the SAP, it was finally a self-inflicted bullet to the head that killed Mutsi.

Mr Anton Fransch [CT00302, CT03204] was wanted by the police as a student activist and member of the Bonteheuwel Military Wing before leaving the country in September 1986 to be trained by the ANC in Angola. He died in a battle with security forces after trading gunshots and grenades for some six hours on 17 November 1989. A team of Security Branch and Riot Unit members under Captains Liebenberg and Bester respectively had been deployed to the house in Athlone at 01h00. Major Brazelle subsequently took over at the scene. Brigadier Griebenauw and Colonel Smit were summoned from the Security Branch.

A security force team under Sergeant Scociatti was sent into the house but was allegedly repulsed by a grenade and gunfire from Fransch. This is contradicted by a statement made to the Commission by Constable Stemmet who stated that Scociatti was the first to open fire. From this point on, persistent volleys of shots and grenades took place between the security forces and Fransch throughout the night. A Casspir was used as a breaching device to bulldoze a wall shielding the house. According to police records, Major Brazelle

attempted to negotiate with Fransch. This is contradicted by eyewitness reports which state that police shouted at Fransch "Come out you pig, today you die."

At 07h45 Sergeant Roslee was authorised to throw an M26 grenade into the room occupied by Fransch. According to the police, there was a detonation inside the room before Roslee could throw the grenade. After police penetrated the house, Fransch's body was found badly disfigured by a hand grenade explosion. Fransch still had remaining ammunition with him when he died. There has been persistent speculation as to whether the final grenade was self-detonated in a final act of suicide, or whether it was thrown by the security forces. The Commission has been unable to determine this matter conclusively.

Mr Mark (now Yazir) Henry [CT00450] and his father were detained by the security police on 16 November 1989. Yazir Henry was interrogated and the lives of his family members were threatened to get him to reveal the whereabouts of 'Mohammed' (Anton Fransch). Fearing for the lives of his family and knowing his father was also in detention, he revealed the address in the belief that the security police would arrest 'Mohammed' as he had been. He was then held under section 29 for a further six months.

On his release, Henry was accused of being an askari. The Commission has investigated these allegations and has found that he was not an askari. The security police regarded him as a 'terrorist' and did not refer to him as a source or attempt to protect his identity, as is always done with informants.

Coline Williams and Robert Waterwitch

Four limpet mine attacks in the Peninsula were planned for the evening of Sunday 23 July 1989 as part of an anti-election bombing campaign by MK. Magistrate's courts were targeted as they were to be used for election nominations the following day. Mines exploded at a police station in Mitchells Plain and at the Somerset West magistrate's court. At the Bellville magistrate's court security forces intervened to prevent the blast. The fourth mine, intended for the Athlone magistrate's court, detonated behind public toilets opposite the court. The bodies of MK operatives and youth activists Ms Coline Williams (22) and Mr Robert Waterwitch of the Ashley Kriel unit were found at the scene.

Subsequent inquests found that they had died as the result of an explosion. While initial impressions suggested that the operation had simply gone awry, a number of questions have remained concerning the circumstances of their

deaths. Suspicions existed that the explosives had been 'zero timed' for immediate detonation.

- 229 The Commission was unable to make a conclusive finding in this matter. However, the Commission obtained evidence that security forces had agents in or very close to the unit concerned. This fact raises questions regarding the operation and the deaths of the two operatives.
- 230 Firstly, the Commission finds that youth activist Mr Geoffrey Brown was an informant for the National Intelligence Service (NIS). Brown, who was also involved in Umkhonto weSizwe (MK) political structures, was a close friend of Robert Waterwitch and met with him virtually on a daily basis. Brown was handled by National Intelligence Service (NIS) member Johan Hattingh and, under the guise of writing political analysis pieces, received large sums of money. Brown received his last grading one month before the incident. He claims he was an unwitting agent; Mr Hattingh's testimony concurs with this.
- 231 The day after the fatal explosion, Brown was involved in removing weapons and explosives from Waterwitch's home. These were not handed over to the Ashley Kriel detachment but rather to persons uninvolved with military structures and others outside of their discipline. These weapons are still not accounted for although it is known that the AK-47 taken from the Waterwitch house was used by a Mitchells Plain activist who was part of an unofficial 'security detail' for President Mandela when he visited Mitchell's Plain.
- 232 Secondly, Commission investigations have established that the unit was infiltrated by Military Intelligence. One Aristedes Spannelis of the Directorate of Covert Collections (DCC) tasked by SADF Western Province Command has confirmed that he was the handler of a source (one Shane Oliver alias Perry alias Ian) inside the Ashley Kriel detachment and that information received from this source was passed on to the security police. Through Oliver it may have been possible for the security forces to gain access to the group's weaponry or logistics and conduct surveillance on its membership. The possibility of rigging explosives cannot be discounted. It is notable that at least two other explosive devices used in the simultaneous raid did not go off or were defused by bomb experts. Ms Venessa Rhoda November, who met with Coline Williams immediately before embarking on their respective operations, and Mr Shamiel Isaacs were compelled to abandon their attempted laying of a limpet mine at the Heideveld rent office when the device appeared faulty.

233 In the case of Shane Oliver it is known that on one occasion security forces substituted a limpet mine for one filled with clay, in a 'credibility operation' for Oliver without endangering him. Instances of security force tampering with MK weaponry have been established in several cases, in particular altering the timing devices in order to eliminate the operative.

234 Further, it is noted that certain of Williams's personal effects were returned to the family completely undamaged by the explosion. One *post mortem* report could not conclude with absolute certainty that the victims were alive at the time of the explosion. Lastly, Williams stated on the day of her death that she believed she was being followed.

Civil Co-operation Bureau (CCB) covert operations

235 The Western Cape saw at least four CCB operations under the direction of its Western Cape regional manager Abraham '*Slang*' van Zyl, a former member of the Brixton Murder and Robbery Unit. The CCB appears to have used both conscious and unaware members, particularly known felons or persons from the criminal underworld. This use of gang members is detailed in an Athlone report [CR 396/08/89] which contains statements of four gangsters who were members of the Dixie Boys, namely Isgak Hardien, 'Peaches' Gordon, Clive Petersen and Irwin Meyer. Hardien has given details of his recruitment by *Slang* van Zyl and some of the operations in which he was used. He was transferred from being a source for the Bellville Murder and Robbery Unit, handled by officer Ganger, to the CCB where he was handled by Van Zyl. The recruitment of 'Peaches' Gordon was facilitated by a policeman at Athlone police station who was a relative of Van Zyl. The operations fell under the umbrella project known as Project Goldie.

Attempted assassination of Mr Dullah Omar (now Minister of Justice)

236 Mr Edward James Gordon aka 'Peaches' was tasked to conduct surveillance on several key leaders of the UDF, COSATU and SWAPO. Omar was a leading UDF official in the region, and 'Peaches' Gordon was specifically tasked to kill him using poison. Omar was ill at the time and the initial plan was to shoot him. When this proved difficult, unsuccessful efforts were made to contaminate the medication he took for his heart condition. Gordon died a few weeks after giving testimony to the Harms Commission. His badly mutilated body was found on a highway close to his home. His mother claims he was killed by gangsters acting at the behest of the CCB. The murder docket was closed after the witnesses

were also killed. Mr Igshaan Ariaanse, who was to be the key state witness, was executed together with his woman friend Ms Dorothy Spencer, after being allowed to walk away from custody at Rondebosch police station.

Bombing of Early Learning Centre

237 In August 1989 the CCB bombed the Early Learning Centre in Athlone, a crèche facility used by UDF organisations as a meeting venue. A meeting of the Cape Youth Congress (CAYCO) had just concluded when the bomb exploded. Several individuals sustained minor injuries. A survivor has stated that, had the meeting lasted a few minutes longer, the entire executive of CAYCO could have been killed.

238 Other operations included 'Operation *Apie*', which involved placing a baboon foetus on the property of Archbishop Desmond Tutu, and an arson attack on an Athlone printing press.

Bombings by the Security Branch

239 Members of the Security Branch planted limpet mines in public buildings during this period. Community House in Salt River, which housed many anti-apartheid organisations, was bombed in early September 1987 by Vlakplaas and Security Branch operatives, some of whom have applied for amnesty. During 1989, several 'false flag' operations were conducted, including a bomb attack on the Athlone post office and the First National Bank on 22 and 24 August 1989 respectively. Amnesty applications were received.

240 During the Defiance Campaign in the Peninsula in 1989, limpet mines were used to blow up the toilets in Strand, the beach resort outside Cape Town that was the target of the 'beach apartheid defiance' campaign. Vlakplaas operatives including Wouter Mentz [AM2775/96], Colonel Dave Baker and Warrant Officer Louw van Niekerk were under orders from Colonel Eugene de Kock.

241 There were, in addition, numerous arson attacks on properties housing anti-apartheid organisations. During 1985, union offices in Cape Town were destroyed in an arson attack. An Observatory bookshop was firebombed in 1988. No amnesty applications were received for these attacks.

Vigilantes and Inter-Group Conflicts: Contra-mobilisation

- 242 The state's strategy of contra-mobilisation sought both to build anti-liberation movement forces by covert means and to foster divisions within communities. In the Western Cape, the social divisions between the more 'traditionalist' sectors of African townships in hostels and squatter camps and the more permanent township dwellers offered the potential for successful contra-mobilisation. From 1986 onwards the state poured resources into those sectors of the townships that were prepared to adopt a pro-government stance. Illegal actions committed by these groups were permitted, ignored and promoted, particularly if they targeted supporters of the liberation movements.
- 243 As described above, the repeated conflicts in the squatter areas of Cape Town in the 1980s have their roots in the state's Coloured Labour Preference Policy, which resulted in rigorous influx control, pass law prosecutions and squatter camp removals. The discrimination between Africans with legal and permanent residence in Cape Town and those deemed 'illegal' and living mainly in hostels and squatter camps created the environment for the conflict that tore communities apart. It also led to a very fragmented and divided civic movement in the Peninsula.
- 244 Three conflicts in Cape Town's informal settlements reflect different aspects of the state's practice of contra-mobilisation in this region: the conflict between the *witdoeke*'fathers' and the 'comrades' from December 1985 to June 1986; abuses committed by the former *witdoeke* leaders in Khayelitsha and Old Crossroads from 1986 to 1989; interventions in an internal split within KTC squatter camp in 1987 to 1988.

Background

- 245 Crossroads squatter camp was first settled in 1975 and grew rapidly after 1977 as homes in other areas were bulldozed by the state. In Crossroads, too, residents faced eviction orders and repeated police raids in the state's ongoing efforts to remove the camp. After a major local and international 'Save Crossroads' campaign, the Minister of Co-operation and Development, Mr Piet Koornhof, granted a temporary reprieve in 1979. In addition, an agreement was reached to build a new township for many Crossroads residents, to be known as New Crossroads.
- 246 Most squatter camps developed complex structures of internal organisation: an executive committee with 'headmen' who would also run 'courts' and 'community

police'. Forms of 'taxation' for access to sites became standard as leaders came to depend on financial contributions from residents for a range of issues: funerals, legal fees and community structures such as crèches. Conflict over political control over these finances was common, resulting in breakaway groups.

- 247 The fierce struggles with the state facilitated the emergence of powerful leaders as protectors and patrons of squatters. In Old Crossroads, a pattern of authoritarian leadership was entrenched under Mr Johnson Ngxobongwana. Links to the UDF and other organisations in the formal townships remained largely symbolic as leaders tended to be preoccupied with internal squatter issues. The political relationship was also weakened by long-standing divisions between legal township residents and migrants (the *amagoduka*), who were based in the hostels and squatter camps.
- 248 During the course of 1985, Crossroads leader Johnson Ngxobongwana increasingly distanced himself from the UDF. It was widely speculated that he had switched allegiances to the state and its security forces while in prison awaiting trial on charges on which he was later acquitted.
- 249 The first open conflict between the 'comrades' and the old guard, or 'fathers' (later called *witdoeke*, after their distinguishing white headcloths) occurred towards the end of December 1985, spilling over into the new year as groups of 'fathers' rampaged through New Crossroads, attacking activists. At least seven people were killed and many injured on both sides. Hundreds of activists fled the area. Allegations of police encouraging and escorting the 'fathers' on their raids were made in the media at the time and in statements to the Commission. During the conflict, *witdoek* leader Prince Gobingca rose to prominence. The Commission found that Gobingca was a source for both the Security Branch and Military Intelligence (MI) as from an unspecified date in the 1980s.
- 250 The first six months of 1986 were marked by sporadic ongoing skirmishes and conflicts between Ngxobongwana's supporters and areas or activists aligned with the UDF. Although *witdoeke* stated that they were resisting the militant practices of the 'comrades', such as necklacings and people's courts, there were victims of necklacing and burning on both sides of the conflict. In addition, it was widely known that Crossroads itself operated systems of informal justice and prisons. Legal support bodies at the time took numerous *affidavits* from those held and harshly beaten in one such prison. While the people's courts on the 'comrades' side were repeatedly raided by police, the *witdoek*

courts and prison remained untouched or even protected and defended by the forces of law and order, as illustrated by the following case.

Killings of Vuyani Dyaboza and Lukhanyiso Finye

On the night of 25 May 1986 a carload of youngsters was stopped at a witdoek roadblock. Mr Vuyani Dyaboza [CT00730], Mr Lukhanyiso Finye [CT00730] and a young woman were then abducted by the witdoeke and held in an informal prison in Crossroads. While the young woman managed to escape, Finye and Dyaboza were hacked to death and their bodies dumped. Subsequent police investigations led to charges being laid against Ngxobongwana regarding the operation of this court. Police official Leonard Knipe testified to the Commission that he was instructed by his senior to ensure Ngxobongwana's release on bail on orders 'from the top'.

"I remember that following Ngxobongwana's arrest, which was regarded as a major breakthrough, that his arrest was reported to the then Divisional Criminal Investigations Officer, [a Brigadier] who was enthusiastic about the arrest. ... During the early afternoon of the same day that Ngxobongwana appeared in court I received a telephone call from an agitated Brigadier ... The impression was that he had been severely rebuked because of our actions taken against Ngxobongwana and that he had been instructed by either the State President or Minister to see to it that Ngxobongwana was released on bail. I was informed that the authorities were fully conversant with Ngxobongwana's court, that it was not a people's court but a tribal court. I was instructed to immediately see to it that Ngxobongwana was released on bail. I 'phoned the State Prosecutor at Wynberg Magistrate's Court and related the instructions which I had received from the Brigadier to him. That same afternoon Ngxobongwana was brought before the court and released on bail of R50.00."

The attitude of the state

251 Squatter camps were posing a major security threat at this time, with regular sniper attacks on police or army vehicles, mainly from the direction of the Old Crossroads satellite camps and KTC. Hand-grenade attacks also strongly indicated the presence of trained guerrillas. This seems to have led to a convergence of interests with the *witdoeke*, the security forces and the local government agencies wanting to upgrade the original Crossroads area, rid the settlements of 'comrades' and eliminate the security threat faced by the police.

252 The Commission uncovered evidence of covert official endorsement of and support to the *witdoeke*. Documentary evidence links the Western Province Joint Management Centre (JMC), Western Province Command of the SADF and senior SAP personnel at provincial level to this endorsement. More significantly, this local level of support is endorsed by the highest security structure in the country, the State Security Council. The subsequent court case against the Minister of Law and Order points to a high level and expensive cover-up of these acts.

253 On 10 January 1986, shortly after the first mass attack by the *witdoeke*/'fathers' of Crossroads on New Crossroads, the JMC chairperson Brigadier AK de Jager stated that "the actions of the 'old guard' deserved support, though this should occur in a covert manner."

254 In March 1986, General Wandrag's office sent out guidelines for managing unrest, describing contra-mobilisation as follows:

Efforts must be made to get the residents of the black areas motivated to resist the revolutionaries as follows:

Contra-mobilisation must be small scale and implemented at regional level. Positive resistance movements must be encouraged. This must be done clandestinely.²⁵

255 A sub-JMC meeting in the Western Cape noted that "SADF WP Command is already working in this direction to get the 'fathers' to resist the comrades."²⁶

256 During March 1986, the JMCs were tasked with drawing up plans to deal with unrest trouble spots. The final plan presented to the State Security Council (SSC) on 14 April 1986 specified the following for the Western Cape:

Goal: To remove the influence of the Comrades and other activists on the community. Tasks: To support well-disposed moderate blacks.

Actions: Covert organising of adult law-abiding black men (fathers) to go against the Comrades in their terror campaign against the residents of black areas.²⁷

257 The SSC meeting included the President PW Botha, General Magnus Malan (Minister of Defence), Mr Adriaan Vlok and Mr Roelf Meyer. The meeting was

²⁵ *Kriptoberg* 25 March 1986 GEHEIM TIN 2/10/7 (From file C7/6/7/30, Thomas Boydell Building).

²⁶ 'MAATREËLS WAT GETREF IS, SOOS VOORGESTEL IN SUB GBS VEIKOM OP 1986-03-25' This has an attached memorandum: WP SUB GBS 1986-03-26. From file C7/6/7/30, Thomas Boydell Building.

²⁷ These JMC plans were presented to the SSC on 14 April 1986 (Minutes 5/86). From File No. 22/2/5/2, Pretoria State Archives.

also attended by Mr Niel Barnard (NIS) and the Commissioner of Police, General PJ Coetzee, who was later to testify at the trial (see below).

- 258 On 24 April 1986, a meeting was held at Athlone SAP District Commissioner's office between *witdoeke* leaders and members of the SAP. Brigadier Strydom promised to take their case to the Commissioner of Police and to the Minister of Law and Order.
- 259 Chief *witdoek* leader Mr Sam Ndima testified to the Commission that two follow-up meetings included various "men from Pretoria" who, in his understanding, gave permission for the *witdoeke* to take action. One man described himself as "the secretary of the chairman in Pretoria". Ndima also alleges that two sharpshooters, Warrant Officer Barnard (deceased) and Captain Loock were allocated to assist them. Video footage exists of Loock running with a group of *witdoeke* shooting at the 'comrades' and of members of his unit amiably greeting *witdoeke*. Captain Loock denied this in a Commission section 29 hearing.

The attacks

- 260 Between 17 and 21 May 1986, thousands of *witdoeke* from Old Crossroads systematically torched and looted the satellite squatter camps of Nyanga Bush, Nyanga Extension and Portland Cement. Both SAP and SADF personnel were present at the scene and not a single *witdoek* member was arrested. Around thirty-eight people were killed in incidents associated with this first attack and many others injured. An estimated 30 000 people were made homeless. The security forces then encircled the area with barbed wire to keep its former residents out.
- 261 On 21 May the WP JMC reported to the Secretariat of the State Security Council:

*the fathers are well-disposed towards the security forces and want law and order. Fathers cannot be openly supported due to the hostility of the leftist press.*²⁸

- 262 When it became apparent that KTC was facing a similar threat of destruction by the *witdoeke*, the Legal Resources Centre (LRC) applied for an urgent Supreme Court interdict against the police and *witdoeke* restraining them from unlawfully entering KTC and destroying the camp. A temporary interdict was granted on 26 May²⁹, restraining the SAP from "participating in, assisting in, encouraging,

²⁸ 'WPGBS 22/7/7 SITRAP KRUISPAD ONLUSTE (Situation Report: Crossroads unrest). From File 22/8/5/13 Vol 1, Pretoria Archives.

²⁹ Application 5317/86 CPD before Mr Justice Howie.

permitting, or allowing any unlawful attack upon any person or property residing within or situate within the area known as KTC". It also directed the security forces to take all reasonable necessary steps within their powers to prevent any member of the SAP or the SADF or any other person from perpetrating any of the acts mentioned above.

- 263 Despite this interdict, thousands of *witdoeke* assembled outside the Development Board offices next to Crossroads on the morning of Monday 9 June and moved off in groups to attack. Over three days, KTC was systematically set alight and destroyed. Each morning the *witdoeke* would gather, march to KTC and engage in attacks, arson and looting. Not one *witdoek* was arrested during the entire attack, although several journalists were arrested and removed from the area. Scores of *affidavits* from clergy, journalists and residents on the scene described Casspirs escorting *witdoeke* and reported other incidents indicating complicity. Approximately twenty people were killed in this second attack and a further 30 000 people made homeless.
- 264 A total of over 65 persons died in the two attacks and up to 60 000 were made homeless. The Commission received several statements relating to those killed in the two attacks including Donald Mgadi [CT08606], Rennick Ndzishe [CT00888], Zacharia Dumile Ntsethe [CT01572], Dumile Ntantiso [CT00750], John Matatana Galaweni [CT01555], Mhlangabezi Dibela [CT01582], Stewart Maxama [CT01581], Christopher Kwaaiman [CT01575], Sithembiso Sydney Mduba [CT00509] and Makhosi Mdlalo [CT00952]. Other statements were taken in respect of those injured and those whose homes were burnt down. ITN cameraman George De'Ath was hacked by *witdoeke* on 10 June near KTC and died several days later, becoming the first journalist to be killed in the South African conflict.
- 265 Further examples of state endorsement of the actions of the *witdoeke* can be given.
- a On the morning of the start of the *witdoek* attack on KTC, the Western Province JMC arranged a flight on an SADF aircraft for two *witdoeke* leading the attack and Mr Ricky Schelhase and Mr Graham Lawrence from the Development Board to consult Mr Ngxobongwana, then in Ciskei. The flight request details were sent to the Secretariat of the State Security Council.³⁰
 - b Five hours after the start of the attack on KTC, the Western Province JMC sent the Secretariat of the State Security Council in Pretoria a signal message stating that:

³⁰ Fax sent from WP Command to 5 Air Command, as well as the SSSC. TOP SECRET. K53/848/JUN86, 061330B. From File No. 22/8/4/1/1, Pretoria State Archives.

in order to prevent the stayaway actions on 16 June, a gathering of witdoeke in Crossroads has been planned during which the message to go to work will be conveyed to the masses. This action will be a victory feast in the form of a cattle slaughter. The costs have not yet been finalised but can be estimated at about R3 000 and it would be appreciated if the necessary funds could be made available. Finalisation will not be reached until the 11 June when you will be contacted again.³¹

266 The document clearly supports and endorses the group engaged in arson and killing. It should also be noted that the attack on KTC ended on 11 June 1986, the date on which 'finalisation' would be achieved.

267 A statement to the Commission by former Security Branch member Mr Michael Bellingan further illustrates the attitudes of the local security forces:

Sometime during 1986 I travelled to Cape Town to hold discussions apropos 'Stratcom' actions. During our second day at Cape Town Brigadier Strydom (local Security Branch commander) held a meeting with the head of a local vigilante group, named witdoeke ... Brigadier Strydom said that the fellow had summed up by saying that they should get co-operation because, in the words of this leader, 'Ons is mos maatjies.'

Shortly after the meeting the Brigadier, Van Niekerk and I flew over the squatter camps to view the work of the witdoeke. The witdoeke ... were attacking the inhabitants and burning their shacks. It looked like a successful war mission because of the 'line' of advance and the enormity of the damage.

The SAP were not permitted into the area by instruction of senior command in the region. The uniform members told me they had been told it was too 'dangerous' to intervene. The three of us in the helicopter (official SAP helicopter with pilot for SAP) were satisfied that ANC activists in the area were getting a hiding. Furthermore, that the SAP could not be implicated. You can bet that no official correspondence reflected any of these victims!

In official documentation there was an 'unwritten' policy to stick to matters which could be justified by the Minister. This does not mean that the SAP always got it right, but it did provide a culture of plausible deniability and also, because of compartmentalisation, most members of the SAP had no idea of the broader picture or specific strategies.

31 WPGBS/888/9 JUN 86. From File No. 22/8/4/1/1, Pretoria State Archives.

268 The Commission obtained a statement from a person whose identity will not be disclosed by the Commission as follows.

Within a day or two of the conclusion of the Witdoek/Comrades violence I received a telephone call from [an official] of the Western Cape Development Board asking to see me urgently late the same afternoon at my office. He seemed very distressed over the telephone. When he arrived he was clearly very distressed and he asked me to keep absolutely confidential that which he was about to tell me. I agreed to accept his condition of confidentiality. He then proceeded to tell me that he had been that day at a debriefing session on the Crossroads violence that had been held at the Bishop Lavis police facility. They had been informed by [a Brigadier] that the violence between the two factions in Crossroads had been orchestrated by the police. [The official] was clearly shattered by this information, scared and not clear as to what he should do.

The court case

269 KTC residents then instructed the LRC to sue the Minister of Law and Order for damages sustained during the attacks. The Supreme Court damages claim was on behalf of twenty-one parties whose respective claims exceeded R10 000.³² It was alleged that members of the SAP had made common cause and assisted the persons from *inter alia* Old Crossroads in destroying, damaging and/or causing the loss of the said dwellings and property. Alternatively, they had negligently failed to take reasonable steps to prevent the destruction of KTC.

270 The Minister of Law and Order denied these allegations. Throughout the case, all defence witnesses representing the state consistently denied any involvement in the attacks or support to the *witdoeke*. The Commissioner of Police, General Johan Coetzee testified that the police were trained to be impartial and it was not in the 'culture' of the SAP to take sides or engage in illegal actions. He stated that "*ek was nooit in 'n kabinetsvergadering waar die sake gedebatteer is of so 'n saak gedebatteer is nie*"³³ General Wandrag of SAP Head office also denied any knowledge of any conspiracy and argued that the SAP did not regard the ANC or 'comrades' as the enemy, only as criminals.

271 Despite these denials, the state took the highly unusual step of issuing Section 66 notices barring access to evidence requested by the LRC.³⁴ Five Section 66

32 The other 3000 claims were issued out of magistrate's courts.

33 Court record, p. 4595.

34 In terms of section 66 of the Internal Security Act, a Minister of State who was of the subjective opinion that disclosure of certain evidence could prejudicially affect the safety of the state could prohibit the evidence from being aired by issuing such a certificate.

certificates were issued by three Ministers. Three were signed by Minister of Law and Order Adriaan Vlok, one by the Minister of Defence Magnus Malan and one by Deputy Minister of Law and Order Roelf Meyer. The following kinds of documentation were barred, *inter alia*: Specific written instructions or orders given by Major General Wandrag relating to the events; almost all SADF documentation relating to their activities; all general staff meeting minutes of the SAP referring to the events; security police documents; documents relating to the helicopter used by the security forces during the attacks; and JMC documentation.

272 The case ran from September 1987 to June 1989 and was settled out of court in February 1990 by the withdrawal of the action and the allegations set out in the claim. Thus there was no judgement and no court decision.³⁵

THE COMMISSION FINDS THAT THE ORIGINS OF THE CONFLICT LAY IN HISTORICAL RIVALRIES AND POLITICAL DIFFERENCES BETWEEN DIFFERENT GROUPS AND AN INCREASING TENDENCY TO RESOLVE SUCH DIFFERENCES BY VIOLENT MEANS. HOWEVER, THE COMMISSION FINDS THAT THESE CONFLICTS WOULD NOT HAVE RESULTED IN THE SCALE OF VIOLENCE AND DESTRUCTION THAT LED TO THE DEATHS OF OVER SIXTY PEOPLE AND THE DESTRUCTION OF OVER 20 000 HOMES WITHOUT THE PERMISSION, FACILITATION AND ENDORSEMENT OF THE SECURITY FORCES.

IN THIS REGARD, THE COMMISSION FINDS EVIDENCE THAT AT LEAST THE WESTERN PROVINCE (WP) SECURITY BRANCH, THE WP COMMAND OF THE SADF AND THE WP JMC WERE INVOLVED IN SUCH ENDORSEMENT. FURTHER, THE COMMISSION FINDS THAT THE STATE SECURITY COUNCIL APPROVED AN OVERALL JMC PLAN THAT INCLUDED THE COVERT ORGANISING OF THE *WITDOEKE* TO RESIST THE 'COMRADES'. THE COMMISSION FINDS THAT THE ISSUING OF SECTION 66 NOTICES BLOCKING ACCESS TO CRUCIAL DOCUMENTATION IN THE COURT CASE AMOUNTED TO CONCEALMENT OF SUCH SUPPORT.

THE EVIDENCE CONSIDERED INCLUDES:

- THE DOCUMENTATION PRESENTED ABOVE.
- THE WITNESS ACCOUNTS OFFERED AT THE TRIAL AGAINST THE MINISTER OF LAW AND ORDER WHICH TESTIFIED TO GROSS NEGLIGENCE IN HALTING THE ATTACK AS WELL AS ACTIVE COMPLICITY.
- THE ABSENCE OF ANY PROSECUTIONS OF THE ATTACKING PARTY IN THE CONFLICT.
- THE INTERVENTION IN THE TRIAL OF JOHNSON NGXOBONGWANA BY SENIOR MEMBERS OF THE SECURITY FORCES.
- THE RELATIONSHIP BETWEEN PRINCE GOBINGCA AND THE SECURITY FORCES, INCLUDING CAPTAIN PAUL LOCK.
- THE EVIDENCE OF RICKY SCHELHASE CONCERNING THE GOALS OF THE ADMINISTRATION BOARD AND THE BROADER SECURITY STRATEGIES IN PLACE AT THE TIME OF THE ATTACK.

³⁵ It was agreed that a trust would be set up to benefit all victims of the May and June burnings. An amount of R2.5 million was disbursed into the client community. Money was disbursed to individual victims or through the building of community halls.

FURTHER, THE COMMISSION RECOMMENDS THAT THE ROLES OF CAPTAIN PAUL LOOCK AND W/O BARNARD IN THE CONFLICT, AND THE RELATIONSHIP BETWEEN JOHNSON NGXOBONGWANA, THE STATE AND THE SECURITY FORCES ARE FURTHER INVESTIGATED.

Crossroads and Khayelitsha, 1986–1989

- 273 In line with the McCuen ‘oilspot strategy’ through which politically compliant communities were rewarded, the state made available millions of rands for upgrading Crossroads. ‘Mayors’ Ngxobongwana and Hoza were able to consolidate their control of their camps in conjunction with the local authorities – the Crossroads Town Council and the Lingeletu West Town Council in Khayelitsha respectively. These areas were to remain ‘sealed’ to the resistance movements until the end of the decade, although elements of opposition in Khayelitsha did exist. As ‘mayors’, Ngxobongwana and Hoza were able to draw upon the resources of the Town Councils to extend their patronage base.
- 274 These two leaders were able to run these areas as virtual private fiefdoms, establishing an extensive network of control through financial extractions and informal judicial control of the population. The *amasolomzi* (informal community police) established a brutal reputation, being linked to numerous violations. In the second half of 1988, numerous urgent interdicts were applied for in the Supreme Court³⁶ against Hoza and/or his *amasolomzi* by Khayelitsha residents, particularly those linked to the Joint Action Committee, a body which threatened Hoza’s political supremacy in the area. The statement of Fumbatha Sidwell Mcabangeli [CT01018] gives a picture of the situation. After he and several others laid charges about the beatings and torture that took place in the ‘jail’, he was again beaten and held at the ‘jail’. The actions of the *amasolomzi* and the informal courts were both supported and encouraged by the local authorities and security forces as ‘tribal courts’ aimed at keeping law and order.³⁷ People’s courts run by ‘comrades’, however, were vigorously crushed and the ‘comrades’ charged with sedition.
- 275 Political challenges or threats were not tolerated by Hoza or Ngxobongwana, leading to several incidents of violence. In Khayelitsha, the Joint Action Committee (a body opposed to Hoza) was subjected to ongoing harassment and attack by Hoza and his group. In Crossroads, Prince Gobingca, erstwhile *witdoeke* leader, fell out of favour and was violently ejected from Crossroads in

³⁶ See for example Supreme Court cases No. 13490/86, 10114/88, 4207/89, 6641/89, 5588/89 and 10288/89, most of which are applications for restraining orders against Hoza, the *solomzi* homeguards, and the Lingeletu West town councillors.

³⁷ A remarkable SAP instruction in the information book of the Khayelitsha Police Station, presented in Supreme Court case No. 13082/86, graphically illustrates this attitude. The entry states that the informal courts and headmen are rendering an invaluable service to the SAP and should be supported.

July 1987. Gobingca himself was shot and injured, and up to thirty homes of his supporters in Crossroads were torched, driving out these potential opponents. During the campaign by the resistance movements against the 1989 'whites only' election, conflicts between Hoza, Gobingca and Jerry Tutu erupted in violence leading to the deaths of at least five people.

KTC splits: September 1987 – April 1988

276 A further example of covert contra-mobilisation activities, that is, the fomentation of conflicts, can be seen in the constant sharpening of conflict between two opposing groups in KTC. Towards the end of 1987, tensions developed between the two sections of KTC squatter camp – the first arrivals in 1983 who were largely township dwellers (called Old KTC) and the later arrivals of 1984 who were migrant refugees from Crossroads. Although both were aligned to the UDF, differences existed between the two groups ranging from their organisational practices to their housing demands.

277 Deteriorating relations came to a head in late 1987, causing several deaths on both sides. These deaths as well as numerous other assaults, shooting injuries and arson signalled the start of a period of conflict lasting until March 1988. Most of Old KTC fled and settled in neighbouring Tambo Square. The UDF attempted to mediate, but ultimately the ANC in exile was compelled to intervene. Activists and squatter leaders were flown to Lusaka from 9–18 March 1988 where attempts to build unity bore some fruit.

278 It was widely believed that the conflict was fomented by the security forces. Peace efforts were bedevilled by anonymous 'Stratcom'-type pamphlets that were distributed at the time, which stirred up conflict by making allegations against organisations and individuals. Armed white plain-clothes men in balaclavas were seen moving around the area in the middle of the night. Significantly, this conflict took place just months before the October 1988 municipal elections, in which the state was concerned to win as many allies as possible.

Rural vigilantes

279 In certain rural areas, the Commission found evidence of close collaboration between local vigilantes, the security forces and the local Development Board. In Zolani, Ashton, an interdict was applied for against the local vigilante group, the *amasolomzi*.

280 The following quotes from testimonies illustrate the complicity between the *amasolomzi* and the police and the brutal consequences. Mr Ntando Pringle Mrubata [CT00130]:

When I was coming out of the house I could hear that there were some of the vigilantes nearby. And then the minute they saw me Pani said, 'here is this dog we've been looking for', and then I knelt down and I realised that I was unable to crawl. I also could feel that there was something on my legs but I didn't understand what was happening ... I could feel that my feet were burning. My comrades told me that when I lost consciousness they were chased away by [a policemen] and amongst them were also vigilantes ... I completely regained my consciousness on a Sunday [in hospital]. They told me that I was shot ... I am now a cripple ... I lost the hips and I think the sockets were affected and then I had to be amputated ...

281 Mr Sipho Sixishi [CT00755] told the Commission:

Whilst I was still asleep I heard a huge cry, then I woke up. I could see that there were people ... [a member of amasolomzi] came in and he started to hit me with a stick, I was surprised ... I was grabbed and shoved outside of residence... and again I was hit on the head with knobkierie, there was also a policeman. Matroos beat me continuously. And the police together with amasolomzi pushed me into the van ... the van was full ... they were picking up everybody on their route ... We were taken back to Worcester and that's where we were detained for a few days ... After a while we were taken to the doctor because Mrubata and I were severely injured. I could feel that my eye had ruptured ... I could feel that it was painful. After a while I was operated ... when I woke up, I could realise that my eye had been removed.

IN ASHTON AND ZOLANI, THE VIGILANTE GROUP AMASOLOMZI WAS RESPONSIBLE FOR NUMEROUS SHOOTINGS OF AND ASSAULTS ON RESIDENTS. THERE IS EVIDENCE THAT POLICE AND AMASOLOMZI CO-OPERATED WITH EACH OTHER IN HOUSE-TO-HOUSE SEARCHES IN ZOLANI, DURING WHICH MANY RESIDENTS WERE ASSAULTED. PROMISES OF JOBS AT THE LANGEBERG KOO FACTORY WERE USED TO PERSUADE PEOPLE TO JOIN THE AMASOLOMZI AND A NUMBER OF MEETINGS WERE HELD ON THE FACTORY PREMISES TO PLAN AMASOLOMZI OPERATIONS.

Violations committed by resistance and revolutionary groupings

Killing of 'collaborators': stabbings, necklacings and burnings

- 282 Around seventy cases of necklacing or burning were reported between 1985 and 1989³⁸, mostly in 1985 (thirteen cases) and 1986 (forty-eight cases). Most necklacings were related to concerns involving informal settlements. The Bureau of Information cites twenty-four cases of attempted necklacing or burning from 1984 to 1989.
- 283 Cases of necklacing or burning appear to fall into two categories: those in which perceived 'collaborators' are attacked and killed, and cases which formed part of broader conflicts within the squatter communities of the Cape. Four cases of necklacing in Paarl in 1986 relate to the conflict between AZAPO and the UDF. Other rural cases of necklacing or burning appear to target people breaking the consumer boycott (two cases), black SAP personnel (three cases), community councillors or their relatives (two cases) and a township administration clerk.
- 284 In the Peninsula, two cases of necklacing were reported in 1985. Cases in 1986 relate almost exclusively to the conflicts between the vigilante *witdoeke* and 'comrades' in the informal settlements of Cape Town. During the build-up of conflict from January to May, eighteen males were burnt in Crossroads, KTC or New Crossroads. In one incident where hundreds of *witdoeke* were mobilised to rampage through New Crossroads, at least seven *witdoeke* were killed and burnt.
- 285 During the two attacks by *witdoeke* in May and June, up to a quarter of the over sixty people killed were apparently burnt to death, though some of these may have been killed by other means and then burnt. It should be noted that vigilantes themselves made use of necklacing, which was thus not confined to the supporters of opposition movements.
- 286 The first publicly reported necklacing case in the Cape Peninsula occurred on 30 October 1985. A pregnant woman, Ms Rebecca Nonzuzo Ngwevushe [CT01349], was strangled, stoned and necklaced. The attack appears to have been related to the ongoing uncertainty and trauma within Crossroads around the divisive question of the state-sponsored move to Khayelitsha. It is believed that Ms Ngwevushe was suspected of being part of the squatter community under Mr Jerry Tutu that was in favour of moving to Khayelitsha. The move to Khayelitsha

³⁸ These figures must be regarded with some caution, having been assembled from patchy newspaper reports, police reports and other published statistics.

was bitterly opposed by other sectors of the residents who feared they were being 'sold' to Khayelitsha in the negotiations between Jerry Tutu and the Administration Board.

- 287 On 17 December thirteen-year-old Andile Selane [CT01343] was shot dead by the SAP in New Crossroads. His funeral was held on 24 December. While the mourners were at the cemetery in Gugulethu, councillor Mr Archibald Siqaza [CT01340] drove by in his car. He was stopped and assaulted, and died after being set alight. UDF activist Mr Shadrack Mabandla (Ntsikelelo) Zokolo [CT00905] was attacked, burnt and killed the next day, allegedly in retaliation for the death of Siqaza. Within a day Siqaza's associate, Mr Montilolo Ngxabazi [CT01340] of New Crossroads was burnt to death in a return attack.
- 288 In a high-profile event, an alleged informer was stabbed and beaten to death in Mitchells Plain on 25 May 1986. Mr Moegsien Abrahams [CT01123] was amongst a large crowd attending a UDF protest rally but was identified as an 'informer' during the meeting. The UDF leaders on the stage tried to protect him after elements in the crowd attempted to assault him, but once he was outside the hall, he was pursued by a group of youths. He fled into a nearby house where he was stoned, beaten and stabbed to death by a large group. A member of the Bonteheuwel Military Wing, Mr Colin de Souza [AM5377/97], has applied for amnesty for the killing. The UDF issued a statement after the killing stating that:

The UDF regrets the loss of life of Moegsien Abrahams. However, it is important that we understand his untimely death in context. The context is provided by the growing polarisation and concomitant anger which flows from the apartheid ordering our society. His death occurred in a manner which the UDF cannot be responsible for.... In the light of this, the UDF cannot and will not take responsibility, whether directly or indirectly, for his death. The blame rests four square on the shoulders of those responsible for the breeding of hatred and anger by their maintenance of apartheid...³⁹

- 289 In Colesberg, a selective consumer boycott in 1985 cost the life of Ms Nombulelo Dilato [CT00506], who was married to policeman Mr Stanford Thembele Dilato [CT00390]. A group monitoring the boycott in Colesberg saw Ms Dilato buying meat. She was confronted and her meat was taken from her and trampled. She laid charges with the police, who began searching for those responsible. These events served to identify Ms Dilato as a police informer in the eyes of the community, although she had been a supporter of community organisations until then. When the

39 *The Argus*, 28 May 1986.

Dilato home was stoned, police began a constant guard on Ms Dilato, escorting her to and from work and stationing Hippos (armoured personnel carriers) outside the house. This police protection ironically served to seal her fate. On 2 October 1985 she was caught by a small group of youths, assaulted and set alight, and her home was burnt the same day. When she subsequently died in hospital, community hostility made it impossible for the Dilato family to bury the victim in Colesberg. Mr Tembile Falati, Mr Zolile Silwane, Mr Thabo Gusha, Mr Pingdyaan Kelem, Mr Titsha Mhlakulo and Mr Tifo Paul Setlaba were charged with murder. Setlaba was sentenced to death (later commuted) while others received long prison sentences.

290 In Bongolethu, Oudtshoorn, Mr Patrick Marenene [CT00560], one of two remaining community councillors was attacked in November 1985. Youths took all his furniture, clothing and other household contents outside and burnt them along with his vehicle. Marenene fled, returning two days later to see what had happened to his children. He was chased by a group of youths in Bongolethu and fled, firing shots, but was caught and killed in Bridgeton, half a kilometre away. He was stoned and a burning tyre was placed on his shoulders.

291 A mass swoop by the security forces on Bongolethu township followed this killing. Hundreds of residents were arrested in a dawn raid on 29 November 1985 and assembled in rows on the soccer field. Masked individuals selected a group of less than a hundred, who were then transferred to the Oudtshoorn police station and locked into the police station tennis courts. They were then taken in large groups for an 'identity parade', for which they had to stand outside the police building while individuals behind windows on the third floor picked out certain individuals. About twenty people were then charged with the murder.⁴⁰ Three people were sentenced to death: Mr Patrick Manginda, Mr Desmond Majola and Mr Dickson Madikane.⁴¹ Three others were given long prison sentences.

THE COMMISSION FINDS THAT THE OCCURRENCE OF NECKLACING IN THE WESTERN CAPE REGION BETWEEN 1985 AND 1989 WAS AN EXPRESSION OF THE RAGE OF PEOPLE TOWARDS OPPONENTS, PERCEIVED COLLABORATORS OR REPRESENTATIVES OF THE STATE. THE COMMISSION NOTES THAT THIS METHOD OF KILLING PEOPLE WAS USED BY VARIOUS GROUPS WITH DIFFERENT POLITICAL AFFILIATIONS. NEVERTHELESS, IT BECAME ASSOCIATED WITH SUPPORTERS OF THE UDF, AND THE COMMISSION FINDS THAT THE UDF LEADERSHIP COULD AND SHOULD HAVE ACTED MORE VIGOROUSLY TO INDICATE THEIR DISAPPROVAL AND REJECTION.

40 Some of those charged made allegations of police assault and torture to Commission researchers.

41 Their death sentences were later commuted to prison sentences after several years on Death Row. They were released in 1992 as political prisoners.

- 292 Hanover in the northern Karoo region experienced violent divisions between so-called 'collaborators' and community organisations. A 1985 campaign against the councillors, in which several homes were destroyed, forced the councillors and their associates to flee the township. They settled in army tents close to the police station. This settlement became known as 'Ezitenteni' and housed up to one hundred people.
- 293 Tension and conflict between the groups resulted in the killing of Mr Alfred Thozamile Nkumbi, a relative of the mayor. Residents attacked him at his house in Kwezi on 24 December while he was under police escort. It appears that his escorts left the scene. Mr Nkumbi and family members tried to flee towards Ezitenteni but were caught. Mr Nkumbi was stoned and stabbed to death and his brother William Thamsanqa Nkumbi [CT00379] and other family members were stabbed.
- 294 A group of approximately nine people were charged, most found guilty and were convicted in 1988 of murder and public violence. Four of them were sentenced to death, namely: Mr Samson Booyesen, Mr Vusumzi Jack, Mr Mxolisi Ncaphayi and Mr Bennet Sonamzi. One of the accused, Mr Elliot Sinezama Siyoko [CT00380] alleges that he was tortured while in custody. Mr Samson Booyesen insists that he was not even in Hanover that day. The death sentences were later commuted.

THE COMMISSION FINDS THAT THE TRAGIC SPIRAL OF HOSTILITY, KILLINGS AND RETALIATION, ILLUSTRATED IN HANOVER AND REPEATED IN MANY OTHER COUNTRY TOWNS, HAS LEFT A LEGACY OF ANGER AND BITTERNESS WHICH REQUIRES ON-GOING CONCERN. THE COMMISSION RECOMMENDS THAT PROVINCIAL AUTHORITIES, NGOS AND FAITH-BASED ORGANISATIONS SHOULD TAKE INITIATIVES TO PROMOTE RECONCILIATION AND REHABILITATION.

- 295 In Victoria West conflict developed between 'collaborators' and 'activists' that escalated into violence. In March 1985 most of the community council resigned due to community pressure. In April a black policeman's house was attacked. Eleven people were arrested and later charged with arson. On 25 May youths set alight three houses. Ms Emily Manong was trapped inside the burning house, but managed to escape. Mr Daniel Manong described the first attack.

After the police shot the tear gas the gas covered the entire town. And then they [the crowd] came to the house where my mother lived – a lot of them came there. They came with lamp oil, and petrol bombs. And they came and they broke the windows, they tried to burn the house inside with people inside ... Through God's grace we could manage to get people out eventually. And they could run away. My mother was taken away half a kilometre out of the town. They've taken her to a camp where soldiers use to come and visit and stayed around.

296 On 26 May, local police with support from surrounding towns and local farmers as reservists launched a mass raid on the township and detained seventy-three youths, the majority between the ages of twelve and seventeen. During the arson trial of the eleven youths the former vice-chairperson of the community council, Mr Enoch Manong, testified in court, that he had been abused and threatened with death by the accused. This was the background to the second attack on the Manong home. Daniel Manong described the death of his mother:

She came back the 4 December, it was on a Wednesday and they came to look for the old woman again. Patrick came threw the window, opened the door and once again they threw petrol bombs at the house and they burned her, my mother, for the second time and this was more serious. When we came to the hospital I realised she was not going to make it ... She died on the Saturday the 7th.

Stoning and petrol bomb attacks on commuters

297 There are three periods of deaths and injuries resulting from stonings and petrol bombs during street protests in the Western Cape, namely the 1985 unrest peak, 1986 and 1989. Mr C J Neels Kapp [CT03069] died in September 1985 after being stoned near Crossroads. In April 1986 two union members, Mr Rashid Abrahams [CT01042] and Mr David Nduti, died when their vehicle was stoned and petrol-bombed in Lansdowne Road. Mr Dane Douglas [CT00467] was seriously injured after being stoned near Crossroads in March 1986.

298 In addition to a number of serious injuries by stoning and petrol-bombing of vehicles, six deaths were reported, all in August to October 1989, around the time of the election. Those killed include two young girls who were run over when a vehicle was stoned by youths and went out of control, hitting a group of pedestrians.

THE COMMISSION NOTES THAT STREET UNREST INVOLVING STONING AND PETROL-BOMBING OF VEHICLES RESULTED IN SEVERAL FATALITIES AND SERIOUS INJURIES IN THE REGION. THESE CASUALTIES WERE ALMOST ALWAYS CIVILIANS DRIVING IN A PARTICULAR AREA. THE COMMISSION ACCEPTS THAT WIDESPREAD POLITICAL PROTEST WAS NOT ALWAYS ORGANISATIONALLY DIRECTED, BUT FINDS THAT THESE PROTESTERS WERE LARGELY UDF SUPPORTERS AND THAT THE LOCAL UDF STRUCTURES COULD HAVE PLAYED A ROLE IN HALTING THESE ATTACKS.

Armed operations by liberation movements

299 Armed activity by the ANC in the Western and Northern Cape escalated dramatically from mid-1985 to 1989. The over 100 attacks resulted in at least four deaths

and approximately sixty injuries. No PAC or APLA armed actions appear to have taken place in this period.

- 300 There was a strong shift in 1985 towards attacking personnel of institutions deemed oppressive or 'collaborative'. The homes of two members of the Labour Party in Mitchells Plain and Grassy Park were attacked with grenades on June 12 1985, along with an attack on the Langa police station. One person was seriously injured in the Mitchells Plain attack. Over the next four days, the homes of community councillors in Crossroads, Langa and Nyanga were attacked with grenades. Three members of the Security Branch were injured when a grenade was thrown at them near the Gugulethu police station. During an attack on the Mitchells Plain home of a Labour Party member on 15 August 1985, Rashaad Witten (16) was killed and three others injured.
- 301 In 1986 there were at least nineteen incidents, including four grenade attacks on personnel, four explosive devices in buildings and five gunshot attacks on personnel. Several police personnel were injured, some seriously. Primed explosive devices were detonated at the Mowbray railway station toilet on the eve of May Day, and at the Mowbray police station on 3 July. A shoot-out at a roadblock also occurred near Warrenton in the Northern Cape on 13 December in which one MK operative was killed.
- 302 Several mini-limpet mines attacks in 1987 involved 'soft' targets with a high potential for civilian casualties. Certain 'terrorism' trialists admitted attacks on three homes of policemen. In a significant 'soft target attack' that did not result in any injuries, Ms Jennifer Schreiner, under the command of Mr Tony Yengeni, placed two limpet mines in a ladies' toilet in Cape Town's airport around midnight on 21 July. There were also sabotage attacks on power pylons, railway lines, petrol stations, and a bus stop outside a government residence. A powerful car bomb exploded outside SADF residences in District Six and a primed limpet mine was discovered at a bus terminus in Cape Town.
- 303 The hand grenade targets in 1987 were SAP personnel (both on patrol and in their homes) and community councillors, or persons linked to these groups. On 9 January a hand grenade was thrown into a vehicle driven by the well-known Warrant Officer Barnard near KTC. The explosion killed his right-hand man, Constable Labuschagne, and seriously injured Barnard himself. Three days later Constable Mtetwa was killed by automatic gunfire in Gugulethu. Community councillor Mr Dennis Lobi's home was attacked by grenades on 15 and 16 June, injuring four people.

304 In 1988, twenty-one MK attacks, mainly with mini-limpet mines, targeted municipal buildings and institutions in the build-up to the October 1988 municipal elections. In one of three simultaneous attacks on June 16, a homeless man, Mr Elliot Mphathio Ketelo, was killed at a dustbin outside the Wynberg magistrate's court in which explosives had been placed. MK member Mr Allan Ndodomzi Mamba was later convicted for this killing. Ten policemen, two boys and a woman were injured when a police patrol was attacked with grenades and shots in Nyanga. Police linked MK operative Mthetheleli Gcina to the attempted killing of community councillor Dennis Lobi on 5 August 1988.

305 MK operatives linked to the 'Ashley Kriel Detachment' applied for amnesty regarding a limpet mine explosion at the Bonteheuwel municipal rent office on 28 September 1988 which seriously injured Mr Mogamat Nurudien Bartlett [CT00667]. Mr Bartlett suffered permanent injuries including the amputation of half of his left leg.

I was on my way home from work walking down Jakkalsvlei Avenue. In front of the rent office I saw a milk carton on the ground. I picked it up and opened it and it exploded whilst I was trying to look inside it. I lost my right eye, three fingers and right hand in the explosion. My body was burnt on the top half and my left ankle was damaged. I woke up in Groote Schuur Hospital. I was there for three to four months. I heard later from people that police thought that I was responsible for placing the bomb.

306 His sister stated that they heard the bomb explosion and she and her mother ran towards the scene:

When my mother got there police were already there. My brother was on fire and when my mother asked them to put it out, they said, 'Laat die vark brand, hy het dit geplant (Let the pig burn, he planted it).

307 The amnesty applicants were operations commander Aneez Salie [AM6145/97] and operatives Sydney Hendricks [AM6146/97], Venessa Rhoda November [AM7988/97].

308 The whites-only election in September 1989 drew a number of bombings. Polling stations, magistrates' courts as well as railway lines and stations were targeted. Two MK operatives, Mr Robbie Waterwitch and Ms Coline Williams, were killed in one of three simultaneous explosions on 23 July near the Athlone magistrate's court.

THE COMMISSION FINDS THAT MANY OF THE ARMED ATTACKS BY MK MEMBERS AMOUNTED TO ATTACKS ON 'SOFT TARGETS' OR ON INSTALLATIONS WITH SERIOUS HUMAN RISK. AT LEAST FOUR CIVILIANS WERE KILLED. FIRSTLY, THE COMMISSION FINDS THAT DURING 1985 A SERIES OF HAND GRENADE ATTACKS DIRECTLY TARGETED THE PRIVATE HOMES OF ALLEGED COLLABORATORS, KILLING ONE TEENAGER. SECONDLY, THE COMMISSION FINDS EVIDENCE OF ASSASSINATION ATTEMPTS BY UMKHONTO WE SIZWE OPERATIVES. THIRDLY, THE COMMISSION FINDS THAT THE BOMB PLACED IN THE FEMALE TOILETS OF THE CAPE TOWN AIRPORT, ALTHOUGH NO INJURIES WERE INCURRED, CONSTITUTED A CIVILIAN TARGET. IN SEVERAL INSTANCES, UNINTENDED TARGETS BECAME VICTIMS OF ATTACKS, POINTING TO THE HIGHLY UNPREDICTABLE CONSEQUENCES OF THE USE OF EXPLOSIVES IN ATTACKS.

Bonteheuwel Military Wing (BMW)⁴²

309 Bonteheuwel is a 'coloured' township that became known as a militant area in the second half of the 1980s, not least because of the activities of the Bonteheuwel Military Wing (BMW). The idea of forming "a militant body to co-ordinate and intensify the revolutionary activities, especially at the Bonteheuwel High Schools" emerged from Bonteheuwel Inter-Schools Congress (BISCO) members, including Ashley Kriel.

BMW would co-ordinate all militant and violent actions at the schools during the day and would spearhead similar activities on the streets after school hours.⁴³

310 It is estimated that at the height of the activities of the BMW more than 100 members were involved in its networks. The BMW, operating in small cells, comprised several types of units that adopted increasingly sophisticated 'urban guerrilla' strategies. Groups of youths participated in stone-throwing and street barricading. Twenty members, divided into five units of four people, were the 'gunmen' who carried out most of the more serious attacks of arson and raids on people and homes. There were also support units responsible for organising safe houses, money and the supply of arms and ammunitions. One home virtually became a factory for zip guns.

Links to the UDF and ANC (MK)

311 There is little evidence to suggest that the formation of the BMW was part of the strategic plan of the UDF regional structures in the Western Cape. However, there is evidence that at local level the process was welcomed and endorsed.

We were very aware and conscious of the BMW. We obviously approved, given the context ... Broadly there was an understanding that they fell under the political leadership of the UDF. However, it was not a situation of command and control.⁴⁴

42 See appendix to chapter on *Special Hearing: Children and Youth* in Volume Four.

43 Interview with BMW member.

44 Interview with Bonteheuwel UDF executive member.

- 312 Another UDF executive member suggests that the BMW, although not formally linked to the UDF local structures "... was endorsed, although more informally. It was discussed by UDF executive members, but not in normal UDF meetings because of security reasons. It would rather be discussed at a braai after the meeting, for example."⁴⁵ This was largely because the UDF area committee was a very broad coalition including churches, which precluded discussion of armed activities.
- 313 Members of the BMW established links to the ANC and MK. Several members trained in exile and returned to the area. Others were recruited into various MK cells in the Western Cape. During 1986, an MK operative known as 'the General' provided some training and armaments such as Makarov pistols, limpet mines, grenades and an RPG-7 anti-tank rocket launcher. Short crash courses were organised in various places in the Western Cape. The BMW also sourced arms from local gangsters or by theft from policemen.

Violations by BMW members

- 314 By late 1986 and early 1987, the BMW were executing raids on policemen and suspected 'informers' as well as ambushing police patrols. This made Bonteheuwel a 'no go zone' for the police and people who co-operated with them. The BMW were also responsible for attacks on vehicles, buildings and individuals. Mainly state and company vehicles were targeted. Trucks containing foodstuffs such as meat and bread would be hijacked and the contents distributed amongst BMW members and the Bonteheuwel community.
- 315 Over a period of several months during 1986, City Tramway buses were burnt on a daily basis. There was also a failed attempt to blow up a truck transporting petrol. Buildings attacked included the Bonteheuwel post office and the Netreg railway office. Several homes of policemen and suspected police informers were attacked with petrol bombs, or a grenade in one instance, or were shot at. Policemen walking in the Bonteheuwel area were also targeted.

Crackdown by the security forces

- 316 From 1985 the state, via its JMCs and its security forces, employed a dual strategy to maintain 'law and order' in Bonteheuwel. The first part was to upgrade the Bonteheuwel area; the second, the establishment of special Unrest Investigation Units to crack down on people held responsible for political unrest.

⁴⁵ Interview with Bonteheuwel UDF executive member.

317 The Unrest Investigation Units were made up of SAP members deployed from different units (the Detective Branch, Uniform Branch, Murder and Robbery, the Drug Squad and the Security Branch). An Unrest Investigation Unit in Athlone infiltrated and cracked down on the BMW in the second half of 1987, effectively decimating the organisation. A series of swoops and arrests followed, resulting in the detentions of over forty BMW members at various times. A number of BMW members who made statements to the Commission alleged that they were severely tortured. By mid-1989 the BMW had been crushed.

Torture of BMW members

318 It is clear that the Unrest Investigation Unit's main aim was to effect arrests and gather evidence for more arrests and convictions very quickly. The necessity of speedy confessions was spelt out in a directive from the Commissioner of Police, and those arrested were therefore immediately subjected to protracted and severe torture. Explicit sexual forms of torture were used; several BMW members were anally raped. It is known that in other instances, young activists were deliberately placed amongst imprisoned criminals who repeatedly raped them.

319 Fourteen statements were made to the Commission by a number of young people, mostly between the ages of fifteen and eighteen, many of whom described serious assault and torture at the hands of the police. Twelve statements were made to the Commission by BMW members, including Mohammed Faried Ferhelst [CT00666], Bradley Barrow [CT01315], Abubaker 'Whitey' Williams [CT00185], Colin de Souza [CT00520], Fuad Hartzenberg [CT01107], Ismael Damon [CT00297], Hercules Benjamin Booyesen [CT00296], Brian Peter Barends [CT00453], Sandra and Jacques Adonis [CT01110], and Cleoton Darryl Visagie [CT00885]. Most describe serious assault and torture whilst between the ages of fourteen and eighteen. Two further cases are described below. Unrest Investigation Unit members who were frequently linked to their torture included Captain Louis van Brakel, Sergeant Ilmar Pikker, a Captain Strydom and Sergeant JA Todd.

320 Mr Ebrahim Hercules [CT01539] was arrested in 1986 and immediately assaulted by two coloured policemen. He was taken to the Bishop Lavis police station where he was placed in a cell with 'common law criminals'. The next morning Sergeant Pikker and Sergeant Todd took him to the Brackenfell police station where he was blindfolded and severely beaten with a heavy metal object. He was returned to solitary confinement. Later during his detention he was sexually assaulted by

policemen who put him across a table and, after removing his pants, put the barrel of a gun into his anus and played Russian roulette. Fearing for his life, Hercules signed two statements prepared for him which he was not allowed to read. He was sentenced in 1988 and was released with other political prisoners in 1990.

321 Qasim Williams [CT01109] was arrested in February 1987 at the age of fourteen. He was taken to the Bishop Lavis police station where Sergeant Todd forced his head into a toilet bowl which he then flushed. Williams was taken to the Brackenfell police station where he was repeatedly assaulted by Captain van Brakel, Captain Strydom, and Sergeant Todd amongst others. He alleges that, after he was released from prison, he was framed as a police informer by the Unrest Investigation Unit. Williams subsequently survived an attempt on his life by other members of the BMW who, believing he had become a police informer, assaulted him and set him alight. A local priest came to his rescue and he got away with minor burns. A member of the BMW, Colin de Souza, has applied for amnesty for this attack [AM5277/97].

322 Williams was re-arrested in January 1988 and was told that he would never see his family again. A Sergeant told him, "today is the day you meet your Maker". He was suspended upside down by rope and then beaten. On another occasion his body was tied in a spread-eagled position and grass was placed on his pubic hair. A tortoise was then put to graze on and around his genitals. He was also blindfolded and taken to an unknown place where he was suspended in the air. His torturers told him that it was the highest building in Cape Town and that if he did not co-operate with them they were going to drop him.

THE COMMISSION FINDS THAT THE REPRESSIVE CONDITIONS FACING SCHOOL STUDENTS IN THE BONTEHEUWEL AREA RESULTED IN THE FORMATION OF A PARAMILITARY YOUTH ORGANISATION WHICH ADOPTED A PROGRAMME OF VIOLENT RESISTANCE. THE COMMISSION ALSO FINDS THAT THE GROUP RECEIVED ENDORSEMENT AND FACILITATION FROM THE UDF, ALBEIT AT LOCAL LEVEL, AND THAT MK OPERATIVES FURTHERED THIS ENDORSEMENT IN THE PROVISION OF ARMS AND MILITARY TRAINING. THE COMMISSION CRITICISES BOTH THE UDF AND ANC FOR ITS EXPEDIENT ENCOURAGEMENT OF THIS GROUP OF VERY YOUNG PEOPLE WHO WERE ALL UNDER THE AGE OF EIGHTEEN, FINDING IT INAPPROPRIATE THAT SUCH YOUTH WERE MOBILISED INTO ORGANISED VIOLENCE.

THE COMMISSION FINDS THAT THE BMW WAS RESPONSIBLE FOR A NUMBER OF VIOLATIONS THAT RESULTED IN THE DESTRUCTION OF PROPERTY, SERIOUS INJURY AND POSSIBLY DEATH. THEY WERE THEMSELVES THE SUBJECT OF EXTENSIVE TORTURE AND SEVERE ILL TREATMENT AT THE HANDS OF THE SECURITY FORCES. THE COMMISSION FINDS THE SPECIAL UNREST INVESTIGATION UNIT UNDER CAPTAIN VAN BRAKEL RESPONSIBLE FOR THIS TORTURE, IN PARTICULAR THE SEXUAL ASSAULT OF SOME OF THE YOUTH.

■ 1990-1994

Overview

- 323 The 1990s saw a fairly extensive upsurge of violations in the region – although not remotely approaching the levels of violence in other regions. An estimate of deaths from newspapers and Commission sources suggests that there were around 200 politically related deaths in the Peninsula alone, although in many instances criminal or taxi elements may have been involved. It is notable that the Peninsula violence was restricted almost exclusively to the African townships, apart from isolated incidents elsewhere, in particular APLA attacks. The rural areas also experienced struggles and conflicts with local authorities and police. There were numerous deaths and injuries in Northern Cape towns, while resistance to ongoing apartheid segregation in the Boland resulted in what became known as the ‘Boland War’.
- 324 The Peninsula shared the trend towards anonymous violence that emerged across the country in the 1990s, with the emergence of ‘vigilante-type’ anonymous violence that primarily targeted the liberation movement supporters. The proliferation of ‘balaclava’ gangs striking at families or whole communities was a strong feature of the violence from 1991 to 1993. Conflicts with the local town councils as well as inter-organisational conflict, particularly in the Civic movement, played a role in this.
- 325 The most extreme violence centred in and around informal settlements in Khayelitsha and Crossroads, whose political loyalties were vigorously contested by both the state and the liberation movements. In addition, the tremendous upheavals generated by the piecemeal upgrading and development process caused widespread conflict and fragmentation within these communities.
- 326 As elsewhere, there was an increasing blurring of the distinction between criminal and political violence. Certain activities of the Peninsula self defence units (SDUs) became criminalised, while taxi-related conflicts became increasingly politicised.
- 327 The liberation movements themselves were involved in violations at differing levels. Within the ANC, violations centred mainly around internal conflicts and renegade SDUs. The PAC engaged in several military attacks on both civilian and security targets, resulting in many casualties. The Western Cape was one of APLA’s chief fields of operation in the period.

328 In the 1990s, political assassinations feature in the region for the first time, with victims including Ms Nomsa and Mr Michael Mapongwana, Mr Super Nkatzo, Mr Lucas Mbembe and Mr Mziwonke 'Pro' Jack. While the assassins had a variety of political affiliations, collectively they matched the pattern elsewhere in the land. In particular, the taxi wars exacted a heavy price upon political leadership.

329 The Commission is of the opinion that it has not been able to obtain a fully representative sample of statements regarding the multiplicity of conflicts in this period. Tensions and conflicts still prevail in certain areas, and the Commission has reason to believe that victims were not encouraged to give statements in some areas, or were even actively discouraged from doing so. In addition, the marginalised nature of informal settlements (where most of the violations took place) would have contributed to a lack of knowledge about and participation in the process of making Commission statements.⁴⁶

Overview of violations

330 This period contains the second highest number of violations reported in this region. Severe ill treatment remains the most common violation, followed by killings.



Conflict with local authorities

331 From 1990, a series of conflicts unfolded in the region in which residents tried to challenge the local power relations and rule by local authorities. These took place in both urban and rural areas, often with fatal consequences. They were sparked largely by the unbanning of organisations and the beginning of negotiation at national level, a process that was not matched at local level. Local communities attempted to challenge both the lack of change in local government, as well as ongoing racist and discriminatory practices.

332 The conflict was felt throughout the western Cape, but was most marked in Khayelitsha and the Boland (see below).

⁴⁶ With the establishment of a range of human rights-linked NGOs in the western Cape in the 1990s, a great deal of recording and analytical work was done on most of these areas. The Commission cannot reproduce the excellent work of these structures, but has drawn upon it.

Khayelitsha

- 333 After the unbanning of the ANC and PAC, the liberation movements rapidly developed a strong base in Khayelitsha where black local authorities became the focal point of political mobilisation and conflict, dominating events in 1990. As in the 1980s, a great deal of the violence was directly associated with the former *witdoek* leaders, whatever form their shifting political allegiances took. The Western Cape United Squatters' Association (WECUSA) was particularly volatile in its affiliations.
- 334 ANC branches and activists were to experience strong and at times violent conflicts with the Lingeletu West town councillors who had ruled Khayelitsha virtually unchallenged during the late 1980s. ANC branches embarked on strenuous campaigns to dislodge this town council which they considered illegitimate. Significantly, however, the Lingeletu West town councillors were able to access the necessary resources and protection to counter such threats to their position. They were armed with weapons, had the logistical support of Lingeletu West town council resources such as transport and communications, and used the Lingeletu West security guards and the special constables as their armed guards.
- 335 The councillors elected in October 1988 under mayor Mali Hoza became increasingly associated with violent attacks on members and supporters of the liberation movements. They were also linked to attacks on their former allies, pro-government *witdoek* colleagues such as Mr Prince Gobingca, Isaac Gwiliza and others, from whom they had split during the 1988 municipal elections. During 1989, there were numerous violent attacks by Hoza's cohorts on Gobingca particularly.
- 336 The conflict between Hoza and Gobingca culminated in violent attacks on the homes of Isaac Gwiliza and Gobingca in September 1989. Although this took place prior to 1990, the incident established a pattern for subsequent attacks in the 1990s.
- 337 Mr Jerry Tutu, who was injured in the attack, told a newspaper at the time that a van with two white men had pulled up in the main street separating Green Point and I Section at around 23h00. The two were wearing balaclavas and their faces had been smeared black. A group of more than twenty black men armed with rifles were dropped off and headed towards Mr Gobingca's house. After the attack, two white men returned in a minibus to collect the attackers, and ordered neighbours who were trying to put out the fire to disperse.

- 338 Seven people were killed in the attacks, including Gobingca's mother-in-law, and the homes of Gobingca and Gwiliza were burnt. In their statements both Gwiliza [CT01339] and Gobingca [CT08605] identify the attackers as people associated with the Lingelethu West town council, including two men employed as security guards at the council, one of whom was a former SADF Recce member. At least nine Lingelethu West town councillors or associates were charged with seven counts of murder, arson and six counts of attempted murder. The charges were dropped two years later.
- 339 During 1990, there were indiscriminate shootings of ANC supporters as well as targeted attacks on leading activists. One of Hoza's headmen appeared in court in connection with the fatal shooting of two youths on New Year's night when toyi-toyi crowds passed his house.⁴⁷ Further attacks came during the night of 9/10 February 1990 as crowds of Site C residents were celebrating the imminent release of Mandela. Men in a white kombi, allegedly linked to the Lingelethu West town councillors, drove around and fired indiscriminately. Mr Kwenzekile 'Sixteen' Ngcuka [CT01565] was shot and injured along with others. On 14 November 1990, Sibulelo Piliso [CT00804] was shot dead and Shepherd Kaya Ndevu [CT00720] injured when, according to Ndevu, a councillor and others opened fire on them. The councillor was later acquitted.
- 340 A prominent target of attack was the chairperson of the ANC-aligned Civic Association, Mr Michael Mapongwana. During 1990, Mapongwana was the subject of numerous death threats, some made to him personally by Lingelethu West town councillors. On 7 March 1990, four councillors attempted to shoot Mapongwana. An NGO report on the incident states that four Lingelethu West councillors burst into a civic meeting and demanded to know why a meeting was being held without their permission. Mapongwana was called to the meeting by the civic and was shot at by the councillors on arrival. He escaped injury but a woman was wounded.⁴⁸

Mass Campaign against the Lingelethu West Town Council

- 341 On 4 August, a mass march by several thousand residents called for the immediate resignation of all town councillors and presented the town clerk with a memorandum. Police opened fire on the demonstrators with shotguns, tear gas and rubber bullets.

⁴⁷ *Cape Times*, 4 January 1990.

⁴⁸ *UMAC report of attempted murder of chairperson of Western Cape Civic Association, Michael Mapongwana on Wednesday March 7, 1990*, UMAC offices, Cape Town.

342 Shortly afterwards, two actions were taken that were directly contrary to the demands of the memorandum. Firstly, Khayelitsha was given full city council status by the Cape Provincial Administration (CPA), becoming the first Black Local Authority in the Western Cape. This action further entrenched the permanent status of the Lingeletu West Town Council at a time when its legitimacy was being fundamentally challenged. Secondly, having been granted legal city status, the town clerk was now able to levy service fees for the first time. A retrospective service charge, constituting a 100 per cent increase on the amounts paid earlier, was imposed on all Khayelitsha residents and sparked fury. A rent and bond boycott was called for, and the housing offices of the Lingeletu West Town Council were torched by arsonists.

343 On 18 October, Ms Nomsa Mapongwana, the wife of civic chairperson Mr Michael Mapongwana, was killed in a night-time attack on their home. The house had allegedly been circled repeatedly by councillors in a LW vehicle and police the previous day.⁴⁹

At approximately 12h30 they awoke to the sounds of shots being fired from the front and back windows of their bedroom. Petrol bombs were thrown through the windows and the furniture started to burn. Mr Mapongwana dragged his children and wife into the kitchen where they sheltered under a table until the shooting stopped. Mr Mapongwana then found that his wife was dead.

344 According to an Urban Monitoring and Awareness Committee (UMAC) report, neighbours had apparently seen four balaclava-clad men run from the burning house and jump over the back fence, from where they escaped in a white combi. A man who worked at the Lingeletu West council vehicle depot reported that a Lingeletu West security guard had delivered a Lingeletu West minibus to the depot at 04h00 on 18 October and told the person concerned to put number plates on the vehicle. The UMAC report concludes:

In view of the repeated threats by Lingeletu West councillors to Mr Mapongwana, the unsuccessful attempt by three councillors to assassinate him in March 1990, and the threatening behaviour of a group of councillors and police on the night before the attack, UMAC strongly suspects that the assassination attempt on Mr Mapongwana and the resultant murder of his wife are the work of Lingeletu West councillors. 19/10/90'⁵⁰

49 Incident reported to UMAC by Mr Michael Mapongwana on 17/10/1990

50 UMAC report. In December 1990, a LW councillor appeared in court regarding the murder. An Amnesty International article states that a special constable was charged with the murder, but was himself killed by another special constable.

- 345 Despite these attacks, Michael Mapongwana was charged with possession of an illegal firearm. He himself was subsequently shot dead on 31 July 1991 while returning from court for these charges (see below).
- 346 The killing of Ms Nomsa Mapongwana precipitated furious outrage in Khayelitsha. A mass protest march to the Lingelethu West offices was planned for 25 October. The night before the march, the Lingelethu West offices were damaged in an explosion.

March against the Lingelethu West Town Council, 25 October 1990

- 347 The march of 20 000 people on 25 October was kept waiting for permission, which was denied. Defiant marchers regrouped repeatedly under fire while lengthy negotiations between police commander Brigadier Frik Kellerman, Riot Unit head Chris Loedolff and civil-rights lawyer Mr Dullah Omar took place. It was decided to call off the morning march.
- 348 The march broke into sub-groups as it dispersed. By the end of the day, at least eight people were dead and up to eighty wounded. Some of the sub-groups were fired on by police, killing at least three people. Sporadic incidents occurred throughout the day in which at least another five people were killed. In several of the incidents, it was alleged that balaclava-clad men in a vehicle had opened fire indiscriminately at people on the street. Those killed that day included Mr Maniyi Madoda, Mr Petrus Molefane, Mr Mthetheleli Mtitshana, Mr Themba Sokutu, Mr Phumzile Nyindeni, Mr Nomkhayelo Khwaza [CT01312] and Mr Lundi Gaga. Before he died of his wounds, a thirteen year-old-boy told a journalist that he had been shot by an unknown gunmen wearing balaclavas who had fired at him from a passing car. Mr Mpumelelo Maniyi Dyantyi [CT03708] was shot and killed and his brother Melford shot and wounded in Site C by three men including Lingelethu West councillor Michael Gubayo, who allegedly told them to get off the streets and then shot them. The vehicles and residences of police personnel were also attacked.
- 349 On 1 November, Minister of Law and Order Mr Adriaan Vlok declared Khayelitsha an unrest area and placed it under curfew. After these events, UMAC and Democratic Party MP Jan van Eck sent an extensive dossier to Mr FW de Klerk, detailing abuses by members of the Lingelethu West town council. Van Eck, who had played a prominent role in highlighting the activities of the Lingelethu West town council and the police in Khayelitsha, was then banned from entering the area for several weeks.

Attacks on town councillors and Lingelethu West staff

- 350 In the wake of the murder of Ms Nomsa Mapongwana, several staff and councillors of the Lingelethu West council were attacked. A senior Lingelethu West administration official Mr Harold Ntlangwina was abducted from his home, tried by a 'kangaroo court' and 'found guilty' of murdering Ms Mapongwana. He was hacked to death and set alight, after he allegedly produced a hit list of twenty local activists headed by Michael Mapongwana. In an apparent counter-attack, men in a councillor's vehicle shot at and killed a member of a community patrol, killing Mr Rogers Ngxumza.
- 351 In other incidents, a number of Lingelethu West council employees were injured in a petrol bomb attack on their vehicle on 15 November; another employee, Mr Wiseman Mdube, was ambushed and shot dead while driving in Site C, and town clerk Graham Lawrence received death threats and was placed under police protection. On 1 December, councillor Mr Alfred Nqoboka was chased and stabbed to death, though newspaper reports expressed uncertainty if the killing was politically motivated.
- 352 After 1990, this period of public revolt and open conflict between the liberation movements and the Lingelethu West town councillors subsided into persistent skirmishes between the groups and more covert forms of attack.

THE COMMISSION FINDS THAT MEMBERS OF THE LINGELETHU WEST TOWN COUNCIL WERE RESPONSIBLE FOR CREATING A CLIMATE IN WHICH ATTACKS ON MEMBERS OF THE LIBERATION ORGANISATIONS TOOK PLACE, IN AN EFFORT TO RETAIN THEIR POSITIONS. IN PARTICULAR, THE COMMISSION FINDS THAT THE KILLING OF MS NOMSA MAPONGWANA TOOK PLACE IN THE CONTEXT OF AN ATTEMPT TO KILL HER HUSBAND MICHAEL, AND THAT THIS WAS DONE BY INDIVIDUALS ASSOCIATED WITH THE LINGELETHU WEST TOWN COUNCIL. THE ABSENCE OF CONVICTIONS FOR THESE ATTACKS CONTRIBUTED TO A CULTURE OF IMPUNITY AND LAWLESSNESS IN KHAYELITSHA. THE COMMISSION FINDS THAT THE IMPOSITION OF INCREASED LEVIES AND THE GRANTING OF TOWN STATUS TO KHAYELITSHA IN 1990 WAS A SIGNIFICANT CATALYST FOR THE OCTOBER CONFLICTS.

THE COMMISSION FINDS THAT THE MILITANT CAMPAIGN ADOPTED BY THE ANC AGAINST THE LINGELETHU WEST TOWN COUNCIL CONTRIBUTED TO THE ESCALATION OF VIOLENCE. THE FAILURE OF THE ANC TO DISTANCE ITSELF FROM OR TO CONDEMN ARSON AND PHYSICAL ATTACKS ON INDIVIDUALS AND PROPERTY ASSOCIATED WITH THE LINGELETHU WEST TOWN COUNCIL, CREATED A CLIMATE THAT ENCOURAGED AND ALLOWED SUCH ACTIONS.

Inter-organisational conflict: the civic movement

- 353 The 1990s were marked by intense rivalries and conflicts within the civic movement in the Western Cape. The conditions for these conflicts date back to the historic fragmentation of civic activity in the region, which had been based on specific living conditions and the social divisions created by the pass laws and the enforcement of migrant labour practices. Thus there was the Cape Housing Action Committee (CAHAC) in the coloured areas, the Western Cape Civic Association (WCCA) in the urban African townships, the Hostel Dwellers Association (HDA) in the hostels and Western Cape United Squatters Association (WECUSA) in the squatter areas. Efforts to merge these fragmented structures and build a single region of the South African National Civics Organisation (SANCO) in the early 1990s were bedevilled to the point of near failure as entrenched leaders tried to retain their constituencies.
- 354 WECUSA was launched in 1989 as an alliance of pro-ANC squatter leaders, largely those whose communities had been violently destroyed by the *witdoeke* in 1986. Hostile and competitive relations with the WCCA were worsened with the increasing incorporation of formerly conservative squatter leaders into WECUSA, particularly Prince Gobingca and Conrad Sandile, who were openly regarded as MI agents by the liberation movements.⁵¹ This was exacerbated by the privileged relationship that WECUSA came to enjoy with the CPA and the IDT (Independent Development Trust) by virtue of their 'traditionalist' image and *modus operandi*.
- 355 The conflict between SANCO, WCCA and WECUSA in their struggle for political control in informal settlements was most vividly played out in Khayelitsha from 1991 onwards but extended as far as Strand and Somerset West. A further dimension emerged when WECUSA members began working with Lingeletu West town councillors from 1991. The complexities of these conflicts which frequently led to violence cannot be described here but a few examples are given below.

Khayelitsha and Strand

- 356 Due to hostility from the civic movement and widespread popular rejection, WECUSA was a largely fugitive presence in Khayelitsha. Despite this, it secured massive upgrading development deals with the IDT and the CPA.
- 357 During April and May 1991, serious conflict broke out between the civic-aligned residents and WECUSA in Macassar, Khayelitsha. During early 1991, residents

⁵¹ Police documentation suggests that Gobingca also established links with the far right in Cape Town as well as the IFP locally.

of a tent settlement known as Green Point – largely refugees from Crossroads – were being moved to a new area called Macassar. The Lingelethu West town council appears to have used WECUSA member Jerry Tutu as a middle man for the resettlement. Conflict erupted as residents realised that the upgraded serviced sites were being sold to non-Green Point residents and suspected Tutu of allocating these sites, to which they were entitled, to his own followers.

358 The ANC and the WCCA began actively mobilising against WECUSA. At least ten people were killed in the conflict, including three adults and a baby who died when gunmen opened fire on two shacks on 7 April 1992 and set them alight. A man and a woman were hacked and wounded. A month later, two people were shot dead and a third was necklaced.

359 Another site of conflict emerged in the Strand area. While the Lwandle township was a SANCO stronghold, WECUSA developed a base in the neighbouring squatter camp of Waterkloof. Tension was caused by a development project for the site and by the alleged refusal of WECUSA to allow ANC membership in its area. A WECUSA leader allegedly went to Waterkloof and urged people to join WECUSA and gain funding for development. He also reportedly urged them to destroy the ANC and ANC Youth League.⁵² Ms Nontsapho Ngesman stated:

In 1991, Mr Nzuzo Nkomo, a WECUSA leader [deceased] said that we must join WECUSA and not the ANC. He said if we join the ANC we must pack up and go from there. People were forced to join WECUSA. The previous week ANC members were attacked by 'balaclavas'.

360 On 26 April 1992, her husband, Mr Desmond Ngesman [CT00171], was shot dead by men in balaclavas.

361 Hostility towards WECUSA also stemmed from its continued use of the 'headman' system in a period when residents of informal settlements no longer faced the perils of migrant labour and the pass system, and no longer depended upon the protection of powerful squatter leaders. In Philippi, residents revolted against WECUSA member Christopher Toise, the traditional leader of the area, rejecting his exploitative practices including financial demands and aggressive informal courts. He was forced to flee the area in early 1993 and take refuge with other evicted squatter leaders holed up in Section 4, Crossroads, with Mr Jeffrey Nongwe. This largely signalled the demise of the 'traditional' squatter leadership style epitomised by WECUSA.

52. Submission by Network of Independent Monitors to the Goldstone Commission of Inquiry into violence at Crossroads, June 1993.

362 The conflict between WECUSA, SANCO and the WCCA ultimately led to the establishment of WECCO (Western Cape Civic Organisation) in 1993. The new organisation brought together a range of anti-ANC civic structures as a counter to SANCO. The launch, at the Devonvale Country club in Stellenbosch, was allegedly partly funded by the National Party, channelled through a building company called EU Civils, and was addressed by Mr Themba Khoza of the IFP.

THE COMMISSION FINDS THAT THE CONFLICTS IN THE CIVIC MOVEMENT, PARTICULARLY BETWEEN WECUSA AND SANCO, WERE ESSENTIALLY POWER STRUGGLES FOR CONTROL OF CONSTITUENCIES IN A TURBULENT PERIOD OF TRANSITION.

THERE IS, HOWEVER, EVIDENCE TO SUGGEST THAT WECUSA WAS MANIPULATED BY SECURITY FORCES. IN PARTICULAR, THE COMMISSION FINDS THAT PRINCE GOBINGCA SERVED AS AN AGENT FOR MILITARY INTELLIGENCE AND THE SECURITY BRANCH. THE COMMISSION WAS NOT ABLE TO ESTABLISH THE VERACITY OF ALLEGATIONS CONCERNING CONRAD SANDILE AND HIS LINKS TO THE SECURITY FORCES ANY FURTHER THAN WAS THE GOLDSTONE COMMISSION. HOWEVER HIS ENTRY TO WECUSA THROUGH PRINCE GOBINGCA SUGGESTS THAT HE TOO WAS ACTING AT THE BEHEST OF SECURITY FORCES.

Anonymous violence: 'balaclavas'

363 From 1991, political violence in Khayelitsha, and to a lesser extent in Nyanga, was marked by anonymous so-called 'balaclava gangs' – groups of masked men who performed ruthless killings and arson attacks, targeting individual homes and families or whole communities known for a particular political affiliation. Homes would be raked with gunfire, or broken into and the occupants shot. Alternatively, armed men would surround the houses to prevent any occupants fleeing, condemning them to die in the flames. The term 'balaclava' became a catch-all phrase for persistent night attacks upon individuals and communities.

364 The Commission interviewed a range of individuals associated with these conflicts, including some linked to 'balaclava' activity. A great deal of fear and intimidation still existed at the time of the interviews, and this constrained the level of information available, as certain role-players in the conflicts above were still in positions of power. Recent incidents of violence in the area confirmed this. Collectively, the multiplicity of incidents of anonymous violence appeared at the time to constitute 'third force' destabilisation, matching the pattern of events in the Transvaal. This perception was widespread and acted in many ways to shape the responses of organisations to the conflicts.

365 Investigations by the Commission suggest, however, that there were several 'balaclava' groups active in the area, with differing allegiances and agendas.

Many of the key political and indeed criminal forces on the scene, including the security forces, adopted some form of covert violent activity and probably donned balaclavas to enact it. Many were probably purely criminal.

- 366 Balaclava attacks also reflected the overlap of criminal and political activity in the 1990s as the struggle for political control, particularly of the informal settlements, became a matter of life, death, and money. This occurred both *overtly* as political organisations attempted to intervene in the bloody taxi war, and *covertly* as both political and security force personnel maintained links with some of the criminal structures.
- 367 There is, however, no doubt that covert ‘balaclava’ type activity was widely used to eliminate political opponents in Khayelitsha. Political actors ‘piggy-backed’ political targets on those engaged in criminal acts. Police reports in the newspapers generally asserted that the majority of attacks fell under the umbrella of the taxi war. However, it was widely believed and asserted within the ANC, whose supporters were most frequently the target of the attacks, that the taxi war provided a convenient smokescreen for a protracted campaign of destabilisation of their strongholds by their opponents in the security forces and local government.
- 368 All of the following groups appear to have generated ‘balaclava-type’ activity. Although six distinct groups are identified, the first five, namely the councillors, the special constables, criminals, taxi groupings and WECUSA, at times acted in concert or collaborated in attacks. Some evidence suggests security force involvement.

Lingelethu West councillors

- 369 During 1989 and 1990, several town councillors were charged with murder or attempted murder. These attacks took place in a fairly open manner.⁵³ It is possible that with several pending prosecutions their methods became more covert. Incidents in which this group were suspected to be implicated were often accompanied by white Afrikaans-speaking men and men wearing full or partial special constable uniforms. This suggests that individuals or groups within the security forces collaborated with these attacks; however, the Commission has only indirect evidence of this.

⁵³ Although charged, few cases were tried or led to convictions. In at least two instances, charges were withdrawn (SHA 257/90/91 and SHE 159/91).

Former special constables

370 A group of forty special constables went on strike and was dismissed, reportedly leaving with uniforms and rifles. This group maintained informal links and provided the core of a balaclava gang that engaged in criminal robberies and attacks, mainly in Khayelitsha. The Commission established that elements within this group had links with Hoza. Police sources suggest the group may have carried out contract killings. The group included Headman Mafumani, known as Tshangisa, who had a long-standing relationship with Hoza. This group was linked to at least twenty-one criminal incidents in the Cape including nine in Khayelitsha, mainly in 1992 and 1993.

Criminal gangs

371 Evidence from convicted criminal Mr Michael Mvokwe illustrates the links between the ex-special constables, criminal gangs and the Lingeletu West Town councillors. Mvokwe was involved in criminal activities, but stated that he was recruited by Mali Hoza to attack ANC-aligned areas. He was also recruited to act as a guard for Hoza himself and further describes how Hoza bailed him and others out when arrested for other activities. In a highly significant admission, Mvokwe refers to his involvement in a particular attack. While police blamed 'the taxi war' for the attack, the ANC insisted it was the Lingeletu West town councillor grouping. Mvokwe's admission supports the ANC's version of events.

I was in my house when Bongani arrived and told me that Hoza wants to see us ... When we arrived Hoza was there together with Tshezi, Gubayo (councillor) and Tshangisa (a former special constable) ... He asked us to help him to govern the people. One day I was with Hoza when one member of WECUSA, Yesi, together with Jerry Tutu, came and told us that Jada was being killed in D area. When we arrived there, Jada's car was burning and he was nowhere to be found. Apparently he got away ... On that afternoon we had a meeting and Hoza told us that we should go and attack D area on the same night. We went there armed and attacked for the whole week.

372 This incident undoubtedly refers to the period around 20 February 1992. A newspaper report is revealing.

Khayelitsha became a flashpoint this week when eight people were killed. While police blame the violence on the taxi war, the ANC alleges town councillors were responsible. [An ANC spokesperson] claimed attacks followed an incident on

Sunday when a Lingelethu West councillor known as Jada started shooting at residents in Site C. When people returned fire he ran away and his car was set alight. After this incident residents decided to patrol at night. Late on Sunday, [the spokesperson] alleged, twelve armed men – white, coloured and African, speaking Afrikaans – opened fire on the patrol and two shacks were burnt.⁵⁴

- 373 Another newspaper report states that two men, and a woman were shot dead and six shacks set alight in D section on the Friday night by men wearing balaclavas. Four men were also shot and killed nearby when men stopped the car in which they were driving and opened fire.

Taxi groupings

- 374 As a result of perceptions that the Lagunya⁵⁵ Taxi association was ANC-aligned (supported by suggestions that an ANC SDU assisted Lagunya in attacks), areas seen to be ANC strongholds, and areas where numbers of Lagunya owners/drivers lived, became targets for balaclava attacks. This also held for areas seen to be aligned to the Western Cape Black Taxi Association (WEBTA), which was perceived to be linked to councillors, squatter leaders and police. At least one councillor, Mr Michael Gubayo, was a WEBTA taxi owner. Statements about these incidents also referred to white Afrikaans-speaking men. Mvokwe's statement also linked Hoza to violent support for WEBTA:

At the time there was a war between the two taxi organisations, WEBTA and Lagunya. [Hoza] asked us to help WEBTA. We started shooting and burning shacks in the following areas D, M, R, Q and L. But it was difficult to get inside M and L sections as the comrades there were fighting back and police were patrolling the area. Hoza was always telling me that he doesn't want to see a person from L and M sections as he had a grudge against them. He was always saying the people from there (L) killed Goniwe [a councillor].'⁵⁶

ANC self-defence units

- 375 During 1992 and 1993, at least one SDU was responsible for multiple attacks in Khayelitsha (see below).

54 *South*, 20 February 1992

55 Langa/Gugulethu/Nyanga – these taxis opened up routes in previously unserved areas.

56 Lingelethu West town councillor Million Goniwe was shot dead on 4 November 1991 in Site B. Newspaper reports linked his death to the taxi war.

Examples of balaclava-type actions

376 Amongst the many anonymous attacks that besieged in particular, the different sections of Khayelitsha, it is not possible to allocate responsibility for specific attacks or conflicts to a particular group. Statements made to the Commission or NGO *affidavits* by those attacked often tended to link particular groups to responsibility for the attack. These perceptions cannot always be confirmed with the available information. Not all individuals involved in such attacks were actually wearing balaclavas and some statements did identify individuals, most commonly councillors.

377 The Commission received several statements concerning ANC or civic-linked individuals who were wounded or killed in balaclava attacks. A few of these are summarised below as examples.

378 On 22 July 1992, close to midnight, Mr Nelson Sithole [CT00159] and Mr Mandla Tshuku were led into their house by two balaclava-clad men dressed like policemen, carrying rifles. They ordered the thirteen people present to lie down. They demanded to know who Nelson Sithole was. When they recognised Sithole, they took him to another shack where he was shot dead.

379 The family of ANC chairperson Solomon Tshuku [CT00407] was attacked in their Site C home on 15 August 1991. His wife Nophumzile, and four of their children were killed by a group of balaclava-clad men who then set the shack alight. Three children, Abigail Mbimbi, Nomanqulo and Nolundi (16) were killed on the scene and Mncedisi (20) died of gunshot wounds in hospital. Only his nine-year-old daughter Nondumiso survived the massacre. Nondumiso reportedly said her life was spared by a gunman who said: "Let's not kill her, she is too young". Tshuku's nephew testified that:

When my uncle came back from work and he saw all the mess of the corpses lying over he nearly committed suicide. He nearly hurt himself with a weapon that he used to use at work. That led to it that he should be under guard all the time so that he should not commit suicide. Even at work, he had to be under strict guard and the members of the organisation used to go and watch him and try and keep him company so that he should not think deeply about this horrible incident.'

380 On the night of 18/19 February 1992, ANC members Nontsiki Florence Falakhe and Temba Boto and their children Portia (12) and Tumeke Falakhe (6)

[CT01563] were killed when their shack was set alight in D Section, Site C. Another person was found in the vicinity dying of gunshot wounds in the neck. Witnesses said 'Afrikaans-speaking' people accompanied by men wearing blue overalls set alight shacks in Khayelitsha during the night. They said the men fired shots in the air to prevent families fleeing. Deponent Mr Walawa Falakhe, Nontsiki's brother, who was in the neighbouring shack also confirmed hearing Afrikaans-speakers during the attack. Falakhe asserts that the attackers were supporters of mayor Hoza.

381 During July, August and September 1991, but particularly during 1–8 September, a series of attacks took place predominantly in Site B. A litany of *affidavits* were taken by a group of NGOs and political parties⁵⁷ who attempted to raise the issue with the police. Collectively, it was estimated that around 250 shacks were razed, at least fifteen people killed, 100 injured and about 1 000 people left homeless. Common features in many of the statements include the sighting of whites amongst the group and the use of Afrikaans. Survivors stated that more than fifty men, armed with guns, *pangas* and petrol bombs had invaded the area. At least eighteen people were treated for *panga* wounds.

382 The ANC held a press conference at which it alleged police collusion and produced a police cap belonging to a Sergeant Hendricks. They claimed that 'comrades' had tried to capture one of the white attackers dressed in a camouflage uniform. Police said that the cap belonged to an SAP member "who, during the course of the night, attempted to arrest a suspected arsonist. While giving chase, he lost the cap".

383 At least three people were killed on 18 December 1991 when an attempted assassination of ANC member Nomonde Dinwa [CT08613] turned into a wider attack. Ms Dinwa was present on the scene and, in a statement to UMAC, identified some of the attackers as members of the Lingeletu West town council, one of whom wore a woman's dress. Those killed were Ms Agnes Maseti [CT03025], Mr Lumkile Maxiti [CT00278], and Mr Shadrack Jongikhaya Witbooi [CT00278/HEL]. Several others were wounded. Ms Julie Maseti spoke of the attack:

It was on the 18 December 1991 when my mother Agnes Maseti was shot dead by 'balaclavas'. I was staying at Site B Khayelitsha when this incident took place. There was fire all over our area. Most of the houses were set alight by the 'balaclavas'. There was a big fight between comrades and Hoza's people. On this particular evening some people wearing balaclavas were looking for

⁵⁷ Black Sash, Democratic Party, ANC, ANC Women's League and UMAC.

a woman known as comrade Nomonde. She was not staying far from my mother's house. They decided to burn all houses which were near to hers. They could not find her. Children were shot at and I remember that two other people died on the same night as my mother. I will never forget this night.

- 384 Maseti also said that some of the attackers were dressed in women's dresses. This was independently confirmed by Nonikile Maxiti: "We could not see any one's face. All these people who were shooting were wearing women's clothes and wearing balaclavas covering their faces." Her husband Lumkile was shot dead and Nonikile herself was wounded, as was her baby Masizi Maxiti. A second baby, Sipokazi Mnama [CT08612] was also wounded.

THE COMMISSION RECOGNISES THAT ANONYMOUS SO-CALLED 'BALACLAVA' VIOLENCE INVOLVED A RANGE OF PARTICIPANTS, RANGING FROM ELEMENTS WITHIN THE LINGELETHU WEST TOWN COUNCIL, WECUSA, THE POLICE, THE ANC, TAXI GROUPINGS AND CRIMINAL GROUPS.

THE COMMISSION FINDS THAT THE CUMULATIVE EVIDENCE OF STATEMENTS MADE TO THE COMMISSION, NGO AFFIDAVITS, AND IN PARTICULAR THE STATEMENT BY MR MICHAEL MVOKWE, OVERWHELMINGLY LINKS THE LINGELETHU WEST TOWN COUNCIL TO INCIDENTS OF BALACLAVA ATTACKS. THE COMMISSION FINDS THAT THIS GROUPING WAS LARGELY ABLE TO OPERATE WITHOUT FEAR OF INTERFERENCE FROM SECURITY FORCES, OR FEAR OF PROSECUTION. PROSECUTIONS APPEAR TO HAVE BEEN WITHDRAWN OR DISMISSED.

IT IS BELIEVED BY NGOS AND ACCEPTED BY THE COMMISSION THAT WECUSA INITIATED HIT SQUAD ACTIVITIES ON MEMBERS OF THE LIBERATION MOVEMENT, AND THAT THIS WAS DONE ON OCCASION IN ALLIANCE WITH MEMBERS OF THE LINGELETHU WEST TOWN COUNCIL FROM 1991.

Informal settlements: Development and destabilisation

- 385 In the wake of the scrapping of the pass laws and the Coloured Labour Preference Policy in the mid-1980s, local government in the Cape increasingly accepted the need to upgrade the many informal settlements in and around Nyanga and Khayelitsha. The first development projects, begun from 1987, were essentially rewards to Ngxobongwana in Crossroads and Hoza in Khayelitsha for their violent ejection of the liberation movements and their pro-government stance. This was in line with the McCuen 'oil spot' strategy, using development as a 'hearts and minds' initiative to win political compliance. Millions of rands were allocated to Crossroads for upgrading after the *witdoeke* attacks of 1986.
- 386 Ironically, these development projects became mired in political conflicts, struggles and rivalries that cost large numbers of lives and homes in the very communities they intended to develop. This was due in part to the piecemeal nature of these

upgrading schemes. Crossroads and parts of Khayelitsha experienced the most serious conflicts. It appears that some squatter leaders were granted the status of 'sub-contractors' in the 1990s and given large sums of money to disburse for labour-intensive projects. Control over land and the development projects rapidly became the new currency of power, generating violent power struggles and shifting political allegiances. The construction companies themselves and the manner in which they interacted with particular leaders in the informal settlements became a subject of suspicion and speculation.

Crossroads

- 387 Between 1990 and 1993, conflict centred on the upgrading and development process, political allegiances and traditional leadership styles. From 1991, these issues increasingly intersected with the taxi wars. During 1989, early stirrings of rebellion against Ngxobongwana escalated into open warfare between Ngxobongwana and his former strongman, Jeffrey Nongwe.
- 388 The revolt was mainly fuelled by the crises generated by the upgrading process in the late 1980s. The local squatter community was angered by two circumstances that caused them to lose housing sites to which they were entitled. First, private developers built homes that were beyond the financial means of the majority of the local squatter community and were therefore sold to outsiders. Second, the homes in the CPA's Unathi project were awarded to residents who had settled their unpaid service charges in full. Relatively few residents had done so, nor could they afford the rents. As a result, many of the Unathi homes also went to outsiders.
- 389 Residents were angered further when informed that the 'Crossroads Housing Fund', initiated by Ngxobongwana from 1986⁵⁸ was depleted, allegedly on lawyers' fees and other administrative costs. All residents had been paying regular contributions.
- 390 In October 1989, Nongwe went public with allegations of corruption and charges of fraud were laid.⁵⁹ Fourteen of the nineteen headmen in Crossroads deserted Ngxobongwana for Nongwe, and fierce open conflict erupted from November 1989, continuing into 1990. In many attacks, there were allegations of police complicity. Fatal arson attacks were frequent and daylight killings commonplace. It was estimated that around thirty people were killed in this conflict and approximately 1 000 homes destroyed. In September 1990, Ngxobongwana was

58 Receipts to residents were stamped with a false SA Perm rubber stamp. The amount was estimated to be between R500 000 and R2 million, placed in a Bellville Boland Bank, and was spent by those who had signing powers on the account (Statement by Jan van Eck, Parliament, 21 May 1990).

59 The Attorney-General announced in May 1990 that no one was to be prosecuted for the alleged fraud.

forced to flee to Driftsand near Khayelitsha with several hundred supporters. Nongwe, by then aligned with the ANC, took control of Crossroads.

391 The Commission received several statements relating to this period of conflict. In one flare-up in February 1990, Mr Nelson Mandla Mahlentle [CT01810] and his grandson Sonwabile, aged six, were burnt to death in their shack. Mr Thando Magwa's [CT00912] shack was burnt and destroyed as were numerous others. Alport Singqoto [CT01558] was shot and injured in an attack and Mr Longo and Mr Twana [CT01557] were killed. Two men from Ngxobongwana's group, Mr Allion Gxokwe and Mr Alfred Mano, were later convicted of two counts of murder, ten counts of attempted murder and arson, and reportedly sentenced to twenty-four years. (Gxokwe, a PAC member, was subsequently released from prison in January 1994 when he was granted amnesty as a political prisoner.)

Crossroads under Nongwe: 1990–1993

392 Despite his new ANC allegiance, Nongwe displayed the same autocratic practices as Ngxobongwana. He was used by the CPA to persuade residents of Section 1 in Old Crossroads to move to lower Crossroads so that development of the area could begin. Nongwe allegedly promised residents that they would return to brick houses in three months. Some residents moved voluntarily but others were 'forced' out by arson attacks and violence allegedly perpetrated by *kitskonstabels* and Nongwe's 'cabinet'.

393 From October 1990, occupants and homes in the new Unathi section were attacked, burnt and looted. It soon became apparent that the 'headman' style of political control had been transplanted into the ANC. The youth in Old Crossroads started to campaign against the 'headman' system and against the corruption of Nongwe and his administration. In March 1991, a separate ANC branch was launched in Unathi and Depoutch 'Whitey' Elese elected as chairperson. Elese was a young MK-trained returnee activist. Both Nongwe and the SAP were aware of his MK training and background and, over the next few years, the Elese home was continually raided by different units of the SAP.

394 Approximately 108 houses in the Unathi development were destroyed and tens of people were killed in the 1991 conflict.⁶⁰ Mr Boysie Ntsethe [CT0152] was shot and the Ntsethe home destroyed. On 13 August 1991, police shot Mr Xolile Danster [CT00251] in the head in Unathi, Crossroads. Bidekile Sogqiba [CT01323] was also shot and killed.

⁶⁰ Statistics from statement by Stefan Snel, UMAC director, to the Goldstone Commission of 1993.

- 395 In an attempt to resolve the conflict, the ANC established a Peace Commission in August 1991, which was partially successful. Subsequent meetings were arranged, attempting to draw the divided community together. The mutual focus of discontent began to fall on the Crossroads council and its administration. This came to a head with the killing of an ANC activist Buntubake Ndemane, on the 13 May 1992, as he was leaving a community meeting where residents were voicing their complaints against the council and its councillors. The accused were subsequently acquitted in the High Court by a judge who strongly criticised the SAP investigation. LRC investigations helped identify the perpetrator as a council employee and secured a substantial financial out-of-court settlement for the family.
- 396 The upgrading process and the accompanying (sometimes forced) relocation of residents to temporary accommodation with no guarantee of housing in the future continued to cause conflict. This was exacerbated in 1992 by new financial demands for rent and contributions to the 'Crossroads Fund' . Even headmen opposed Nongwe on this, and one, Mr Amos Sakhele Nyhakatyha, defected to Boys Town.
- 397 A wave of conflict broke out from April to August 1993. Seven or eight members of Nongwe's 'cabinet'/'Big Eight' bodyguard were identified as the perpetrators of a major arson attack which took place on 15 April 1993. SAP and SADF members were said to be present but did nothing to stop it. Another large burning occurred on 29 May, destroying approximately sixty shacks. Press statements suggested that, after this, residents chose to move rather than continue to resist removals.
- 398 At least fifty-five people were killed and nearly 100 injured between March and July 1993. In one of the first killings, activist Ms Joyce Ndinise-Elese, Mr Timothy Soga and Ms Sicelo Pauli [CT00939] were shot dead in an attack on their home on 19 March 1993, which also injured Mr Tinie Elese and Mr Ayanda Ndinise. The intended target of the attack was Unathi ANC leader Mr Depoutch Elese. Mr Mandla Maduna [AM5938/97], one of Nongwe's assistants, was later convicted of the murder and has applied to the Commission for amnesty, claiming to have been acting on behalf of APLA/PAC.
- 399 Women and youth were frequently the victims of random attacks which destroyed hundreds of homes and caused many injuries. Fourteen-year-old Siyabulela Khobo was abducted on 22 May 1993 by a member of the Big Eight whom he identified as 'Small' (Victor Sam) and taken to Nongwe's base in Section 4 where he was beaten and told to give certain information to the police. Internal Stability

Unit (ISU) police arrived and questioned Khobo, and a senior ISU member threatened his life. After the ISU left, Khobo was beaten and kicked again. At a subsequent court case brought against Nongwe, Victor Sam, Loleka and Booi, Khobo had to give his evidence in open court facing the accused. The magistrate in charge acquitted the accused, saying that Nongwe was within his rights in making a citizen's arrest.

400 By the end of the conflict, Section 3 was totally, and Section 2 substantially, destroyed. Section 4, Nongwe's home/power-base, remained intact, despite instances of sporadic reciprocal violence. Nongwe was finally limited to Section 4, where he was soon joined by other 'refugee' squatter leaders being ejected from other informal settlements, including Christopher Toise and Jerry Tutu. Section 4 had long served as the 'military base' of WEBTA and its leadership core, the Big Eight, including Victor Sam. There are suggestions of a *quid pro quo* relationship in terms of which Nongwe and Sam provided each other with refuge and troops for their respective battles.

401 The 1993 Goldstone Commission of Inquiry into Public Violence and Intimidation at Crossroads in the Greater Cape Town Area was charged with examining the conflicts. Their findings identified a range of historical and social causes and criticised the role of the CPA and the police. The ANC, which suspended Nongwe's ANC membership only on 17 August 1993, was criticised for its tardiness in doing so. Complaints about Nongwe's actions were being brought to their attention from as early as 1991.

402 After the Goldstone Commission hearings, from August 1993 to early 1994, there was a period of relative calm with only occasional incidents of violence. Amos Nyhakatyha was attacked in February 1994, forcing him to move to Khayelitsha where he was later murdered. At the time he was said to be meeting and Nongwe with others from Boys Town in an attempt to broker peace in the area. At the time of reporting, many of the key players in the conflicts appear to have remained active in recurring bouts of violence.

THE COMMISSION FINDS THAT LOCAL POWER STRUGGLES BETWEEN HISTORICAL RIVALS AND POLITICAL OPPONENTS DATING BACK TO THE LATE 1970S WERE EXACERBATED BY THE DEVELOPMENT AND UPGRADING PROJECTS EMBARKED UPON IN THE 1990S. THESE PIECEMEAL DEVELOPMENTS INCREASED THE POWER OF PATRONAGE OF LOCAL LEADERS AND HEIGHTENED THE INSECURITY OF RESIDENTS. IN THE CASE OF CROSSROADS, THE COMMISSION FINDS THAT FIRST JOHNSON NGXOBONGWANA AND THEN JEFFREY NONGWE WERE KEY PLAYERS IN THE UNFOLDING OF THE CONFLICTS.

Violations associated with APLA and PAC supporters

403 Cape Town became a significant field of operation for APLA in the 1990s. From December 1992 to December 1993, a series of APLA attacks targeted both civilians and security force personnel. On 26 December 1992, two armed men opened fire on the Stakes restaurant, injuring several persons while a further two operatives waited in the car outside. APLA operatives Andile Shiceka [AM5939/97], commander of the operation, and Thandabantu Samala [AM5900/97] applied for amnesty for this incident.

The St James' Church Massacre

404 At about 19h30 on Sunday 25 July 1993, two APLA operatives burst into the evening service at St. James' Church in Kenilworth. They fired machine guns and threw two hand-grenades covered with nails at a congregation of over a thousand people. Eleven people were killed and fifty-six injured. The attackers escaped in a waiting car which had been hijacked earlier. The congregation was racially mixed and those killed included four Russian sailors.

405 The Commission received ten statements relating to deaths and injuries. Those killed were Mr Guy Cooper Javens (52) [CT00620], Mr Richard Oliver O'Kill (17)[CT03029], Ms Myrtle Joan Smith (45) [CT03029], Mr Wesley Harker (13), Mr Gerard Dennis Harker (21), Ms Denise Gordon (30) [CT01124], Ms Marita Maria Ackerman (46) [CT02922], Mr Oleg Karamjin (55), Mr Andrey Katyl (25), Mr Valuev Pavel and Mr Valentin Varaska (40).

406 Ms Marilyn Javens described the attack which killed her husband Guy:

It was one of those evenings that we went to church the normal time, started the worship service and a couple were singing "More than wonderful". And it was just at the end of that song that the doors opened. And I saw this man standing there and I realised that he had a gun in his hand and he started moving from left to right ... And after a few minutes, we got up and – well I called to my husband and he didn't answer. And I got up and he was still on his haunches, and I think I was a bit bewildered at that stage, everybody was milling around and, with that, an usher came down in front of me towards my husband. And he bent down to feel his pulse and I just said to him, "Is he alive?" and he shook his head.

407 Amongst those who were severely injured was a teacher, Mr Paul Williams [CT00618], who was shot in his spinal cord and cannot walk without crutches:

Suddenly these doors just flung open. And nobody could – I myself, I couldn't imagine that it was a possible or imminent attack. At first I heard a gun shot and immediately thereafter ... saw a hand grenade hurling towards a live audience. The second person (while this hand grenade was still airborne) he opened fire with what I will call a very heavy machine gun. And he was just spraying bullets, you know, randomly just across the Congregation. And I was sitting on the end of the pew and that pew was rather full ... I curled myself up to sort of hide my face from the gun firing ... but soon after I just felt the thud of the bullet hitting my lower back and it was like – it was like a tension wire snapping and with that went a lot of pain. I just – I had stretched my body and my lower body just became very numb.

408 Public relations manager Mr Martin Bagley suffered severe head injuries and the right side of his body was paralysed, causing him speech and memory problems. Mr Dimitri Makogan lost both legs and an arm.

409 Initial responses from the PAC and APLA denied responsibility for the attack. PAC leader Mr Barney Desai stated, "We condemn this mindless violence on church-going people". An APLA spokesperson in Dar Es Salaam said that the attack was "not the sort of operation APLA would mount". The Regional Director of the PAC denied that APLA was involved, but a person claiming to be the Regional Commander of APLA claimed responsibility. This suggests that the operation was the decision of a local commander rather than an attack planned by the High Command.

410 An APLA operative, Mr Gcinikhaya Makoma (18), was arrested ten days after the incident and was later sentenced to twenty-three years' imprisonment. Mr Thobela Mlambisa and Mr Basie Mkhumbuzi were subsequently charged in 1996. Mlambisa drove the vehicle while Mkhumbuzi acted as 'security' outside with the vehicle. Mr Sichumiso Nonxuba⁶¹ admitted entering the church and physically attacking the congregants. Makoma [AM0164/96], Mkhumbuzi [AM6140/97] and Mlambisa [AM7596/97] applied for and were granted amnesty for the attack.⁶² Unsubstantiated reports indicate that one of the key commanders associated with this operation did not turn up on the day of the attack and that, although the SAP had this information, he was never sought or charged.

61 Nonxuba was killed in November 1996 in a Kokstad car accident.

62 APLA Director of Operations Letlapa Mphahlele [AM3018/96] took overall responsibility but did not arrive at the amnesty hearing.

411 Makoma, Mkhumbuzi and Mlambisa testified that they were recent APLA recruits. They did not know the details or target of the operation until they arrived at the scene, claiming that, as commander, Nonxuba directed them to the target.

Heidelberg Tavern

412 In the early minutes of 31 December 1993, three women were killed and six people injured when two APLA operatives walked into the Heidelberg Tavern in Observatory and fired at patrons, while other operatives waited in the car outside. The attackers also threw a hand grenade covered with nails into the room, though this failed to explode. Mr José 'Joe' Cerqueira was shot dead by the attackers when he ran out of a neighbouring tavern into the street. The three killed in the Tavern were Ms Rolande Palm (22) [CT00415], Ms Lindy-Anne Fourie (23) [CT02703] and Ms Bernadette Langford (22) [CT00415].

413 The attack at the Heidelberg Tavern was likened to that at St James' Church five months earlier. Ballistics tests established that the same rifles had been used in both attacks. The internal commander of APLA, Mr Carl Zimbiri, later confirmed that the operation was carried out by an elite APLA unit called 'The People's Concern'. Six men were later arrested and charged, though charges against three of them were later dropped. The accused were sentenced to terms of imprisonment from twenty-four to twenty-seven years.

414 Mr Humphrey Luyanda Gqomfa [AM0949/96], Mr Vuyisile Brian Madasi [AM6077/97], Mr Zola Prince Mabala [AM5931/97], Mr Theo Thobile Mabusela [AM5731/97], Mr Nkosinathi Michael Siyolo [AM6139/97] and Mr Richard Madoda Dala [AM6138/97] applied for amnesty for the attack. (The latter three had been arrested but charges against them were dropped.) Gqomfa, Madasi, Mabala and Siyolo were granted amnesty.

415 At the amnesty hearing it was established that the order for the operation came from Mr Sichumiso Nonxuba and Mr Letlapa Mphahlele. Mr Bulelani Siphon Xuma also claimed to have been amongst those who gave the order. The group was deployed from the Transkei and arrived in Cape Town during November 1993. They linked up with Siphon Xuma and other local PAC regional leadership which provided logistical support, arms and ammunition. The actual attack involved six individuals, namely Maxeba, Madasi, Gqomfa, Sibeko, Mabala and Monwabisi Jantjie, who drove to the Tavern. Gqomfa was one of those who went to the entrance of the tavern and opened fire on the patrons inside. He also shot and killed José Cerqueira.

- 416 During the course of the Commission investigation into this matter, an *affidavit* by a Mr Bennet Sibaya was found in earlier SAP investigation documentation. This *affidavit*, taken by Detective Sergeant J Etsebeth on 4 January 1994 under instruction from Superintendent Desmond Segal, alleged that Sibaya had seen a group of armed men in Gugulethu shortly after the attack, with a vehicle registered to Mr Dumisa Ntsebeza, a commissioner. He stated that he had picked up a piece of paper after they had left which was a rudimentary map to the Heidelberg Tavern. Commission investigators interviewed Sibaya, who confirmed his earlier *affidavit*. Sibaya testified to this *affidavit* at the October 1997 amnesty hearing, pointing out Commissioner Ntsebeza as one of the men on the scene at the car.
- 417 However, several days later Sibaya contacted the Commission and confessed to the Archbishop that both his *affidavit* and his testimony were false. He stated that at the time of the Heidelberg attack he had been arrested for illegal crayfish dealing and that he had been tortured and coerced by the commander of the Murder and Robbery Squad unit at Bellville South, Desmond Segal, into making the statement implicating Ntsebeza. At the time, Ntsebeza was the subject of a series of allegations by the SAP who believed he had APLA or PAC links.
- 418 Sibaya's allegations resulted in a government-appointed enquiry headed by Justice Richard Goldstone, which found the allegations to be false. This gave rise to the strong inference that Mr Sibaya, or someone directing him, wished to implicate Mr Ntsebeza in serious criminal conduct. The enquiry cleared Mr Ntsebeza of all allegations, but criticised the Commission for not calling for an independent inquiry when the allegations first surfaced.⁶³

Other PAC or APLA-linked attacks

- 419 The unit involved in the Heidelberg attack was also responsible for two attacks on security force targets on 17 December 1993, for which individuals have applied for amnesty. A group of five opened fire on the Nyanga Defence Force base, injuring two people. Later that night a similar attack was launched on the Lingeletu West police station in Khayelitsha. No one was injured.
- 420 PAC-linked individuals applied for amnesty for a series of other incidents. During the night of 27 August 1993, shots were fired at a Translux bus as it passed through Beaufort West. Eight people were injured. Mr Thembinkosi Henge [AM6137/97]

⁶³ Commission of Inquiry into Certain Allegations Against Mr Dumisa Ntsebeza and Related Matters, Final Report by Justice Richard J Goldstone, 1 December 1997.

applied for amnesty for this attack, allegedly ordered by the late Sichumiso Nonxuba. On 6 December 1992, a group of security guards at a Khayelitsha railway station were attacked by a group of armed men with R4 rifles and an AK-47. One guard was shot dead and another wounded. APLA operative Andile Shiceka [AM5939/97] applied for amnesty for the attack, stating that they believed the uniformed guards were policemen. He cites several others as having been involved.

Links to the Transkei

421 Operations in the Western Cape had strong links to APLA structures in the Transkei, which was clearly an important operational platform from which attacks could be launched. Weaponry was also sourced from Transkei security forces. For example, the hand grenades used in the St James' and Heidelberg attacks originated from a batch of grenades supplied to the Transkei Defence Force. Transkei also provided refuge for APLA operatives after operations. In most attacks, APLA personnel from the Transkei were deployed in conjunction with locally trained operatives. It appears that the local PAC structures, including regional PAC executive members, also provided logistical support to such operatives.

The Killing of Amy Biehl

422 In August 1993, the Pan Africanist Student Organisation (PASO) was engaged in a joint campaign of street protest with COSAS. Student actions involved the widespread stoning of vehicles. ANC condemnation of the campaign was ignored. There were also, at that time, calls for an end to the use of the slogans, 'One settler, One bullet' and 'Kill the farmer, Kill the boer' associated with the PAC and ANC respectively.

423 On 25 August 1993, American Fulbright scholar Amy Elizabeth Biehl (26) drove into Gugulethu to drop off some fellow students. Youths stoned the car, injuring Ms Biehl and bringing the car to a stop. She and the other occupants of the car fled, with a group in pursuit continuing to stone and stab her. Several PASO members returning from a PASO meeting in Langa were also at the scene and played a leading role in the actual killing.

424 In October 1994, PASO members Mr Mongezi Manqina (21), Mr Vusumzi Ntamo (22) and Mr Mzikhona 'Easy' Nofemela (22) were convicted and sentenced to eighteen years' imprisonment each by the Cape Town High Court. Subsequently, Mr Ntobeko Ambrose Peni was arrested and sentenced on 6 June 1995 to eighteen

years' imprisonment. All four applied for and were granted amnesty by the Commission. In their application they stated that their motivation for the killing came primarily from the PASO meeting they were returning from, and that their actions were in accordance with the slogan 'One Settler, One Bullet'. "That day we were incited by militant political speeches and we were instructed to support Operation Great Storm which was adopted by APLA in 1993 and which PASO adopted and supported." (Peni application.) Some of the applicants claimed to have received some basic training from APLA. The applicants expressed regret at their actions. Peni stated:

I feel sorry and very down-hearted especially today, realising the contribution Amy Biehl played in the struggle ... I took part in killing someone that we could have used to achieve our own aims. Amy was one of the people who could have, in an international sense, worked for our country so that the world knows what's going on in South Africa, so that the government of the day would not get support. I ask Amy's parents, Amy's friends and relatives, I ask them to forgive me.

425 The Biehl family did not oppose the amnesty application.

426 In its submission to the Commission on 20 August 1996, the PAC expressed its regrets for the killing and sent condolences to the Biehl family. "They [PASO] wrongly targeted and killed Amy Biehl ... But misguided as the deed was, we support the amnesty applications of all those convicted and sentenced for the offence."

THE COMMISSION FINDS THAT THE ATTACKS LAUNCHED BY APLA IN THE WESTERN CAPE MAINLY TARGETED CIVILIANS IN SOCIAL SETTINGS SUCH AS BARS, CHURCHES AND RESTAURANTS. THE ATTACKS WERE NOT MERELY SYMBOLIC BUT, THROUGH SPECIALLY ALTERED WEAPONRY SUCH AS NAILS GLUED TO THE GRENADES, AIMED TO KILL AND INJURE AS MANY PEOPLE AS POSSIBLE. THE COMMISSION NOTES WITH CONCERN THE YOUTH AND INEXPERIENCE OF SOME OF THE APLA OPERATIVES USED IN THE ATTACKS.

Violations committed by SDUs

427 The majority of violations committed by ANC members appear to be linked to the activities of the SDUs in the region, whose relationship to formal MK structures was frequently tenuous. Several amnesty applications and incidents of gross human rights violations were SDU-related and occurred after the suspension of armed struggle. However, the Commission received evidence that at least one SDU acted in the service of an agent of certain security forces (see below).

Peninsula SDUs

- 428 With the escalation of attacks on liberation movement supporters from 1990, several local communities, especially in Khayelitsha and Nyanga, set up self-defence units to patrol affected areas at night. SANCO was instrumental in this process, and there are allegedly instances of community collections to fund the purchase of ammunition or weapons for the SDUs. The SDUs were often headed by MK members with at least some external training, although many were post-1990 recruits trained in Uganda. Local youth were also recruited into SDU structures and were given some training locally or in Transkei.
- 429 Some of the SDUs engaged in criminal actions with little or no political motivation, or political actions that contravened the ANC's suspension of armed struggle. Although, technically, SDUs' role was primarily defensive, many engaged in 'pro-active' attacks. For example, Mr Mzingisi Patrick Ndlumbini [AM0184/96], an SDU cell member in New Crossroads, attacked the home of a Mr Xetegwana on 27 October 1991, believing him to be linked to the ongoing taxi violence. He and others also ambushed a police patrol van on 13 October 1991, injuring policeman Ndemphiwe Ntekiso, allegedly in an effort to obtain weapons. Ndlumbini was granted amnesty.
- 430 In at least one instance, SDU members were deployed in violations against other ANC or MK members. On 19 June 1991, senior ANC and MK member Mziwonke 'Pro' Jack [CT00225] was gunned down and killed by three men in Nyanga. His nephew Andile Jack was wounded in the attack. At the time, this was portrayed as an assassination of an ANC leader by the security forces or their 'surrogates'. However, it was believed within ANC circles that ANC members linked to MK were probably involved in the attack. The Commission's efforts to uncover the results of an ANC-initiated internal investigation were unsuccessful. SDU member Xola Thembinkosi Yekwani applied for amnesty for this killing [AM7970/97], in which he implicated ANC Youth League members. The application had not been heard at time of reporting.
- 431 Many SDUs seem to have operated without senior ANC operational control. Lines of command appear to have been extremely localised, without sustained links to regional MK structures. Some SDUs were self-appointed. Control of weapons also appears to have been very loose. Further, many MK soldiers returning after 1990 came back to a life of poverty which encouraged involvement in crime.

432 Evidence before the Commission suggests that SDUs were also open to manipulation, infiltration and penetration by agents of the security forces. While the commission has found that one SDU in KwaZulu-Natal was run by paid Security Branch informants or agents, in the Peninsula at least one SDU had links with, obtained arms from and committed violations on behalf of a person with Military Intelligence and Security Branch links.

The Trevor Vilakazi SDU, Site B: 1992–1994

433 In early 1992, the Trevor Vilakazi ANC branch in Khayelitsha called on the ANC Regional Executive Committee (REC) to assist in dealing with certain members of the ANC Youth League who were engaging in criminal activities including robbery, rape and even murder under the guise of defending the community. The individuals concerned were called to a series of meetings with REC members. Members of the alleged criminal group opened fire on one of these meetings, injuring the chairperson. An ANC Commission of Inquiry was established in 1992 to look into the matter and decided that the alleged criminals should be expelled from the ANC. However, this proposal was not followed through, and the group continued their activities.

434 Senior regional MK members, including Mr Tony Yengeni and Mr Bongani Jonas, disarmed the criminal group. An SDU was established with the intention of challenging the alleged criminals. MK member Lulama 'Rhadi' Sifile was appointed by MK leadership as the commander of this SDU to take control of the situation. However, the ANC refused to arm the SDU and left them to their own devices. The result was a war between the two groups in the Trevor Vilikazi area, leading to injuries, deaths and the destruction of homes.

435 By October 1992, the ANC REC began to encourage the ANC branch to report any criminal activities by these ANC members to the police and locate witnesses to testify against them. A local committee was even established to liaise with the police. However, this was a controversial process and many ANC members, including some at REC level, appear to have been unhappy with this 'collaboration' with the SAP.

436 In the months that followed, several potential state witnesses and ANC members who were liaising with the SAP were targeted for attack. Mr Mkhokeli Mpongwana and Mr Million Sizani were shot dead on 7 December 1992, and Mr Lonwabo Kalimashe was shot dead on 10 May 1993. Witnesses withdrew as a result.

437 In 1993, the Trevor Vilakazi SDU, made up of Lulama Sifile, Current Rhumbu, Jeffrey Molebatsi Moshumi⁶⁴ and others, began to engage in activities outside the control of the ANC. Lacking access to weapons from the ANC, the group established links with Mr Prince Gobingca (allegedly related to Sifile) in the second half of 1993. An *affidavit* made to the police by an SDU member states "In September 1993 we started killing the ANC members in Khayelitsha. Mr Prince Gobingca offered a 9mm pistol to our commander Mr Rhadi Sifile and he was assisting us so we could continue with these armed attacks."

438 The *affidavit* further reported on trips by the SDU to Ciskei, starting in December 1993, initially to meet African Democratic Movement (ADM) leader Mr Titus Mcoiyiyana and to receive firearms from him. Gobingca and Mcoiyiyana promised an ongoing supply of arms. The statement also explained how members of the SDU together with Mcoiyiyana and others carried out attacks on ANC members in the Ciskei. It describes the proposed training that African Democratic Movement (ADM) members were to receive from them:

On our arrival at Litha, Mr Madikane gave me a .38 revolver and a G3 rifle. Two AK47 assault rifles were placed in the Opel Record and I was told they were going to Mpsa Military base where Mr Jeffery wanted to inspect a place where he was going to train the African Democratic Movement people in the use of firearms.

With regard to weapons that were to be brought to the western Cape he says:

On the 6 of January 1994 when I was at Alice, Jeffery and Somsora arrived at my place and I was together with my brother and they then gave him a G-3 rifle, 9 hand grenades and sixty G-3 bullets and these would be taken to Cape Town and this G-3 rifle was disassembled. On my arrival in Cape Town, Lulama Sifile at Rhadi confirmed that they had received the equipment from [my brother] which were arranged by Jeffery. I saw this G-3 rifle again and the hand grenades were already hidden. I then saw other hand grenades at Current Rumbu and again I saw others at Rhadi, Lulama Sifile's place. Lulama Sifile then left for Bloemfontein to join the National Peace-Keeping Force.

439 Certain members of the Ciskei hit squad were arrested and brought to trial but were acquitted due to a technicality. Rumours of political interference followed the acquittal. It is of concern to the Commission that the above *affidavit* was in the possession of the police in Cape Town but was not used in the trial. In addition,

⁶⁴ Moshumi had allegedly been held in the ANC's detention camp Quatro while in exile, on suspicion of being a spy.

a member of the detective branch who was investigating crimes in the Trevor Vilikazi area suggested that certain members of the SDU were informers for the Central Intelligence Service (CIS). This was not denied by a member of the CIS when asked.

- 440 Further, CIS documentation indicates knowledge of Gobingca's paramilitary group in the Western Cape, as well as the fact that he had recruited Western Cape individuals for the Ciskei hit squads.⁶⁵ All of the above would imply that the police in the Western Cape had access to information and witnesses that could have assisted in the prosecution of the members of the Ciskei hit squad. The question is why the above information was not used in the trial, why the SDU member who made the above *affidavit* was not called as a witness, and why Prince Gobingca himself was not charged.

THE COMMISSION FINDS THAT AT LEAST SOME OF THE SDUS CONTRIBUTED TO THE CLIMATE OF VIOLENCE. THEY ENGAGED IN NUMEROUS OFFENSIVE ACTIONS, PARTICULARLY ATTACKS ON POLICE PERSONNEL, AND SEVERAL ENGAGED IN CRIME UNDER POLITICAL COVER. DESPITE EFFORTS TO INTERVENE IN THE TREVOR VILAKAZI SITUATION, THE REGIONAL ANC MUST BE STRONGLY CRITICISED FOR FAILING TO EXERCISE CONTROL OVER THE STRUCTURES THEY PLAYED A SIGNIFICANT ROLE IN ESTABLISHING.

THE COMMISSION FINDS THAT MR PRINCE GOBINGCA, AN MI AND SECURITY BRANCH AGENT, TOOK CONTROL OF THE TREVOR VILAKAZI SDU AND FACILITATED THE PROVISION OF WEAPONS TO THIS GROUP AND THE TRANSFER OF WEAPONRY FROM CISKEI TO THE WESTERN CAPE. AT HIS BEHEST, THE GROUP WAS THEN DEPLOYED IN VIOLENT ACTIVITIES IN THE CISKEI FOR THE ADM, RESULTING IN DEATHS AND INJURIES.

FURTHER, THE COMMISSION NOTES WITH CONCERN THE APPARENT LINKS BETWEEN CERTAIN SDU MEMBERS AND ELEMENTS OF THE SECURITY FORCES.

Taxi violence and vigilante activity

- 441 Conflict in the taxi industry has been the subject of many reports, commissions of inquiry and research projects and will not be covered in detail here. The social cost of the conflicts in the region was enormous. Major Louis van Brackel of the Violent Crime Investigation Unit in Athlone stated on 8 March 1991 that there had been 628 reported attacks involving at least thirty-seven deaths, 139 injuries, 341 taxis burnt or damaged and at least 300 homes damaged or destroyed. These figures are conservative: elsewhere the figure of seventy-four deaths is suggested. In some instances, whole areas were attacked and destroyed, particularly in Khayelitsha. In one incident, the informal settlement of Black City in Nyanga

⁶⁵ For example, a police intelligence report was leaked to the press and resulted in an article in the *Sunday Times* on 13 February 1994. It was authored by Gordon Brookbanks, a member of CIS who had been integrally involved in the 'resolution' of the problem in Khayalitsha, and currently working for the NIA. The report, dated 31 January 1994, is entitled 'Report on link between organised violence (Western Cape Squatter Communities) and elements of Ciskei Government/Administration and African Democratic Movement'.

was virtually obliterated. The political cost for the ANC was also high: a number of killings or attempted killings of key activists were linked to the taxi conflicts.

- 442 SANCO or ANC activists who were involved in the Transport Co-ordinating Crisis Committee (TCCC), which was attempting to resolve the conflicts, became targets for attack. On 8 July 1991, civic chairperson Mr Michael Mapongwana and Mr Ntini Mtshintshi were returning from Wynberg court along Lansdowne Road when they were stopped, pulled out of their vehicle and shot dead [CT00836]. Several WEBTA individuals were later charged, but on 25 January Mr Michael Ndongeni (a WEBTA member due to appear as a state witness) was shot dead after he made a sworn statement alleging that he was part of the WEBTA group that planned the murder of Mapongwana. Ndongeni was killed when unknown attackers chased and shot him dead at the Nyanga taxi rank. In other attacks, activists such as Mr Lucas Mbembe [CT00934] and Mr Super Nkatazo were shot and killed. Hostel-dweller leader Mr Johnson Mpukumpa was shot and wounded. In June 1991 Mr Zola Tsoni and Mr Michael Mhlengwana were shot dead in Khayelitsha.
- 443 The pattern of conflict in the taxi industry in the Western Cape appears to be typical of the industry as a whole. Endless peace agreements continue to be negotiated and broken and new organisations formed in an attempt to bring unity, followed by further splits.
- 444 Ranks, routes and permits were the basis of most of the conflicts in the industry. However, questions can be raised about the police's failure to prevent conflict and bring charges against criminals in the taxi industry. These factors allowed the conflict to sustain itself over a long period of time. Of concern was the easy accessibility of weapons and ammunition. A substantial number of allegations concerned outside involvement in the supply of weaponry, assistance in the course of attacks and the role of the police. A UMAC document entitled 'Did the Third Force exploit the taxi conflict and produce a war?' described the use of police vehicles in attacks and the involvement of white men in deliveries of weapons and in the planning of an attack on Black City.

Links to other groups

- 445 Certain town councillors in both the Lingeletu West and Crossroads town council were taxi owners themselves. The statement by criminal 'balaclava' gang member Michael Mvokwe [CT02819], quoted earlier, directly links Hoza to violent support for WEBTA in Khayelitsha.

- 446 After the formation of the taxi association CODETA (Convention for Democratic Taxi Associations) and, soon afterwards, CATA (Cape Amalgamated Taxi Association), violence in the taxi industry continued unabated.⁶⁶ A further dimension to the political allegiances within the taxi conflicts emerged in the alliance between the WEBTA hit squad known as the Big Eight and Jeffrey Nongwe (see above). Several members of the Big Eight appear to have had connections with the PAC.
- 447 CATA was spearheaded by WECUSA chairman Jeffery Nongwe and the Big Eight Gang, also known as the Balaclava Gang. Nongwe's 'cabinet' was allegedly prominent in the violence surrounding the taxi conflict. It is obvious that the subsequent taxi hostilities became inextricably linked to Nongwe's own struggles for control of certain areas of Crossroads. Within this scenario, Nongwe called upon members of the Big Eight Gang, also historically associated with WEBTA, to assist in a territorial struggle with SANCO⁶⁷.
- 448 The report quoted above states that "supposed political ties have been cited as one of the reasons behind the break between CATA and CODETA". Suggestions have been made that CATA members are generally PAC-aligned while CODETA members are ANC-aligned. It is important to note, however, that while some CATA taxis used PAC colours, the PAC denied any formal link with the taxi organisation.

Conclusion

- 449 The taxi war still continues to claim casualties at the time of reporting. The political dimensions that permeated the bloody conflicts are complex, with interwoven criminal and political activity. There is little doubt of the interconnections between political agendas and the taxi wars. Whether this was the result of malicious orchestration by any part of the security establishment remains to be proved.

Violations in rural areas

Northern Cape

- 450 The 1990s saw an upsurge in political activity in a number of towns in the northern Cape. The newly emerged ANC branches and other organisations took up numerous national and local campaigns. Consumer boycotts targeted white shops in protest against severe ongoing racism in several towns in the region from 1990.

⁶⁶ CODETA was the first attempt at amalgamation. It was not long before CODETA split, leaving mainly former Lagunya members to CODETA, whilst former WEBTA members joined together to form CATA under the leadership of Victor Sam, a well known and extremely powerful member of the taxi industry in the Western Cape.

⁶⁷ A report by the Centre for Conflict Resolution, entitled 'Living with Conflict: Demystifying the Taxi War', refers to the operation of hit squads in the industry.

School student protest also became more widespread in the region, and repression of such protests remained harsh. Newspaper reports also indicate that the residents or ANC supporters engaged in attacks upon those seen to be collaborating with the state – primarily councillors or black police personnel. This mainly took the form of stoning and petrol bomb attacks on their property.

- 451 In mid-July 1990, Galeshewe township in Kimberley was rocked by student protests and police action. Motlachi Christopher Mokhuwane [CT04306] died on 21 July of injuries sustained during the protests, probably as a result of a blow to the head with a gun butt. Mr Ivan Segami [CT06012] was shot dead by police on 22 July.
- 452 In Upington, the ANC Youth League led demonstrations against the local Paballelo municipality. Mr Lizo Anderson Mpendelo [CT01400] was shot in August 1992 by police reservists during one such demonstration. There appears to have been persistent hostility towards black police personnel in Upington. A Paballelo policeman, Mr Mosito Daniel Rafube [CT01420], was stabbed in the ribs and eye on 27 July 1991 by a group of youth and his home was subsequently burnt down.
- 453 On 20 June 1990, a group of Boichoko residents marched with local ANC leaders to the Town Council offices in Postmasburg in a protest action concerning rates, rents and electricity costs. Police shot Ms Seralo Rebecca Mhlongo [CT04202] in the head with birdshot. Between November 1990 and February 1991, Postmasburg experienced ongoing political upheaval. Chapman Fela Moalo (13) [CT00137] was shot dead by police in Boichoko township on 1 February 1991 during student protest.
- 454 During June 1993, there were again student protests and a consumer boycott in Boichoko. In one incident on 18 June, three women were injured with rubber bullets when police opened fire on residents in the street, including Mr Khole Machane [CT00136], Ms Elizabeth Thamaga [CT04103] and Ms Nozililo Ellen Horn [CT04200]. Horn was subsequently charged with public violence but was acquitted.
- 455 A consumer boycott began in Kuruman to protest ongoing white racist practices in the area. On 30 November 1991, Mr Nzimeni Patrick Bosman [CT04106] was assaulted by civilians and then by police while holding pamphlets promoting the consumer boycott. He suffered serious injuries in the assaults. Similarly, Mr Gert Ditabe Moria [CT01401] was assaulted by the SAP during the consumer boycott.

- 456 Evidence before the Commission points to a degree of conflict between the ANC and IFP in Griquastad during 1991. The IFP appears to have had the support of the mayor of the township. On 2 June 1991, the ANC Youth League clashed with the IFP, and ANC member Tommy Kgosimang Kgatiwane [CT04600] was shot and injured by police. In a further incident on the last weekend in June 1991, IFP members from Johannesburg were allegedly bussed into the town and attacked ANC supporters. Mr Aubrey Kgatiwane [CT04601] was beaten unconscious.
- 457 During 1993, the ANC launched national mass campaigns against the lack of political freedom in homelands such as Ciskei and Bophuthatswana. The ANC in the Northern Cape engaged in protest actions directed at neighbouring Bophuthatswana in particular. In Kuruman, Mr Michael Basi [CT00165] was shot and injured by Bophuthatswana police after attending an ANC meeting on 27 May 1993 during the anti-homelands campaign.
- 458 In one incident on 25 May 1993, a mass ANC march to the Bophuthatswana Consulate in Kimberley ended in the death of one of the marchers, Mr Izakiel Mokone [CT00141], who was killed when a hand grenade was thrown at the Consulate. The Commission heard evidence from the Mokone family, a state witness in the trial and two activists who were wrongly imprisoned for the killing. A dramatic public confession was made at the hearing by Mr Walter Smiles, who admitted being the person who threw the grenade and apologised to the Mokone family. Although not trained in handling military hardware, Smiles indicated he had acted under the command of MK commander Lawrence Mbatha. Several individuals applied for amnesty concerning this event. Their testimony illustrated shortcomings and irregularities in the trial and highlighted the tremendous pain and guilt experienced by those connected with the incident. Those who gave false evidence at the trial spoke of their guilt and sorrow at having implicated others.

Southern Cape

- 459 Street protests and confrontations with police took place in Mossel Bay in July 1993. Two people were shot dead during the conflict, including Mr Garth Kuinders [CT00355]. Mr Simon Karelse [CT00356] was shot and wounded. These incidents of violence were investigated by the Goldstone Commission which found that the violence developed out of local socio-economic issues such as the housing shortage, the disconnection of electricity, the eviction of tenants and the rent boycott. In many respects, the conflicts reflected the same struggle for recognition

of local popular bodies that was taking place in so many small rural towns in the Western Cape. The Mossel Bay Town Council consistently dealt with the management committee, an illegitimate apartheid body in the eyes of the residents. With the introduction of the Internal Stability Unit, the situation escalated into open conflict with extensive damage to property and looting. The conflicts lasted for three days resulting in two deaths, numerous injuries and several arrests.⁶⁸ The Commission took the town council to task, and also criticised the unrealistic demands of the Civic Association, which contributed to the escalation of conflict.

- 460 Forms of internal conflict within the liberation movements led to violations in Plettenberg Bay. On 24 March 1990, UDF leader and ANC member Mr Nelson Maseko (45), was attacked by ANC youth in Bossiesgif township, Plettenberg Bay. He was assaulted and chopped on the head with an axe. Despite telephone calls to the police for help by both Mr Maseko before the attack and Ms Maseko afterwards, the police took over an hour to arrive. Mr Maseko subsequently died in hospital as a result of head wounds. The Maseko family had to flee permanently to Knysna. Three ANC members who had attacked Mr Maseko were named. Mr Alfred Sishuba, Mr Alfred Jacobs and Mr Elvis Faku were charged with the murder but were acquitted in the George Regional Court on 13 March 1991.
- 461 Some incidents in rural towns connected to larger national campaigns. For example, the week of 4 August 1992 was declared a week of mass action by the ANC–COSATU–SACP alliance at national level, called to break the deadlock in negotiations. By the end of the second day, at least thirty-four people were reported to have been killed across the country in confrontations resulting from mass marches and street activities. In Beaufort West, Mr Jongisiswe Kellem [CT00359] was shot in the stomach and killed by an SAP member during the strike.

The Boland War

- 462 A new wave of revolt erupted in some Boland and winelands towns from 1990. This resulted in a number of deaths and other violations. The main cause of the revolt was a need within black communities to see visible changes in line with political developments in the country at the time. A key demand was the opening up to all races of public facilities. Residents embarked on a number of protest actions in what came to be known as the 'Boland War'.
- 463 On 11 April 1990, exactly one month after the release of Mr Nelson Mandela from prison, about 120 people in Robertson were treated for multiple injuries after

⁶⁸ Goldstone Commission of Inquiry 'Report on the Violence at Mossel Bay during July 1993' 12 October 1993.

police, without warning, started shooting tear gas and pellets into the hall where black residents had gathered. People stampeded and several were injured, including Ms Annalene Mildred Abrahams [CT07701], Mr Andries Hektoer [CT07703]; Ms Mienie Hektoer [CT07705] and Mr Patrick Veldsman [CT07706].

- 464 In early May 1990, Robertson residents embarked on a consumer boycott to highlight their grievances about rents, segregated civic amenities and essential services, and called for the resignation of the management committee. Several people were shot dead or injured in subsequent protest actions during the year including Mr Johannes Jones [CT07800] on 2 July and Mr Jacques de Bruin [CT07801] on 22 November.
- 465 On 22 April 1990, residents of Zolani, Ashton staged a march against housing conditions. A month later, they joined hands with residents of Oukamp, a coloured township, in protest against what they termed "continued racism in Ashton". They demanded that the municipality should open public facilities to all races and improve the townships' facilities. Their protest actions were accompanied by a consumer boycott.
- 466 On 26 June 1990, police fired teargas and birdshot at a group of demonstrating Ashton residents. Ten people were injured including Ms Adri de Koker [CT00427]. A few days later, picketing Oukamp residents and bystanders were fired upon by police, resulting in several injuries, including Mr Jan Gertse [CT00681] who lost both eyes, and Mr Karel Opperman [CT07901] who lost his left eye. On the following day, about seventy people were arrested and others seriously injured after police broke up yet another protest march.
- 467 On 24 November 1990, a new Community Hall was being inaugurated in Wolseley. The newly formed Wolseley Civic Organisation (WCO) was given permission to hold a peaceful placard demonstration concerning local grievances. The demonstration started at 14h00 and at 17h40 those attending the ceremony started to leave the hall. Although the allotted time for the demonstration had not yet expired, the police ordered the crowd to disperse and fired tear gas and birdshot. Many were injured. Mr Edward Booysen [CT00691] was shot dead by police some time later that evening. His body was found in a gutter the following morning. From the police occurrence book, it is evident that a number of additional police were brought into Wolseley from surrounding towns that day and were issued with shotguns and bird-shot well ahead of the actual shooting incident.

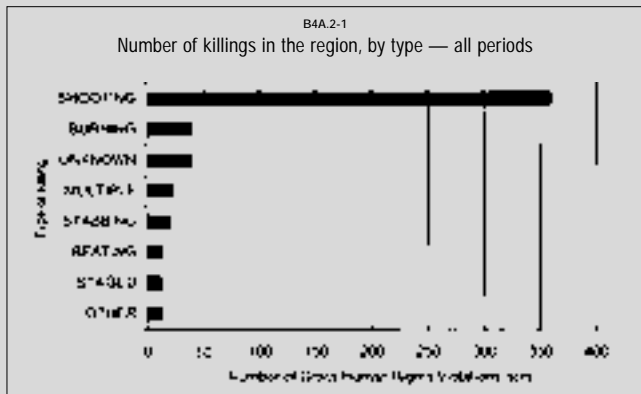
- 468 Those who had been injured laid a charge of assault against the police. The family of Edward Booysen also laid a charge, but later withdrew it. The matter was heard in court the following year, but the magistrate found that the police had behaved appropriately in the circumstances and the case was dismissed. Shortly afterwards, a number of people who had been at the hall were charged with public violence. These charges were subsequently dropped.
- 469 On 3 August 1992, Mr Ntozelizwe Stulo Mbovane [CT00294] was shot and killed and six other people injured when riot police opened fire on a group of about 300 ANC supporters at Grabouw. A police spokesperson said the man had been shot because he had thrown a half-brick at a Casspir after the crowd was ordered to disperse. This was rejected by the ANC's Grabouw branch, which insisted that there had been no order to disperse and no stone-throwing before police fired at the crowd. Mr Sandile Selani [CT00292] was also shot and injured in the incident.

APPENDIX

Statistics on Violations in the Western Cape

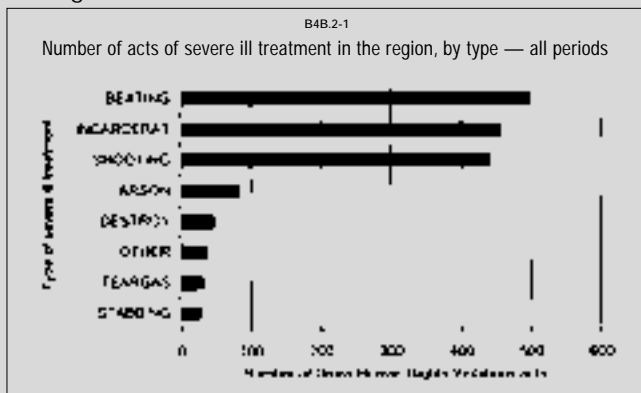
■ NATURE OF THE VIOLATIONS

1 Violations in the areas covered by the Cape Town office differed from those of the other offices in terms of quantity (there were far fewer violations), but the pattern of the violations is similar. The types of violations reported were as follows, starting with killings:



2 Most people died as a result of being shot, followed by burnings. Stabbing is the second most common cause of death nationally, but was far less common in the Cape Town region.

3 Beatings and incarceration were the most common reported forms of severe ill treatment, followed by shootings. Arson was the fourth most common violation although, nationally, arson is the most common category of severe ill treatment, because of the huge number of arson cases in the area covered by the Durban office.



- 4 In keeping with the national trend, the most common form of torture was by beating, but mental torture and torture by suffocation were far more common in the area covered by the Cape Town office than in other regions, where torture by electric shock and by forced postures were more common. ►

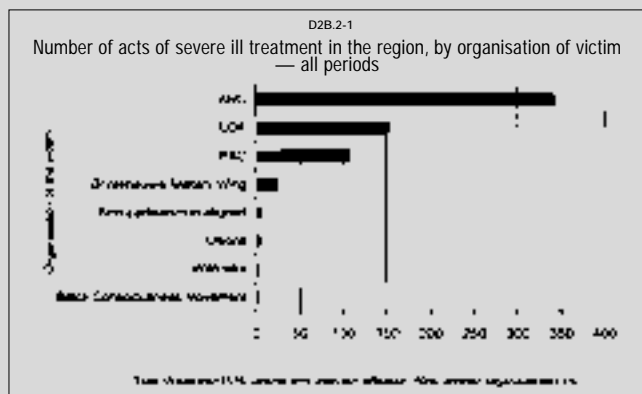
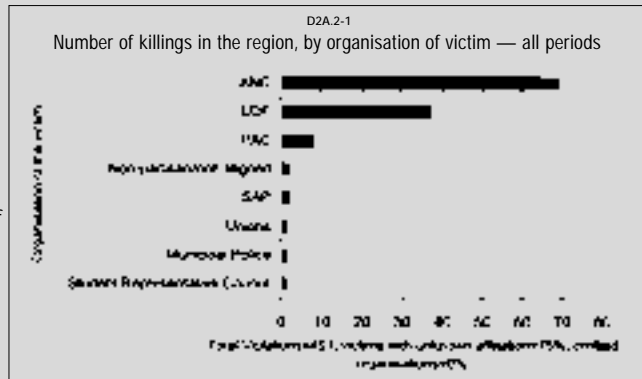
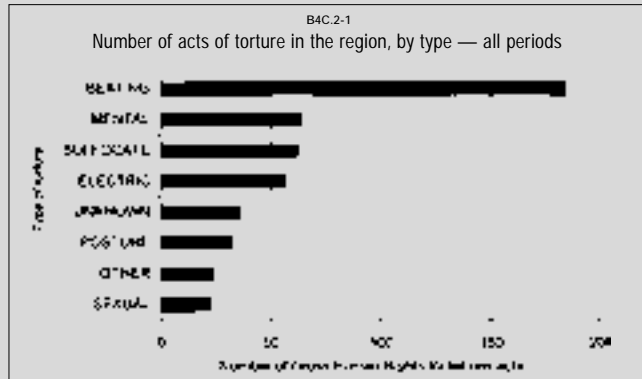
Victim organisations

- 5 The number of violations reported in terms of the organisational affiliation of the victim, where the organisation is known, is as follows for killings: ►

- 6 Most of the dead in this region were members of the African National Congress (ANC), the United Democratic Front (UDF), and the

Pan Africanist Congress (PAC). Unlike the national pattern, no Inkatha Freedom Party (IFP) members were reported killed in the Western Cape.

- 7 A similar pattern emerges for cases of severe ill treatment, with ANC, UDF and PAC members experiencing the bulk of the violations. (The Bonteheuwel Military Wing was an ANC-aligned organisation.) ►



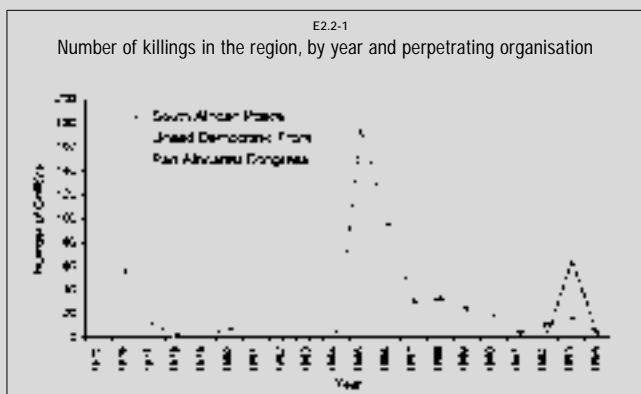
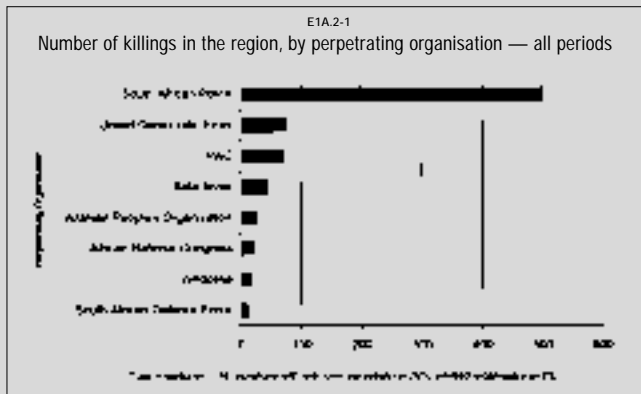
8 The pattern of torture is no different. All torture victims were members of black political organisations.

Perpetrator organisations

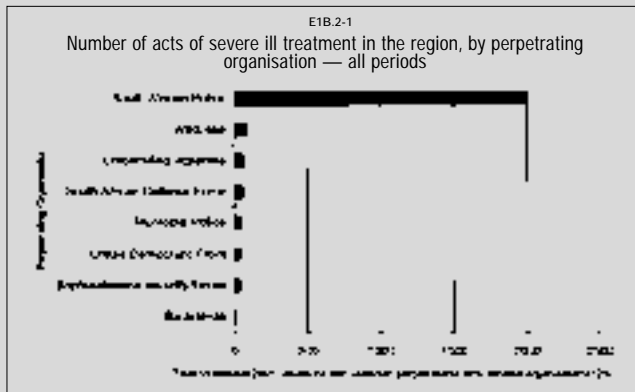
9 The top eight organisations allegedly responsible for killings in the Cape Town office area were as follows: ►

10 Over 500 killings are attributed to the South African Police (SAP), which dominates the chart. Black political organisations account for the rest of the killings. From the chart below, which shows the three organisations named in the highest numbers of allegations, it can be seen that most of the killings took place during the states of emergency.

11 The peaks of killings in 1976 (the Soweto uprising) and the states of emergency are attributed to the SAP, with pre-election violence by the PAC showing a peak in 1993. The SAP also dominates the chart of severe ill treatment violations: ►

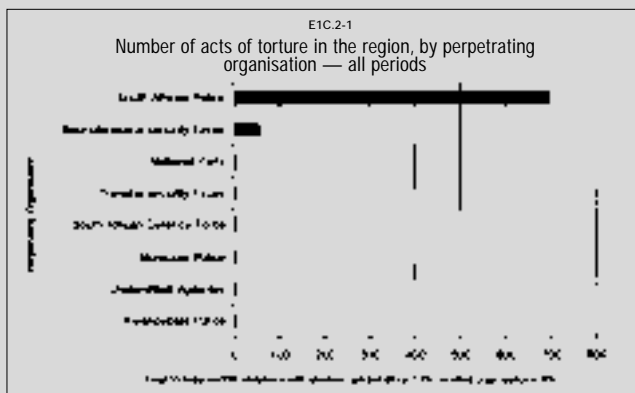
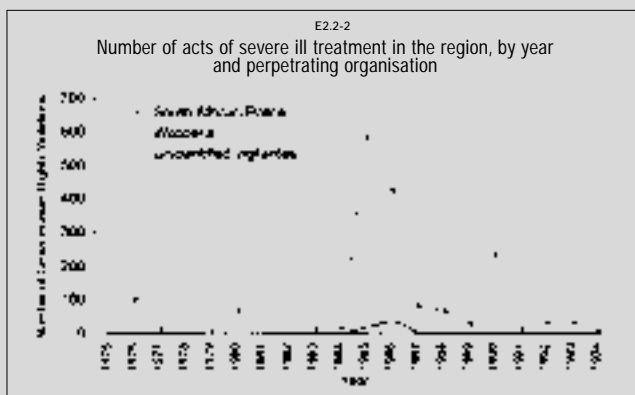


12 Overwhelmingly, the greatest number of instances of severe ill treatment are attributed to the SAP, followed by vigilantes and the SADF. The severe ill treatment violations attributed to the top three organisations change over time as follows:

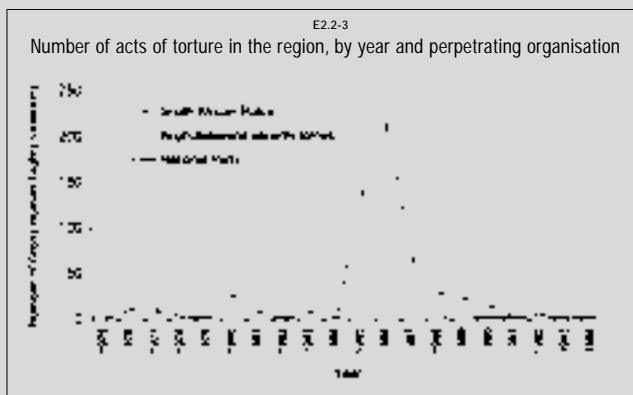


13 The SAP dominates all the peaks in the number of violations, with vigilante activity showing a peak in the mid-1980s.

14 As in the national picture, the SAP dominates torture violations:



- 15 The SAP was allegedly responsible for 700 instances of torture. The pattern of alleged torture over time shows that it was at its worst during the states of emergency: ►



- 16 During most of the periods, the highest number of instances of torture were attributed to the SAP, peaking in 1986 and followed by a steady decline from this high. There is a small peak in 1992, attributed to the Bophuthatswana security forces.

Regional Profile Transvaal

■ 1960-1975

Overview

- 1 In 1960, when the National Party (NP) government extended the pass laws to women, widespread public dissatisfaction crystallised into the mass protest that ended with the killing of sixty-nine demonstrators in Sharpsville on 21 March. Most of the victims were shot in the back. This incident marks the beginning of the Commission's mandate.
- 2 The massacre was a turning point in South African history. In its wake, the government declared South Africa's first state of emergency in terms of the Public Safety Act of 1953. In addition, the African National Congress (ANC) and Pan Africanist Congress (PAC) were 'banned' from operating as unlawful organisations.
- 3 The Sharpsville march was the culmination of a campaign of defiance against key apartheid legislation, targeting 'six unjust laws' including the pass laws, the Group Areas Act and the Separate Representation of Voters Act. The pass laws were a source of considerable anger. Primarily they were designed to control and restrict the presence of black people in white urban areas. The most humiliating symbol of this control was the pass book (*dompas*) which all black persons over the age of sixteen had to carry, indicating whether they had the right to be in an urban area and for how long. Only those who qualified under section 10 of the Urban Areas Act of 1945 were allowed to stay in the urban areas for more than seventy-two hours. Those who did not could be arrested and deported to the homeland of their 'ethnic' origin. By 1972 the South African Institute of Race Relations (SAIRR) estimated that over one million people had been endorsed out of (ordered to leave) the urban areas.
- 4 The massacre at Sharpsville ushered in a fundamental change in the nature of South African political conflict. A cycle of violence and counter-violence escalated

progressively during the coming decades and created the context in which gross human rights violations became increasingly endemic.

- 5 As avenues for conventional political protest were closed by the banning of political organisations, a range of organisations, including the ANC and PAC, turned to armed struggle. The government responded by introducing a host of legislative measures to bolster its capacity to control political opposition.
- 6 Detention without trial was introduced for the first time. Torture became increasingly systematic and the death toll in police custody steadily escalated. From the early 1960s, a series of legislative amendments provided for increasingly lengthy periods of detention without trial. This included the General Laws Amendment Act, including the so-called ninety-day detention law, which provided for detainees to be held in custody for interrogation until, in the opinion of the Commissioner of Police, they had “satisfactorily” answered all questions. This provision quickly led to frequent abuses and detainees repeatedly alleged they had been tortured and assaulted whilst in custody.
- 7 During this period, the government made use of the courts to prosecute activists. Opposition to the government was redefined as ‘treason’, creating the ideological context in which such opposition could be criminalised. The 1963 Rivonia trial, when Nelson Mandela and other leading ANC members were sentenced to life imprisonment, was the most famous of these trials. There were a number of other political trials, however, which had the effect of undermining opposition to the government by removing resistance leaders from public life. When the General Laws Amendment Act was introduced, providing for the imposition of the death penalty for those found guilty of sabotage, the removal of activists from active involvement in organisations could be permanent. The Act created the offence of sabotage, which was loosely defined as “wrongful and wilful” acts designed to “obstruct, injure, tamper with or destroy” the “health and safety of the public” or the “supply of water, light, fuel or foodstuffs”. The penalties ranged from a minimum of five years to death.
- 8 In addition to legislation specifically designed to curb political opposition, other government policies effectively curtailed African political dissent. The government worked systematically to reverse the flow of Africans to the urban areas and to restructure the industrial workforce into one composed primarily of migrant labour. Over a million labour tenants and farm squatters and 400 000 city dwellers were resettled in the homelands, the population of which increased by

70 per cent in the 1960s. In addition, hundreds of thousands of people were brought directly under the control of the homeland authorities as townships were incorporated into neighbouring reserves.

- 9 The end of this period, the late 1960s and early 1970s, saw the re-emergence of political opposition under the auspices of the Black Consciousness Movement and a wave of labour unrest across the country. Rising unemployment and deepening recession led to escalating inflation and a contracting job market, particularly for unskilled workers. All these factors resulted in a wave of strikes, beginning initially at the Durban docks in the early 1970s. Strikes and work stoppages affecting a wide variety of industries followed, frequently resulting in clashes between the police and striking or protesting workers.
- 10 The rise of the ideology of Black Consciousness was given organisational expression through the South African Students Organisation (SASO) and the Black People's Convention (BPC), an umbrella body of Black Consciousness adherents formed in 1972. Black Consciousness was a potent new ideology, advancing new ideas by which government policies could be challenged.
- 11 In 1973, eight SASO and BPC leaders were served with five-year banning orders. In 1974, nine members of SASO and BPC were charged and convicted under the Terrorism Act, despite the fact that there had been no physical acts of 'terrorism'.
- 12 At the same time, a Bureau of State Security (BOSS) hit squad known as the Z-Squad was responsible for sending a parcel bomb to student activist Abraham Onkgopotse Tiro [JB001/03NWRUS] in Botswana in February 1974, one of the earliest examples of extra-judicial, covert action by the government against political opposition.

Overview of violations

- 13 The gross human rights violations recorded for this period reflect the particular form of the contest between government and political opposition during the 1960s. Torture rather than killing was the dominant form of violation during this period. A distinguishing feature of the information collected by the Commission was that many of the people who made statements to the Commission about their detention and torture occupied leadership positions in the resistance movements, were largely male and were comparatively older than victims of torture in

subsequent periods. This age profile of torture victims was unique to this period. Over the next three decades, the largest category of torture victims was consistently the 13–24 age group.

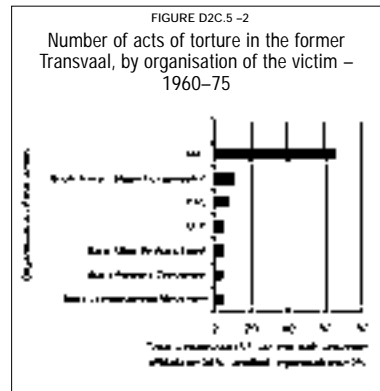
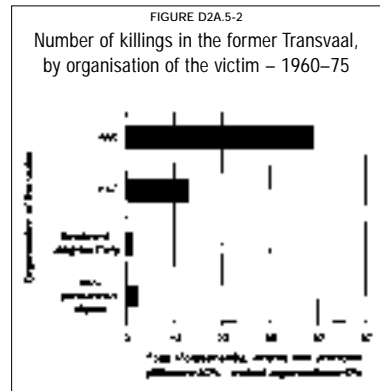
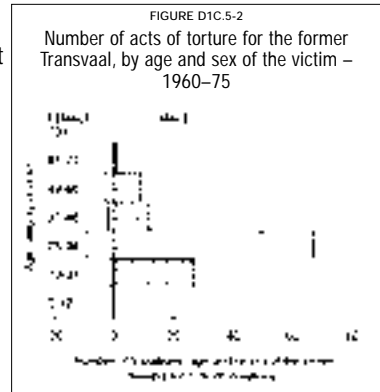
- 14 Despite the fact that the PAC played a central role in events during this period, the majority of gross human rights violations were reported by people identifying themselves as ANC members.

- 15 It is to be noted that the Commission recorded the lowest number of violations (473) for this period, roughly half the number of violations recorded for the next period (1976–82) and a small proportion of the approximately 4 490 violations recorded for the peak period of violations in 1983–89. The relatively small number of reported violations for this period is ascribed to factors such as the distance of the events that have been overshadowed by more recent political conflict, the death of potential deponents and the fading memory of deponents.

Detention and torture

- 16 Evidence before the Commission showed that the introduction of detention without trial in 1963 created the context for the systematic use of torture. Most reports of torture for this period emanated from the Johannesburg and Pretoria areas where the security police headquarters and the John Vorster Square police station were situated. Activists from around the country were brought to these centres for detention and interrogation.

- 17 The incidence of torture in detention increased markedly at the time of the launch of the armed campaigns of the ANC, PAC and the African Resistance Movement (ARM). Detentions peaked in 1963 with the raid on the ANC headquarters at



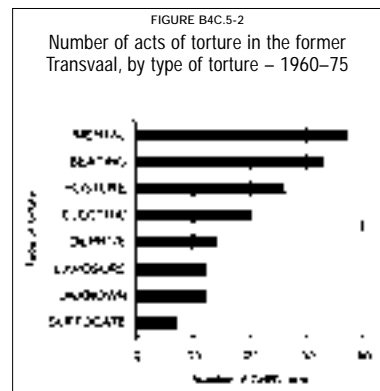
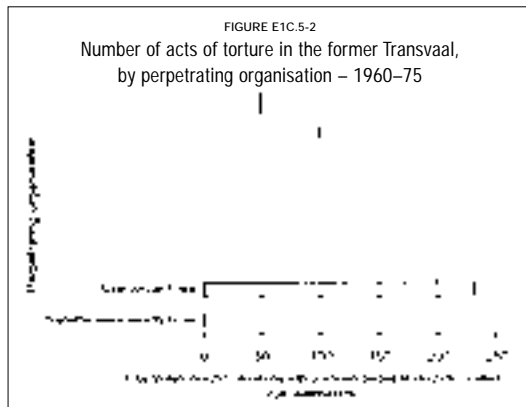
Liliesleaf farm and with large-scale arrests of members of the PAC's armed wing, Poqo.

18 Assault and torture in detention led increasingly to deaths in custody. The Johannesburg office of the Commission received statements from the relatives of the first person to die in detention in 1963, Mr Looksmart Ngudle [EC0127/96CCK], who was held under the ninety-day detention law. In 1965, further legislation extended the period a detainee could be held *incommunicado* to 180 days.

19 In 1967, the Terrorism Act was introduced, providing for indefinite detention without trial. Soon after the introduction of this legislation, a spate of deaths in detention occurred. The Commission received statements from the families of three of the people who died while being held under this legislation. In these cases, official explanations included suicide by hanging, "slipped on a bar of soap" and "jumped from the tenth floor of John Vorster Square". While forensic evidence indicated torture and assault in these cases, inquest reports found no one responsible for the deaths.

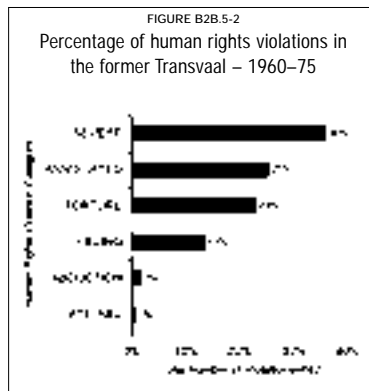
20 During this period, the only significant perpetrators of torture were the South African Police (SAP).

21 Victims of torture in this period told the Commission of the use of electric shocks, suffocation with a bag over the head and severe beating. A breakdown of the recorded types of torture reveals the difference between this period, when mental torture was recorded as the form most used, and later periods.



Killings

- 22 Although the shootings at Sharpsville caused an international outcry against apartheid and precipitated the formation of underground armed opposition groups, it did not trigger the kind of widespread public protests and open street conflict that were occurred in subsequent decades. The violence of the police reaction to the pass protests and restrictions imposed on political activity effectively curtailed any large-scale public political protest until the 1970s. Hence, the level of killing violations during this period is relatively low (the fourth most significant category of all human rights violations, after severe ill treatment, torture and associated violations) Where perpetrators of killings are identified by victims, the overwhelming majority name members of the SAP.



- 23 The Sharpsville shootings were an ominous foreshadowing of the widespread use of lethal force by the SAP, which characterised later street protests.

Sharpsville massacre

- 24 On Monday 21 March 1960, sixty-nine people died when police opened fire on approximately 300 marchers protesting against the pass laws at Sharpsville in the Transvaal. Conflict erupted in Langa, Cape Town, almost simultaneously, leaving two people dead and more than fifty injured. In the ensuing days violence spread to Durban, Pietermaritzburg, Port Elizabeth, East London and Bloemfontein.
- 25 The march was organised and planned by the PAC. In its verbal submission to the Commission, the PAC outlined the history of the organisation's anti-pass campaign and emphasised the commitment of its organisers to peaceful protest. The March 1960 protest action against the pass laws built on the success of the PAC Status Campaign which focused on the idea of mental liberation. PAC representatives told the Commission that it was "an absolutely non-violent campaign".¹ PAC leader Robert Sobukwe, reportedly announced before the march that "we are ready to die for our cause but we are not ready to kill". Before the march, a letter was sent to the commissioner of police, Major General Rademeyer "explaining fully the peaceful nature of the campaign".

¹ PAC submission to the Commission, August 1996.

A media conference was held pledging that the campaign would be conducted in a peaceful manner. Despite these assurances, the protest was met with a heavy-handed response from the state and the security forces.

- 26 Many PAC leaders were arrested. PAC representatives told the Commission that, because the campaign was conducted on the principle of no bail, no defence and no fine, PAC leaders and members were convicted and sentenced to periods of imprisonment.
- 27 The Sharpsville shootings radically shifted the nature of political resistance in South Africa. They signalled an end to the era of non-violent struggle and ushered in a period of armed struggle. The shootings also provoked strong condemnation from the international community. The policy of apartheid came under the spotlight and was debated for the first time by the United Nations Security Council. March 21 was formally declared the international day for the struggle against racism.
- 28 While the carrying of pass books was a source of widespread protest, evidence before the Commission points to a degree of coercion of non-politicised Sharpsville residents who were pressurised into participating in the anti-pass protest, although most residents were prepared to support the public protest. Although Ms Korisatsana Elizabeth Mabona [JB00793/03VT] and Mr Ntele David Ramokhoase [JB00902/03VT], neither of whom belonged to any political organisation, were forcibly prevented from going to work on the day of the march, they told the Commission that they were unequivocal in their rejection of the pass system. Mr Ramokhoase told the Commission that the *dompas* was "just a misery".
- 29 On Thursday 17 March a pamphlet was circulated in Vereeniging urging people to stay away from work on the following Monday. During the following days, bus drivers were approached and urged not to go to work. One bus driver claimed that PAC activists collected them from their homes in the middle of the night and only released them after sunrise. Telephone wires linking Sharpsville with Vereeniging were cut on the Sunday evening before the march. At Sharpsville's Seeiso Street bus terminal, near the new police station, PAC organisers told commuters they should not go to work.
- 30 By 10h00, a large crowd had formed in the centre of Sharpsville. Despite tension early on Monday morning, people at the gathering in Sharpsville all described it as a happy occasion. Ms Elizabeth Mabona whose husband, Mr Jacob Ramokoena, was killed later that day told the Commission:

At the police station we sat down, we were singing hymns, you know it was just a jolly atmosphere. We were singing these hymns as Christians because we were just rejoicing. And we didn't know what will follow thereafter. We were just joyous because we thought that same afternoon we would get a message. Everybody was taking his feelings out.

- 31 Large groups of people had also gathered in Bophelong and Boipatong townships. They joined a march, 4 000-strong, in a procession to Vanderbijlpark police station. In Evaton 20 000 people assembled outside the police station. The crowd in Vanderbijlpark was immediately dispersed by a police baton charge and in Evaton with low-flying Sabre jets. In Vanderbijlpark, one man was killed when police fired on a group of men who, they alleged, were stoning them. Ms Elizabeth Mabona said that in Sharpville, however, the aircraft failed to intimidate people:

We spent that whole time at the police station until the jets arrived. We didn't mind. The sirens went off and then we just ignored them.

- 32 The police refused to arrest PAC members who presented themselves for arrest. According to the police, PAC officials refused the order to disperse. However, it appears from the testimony of victims that the PAC leadership did ask the crowd to disperse but approximately 300 people remained behind.
- 33 Throughout the morning police reinforcements arrived, including Saracen armoured cars. According to witnesses, they positioned themselves facing the crowd.
- 34 At 13h15, with nearly 300 police members facing a crowd of 5 000 people, a scuffle broke out. According to police witnesses, stones were thrown at them and, in response, inexperienced constables began firing their guns spontaneously. However, the evidence of Commission deponents reveals a degree of deliberation in the decision to open fire at Sharpville and indicates that the shooting was more than the result of inexperienced and frightened police officers losing their nerve. Mr David Ramokhoase spoke of a white man who "gave a sign" before shots were fired, while Mr Lebetsa Ramokhoase [JB00901/03VT] remembered a white man climbing into a Saracen and pulling the door shut above him just before gunshots rang out.

- 35 The crowd was unarmed. David Ramokhoase told the Commission:

We were still at the singing ... not even one person was armed. I saw men and women and young men just holding their umbrellas because it was a

hot day. Those who might have had guns, maybe they were hidden somewhere but I didn't see anyone carrying any weapon, not even a stick and knobkierrie [club], not even a knobkierrie. I only saw umbrellas ... They were not going there to fight. They were peaceful. They didn't have anything in their hands ...

- 36 The majority of those killed or wounded were shot in the back. Lebitsa Ramokhoase was shot in his hip.

I don't know what happened but I was on the ground and I decided that I would run until my legs go off me but I didn't know what happened. People were just trampling on me. I tried to push them but I couldn't and now this leg was now troubling me and I decided to sit down. I said no ways, I cannot carry on.

- 37 Ms Korisatsana Elizabeth Mabona was walking home when she heard the gunshots:

I ran. I opened the door at my house and I opened all the doors until the kitchen door. I came back again. I was confused. I didn't know what was happening. I felt something that was right on my chest and I said to myself where is my husband at this moment. As I was wondering another gentleman came and he said the whites are killing people in a very brutal way. I said to him, "are you talking about guns?" He said, "yes, they are using guns". You know I was so hysterical and I started crying. I didn't know where to go.

- 38 After the shootings, the police inspected the bodies lying on the ground. Those still standing were questioned about their injuries. The mood was triumphant. David Ramokhoase told the Commission that a police officer came over to him after he had been wounded.

They asked me where have we shot you. And I showed them my knee ... He said Africa is no longer a thumb facing upwards, it is a thumb facing downwards now.

- 39 Korisatsana Elizabeth Mabona's husband had been shot dead. Lebitsa Ramokhoase spent five months in hospital but as he lay in his bed, he began to hear that many of his fellow participants in the march were being arrested.

- 40 Seventy-seven people were arrested in the wake of the Sharpville massacre, among them a number of participants in the march. Several of these people had been injured when police opened fire on marchers. They were held under police guard in hospital until they could be placed in custody. Eventually the cases against fifty-three people were withdrawn.

- 41 Of the forty-six statements which the Commission received concerning the shooting at Sharpville, several are statements from people who were detained during the march or immediately afterwards. Some of these were held for long periods under detention laws and some were sentenced to terms of imprisonment, followed by banning orders. Others fled into exile.
- 42 Among those detained were Mr Zephania Lekoane Mothopeng [JB04279/01GTSOW], a PAC activist and Poqo member (later president of the PAC). Mr Modise Mathews Mashea [JB04822/03VT] was taken to Leeuwkop prison after he had spent three weeks at Baragwanath hospital recovering from gunshot wounds; at Leeuwkop he was held for two months awaiting trial in a case which was subsequently dismissed by the Vereeniging magistrate's court. PAC member Mr Sidwell Kasa [JB01152/03VT] was also arrested while participating in the March. He was imprisoned for three years and, on his release, banished from the Vaal Triangle area.

THE COMMISSION FINDS THAT THE POLICE DELIBERATELY OPENED FIRE ON AN UNARMED CROWD THAT HAD GATHERED PEACEFULLY AT SHARPVILLE ON 21 MARCH 1960 TO PROTEST AGAINST THE PASS LAWS. THE COMMISSION FINDS FURTHER THAT THE SAP FAILED TO GIVE THE CROWD AN ORDER TO DISPERSE BEFORE THEY BEGAN FIRING AND THAT THEY CONTINUED TO FIRE UPON THE FLEEING CROWD, RESULTING IN HUNDREDS OF PEOPLE BEING SHOT IN THE BACK. AS A RESULT OF THE EXCESSIVE FORCE USED, SIXTY-NINE PEOPLE WERE KILLED AND MORE THAN 300 INJURED. THE COMMISSION FINDS FURTHER THAT THE POLICE FAILED TO FACILITATE ACCESS TO MEDICAL AND/OR OTHER ASSISTANCE TO THOSE WHO WERE WOUNDED IMMEDIATELY AFTER THE MARCH.

THE COMMISSION FINDS THAT MANY OF THE PARTICIPANTS IN THE MARCH WERE APOLITICAL, WOMEN AND UNARMED, AND HAD ATTENDED THE MARCH BECAUSE THEY WERE OPPOSED TO THE PASS LAWS. THE COMMISSION FINDS, THEREFORE, THAT MANY OF THE PEOPLE FIRED UPON AND INJURED IN THE MARCH WERE NOT POLITICISED MEMBERS OF ANY POLITICAL PARTY, BUT MERELY PERSONS OPPOSED TO CARRYING A PASS.

THE COMMISSION FINDS THAT MANY OF THOSE INJURED IN THE MARCH WERE PLACED UNDER POLICE GUARD IN HOSPITAL AS IF THEY WERE CONVICTED CRIMINALS AND, UPON RELEASE FROM HOSPITAL, WERE DETAINED FOR LONG PERIODS IN PRISON BEFORE BEING FORMALLY CHARGED. IN THE MAJORITY OF INSTANCES WHEN PERSONS SO DETAINED APPEARED IN COURT, THE CHARGES WERE WITHDRAWN.

THE COMMISSION FINDS THE FORMER STATE AND THE MINISTER OF POLICE DIRECTLY RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS IN THAT EXCESSIVE FORCE WAS UNNECESSARILY USED TO STOP A GATHERING OF UNARMED PEOPLE. POLICE FAILED TO GIVE AN ORDER TO DISPERSE AND/OR ADEQUATE TIME TO DISPERSE, RELIED ON LIVE AMMUNITION RATHER THAN ALTERNATIVE METHODS OF CROWD DISPERSAL AND FIRED IN A SUSTAINED MANNER INTO THE BACK OF THE CROWD, RESULTING IN THE DEATH OF SIXTY-NINE PEOPLE AND THE INJURY OF MORE THAN 300.

Detention and torture

- 43 The use of detention without trial by the government intensified in response to the escalating seriousness of the political opposition. Emergency regulations promulgated in 1960 in the wake of the Sharpsville massacre provided for wider grounds on which people could be detained but did not provide for substantial periods of detention without trial. Under this legislation approximately 12 000 people were detained. Despite the detention of approximately 12 000 people, banned political organisations such as the ANC and PAC began secretly to regroup and plan armed campaigns.
- 44 The government responded to the sabotage campaigns launched by the ARM and Umkhonto weSizwe (MK) by introducing in 1963 the General Law Amendment Act (ninety-day detention law). Police were able to forestall the planned general uprising of the PAC's armed wing Poqo by arresting over 3 000 Poqo suspects. In 1965 the government passed further amendments to detention without trial legislation, doubling the amount of time detainees could be held without trial. In addition to the lengthy periods for which people could be held, detainees were denied access to lawyers and visits from family members. Finally, in 1967, the Terrorism Act was introduced, removing the time limit on detention without trial and providing for indefinite detention.
- 45 As noted, it was in this context that torture became increasingly systematic as police were subjected to fewer and fewer checks on their conduct, generating an ethos of impunity. As the frequency and severity of torture increased, people began dying in police custody. In 1972, the journal *Pro Veritate* reported that, between 1963 and 1972, over twenty people detained under South African security laws lost their lives while in custody. Another fifty people made sworn *affidavits* that they had been tortured during detention. After the introduction of the Terrorism Act in 1967, deaths in detention increased. In 1968, four detainees, Mr Solomon Modipane, Mr James Lenkoe [JB0092/01GTSOW], Mr Nicomedus Kgoathe [JB0113/03NWRUS] and Mr JB Tubakwe, died in quick succession.
- 46 In April 1963, a number of MK operatives involved in the organisation's early sabotage campaigns was arrested under the ninety-day detention law. Those arrested included Mr Indres Naidoo [JB00184/01GTSOW], Mr Suresh Nanabhai [JB00184/01GTSOW], Mr Reggie Vandeyar [JB00809/01GTSOW], Mr Abdullay Jassat [JB00184/01GTSOW] and Mr Laloo Chiba [JB00667/01GTSOW]. All claimed that they were tortured. Reggie Vandeyar, Suresh Nanabhai and Indres

Naidoo were later sentenced to ten years imprisonment while Laloo Chiba was sentenced to eighteen years in a separate trial.

- 47 The activists described severe torture, involving the use of electric shocks, suffocation and severe beating leading to concussion and broken bones. Abdullay Jassat described how the security police dangled him from a window:

They then pushed me into a louvre-fitting window and [I was] made to lie on it. I was held by both my feet by the police whilst they were simulating me trying to commit suicide. This was a known method of killing people in detention and they were well co-ordinated in their actions whilst the one was holding my foot and the other making as if to let me fall down from the window. I was then fearing that I was going to die.

- 48 Jassat escaped from Marshall Square Police Station on 12 July 1963 with Mr Arthur Goldreich, Mr Harold Wolpe and Mr Mosie Moolla.

- 49 Most of these detainees identified Captain Theunis Jacobus 'Rooi Rus' Swanepoel as one of the perpetrators involved in their interrogation. General van den Berg, head of BOSS at the time, also appears to have also been personally involved in the interrogation of these activists. Reggie Vandeyar described his encounter with the man he believed to be General van den Berg:

At one point, I heard them saying that the 'big boss' was coming and they stood to attention when this tall figure came in. He was an erect man, wearing a suit and a Homberg hat. He appeared very severe. He walked straight up to me. I was leaning against the wall. He grabbed my hair and smacked my head against the wall. He shouted, "Who sent you?" I did not respond. He walked straight out without saying anything. The police saluted him and Major Brits went after him. I suspect this man was General van den Berg, the head of BOSS, but I am not certain.

- 50 The railway police were also involved in the interrogation and torture of the detainees.

THE COMMISSION FINDS THAT THE POLICE SYSTEMATICALLY ASSAULTED AND TORTURED OPPONENTS OF THE STATE HELD IN CUSTODY. THE COMMISSION FINDS A DIRECT CORRELATION BETWEEN THE NUMBER OF PEOPLE DETAINED AND THE NUMBERS OF CASES OF TORTURE.

THE COMMISSION FINDS THAT, IN APRIL 1963, THE SAP, IN CONJUNCTION WITH THE RAILWAY POLICE, WERE RESPONSIBLE FOR SEVERELY ASSAULTING AND TORTURING SURESH NANABHAI, INDRES NAIDOO, REGGIE VANDEYAR, ABDULLAY JASSAT AND LALOO CHIBA, AMONGST MANY OTHERS.

THE COMMISSION FINDS THAT THE FORMER STATE, THE MINISTER OF POLICE AND MEMBERS OF THE SAP AND RAILWAY POLICE WERE RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS IN THAT THEY WERE RESPONSIBLE FOR THE TORTURE AND ASSAULT OF DETAINEES.

Deaths in detention

51 Abdullay Jassat's description of his torture provides a clue as to what may have happened to thirty-two-year-old Mr Suliman Saloojee who died in detention in September 1964, two months after being detained under the ninety-day detention law. Suliman Saloojee, the fourth person to die while held under security legislation, allegedly jumped from the seventh floor of the Security Branch offices in Greys building, Johannesburg.

52 In a submission to the Commission, Saloojee's widow, Ms Rokaya Saloojee [JB00171/01ERKWA], said she struggled to be allowed access to her husband, whom she suspected was ill. Ms Saloojee had become suspicious about her husband's condition when neither the clothes nor the dishes for the food she had been bringing for him at the Rosebank police station were returned to her. She was eventually allowed a five-minute visit with him several weeks after his detention and found that he had a wound at the side of his forehead.

When they opened the cell door, I saw my husband had a patch on his head. When I asked him – I didn't even greet, I just asked what happened to you and this one policeman said that he bumped his head in the cell. So, I said that's funny he must have been drunk because there is nothing else that's in the cell that you can bump your head on. They closed the door on me and told me to go away, which I did. I had no alternative ... I didn't even speak to my husband. All he said to me in Gujerati is that I should keep quiet.

53 Some time later Ms Saloojee was preparing to take her husband food when she was visited by police who told her that her husband was in the Johannesburg hospital. She failed to trace him at the Johannesburg hospital or at any of the local hospitals. She heard of his death when a journalist approached her for a statement. After her husband's death, Rokaya Saloojee continued to be harassed by security police. She tried to leave the country but was refused a passport five times.

54 At Saloojee's inquest, Captain 'Rooi Rus' Swanepoel, Major Brits from the railway police, Sergeant CJ van Zyl, Constable van den Heever and Lieutenant HC Muller were identified as his interrogators. Swanepoel said that he had questioned

Saloojee on 9 September but that he had been out of the room at the time of the fall. He denied that any violence had been used in the interrogation. The magistrate, Mr AJ Kotze, found that no one was to blame and that nothing in the evidence suggested that the methods used in interrogating him had been irregular.²

THE COMMISSION FINDS THAT MR SULIMAN SALOOJEE WAS DETAINED ON JULY 1964 UNDER SECTION 6 OF THE TERRORISM ACT. DURING HIS DETENTION, HE WAS INTERROGATED BY CAPTAIN 'ROOI RUS' SWANEPOEL, MAJOR BRITS OF THE RAILWAY POLICE, SERGEANT CJ VAN ZYL, CONSTABLE VAN DER HEEVER AND LIEUTENANT HC MULLER. THE COMMISSION FINDS THAT, IN ALL PROBABILITY, THESE PERSONS ASSAULTED AND TORTURED SALOOJEE DURING HIS INTERROGATION THUS DIRECTLY CAUSING HIS DEATH.

THE COMMISSION FINDS THE SAP RESPONSIBLE FOR THE SEVERE ILL TREATMENT OF MS ROKAYA SALOOJEE, THE WIFE OF SULIMAN SALOOJEE, WHO CONTINUED TO BE HARASSED AND THREATENED BY THE POLICE AFTER HIS DEATH.

- 55 More deaths in custody were recorded following the introduction of the Terrorism Act, which provided for indefinite detention without trial on the authority of a police officer of or above the rank of lieutenant. Mr Ben Kgoathe [JB00113/03NWRUS], son of Mr Nicodemus Kgoathe who died in 1969 while being held under the Terrorism Act, told the Commission that a number of people had died in detention during the same year. These included Mr James Lenkoe [JB0092/01GTSOW] on 28 February, Mr Caleb Mayekiso [ECO644/96PLZ] in June, Mr Jacob Monnakgotla and Imam Haron in September.
- 56 James Lenkoe died in police custody after being detained under the Terrorism Act. Lenkoe was detained on the night of 5 March 1969 and died five days later in Pretoria local prison. The official cause of death, confirmed by a *post mortem* performed by the prison surgeon, was suicide by hanging. However, a second *post mortem* performed at the request of the Lenkoe family found traces of copper and signs of electric shock on Lenkoe's toe, a bruise below the ear, marks on the neck and shoulders, and signs of haemorrhaging at the base of the skull. Three leading pathologists, one from the United States, testified that the mark on Lenkoe's toe was consistent with a recent electrical burn.
- 57 Major TJ Swanepoel testified that he had arrested James Lenkoe and had interrogated him from about 08h00 to 15h00 on the day of his death. The magistrate refused to allow certain political prisoners to testify that the security police, under the direction of Major Swanepoel, regularly used electric shock as a method of interrogation. The magistrate held that there was no satisfactory proof that Lenkoe died as the result of electric shock and concluded that he

² Kairos.

had died as a result of suicide by hanging and that no blame could be attached to any person.³

THE COMMISSION FINDS THAT JAMES LENKOE WAS INTERROGATED BY MAJOR 'ROOI RUS' SWANEPOEL AND THAT HE WAS TORTURED USING ELECTRIC SHOCKS. WHILST THE OFFICIAL CAUSE OF DEATH WAS SUICIDE BY HANGING, THE COMMISSION FINDS THE POLICE DIRECTLY RESPONSIBLE FOR HIS TORTURE AND SUBSEQUENT DEATH.

THE COMMISSION FINDS FURTHER THAT THE REFUSAL OF THE MAGISTRATE TO HEAR EVIDENCE FROM OTHER POLITICAL DETAINEES OF TORTURE PERPETRATED BY THE POLICE ON DETAINEES IN THEIR CUSTODY FURTHER CREATED A CULTURE OF IMPUNITY WHICH LED TO FURTHER GROSS HUMAN RIGHTS VIOLATIONS BY THE POLICE.

- 58 Mr Ahmed Timol [JB00173/03WR] died in police custody on 27 October 1971 after allegedly committing suicide by jumping from the tenth floor of security police headquarters at John Vorster Square in Johannesburg. Timol had been in detention for five days. He was the twenty-second person to die in police custody since the introduction of detention without trial.
- 59 Ahmed Timol's mother, Ms Hawa Timol, described to the Commission how she heard about her son's death:

On Wednesday 27th [in the] evening my husband and son had gone to the mosque for evening prayers. During this time three policemen who identified them as SB [Security Branch] came and entered our house. One of them pushed me into a seat and then proceeded to tell me that my son Ahmed had tried to escape by jumping out of the tenth floor of John Vorster Square and that I was to tell my husband that his body was lying in the Hillbrow government mortuary. I could not believe what was being said and in my confusion, I tried to argue that this was not true ... I even remember taking them to the flat windows and saying look how could my son have jumped out of the difficult windows at John Vorster Square ... I was crying and screaming and our neighbour came to enquire what was happening. The policeman without further explanation left.

- 60 After Ahmed Timol's arrest, his family was severely harassed by members of the Security Branch who repeatedly came to their home to interrogate his parents and search the house.
- 61 Police officers named at Timol's inquest include Colonel Greyling, Captain Bean, Sergeant Rodrigues, Warrant Officer Cloete, Sergeant FJ Ferreira, Sergeant MC Pelsler and Sergeant DL Carter. At the end of an eight-month inquest, the mag-

³ Kairos.

istrate, Mr JLL de Villiers, found that he had died “from serious brain injuries and loss of blood when he jumped from a window from the tenth floor of John Vorster Square. The cause of death is suicide and nobody is to blame.”

THE COMMISSION FINDS THAT THE SAP AND IN PARTICULAR COLONEL GREYLING, CAPTAIN BEAN, SERGEANT RODRIGUES, WARRANT OFFICER CLOETE, SERGEANTS FJ FERREIRA, MC PELSER AND DL CARTER WERE DIRECTLY RESPONSIBLE FOR THE DEATH OF MR AHMED TIMOL.

THE COMMISSION FINDS FURTHER THAT THE INQUEST MAGISTRATE’S FAILURE TO HOLD THE POLICE RESPONSIBLE FOR AHMED TIMOL’S DEATH CONTRIBUTED TO A CULTURE OF IMPUNITY THAT LED TO FURTHER GROSS HUMAN RIGHTS VIOLATIONS.

- 62 The three people with whom Timol was arrested under the Terrorism Act, Mr Kantilal Naik [JB00641/03WR], Ms Amina Desai [JB01114/03WR] and Mr Salim Essop [JB0173/03WR], reported that they were severely tortured. Essop was so severely assaulted that he was hospitalised. Naik, who was arrested the day after Timol, on 23 October 1971, was allegedly suspended from a beam by his arms, causing temporary paralysis. He told the Commission:

Myself and Timol were both teachers at the Roodepoort Indian High School. On the morning of the 23rd, it was a Saturday morning, security policemen came to my home and said that I should take them to school as they wanted to seize the typewriter ... I was then taken to John Vorster Square. I made a statement ... and some of the security policemen said I was talking rubbish ... They started to question me. They were not satisfied with my answers ... and two burly policemen were assaulting me. I think it was like a seesaw. The one punched me and I fell on to the other guy, and the other guy then of course punched me and you know, it was a seesaw thing.

- 63 Ms Amina Desai, who had loaned her car to Ahmed Timol, was also arrested and interrogated continuously at John Vorster Square for four days. On the fourth day, she heard a commotion and furniture being overturned in a room next door. After this Ms Desai was taken back to the cells and was left there for five months. She was subsequently sentenced to five years’ imprisonment. On her release, she was placed under a five-year banning order.

THE COMMISSION FINDS THAT THE INTRODUCTION OF SECTION 6 OF THE TERRORISM ACT IN 1967, WHICH ALLOWED FOR INDEFINITE DETENTION WITHOUT TRIAL, LED TO A NUMBER OF DEATHS IN DETENTION. THE CIRCUMSTANCES OF DETENTION WERE SUCH THAT A NUMBER OF PEOPLE DIED AS A DIRECT RESULT OF TORTURE OR FOUND THEMSELVES IN CIRCUMSTANCES WHICH INDUCED THEM TO TAKE THEIR OWN LIVES.

THE COMMISSION CONSEQUENTLY FINDS THE MINISTER OF POLICE, THE COMMISSIONER OF POLICE AND THE OFFICERS IN CHARGE AT THE SECURITY BRANCH RESPONSIBLE FOR THE

DEATHS IN DETENTION OF DETAINEES AND THUS THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FURTHER FINDS THE MINISTER OF JUSTICE AND THE DEPARTMENT OF JUSTICE DIRECTLY RESPONSIBLE FOR THE FAILURE OF MAGISTRATES TO TAKE ACCOUNT OF EVIDENCE PRESENTED TO THEM OF THE TORTURE AND ASSAULT OF DETAINEES BY THE POLICE. THE RELIANCE BY MAGISTRATES ON THE EVIDENCE OF THE POLICE WAS DIRECTLY RESPONSIBLE FOR CREATING A CULTURE OF IMPUNITY IN THE RANKS OF THE POLICE. THIS LED TO FURTHER DEATHS IN DETENTION AND GROSS HUMAN RIGHTS VIOLATIONS.

Political trials

- 64 Political trials similar to the famous Treason Trial of 1956 continued throughout the 1960s and 1970s. During 1963 and 1964, a spate of trials effectively removed and imprisoned much of the leadership of the PAC, ANC, the South African Communist Party (SACP) and the ARM, forcing these organisations into exile and undermining early attempts to build underground networks within the country.
- 65 Immediately after the Sharpsville massacre, there were several trials involving the leadership of the PAC and people who had participated in the anti-pass protests. Within two months, on 4 May 1960, the leader of the organisation, Mr Robert Mangaliso Sobukwe [EC0155/97ALB], and eighteen other leaders of the PAC were convicted of inciting others to support a campaign for the repeal of pass laws. Mr Sobukwe was sentenced to three years, Mr PK Leballo and three others to two years each and Mr J Madzunya and thirteen others to eighteen months.⁴
- 66 In its verbal submission to the Commission, the PAC described the unique legislation introduced by the government to ensure that PAC leader Robert Sobukwe remained in jail:

Mangaliso Robert Sobukwe was sentenced to a three-year prison term, which he served at Stoffberg at Witbank. On completion of his three-year mandatory sentence, the apartheid authorities unilaterally decided to extend his incarceration through passing an unprecedented bill in the all-white parliament known as the 'Sobukwe Clause'. Under this special parliamentary dispensation, President Sobukwe was kept on Robben Island for a further six years. On the island, he was kept incommunicado from the rest of the political prisoners. Actually, it was even a crime to wave your hand if you saw him where he was sitting. He was subsequently released and banished to Kimberley. He was only released from the Island because the regime knew very well he would not live long.

⁴ South African Institute of Race Relations (SAIRR) *Survey*, 1960.

- 67 In another trial, targeting people who had participated in the pass protests, Mr Matthew Nkoana of the PAC and 141 others were found guilty of working in concord against the reference book system and failing or refusing to produce their books on demand. They were sentenced to three years or a fine of £300.⁵
- 68 The Rivonia trial, which followed the raid on the operational headquarters of MK on Liliesleaf farm, began on 9 October 1963. Eleven members, led by Nelson Mandela, faced charges of sabotage. The state argued that the ANC was dominated by Communists, had planned a campaign of guerrilla warfare and, after its banning, had decided to embark on a policy of destruction and violence. In June 1964, seven of the accused, namely, Mr Nelson Mandela, Mr Walter Sisulu, Mr Dennis Goldberg, Mr Govan Mbeki, Mr Raymond Mhlaba, Mr Elias Motsoaledi, Mr Andrew Mlangeni and Mr Ahmed Kathrada were sentenced to life imprisonment.⁶
- 69 While the Rivonia trial was the most publicised trial of this period, the government's determination to halt the ANC's plans to mount an armed campaign inside the country led to further trials, targeting various levels of leadership within MK.
- 70 Mr Laloo Chiba, who made a statement to the Commission about his experience of torture while held under the ninety-day detention act (see above), was involved in the second major MK trial which began on 30 October 1964. The accused included Mr David Kitson, Mr Sathyandranath (Mac) R Maharaj, Mr John Matthews and Mr Wilton Mkwayi. All five were convicted of more than fifty acts of sabotage, preparing for guerrilla warfare and furthering the aims of Communism. Wilton Mkwayi was sentenced to life imprisonment, David Kitson to twenty years, Laloo Chiba to eighteen years, John Matthews to fifteen years and Mac Maharaj to twelve years.⁷
- 71 The trial of Mr Bram Fischer was primarily an attempt to remove and imprison the leadership of the SACP. On 26 August 1964, Bram Fischer, a senior lawyer who had led the defence of the Rivonia trialists, and fourteen other people were arrested and charged with having furthered the aims of the SACP or being office-bearers, officers, or members of the party. The charge sheet alleged that they aimed at "establishing a despotic government based on the dictatorship of the proletariat" in South Africa. A number of those charged had been held under the ninety-day detention law and complained of ill treatment. One of these, Ms Sylvia Neame, was sentenced to two months' imprisonment for trying to escape

5 SAIRR [Survey](#), 1960.

6 SAIRR [Survey](#), 1964.

7 SAIRR [Survey](#), 1964.

from custody. The other accused were Mr Louis Baker, Ms Esther Barsel, Mr Hymie Barsel, Ms Mollie Doyle, Ms Florence Duncan, Dr Costa Gazides, Mr Norman Levy, Ms Jean Middleton, Ms Ann Nicholson, Mr Ivan F Schermbrucker, Mr Paul Trehwela and Mr Eli Weinberg.

72 In April 1965, after they had been in custody for nearly a year, the fifteen were sentenced to terms of imprisonment ranging from one to five years.

73 Ms Jean Middleton [JB04419/01GTSOW] testified at the Commission's special hearings on prisons about the conditions at Barberton prison where she and other white, female political detainees spent their prison terms:

When you speak about Barberton, what you really have to speak about is the brutality of the place ... Through a window, we used to see women, black women prisoners, carrying things sometimes. However fast they tried to run, the wardresses would urge them on by whipping them with those long leather straps attached to their keys and sometimes there would be a baby on a woman's back so the baby got whipped ...

Worst of all were the shirts we used to wash, those came from the men's jail, they used to come in every Monday and at least one shirt and one pair of shorts every week (and they only got one clean shirt a week and they did very hard work it seemed in a hot climate) would not be stained with blood, but caked with blood from clogging and that sulphur ointment, caked.

74 In 1969, twenty-two people – including Ms Nomzamo Winnie Mandela, Ms Rita Ndzanga, Mr Lawrence Ndzanga, Ms Venus Mngoma and Ms Martha Dlamini, Mr Peter Magubane, Joyce Sikhakhane, Joseph Zikalala, George Mokwebo, David Motau and others in the trial of Sampson Ndou⁸ [CT03064/GAU] and others in 1969, twenty-two people appeared on charges under the Suppression of Communism Act relating to ANC activities.

75 Pholotho was one of the accused in this trial and confirmed the allegations that witnesses were tortured. He was detained and interrogated on 4 May 1969 in Pretoria, where he was tortured in a room without windows. He was deprived of sleep for ninety hours, made to stand on unbalanced bricks while his hands were handcuffed to the rafters. He was also kicked and punched all over his body and electric shocks were used.

⁸ Sampson Ndou was chosen as first defendant so that the name Mandela would not appear on the court records.

76 As a result of allegations of torture made by Ms Shanti Naidoo, Samuel Solomon Pholotho and others [JB05956/01GTSOW], the Attorney-General stopped the trial, discharging all of the twenty-two accused. Before they had left the court, they were re-detained under the Terrorism Act, and held for periods ranging from 107 to 371 days. Student protests and public vigils demanding that the twenty-two accused be charged or released were launched all over the country. The government charged nineteen of them with conspiring with the ANC and SACP to overthrow the government by violence. This time the charges were brought under the Terrorism Act. Mr Benjamin Ramotse, who had been in captivity for a far longer period, became the first defendant and the state attempted to use the joinder provision of the Terrorism Act to link him to the others. All except Benjamin Ramotse were The nineteen were acquitted and discharged after the defendants proved that the charges brought against them were substantially the same as those they had already been tried for. On this occasion, Mr Benjamin Ramotse, Almost immediately after the second trial, all nineteen of those acquitted were issued with banning orders.⁹

Political executions

77 As a further deterrent to political opposition, the government introduced the maximum penalty of death for sabotage in 1962. A number of people were subsequently executed as a result of their involvement in acts of sabotage.

78 Mr John Harris¹⁰, a teacher and member of the ARM, was arrested for placing a bomb in the concourse of the Johannesburg railway station on 24 July 1964. One person died and several others were injured. John Harris was charged with murder and two counts of sabotage. The SAIRR reported that John Harris admitted planting the bomb and said that he intended a spectacular demonstration as a means of bringing about a change of government. A few minutes before the bomb was due to explode, he had telephoned a warning to the police and to two newspapers. He had expected the concourse to be cleared so that no one would be hurt. Mr Justice Ludorf found Harris guilty of murder and sentenced him to death. John Harris was the only white person to be executed for political crimes during the Commission's mandate period.

79 Ms Clasina Vogel [JB04948/03WR] was one of the people injured in the Johannesburg station blast on 24 July 1964, suffering burn wounds to her body, hands, legs, face and head, shrapnel wounds on her legs and burst eardrums.

9 SAIRR *Survey*, 1964.

10 John Harris's widow made a statement to the Commission [KZN/MR/008/DN].

THE COMMISSION FINDS THAT JOHN HARRIS WAS RESPONSIBLE FOR THE BOMBING OF THE JOHANNESBURG STATION, WHICH RESULTED IN THE DEATH OF ONE PERSON AND THE INJURY OF MANY OTHERS, INCLUDING CLASINA VOGEL, ON 24 JULY 1964. THE COMMISSION FINDS JOHN HARRIS RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

Imprisonment

- 80 People who were imprisoned because of their involvement in political opposition faced severe prison conditions during this period. At its special hearing on prisons, the Commission received a number of submissions about prison conditions from people jailed for their political activities, including some of the first MK members jailed on Robben Island.
- 81 Mr Robert Strachan [JB04416/990VE] was arrested in March 1962 and sentenced to six years' imprisonment in Pretoria Central prison for contravention of the Explosives Act. He was kept in solitary confinement for the first eleven months of his imprisonment. Harold Strachan later gave a detailed account of conditions at Pretoria Central Prison to *Rand Daily Mail* journalist Mr Benjamin Pogrund, who published the account despite severe reporting restrictions imposed by the Prisons Act.
- 82 Mr Andrew Masondo [JB4855/01GTSOW] was amongst the first ten MK members on Robben Island. He told the Commission that black prisoners were treated differently from whites. On one occasion he did not take off his cap quickly enough:

Piet, he pointed a gun at me and started beating me ... started beating me. For me it was a very, very difficult thing, I'm not used to people beating me and I don't fight back but I had to endure that so they beat me up. I don't think I would have recognised myself when I left there. I was bleeding through the eyes, bleeding through the nose, bleeding through the mouth, I was nice and rotund and I went back into hospital for the next six weeks.

Exile

- 83 MK sent approximately 300 recruits across South Africa's borders for military training in sympathetic African countries as well as in China and the Soviet Union. Efforts were made to infiltrate South Africa via Zimbabwe. The ANC formed an alliance with the Zimbabwe African People's Union (ZAPU) and conducted joint operations against the Rhodesian army (and the SAP) in the Wankie area. Some of these early recruits were captured and repatriated by the British colonial

authorities in what was then Northern Rhodesia, after which they were detained and tortured by the SAP.

- 84 Mr Norman Mmitshane [JB00733/03NW], an MK member who underwent military training in China, was detained and tortured in 1964 and then sentenced to ten years' imprisonment on Robben Island for assisting ANC recruits to leave the country for military training.

Covert action

- 85 Mr Abraham Onkgopotse Tiro [JB001/03NWRUS], president of the Student Representative Council at the University of the North and a member of SASO, was one of five students who left the country secretly for Botswana. Tiro had been expelled from the University of the North for a speech he made at a graduation ceremony in 1972. His expulsion sparked off mass student unrest on the campuses of the so-called black universities. Tiro left South Africa for military training in Botswana just before the issue of a warrant for his arrest.
- 86 In February 1974, Tiro was killed by a parcel bomb sent to him in Botswana, becoming one of the first victims of the former state's use of extra-judicial means to control political opposition. The bomb is believed to have been sent by Dries Verwey and Mike Koen of the Operational Arm of the BOSS 'Z-Squad' operating in Switzerland at the time.¹¹

THE COMMISSION FINDS THAT, IN ALL PROBABILITY, TIRO'S DEATH WAS THE RESULT OF THE WORK OF MR DRIES VERWEY AND MR MIKE KUHN, MEMBERS OF THE 'Z SQUAD', THE OPERATIONAL ARM OF BOSS, THE INTELLIGENCE-GATHERING AGENCY OF THE GOVERNMENT AT THE TIME.

THE COMMISSION FINDS FURTHER THAT THE FORMER STATE AND THE MINISTER OF LAW AND ORDER WERE RESPONSIBLE FOR THE ASSASSINATION OF ABRAHAM ONKGOPOTSE TIRO.

Establishment of homelands

- 87 The Commission heard of human rights violations that occurred in the rural and homeland areas in this period. Most violations stemmed from conflict between the government, which attempted to install chiefs amenable to its policies, and homeland residents, including popular chiefs themselves, who opposed this process.
- 88 A number of people were detained and allegedly tortured under the Terrorism Act. Three of these detainees died in detention. They were Mr Nicodemus

¹¹ See Volume Two for more details on Tiro's killing.

Kgoathe, Mr Solomon Modipane and Mr Jacob Monnakgotla. Each had been detained because of his involvement in local disputes about chiefly powers. Again, the name of Major 'Rooi Rus' Swanepoel was mentioned, this time in connection with the arrest of ten Bakubung tribe members, one of whom was Jacob Monnakgotla.

89 Mr Nicomedus Kgoathe and Mr Solomon Modipane were arrested in November 1968 with sixteen others while protesting against the appointment of a new headman. Attempts had been made to burn the offices of headman Herman More at the tribal offices in Hebron. Some of the detainees were held for up to eight months before being charged.¹²

90 Mr Nicomedus Kgoathe [JB00113/03NWRUS] was taken from the Silverton police cells to the HF Verwoerd hospital on 21 January 1969 and died in February, allegedly because of pneumonia. Kgoathe had been moved to hospital after admitting to the district surgeon, Dr PJE Joubert, that he had been assaulted.

91 Kgoathe's son, Mr Ben Kgoathe, described the condition in which he found his father when the family was finally informed of his whereabouts two months after his detention:

When we arrived there, we found my father. He was lying on the floor, flat on the floor. He just raised his head and he recognised me and we greeted each other. We spoke about family matters. When I asked what was the problem, my father Nicodemus said, he told me he slipped while he was bathing at Compol building at Pretoria.

92 At the inquest, the district surgeon, Dr PJE Joubert, testified that he had examined Kgoathe two weeks before his death and had arranged for him to be admitted to hospital after finding that he moved with extreme difficulty. Dr Joubert stated: "It is my opinion that he was suffering from the after-effects of a concussion and needed to be treated by a specialist." He went on to testify that Kgoathe had told him that he had fallen in the shower room but, after the surgeon refused to accept this explanation, Kgoathe admitted that he had been assaulted. "It is my opinion that Kgoathe's injuries were the result of an assault," the surgeon told the court. He said that linear marks on the shoulders of the deceased could have been caused by a *sjambok* (whip) and the three u-shaped wounds behind the right thigh by the buckle of a belt.

¹² SAIRR Survey, 1968 and 1969.

- 93 A sergeant at the Silverton police station also testified that Kgoathe had complained of body pains and said that he had been assaulted by the security police during interrogation, but said he refused to lay a charge. Police witnesses, including Warrant Officer F Smith, Warrant Officer J Venter and Detective Sergeant A de Meyer of the security police who interrogated Kgoathe on the 16 and 17 January, insisted that he had slipped and fallen during a shower on that day. The magistrate, Mr CG Jordan, found that, in the light of the evidence, he was not in a position to conclude that any person was to blame for Kgoathe's death.¹³
- 94 Mr Solomon Modipane was arrested on 25 February 1969 and died three days later in the HF Verwoerd hospital. The head of the CID was reported in the press as saying that Modipane had received "certain injuries" when he slipped on a piece of soap, but that this was not necessarily the cause of death. In May, a magistrate endorsed the *post mortem* report that the death was owing to natural causes, and found that no inquest was necessary.
- 95 On 10 September 1969, Mr Jacob Monnakgotla was charged under the Terrorism Act and died in police custody the night before he was to appear in court, allegedly as a result of "natural causes". Before Monnakgotla died, evidence was heard in court that some of his eleven co-accused had been tortured.

THE COMMISSION FINDS THAT MR NICODEMUS KGOATHE DIED IN POLICE CUSTODY ON 4 FEBRUARY 1969 AFTER HAVING BEEN ASSAULTED BY MEMBERS OF THE SAP SECURITY BRANCH NAMELY, WARRANT OFFICER FA SMITH, WARRANT OFFICER JM VENTER AND DETECTIVE SERGEANT A DE MEYER.

THE COMMISSION FINDS FURTHER THAT THE FAILURE OF THE MAGISTRATE TO FIND THE POLICE RESPONSIBLE FOR THE TORTURE AND SUBSEQUENT DEATH OF NICODEMUS KGAOTHE CREATED A CLIMATE AND CULTURE OF IMPUNITY THAT DIRECTLY CONTRIBUTED TO THE COMMISSION OF FURTHER GROSS HUMAN RIGHTS VIOLATIONS BY THE SAP.

THE COMMISSION FINDS THAT SOLOMON MODIPANE WAS ARRESTED ON 25 FEBRUARY 1969 AND DIED THREE DAYS LATER IN HOSPITAL. THE COMMISSION FINDS THAT HIS TREATMENT WHILST IN CUSTODY OF THE POLICE RESULTED IN INJURIES WHICH CAUSED HIS DEATH. THE COMMISSION FINDS THE SAP RESPONSIBLE FOR HIS DEATH. THE COMMISSION FINDS THE MINISTER OF POLICE AND THE COMMISSIONER OF POLICE RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT JACOB MONNAKGOTLA, A MEMBER OF THE BAKUBUNG TRIBE, DIED IN POLICE CUSTODY THE NIGHT BEFORE HE WAS TO APPEAR IN COURT. THE COMMISSION FINDS THAT, IN ALL PROBABILITY, JACOB MONNAKGOTLA WAS TORTURED AND SEVERELY ILL TREATED WHICH RESULTED IN HIS DEATH. THE COMMISSION FINDS THE POLICE AND THE COMMISSIONER OF POLICE RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

¹³ Kairos and SAIRR.

THE COMMISSION FINDS THAT THE FORMER STATE'S HOMELANDS POLICY OF DEVELOPING ETHNICALLY-DIVIDED RESERVES SERVED THE INTERESTS OF PROTECTING AND PRESERVING THE RIGHTS OF THE WHITE MINORITY. THE COMMISSION FINDS FURTHER THAT THE IMPLEMENTATION OF THIS POLICY OF ETHNIC FRAGMENTATION AND FORCED REMOVALS LED DIRECTLY TO THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS. FURTHERMORE, THE FORMER STATE'S POLICY OF IMPOSING BANTU AUTHORITIES AND CHIEFS WAS A CENTRAL PART OF THE GOVERNMENT'S HOMELANDS POLICY. PAID BY THE GOVERNMENT OF THE DAY, THE CHIEFS EFFECTIVELY BECAME AN EXTENSION OF THE FORMER STATE'S MECHANISM OF CONTROL IN THE HOMELANDS.

Banishment

- 96 Chief Gilbert Rangoezi Tshikalange [JB01421/02NPVEN] was first imprisoned for three months and later banished to the northern Cape because of his refusal to accept the newly established homeland administration in Venda. Born into the Tshikalange royal family at Tshififi, a traditional area in the magisterial district of Thohoyandou in Venda, Tshikalange worked in Johannesburg during the 1950s, where he joined the ANC. When his father died in 1963, Tshikalange succeeded him as a chief at Tshififi. However, Tshikalange soon clashed with the government's newly established Bantu Authorities under whose jurisdiction he was placed and was sentenced to a period of three months imprisonment. In 1966, Tshikalange was forcefully deposed and a chief from another area, Mr Mudzhadzi Mphaphuli, was imposed as ruler of Tshififi.
- 97 When the Tshififi community rejected the imposed chief, the Bantu Authorities banished Tshikalange. In 1969, he was deported to Kuruman in the northern Cape, thousands of miles from his home. Tshikalange's banishment lasted seven years until it was finally lifted in October 1976. Tshikalange and his wife were restricted to an isolated farm where they were not allowed to have contact with anyone except the local police.
- 98 The Commission received statements about an ongoing dispute in 1974–76 regarding the succession of the Bataung chief in Bophuthatswana. The dispute was exacerbated by the government's attempt to control the process and ensure that a chief sympathetic to its policies was installed, supporting a bid by a Mr Tshajwa against Chief Lion, the popular choice. Commission deponents reported that Tshajwa and his followers were responsible for intimidating Chief Lion's supporters. In her statement to the Commission, Ms Pileng Maria Lenisa [JB04248/03NWRUS] described the stoning and burning of her house in Taung in 1976:

The problem was these two chiefs, Mr Tshajwa did not want to give Mr Lion his position. Instead of giving it back to him, Mr Tshajwa's followers burned

houses of Mr Lion's followers. I had to sleep without a blanket for five days and manage to make a shack for my family, until now, I'm still living in that shack.

- 99 In total, fourteen statements were received referring to this conflict – eleven cases relating to destruction of property, one of severe beating, one of mental torture and one of severe ill treatment.

THE COMMISSION FINDS THE FORMER STATE AND THE TRIBAL AUTHORITIES DIRECTLY RESPONSIBLE FOR THE SEVERE ILL TREATMENT OF CHIEF TSHIKALANGE.

IN REVIEWING THE EVIDENCE RECEIVED, THE COMMISSION FINDS THAT THE ONGOING CHIEF-TAINSHIP SUCCESSION DISPUTE IN RESPECT OF THE BATAUNG CHIEF IN BOPHUTHATSWANA WAS EXPLOITED BY THE FORMER STATE IN AN ATTEMPT TO IMPOSE A CHIEF ON THE BATAUNG PEOPLE. THE ENSUING CONFLICT LED TO THE TORTURE AND SEVERE ILL TREATMENT. FOR THESE VIOLATIONS, THE COMMISSION HOLDS THE FORMER STATE, THE BANTU AUTHORITIES AND CHIEF TSHAJWA ACCOUNTABLE.

Resistance and revolutionary groupings

- 100 In the wake of the declaration of a state of emergency, a number of organisations, including the ANC and PAC, responded to their banning by going underground and establishing armed wings. The use of violence as a mechanism of political protest fundamentally altered the nature of political conflict in South Africa and led to the increasing militarisation of the contest for power. The ANC's armed wing MK, initially engaged in acts of sabotage which targeted railway lines and telecommunications networks, rather than people. Poqo, the military wing of the PAC, used violence more widely. In addition, a group of largely young, white South Africans, the ARM, was formed in the wake of the Sharpsville massacre and embarked on a sabotage campaign.

- 101 On 15 and 16 December 1961, the first MK bombings took place in Durban, Johannesburg and Port Elizabeth. On the Day of the Covenant (16 December), explosions caused damage to a Fordsburg post office, the Resettlement Board headquarters in Meadowlands and the Bantu Affairs Commissioner's offices in Johannesburg. These were the first in a series of over 200 attacks which took place over the next eighteen months in all the major centres of the country and many of the smaller towns. There were thirty-one attacks in Johannesburg, most with incendiary bombs, five in the Vereeniging district, three in Pretoria and two in Benoni.¹⁴

¹⁴ Tom Lodge, *Black Politics in South Africa since 1945*, 1983.

- 102 Although the Transvaal was one of the centres of the ANC's early sabotage campaign, no amnesty applications were received from those involved in carrying out these acts in this region. The sabotage campaign during this period did not lead to any deaths or injuries. However, the Commission received several statements from people who were involved in organising the initial sabotage actions, detailing their subsequent detention and torture. These included Mr Indres Naidoo, Mr Suresh Nanabhai, Mr Reggie Vandeyar, Mr Abdullay Jassat and Mr Laloo Chiba.
- 103 As the armed wing of the PAC, Poqo was the first African political movement in South Africa to adopt a strategy that explicitly involved killing people, and was probably the largest active clandestine organisation of the 1960s. The western Cape, in particular the Cape Peninsula, had been a stronghold of the PAC and it was here that Poqo was strongest.¹⁵ In late 1962, Poqo made preparations for a general uprising scheduled for 8 April 1963, with simultaneous attacks on a number of strategic targets. However, the police were able to forestall this by arresting over 3 000 Poqo suspects. In mid-1964 the Minister of Justice confirmed that 202 Poqo members had been convicted of murder, twelve of attempted murder, 395 of sabotage, 126 of illegal departure from the country and 820 of other offences related to membership of an underground organisation.¹⁶
- 104 Although the PAC organised clandestinely in the Transvaal during this period, the Commission received no reports of violations where the PAC or Poqo were identified as perpetrators of gross human rights violations in that province. Most of the evidence before the Commission regarding the PAC concerned activists who were detained and tortured for their involvement in the activities of the organisation.
- 105 Shortly before MK's campaign started, the ARM began operations in Cape Town and Johannesburg. ARM's activities were distinguished by technical expertise in the methods used, including dynamite and electrical timing devices, and the ambitious nature of its targets. In subsequent trials, it appeared that most of its members were white, numbering about fifty people altogether, concentrated in Johannesburg, where the ARM had been formed, and Cape Town.¹⁷
- 106 The only information received by the Commission about gross human rights violations in the armed campaigns of this period came from a victim of a bomb planted by Mr John Harris, a member of the ARM. As noted above, Harris was subsequently executed for his involvement in the bombing of the Johannesburg station

15 Tom Lodge (1983).

16 Tom Lodge (1983).

17 Tom Lodge (1983).

■ 1976-1982

Overview

- 107 In 1976, the Johannesburg area was the centre of the most sustained and violent protests the country had ever seen. 1976 has frequently been described as a turning point in South Africa's political history. The conflict sparked by the former state's attempt to impose Afrikaans as a medium of instruction on black school children lasted fifteen months and spread to 200 towns and cities across South Africa.¹⁸
- 108 Officially 575 people died and 2 380 people were wounded during the Soweto protests on 16 June. Most of the victims were under the age of twenty-five; many were school children.
- 109 During the following month, sympathy protests broke out in towns, townships, homelands and cities country-wide, resulting, in many instances, in further clashes between protesters and the security forces. The protests were met with aggression from the former state. On 18 June, Prime Minister John Vorster told parliament, "The government will not be intimidated. Orders have been given to maintain order at all costs." All outdoor public meetings were banned in terms of the Riotous Assemblies Act.
- 110 Captain 'Rooi Rus' Swanepoel, who gave the crowds of Sowetan school children the order to disperse on 16 June and led the Riot Unit into Soweto and Alexandra, said later that he had adopted a shoot-to-kill policy in order to curb the Soweto protests and that the police had erred in not using more force against the students.
- 111 During July, the government closed schools in at least eighty townships around the country. In August, the police conducted a series of raids on schools, looking for Soweto Student Representative Council (SSRC) leaders. Schools emptied and Sowetan students began meeting off school campuses, organising a series of further protest activities, mainly boycotts and strikes. Incidents of violence were also recorded ranging from arson attacks on schools, beer halls and homes, to the killing of people perceived to be representatives of government authority.

18 Secondary sources used for information on the Soweto protests include John Kane Berman, Soweto – Black Revolt, White Reaction, 1978; Baruch Hirson, Year of Fire, Year of Ash – The Soweto Revolt, Roots of a Revolution?, 1979; Selected SAIRR Surveys; WJP Carr, Soweto: its Creation, Life and Decline, 1990; Joyce Sikhakhane, A Window on Soweto, 1977; Nomavenda Mathiane, Beyond the Headlines, 1990; Alan Brooks and Jeremy Brickhill, Whirlwind before the Storm, 1980; Tom Lodge (1983).

112 It took the government more than a year to quell the violence which grew rapidly from a locally based student protest against inadequate education to a wholesale rejection of apartheid by black communities across the country.

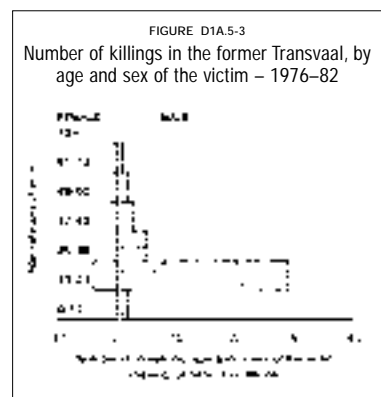
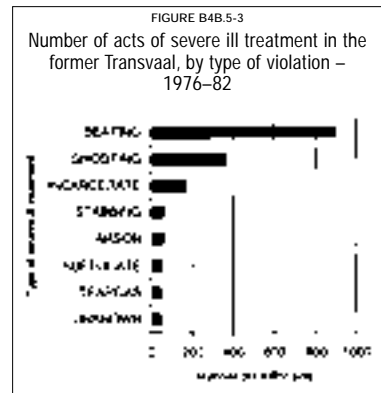
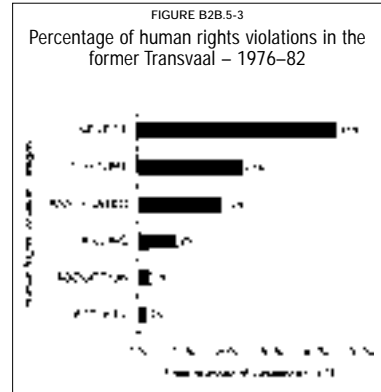
Overview of violations

113 Of the 1500 human rights violations statements received for this period (1976–82), over 400 were drawn from 1976 alone. The number of reports of severe ill treatment increase two and a half times compared to the previous period.

114 Street battles between police and protesters led to an increase in the numbers of recorded deaths and injuries. Official figures estimate the number of people who died during the course of the protests at more than 500. The Commission received approximately 130 reports of killing violations for the period 1976–82 and just over 650 incidents of severe ill treatment, the majority of which occurred through beating and shooting.

115 A breakdown of the age and sex of the victims of killing and severe ill treatment in the period 1976–82 reveals an overwhelming preponderance of male victims in the 13–24 age bracket.

116 Thousands of people were detained in the wake of the protests. In October 1977, all Black Consciousness organisations and two newspapers, *The World* and the *Weekend World*, were banned. Security personnel were given indemnity under the law, retrospective to 16 June 1976. At least eleven people died in police custody during 1976 and fourteen in 1977.



- 117 Approximately 340 torture violations were recorded by the Commission for this period. For the first time, torture violations were reported from the homelands, some of which were granted 'independence' or self-governing status during the 1970s.
- 118 In view of the political conflict and violence which swept the country during the two decades following the Soweto uprising, the relatively small number of submissions received for this period did not adequately convey the unprecedented significance of the event. With this in mind, the Commission convened a special hearing on the Soweto uprising.

State and allied groupings

The Soweto uprising

- 119 In 1975, a directive was issued by the Bantu Education Department to schools in the Transvaal that Afrikaans was to be used on an equal basis with English as a medium of instruction in secondary schools. In February 1976, two members of the Meadowlands Tswana School Board were dismissed for defying the order and by May a class boycott had been initiated at Orlando West Junior Secondary school after a circuit inspector turned down a request for a meeting with protesting students. By the end of the month the number of boycotting schools rose to six. During the same month the first violence broke out when an Afrikaans teacher at Pimville Higher Primary was stabbed and police were stoned when they tried to arrest a youth in connection with the assault. Education authorities responded with a warning that they would not hesitate to shut down boycotting schools, expel pupils and transfer teachers. The conflict continued to escalate. More schools went out on boycott, a number refused to write mid-year exams, and further acts of violence were reported.
- 120 Despite numerous warnings issued from a variety of quarters about the imminent confrontation, the government appeared reluctant to acknowledge the depth of opposition to the use of Afrikaans as a medium of instruction.
- 121 Students at the Morris Isaacson School in Soweto played a leading role in raising awareness and organising among students. It also produced some of the organisers of the 16 June protest, including Mr Murphy Morobe and Mr Tsietsi Mashinini [JB00838/01GTSOW]. Former teacher at the school, Mr Fanyana Mazibuko, described to the Commission the unusually close relationship

between students and teachers and the overtly anti-establishment stance of its principal, Mr Lekgau Mathabathe, who unequivocally rejected the instruction to teach in Afrikaans.

- 122 The June protest march had been planned by the Action Committee, an elected body of secondary school students in Soweto. A member of the committee, Mr Dan Montsisi, told the Commission that students felt that they were taking up a battle their parents and teachers had lost. Ms Ellen Khuzwayo [JB00839/01GTSOW] also described the disillusionment students felt at the powerlessness of their parents and teachers:

Children ... were very dissatisfied with the situation of the Bantu education. Naturally when they turned to their parents their parents could not help them because I think I am right when I say 75 per cent of the parents of those children had no education, and were therefore very much intimidated by the police, by this whole state of South Africa that made them to be too frightened to approach the white people to say our children say they are not learning at school. So finally these kids took it into their hands, I suppose, to redeem themselves from that malady of lack of education.

- 123 The Action Committee gave itself only three days to organise the march. Mr Morobe told the Commission how politically and historically significant the decision to organise a march was. Students had grown up in a context where mass mobilisation simply did not occur. They were drawing on a tradition of resistance, crushed during the 1960s, of which they had no direct experience but which remained an integral part of their consciousness and collective understanding of struggle. Morobe said that plans for the march were kept quiet and that parents and teachers were not told for fear they would not approve of the students' intentions and try to prevent or stop the march from taking place.

- 124 Mr Leonard Mosala articulated the generational difference separating the students from their parents and teachers:

The people that were involved then were not the people of 1960, they were not the people of Sharpsville, they were not the people of 1960. They were younger, they were more sensitive to the repression that the apartheid laws, particularly the pass laws, inflicted, the harm and the suffering that the laws of the country inflicted upon black people. Their aspiration level was far higher, their political sensitivity was deeper and their anger matched the level of their aspirations and their frustration.

125 However, as the students were to learn to their cost:

It was still the same police, it was still the same regime and they still reacted to us in the same way they did in Sharpville in 1960.

126 The march was initiated by pupils from Naledi and Thomas Mofolo high schools. In the two days preceding the march, members of the Action Committee travelled around schools in the township addressing students about the proposed protest on 16 June, and about further protest actions planned for the days following the march. On 16 June, organisers planned to march from school to school gathering more students as they went along.

127 At the special Soweto Day hearing, the Commission heard several witnesses describe Soweto as being “on fire” that day. Hundreds of pupils gathered at the appointed assembly points and at 07h00 the first group of singing, chanting students began marching towards Orlando. The first reported clashes with the police took place at 08h00, when police opened fire on two schoolboys running to catch up with the marchers. By 09h00, approximately 10 000 pupils had converged on Orlando West High School. Moments after an appeal by student leaders for calm, a contingent of police arrived and formed an arc in front of the crowd of marchers. A tear gas canister was thrown into the midst of marchers, who responded by throwing stones. The police opened fire. Two pupils were fatally wounded. The first of these was thirteen-year-old Hector Zolile Peterson. It was Peterson's death [JB00229/01GTSOW] that fundamentally transformed the nature of the student protest from a peaceful march into a violent confrontation with the government's security forces.

128 Clashes between the crowds and the police continued through the morning. Pupils began erecting barricades across the streets while hundreds of police reinforcements were rushed into the township. Pupils attacked property, including beer halls and bottle stores, and people, including employees of the West Rand Administration Board (WRAB), killing two WRAB officials, Dr Melville Edelstein [JB00786/01GTSOW] and Mr Esterhuizen.

129 Mr Murphy Morobe told the Commission that the pupils' resort to violence was a spontaneous expression of their anger. It was never part of the plan. He said:

The policeman with the dog then moved to the front and let loose the dog that came charging at us ... It was a real dog that bit some of the students there and I think that that really raised the anger of the students ... That dog was then killed by students who sought to protect themselves from it. At

that time the police then started opening fire, you know, and sure there was taunting of the police. Basically we were saying they must go, you know, what do they want there because we are not doing anything that required their presence. Once the shooting began it was at the time that the other schools were approaching ... after the first volley, you know, I think there was one tear gas canister that was lobbed and it was the first time that many of us had experience of tear gas ... some of the canisters hit some of the students. There was a little pandemonium and we tried to rally the students not to panic. It was at that time that the police themselves, for some reason, decided to rush back into their cars and as they rushed back into their cars, the students also, in anger, we were picking up anything that we could find there and we began throwing at the police to get them out of the area.

- 130 Hector Peterson's sister, Ms Antoinette Sithole, gave a statement to the Commission about the death of her brother:

Later I saw a group of school children coming towards us holding somebody, who happen to be my younger brother Hector Zolile Peterson. He was carried by Mbuyiswa Makhubo of Orlando West. We rushed to Phomolong clinic, which was nearby. On arrival at the clinic the doctor named Wilson said he was sorry there was nothing he can do because he was already deceased. The time was about 10h30.

- 131 Mbuyiswa Makhubo's mother made a statement to the Commission stating that after the publication of the picture of her son carrying the fatally injured Hector Peterson, her family was severely harassed by the police until Mbuyiswa decided to go into exile. He has not been seen or heard from since he wrote a letter to his mother from Nigeria in 1978.

- 132 Mr Sam Nzima [JB00869/01GTSOW], the journalist who took the famous picture of Mbuyiswa carrying Hector Peterson, told the Commission that "all hell broke loose" when the police started shooting at the students:

During the shooting I saw a student fall down and another student picked him up and I rushed there to take a picture. I took six sequence shots of that picture of the student, whom we later discovered that was Hector Peterson, and another student by the name of Mbuyiswa Makhubo picked Hector Peterson up and Antoinette, the sister who is next to me here of Hector Peterson, she was crying hysterically alongside where Makhubo was carrying Hector Peterson running towards the direction where our press car was parked. After taking those pictures I helped Antoinette and Mbuyiswa

Makhubo to put Hector Peterson in the press car to be taken to the Pafene clinic where he was certified dead by the doctor.

- 133 Mr Peter Magubane [JB00837/01GTSOW], another journalist covering the events of 16 June, told the Commission that, after the shooting of Hector Peterson, “everything went wild” and the students set fire to “anything that belonged to the Western Board”. Magubane went to Orlando West where he found the body of Dr Edelstein, who died at approximately 12h00. “The police were surrounding the body. There was a placard that was put on his head that read ‘Afrikaans is a drug to our children’.”
- 134 The death of Dr Edelstein, a WRAB official, was one of the most ironic events of the 16 June uprising. Dr Edelstein was deeply involved in the Soweto community and had recently published research on Soweto and other townships in which he warned the government that unless the political and socio-economic position of black South Africans were changed, they would face serious discontent.
- 135 Student leader Mr Dan Montsisi described to the Commission the random nature of the murder of Edelstein and the way in which the events of the day radically brutalised students’ attitudes to any apparent representative of apartheid authority:

As we passed the municipal office, the students remembered that there was a white man when they passed at the door of the office. Now unfortunately this was Dr Edelstein and the students went for him. They stoned him and so on and they burnt the office and they threw him inside the office, burning ... it's unfortunate because any other white man who could have been found in Soweto on that particular day could not have survived the anger of the students. So the Commission should note that when we passed the municipal office with the white man standing outside, he was an ordinary person to us, but when we came back he was an enemy.

- 136 Violence continued unabated until nightfall. Mr Montsisi told the Commission that, at the Tshabalala garage in Jabavu, he found the body of a man who had been driving a truck that belonged to his employer. Montsisi said:

He was asked to hand the truck over. He refused and said I am working for my children. He was mercilessly killed and set alight. It was for the first time for me to see a charred body of a human being.

137 Ms Christina Buthelezi [JB00682/01GTSOW] was wounded in the police shooting that day. She told the Commission that she had been unaware of the plans for a demonstration and was returning from the house of a relative when she was caught in the random shooting. She is still confined to a wheelchair as a result of injuries to her spine.

What hurts me most is at the hospital they would come with firearms. They would actually point guns at us lying on the beds asking us, "Do you know power? Were you a leader at school in any way?" The girl that was next to Hector on the picture, they were thinking I am the one. They actually insisted that I must say yes, I am the one.

138 The violence quickly spread to other townships. The Commission received many statements from victims of the conflict that erupted from 17 June in Alexandra where twenty people were killed and twenty-five wounded in police shooting.

139 An unemployed youth, Mr Jabu Malinga [JB01887/01GTTEM], was shot in the back when he became involved in the street battles in Alexandra. He told the Commission that he joined a group of protesting students on 18 June and that the police opened fire randomly on crowds of protesters wherever they were congregated.

They were shooting all the time and that is when they hit me at the back. And this bullet went right through the left arm, next to the ribs. And they arrested me on 12th Avenue. Bleeding like that they put me into a van and dropped me off at the clinic. I stayed there for two weeks.

140 Ms Ramotsobane Masenya [JB01872/01GTTEM] told the Commission that, when her mother saw the violence that erupted in Alexandra on 19 June, she left home to look for her children. She was shot by the police whilst crossing an empty stand:

They shoot her at the back. The bullet penetrated right through her left breast. She tried to walk. A lady called Elsie told us that our mother has been shot. I wanted to know how did they shoot her. And I found her bending on the grass. She was praying that her ancestors and God must help her pull through. I managed to get a car in order to take my mother that she would be taken to the clinic ... [She was] transferred ... to the General Hospital [where] she passed away.

141 Ms Irene March [JB01863/01GTTEM] lost her son Phillip on 18 June 1976. She told the Commission that Alexandra was in chaos that day. She was told by

some of her son's friends that Phillip had been shot and was taken by them to the spot where it had happened:

They have shown me a black spot in the school yard and they told me that is Phillip's blood there. The black spot was Phillip's blood.

- 142 Testimony to the Commission revealed that many of the victims of the ongoing confrontation with the police (which continued for nearly two years after 16 June 1976) were ordinary residents going about their daily business. The police appeared to pursue a policy of generalised intimidation which continued until early 1978. Among the victims of violations was Mr Jerry Radebe [JB01786/01GTTEM], who was shot in the back by the South African Defence Force (SADF) in June 1976, thrown into a Hippo¹⁹, and never seen again. Ms Ramotsobane Masenya was shot and killed by the SADF. Ms Esther Denga [JB02475/01GTTEM] was knocked down by a Hippo whilst walking home during the student unrest in June 1976. Mr Joseph Tjao [JB02479/01GTTEM] was beaten by members of the SAP and SADF during June 1976. Ms Eliza Masilwane-Motsweneng, who was pregnant at the time [JB00665/01GTSOW] was shot in the stomach on 14 September 1977.
- 143 In September 1976, police reacted violently in response to another student protest, this time against the visit of Mr Henry Kissinger to South Africa. Protest actions were confined to school premises in order to avoid a confrontation with the police. However, clashes between protesters and the police resulted in injuries. Ms Nomavenda Mathiane was in Dr Abubaker Asvat's surgery on the day of the protest. She told the Commission:

The door just opened and a group of children, these students in black and white came in. I mean, these children were bleeding all over. I mean, their white shirts were red, they were just a mess. They were bleeding all over and the way they just burst in and there was so much commotion. As he took one of the children into his consulting room and as he did that the children were in such pain and they all just rushed into the consulting room ... So Asvat then said, "Okay, okay, those of you who are not very, very sick, help me. Let us do something about these children." So he tried to tell us how to get hold of the pellet bullets ... They had been shot all over ... The most difficult pellets to remove were the ones in the skull because then the hair would come into the way and this little, I guess, little flesh on the skull. So we were busy calling, "come help me this side doctor", and he would be rushing this way and the children were screaming. We were also, we were

19 An armoured personnel carrier.

not doctors, we were not nurses, we had to handle this blood, but anyway we managed, you know.

144 The earliest known incidents of 'drive-by' shootings occurred shortly after the June uprising. The Commission received reports of a "green Chevrolet" occupied by uniformed white men who drove around indiscriminately firing on township residents. Mr Johannes Dube [JB00851/01GTSOW] was one of these victims. He told the Commission that, in August 1976, he and a friend were walking to the taxi rank when a green Chevrolet, occupied by white "policemen ... in camouflage" pointed a gun at them. Both he and his friend were shot.

145 Mr Jabu Malinga of Alexandra told the Commission that in 1978 he was abducted by men in a green Chevrolet and taken to a bushy area in Alexandra where he was tortured. Malinga was ordered to collect wood, build a fire and braai meat for the men. He refused to answer the questions they put to him about the organisation of the 16 June march. It was then that they started beating him.

They said I knew too much, they will show me something that I don't know. They handcuffed me and the fire was still burning at that time. They took me towards the fire, they threatened to burn me should I not be prepared to talk the truth... Whilst they were assaulting me and the other one lifted my leg they dragged me towards this fire. They started burning me, they said I must talk the truth. I refused because I knew that should I tell the truth they will kill all my companions. Then they burnt me. I was dressed in an overall. When they realised that I was burning they took something to extinguish the fire. They extinguished the fire. They said they wanted to know what we were doing on the 17 June. They wanted the truth. I still refused to tell them. I was just being kicked, I was not aware of what was happening, I was unconscious at that moment. I found myself at the clinic. That is when I became conscious. I can't remember what happened.

146 The first reports of conflict between township residents and hostel-dwellers were received at around this time. In August 1976, violence broke out after students reportedly tried to enforce a stay away without consulting Mzimhlophe hostel residents. Two stay aways were organised in August 1976. The first on 4–6 August was enforced with some degree of coercion such as roadblocks, although it did appear to have genuine support among Sowetan residents. However, during the second stay away on the 23–25 August, migrant workers living in the hostel near Mzimhlophe station – enraged by attacks on the hostel and on some of its

inmates who had gone to work, and allegedly incited by the police – went on the rampage through neighbouring Meadowlands and Orlando. Residents fled in terror as the hostel-dwellers broke into homes and robbed, raped and murdered. The battle between hostel-dwellers and township residents, including students, continued for two weeks, leaving seventy people dead.

- 147 Later, hostel residents explained that they had not understood the reasons behind the stay away. Discussion won the support of hostel residents for the next stay away which took place on 13–15 September. Many of the hallmarks of later hostel/township conflict were evident during the August incident – lack of police intervention, the alienation of hostel residents from the township and the failure of township activists to involve hostel residents in their campaigns.
- 148 Generational divisions between township youth enforcing the boycott and the gerontocratic forms of control established in hostels, which mirrored similar forms of organisation in the rural areas, were central to the 1976 conflict that developed in townships around Johannesburg. Hostel-dwellers attributed their alienation from townships to the youth.

Township administration

- 149 Education was not the only source of dissatisfaction among township residents participating in the June uprising. Developments in policy for the administration of black areas were met with growing opposition in black townships.
- 150 In terms of the Bantu Affairs Administration Act of 1971, the government removed townships in the ‘white’ or urban areas from the control of local authorities and placed them under the control of twenty-two Bantu Affairs Administration Boards, covering all parts of the country outside of the homelands. These boards fell under the Department of Bantu Administration and Development.
- 151 In 1973, Soweto was removed from the control of the Johannesburg City Council and placed under the authority of the WRAB. This had a profound effect on the lives of the township’s residents and was to prove an ongoing source of dissatisfaction, which broke out into overt conflict in the wake of the march on 16 June.
- 152 The conflict was sparked primarily by a government directive that the Administration Boards were to become self-financing. In the past, Soweto (excluding Meadowlands and Diepkloof, which had always been self-financing) had received money from

the Johannesburg rates fund which had included a subsidy for sub-economic housing. This meant that the rent and service charges of Soweto residents were kept reasonably low. During the last year in which it was responsible for Soweto, the Johannesburg City Council had subsidised it to an effective amount of R2 million.

- 153 The WRAB, however, had few sources of income besides the residents of Soweto themselves. The only other major source of income, inherited from the Johannesburg City Council, was the profitable 'European liquor' and 'Bantu beer' operations. However, 80 per cent of the profits from the sale of this liquor went into the 'development' of the Bantustans. Thus both WRAB buildings and beer halls became targets for attack during the 1976 uprising.
- 154 By the end of its first year, the WRAB's budget showed a deficit of R3.4 million, part of which it sought to meet by increasing rents. There was an immediate outcry from the residents of Soweto, who were already disturbed at the deterioration of public services in the township. WRAB officials appeared to remain ignorant of the growing dissatisfaction of Soweto residents.
- 155 In May 1976, WRAB chairperson Manie Mulder told the *Rand Daily Mail* that "the broad masses of Soweto are perfectly content, perfectly happy ... Black-white relationships at present are as healthy as can be."
- 156 Until 1976, Soweto had been governed by the Urban Bantu Council (UBC), created in terms of the Urban Bantu Council Act in 1961. The Act provided for the formation of ethnic or linguistic councils which were essentially intended to integrate urban blacks into the homeland system and limit their political rights in the townships to those of temporary sojourners. What little popular legitimacy the council may have had at its formation was steadily eroded as its inefficacy became evident to township residents.
- 157 The Commission heard that, in the weeks leading up to the 16 June protests, members of the UBC became increasingly concerned about the growing crisis in education. At the 14 June meeting of the UBC, Councillor Leonard Mosala warned that enforcing Afrikaans in schools could result in another Sharpsville. Speaking of the children, he said:

They won't take anything we say because they think we have neglected them. We have failed to help them in their struggle for change in schools. They are now angry and prepared to fight and we are afraid the situation may become chaotic at any time.

158 Mr Mosala testified at the Commission's Soweto Day hearings and described the efforts made by the UBC, after a variety of other community organisations had failed, to negotiate with the government on the problem of Afrikaans as a medium of instruction. Council members believed that they would be received more favourably because they were a legislated body, but they were reportedly treated with "contempt" by the regional director of education, Mr Ackerman, who told the council members to confine themselves to their statutory duties.

159 The UBC was in an ambiguous position with respect to the imminent crisis. While some of the council members were mobilised into action and were keenly in touch with the mood of the students, the UBC as an institution was entirely discredited. By June 1976, it was widely referred to by Soweto residents as the "Useless Boys' Club". Prior to the June march, students had called on the UBC councillors to resign, and the buildings of the UBC in Soweto were the first to be attacked during the protests.

160 Mr Mosala told the Commission:

We had established an opposition against the wheel of the government. We had taken a specific position to use the UBC as a platform to articulate the political, not only the civic problems of the community that sent us in there, but also the political aspirations of black people in the country as a whole. We were called to 80 Albert Street before Dr Koornhof on two occasions and [told] that we must stop abusing the UBC for political purposes. We had refused, we had told Dr Koornhof we did not represent the government, but we represented the people that had sent us there and if this is what they wanted us to say, we would continue to say it until he closed the thing. Manny Mulder threatened us with arrest and, ultimately, we ended up in jail.

161 As the police moved into Soweto, Mosala and other members of the UBC tried to negotiate with the Minister of Police, Mr Jimmy Kruger, to withdraw his forces. Later Mosala worked with the leadership of the SSRC to dismantle the UBC. He became a member of the Committee of Ten (see below) and was detained with a number of other activists in 1977. However, it is clear that not all UBC councillors shared Mosala's understanding of the conflict, and a number refused to resign despite mounting community pressure.

162 The death knell for the UBC was an attempt by the WRAB to impose a rent increase on 1 May 1977. It emerged that the UBC had been informed several

months earlier about the proposed rent increases and had made no attempt to oppose them. Led by Mr Daniel Montsisi, the students organised a successful campaign against the proposed rent increase. The WRAB officially suspended the Soweto UBC on 29 June 1977, following demands by the SSRC for the councillors' resignations.

Public order policing

163 The SAP Riot Unit was set up at the beginning of 1975, some eighteen months before the Soweto uprising. From its inception there was a strong connection between riot control and counter-insurgency. The Riot Unit was initially based in several centres around the country and drew on the skills of the Special Task Force – a new elite unit – set up with Israeli assistance. Recruits were drawn from those with counter-insurgency training. One such recruit was Colonel 'Rooi Rus' Swanepoel who led a fifty-eight-strong task force into Soweto during the first twenty-four hours of the 1976 riots and took charge of operations in Alexandra during the same period.

164 'Rooi Rus' Swanepoel, who became known for his brutality in the course of the protest, already had a long history of involvement in gross human rights violations as chief interrogator of the Security Branch. He was, moreover, the founder of an anti-terrorist unit which later became *Koevoet*.

165 On 16 June, Swanepoel was drafted to Soweto. He later said, "Soweto at that time was completely under-policed. They could not control the riots so outsiders were called on to send in task forces." He collected the first sixty men he could get:

By the time we got to Soweto everything was in flames. It was chaos. It was a tragic scene to look at – cars being burnt, people being killed. Everything was chaotic and completely out of control. We had far too few men available for the situation... Eventually I landed up, after a couple of days, in charge of riots all over Johannesburg – Soweto and Alexandra. I made my mark. I let it be known to the rioters I would not tolerate what was happening. I used appropriate force. In Soweto and Alexandra where I operated, that broke the back of the organisers.

166 Training in counter-insurgency tactics did not equip the SAP to deal effectively with the protest, which continued for many months after its first outbreak. Despite more than 500 deaths, many from the security establishment continued

to believe that too little force had been used and that more force would actually have prevented deaths. Swanepoel also believed that firmer action should have been taken and that many officers were “dragging their feet” and were reluctant to use more force. Senior police officials concurred. According to Deputy Commissioner Wandrag, this resulted in “rioters gaining confidence and acting in an increasingly impudent and militant way”.

167 The day after the 16 June march, the government announced that a one-person commission of enquiry, under Justice Cillie, would investigate the causes of the protest. The eventual terms of reference included the time period between 16 June 1976 and 28 February 1977.

168 The Cillie Commission found that 575 people died and that 2 389 were injured, and concluded that: “Bantu Education was not a cause of the riots. It was, to a certain degree, a cause of dissatisfaction; this dissatisfaction was to some extent stirred up and exploited by those bent on creating disturbances.” It found the SSRC primarily responsible for the fact that the “riots” did not abate sooner. The Cillie Commission stated that the police force had acquitted itself well in executing its duties and could find no evidence that police had perpetrated deliberate and impermissible assaults on the protesters, or that they had used their firearms indiscriminately.

169 In his testimony to the Commission, Mr Murphy Morobe said he believed the Cillie Commission was set up to justify the shootings by the police in Soweto and other townships. He also alleged that there was direct collusion between the police and the Cillie Commission in extracting evidence to support the thesis that the SSRC was responsible for ensuring that the protest continued after 16 June. According to Morobe, the conclusions of the Cillie Commission laid the foundation for a number of leaders in the 16 June protest (including himself) to be charged in 1978 with sedition, a charge which had reportedly not been used since the Bambatha Rebellion.

170 Morobe and a number of other activists were detained in a police swoop in December 1976:

They interrogated us at John Vorster Square, they tortured us to get statements from us, statements that would implicate other people and statements that would suggest ... “students could not have planned this... There was clearly someone else other than you chaps who were involved in this.”... So they

used the Cillie Commission to try to find a place to put the blame. And they pulled us out of our detention cells at John Vorster Square, they took those same statements that were extracted from us under torture and they forced us to read them before that Cillie Commission.

THE COMMISSION FINDS THAT THE MINISTER OF EDUCATION'S DECISION TO INTRODUCE AFRIKAANS AS A MEDIUM OF INSTRUCTION IN BLACK SCHOOLS WAS A DIRECT CAUSE OF THE CONFLICT WHICH LED TO THE PROTEST MARCH BY STUDENTS IN SOWETO IN 1976. THE FAILURE OF THE EDUCATION AUTHORITIES TO RECOGNISE THAT A CRISIS WAS DEVELOPING, DESPITE INTERVENTIONS BY COMMUNITY LEADERS AND EVEN BY THEIR OWN BANTU COUNCILLORS, CREATED A RALLYING POINT FOR THE STUDENTS.

THE COMMISSION FINDS THAT THE STATE'S HANDLING OF THE PROTEST MARCH CREATED A SITUATION THAT GAVE RISE TO VIOLENT CONFLICT. THE COMMISSION FINDS THAT THE MARCH OF STUDENTS WAS PEACEFUL UNTIL VIOLENT POLICE INTERVENTION TO STOP THE MARCH CREATED A SITUATION WHERE UNARMED AND PEACEFUL STUDENTS THEMSELVES RETALIATED WITH VIOLENCE.

THE COMMISSION FINDS THAT IT WAS IN THIS CONTEXT THAT THE DEATH OF DR EDELSTEIN AND ANOTHER WRAB OFFICIAL TOOK PLACE. THE COMMISSION FINDS THE STUDENTS RESPONSIBLE FOR THE DEATH OF DR EDELSTEIN AND THE OTHER WRAB OFFICIAL. THE COMMISSION ALSO FINDS THE POLICE AND THE FORMER STATE RESPONSIBLE FOR CREATING THE CLIMATE IN WHICH THESE DEATHS TOOK PLACE.

HAVING HEARD THE TESTIMONY OF WITNESSES AND REVIEWED TESTIMONY GIVEN AT THE CILLIE COMMISSION, THE COMMISSION FINDS THAT THE POLICE ADOPTED A SHOOT-TO-KILL POLICY AND THAT, IN PARTICULAR, CAPTAIN SWANEPOEL AND THE DEPUTY COMMISSIONER WANDRAG OF RIOT CONTROL WERE RESPONSIBLE FOR THE EXCESSIVE USE OF FORCE WHICH LED TO THE DEATH OF MORE THAN 575 STUDENTS, MOST OF THEM UNDER TWENTY-FIVE YEARS OF AGE.

DURING THIS PERIOD, 2 380 PEOPLE WERE WOUNDED. THE COMMISSION FINDS THE FORMER STATE, THE THEN PRIME MINISTER AND THE MINISTERS OF EDUCATION AND POLICE RESPONSIBLE AND DIRECTLY ACCOUNTABLE FOR GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT THE CILLIE COMMISSION APPOINTED BY THE STATE AT THE TIME FAILED TO TAKE INTO ACCOUNT THE EVIDENCE OF COMMUNITY LEADERS AND STUDENTS ABOUT THE UNDERLYING CAUSE FOR THE VIOLENCE. THE CILLIE COMMISSION FAILED TO MAKE FINDINGS AGAINST THE POLICE IN RESPECT OF THE MISHANDLING OF THE SITUATION AND THE EXCESSIVE FORCE UNLEASHED ON THE STUDENTS, DESPITE THE OVERWHELMING EVIDENCE OF THE NUMBER OF PEOPLE WHO DIED IN THE UPRISING AND THE NUMBER OF PEOPLE INJURED. THIS FAILURE ON THE PART OF A JUDICIAL OFFICER BROUGHT THE CILLIE COMMISSION INTO DISREPUTE AND HAS BEEN SEVERELY CRITICISED. THE CILLIE COMMISSION'S FAILURE CREATED A CULTURE OF IMPUNITY WITHIN THE POLICE FORCE, WHICH LED TO FURTHER GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS FURTHER THAT THE CILLIE COMMISSION'S FINDING THAT THE SSRC WAS RESPONSIBLE FOR THE PROTEST LAID THE BASIS FOR THE STUDENTS TO BE CHARGED WITH SEDITION, A CHARGE WHICH HAD NOT BEEN IN USE FOR MANY YEARS.

THE COMMISSION FINDS FURTHER THAT THE STATE'S COUNTER-INSURGENCY STRATEGY TO QUELL ALL POLITICAL PROTEST LED TO A MASS EXODUS OF STUDENTS FROM SOUTH AFRICA 1976.

THE COMMISSION FINDS THE STATE RESPONSIBLE FOR THE MORE THAN 2 000 ARRESTS AND DETENTIONS IN THE WAKE OF THE STUDENT UNREST.

THE COMMISSION FINDS THAT ELEVEN PEOPLE DIED IN POLICE CUSTODY BETWEEN 1976 AND 1978, AND FINDS THE POLICE RESPONSIBLE FOR THESE DEATHS IN DETENTION. THE COMMISSION FINDS THAT THE NUMBER OF INCIDENTS OF TORTURE ESCALATED AND THAT THE STATE, THE MINISTER OF POLICE AND THE COMMISSIONER OF POLICE WERE DIRECTLY RESPONSIBLE FOR GROSS HUMAN RIGHTS VIOLATIONS.

Detention and torture

- 171 Out of approximately 340 reports of torture violations for this period, the majority of victims were males between the ages of thirteen and twenty-four. A small proportion of victims of torture were females between the ages of twenty-five and thirty-six. They held a range of political affiliations.
- 172 Several victims who reported torture or who died in detention during this period were student activists who were intercepted while leaving the country for military training. Others were Black Consciousness activists working inside the country. During this period there were at least two large-scale trials during which members of the ANC and PAC were tried under the Terrorism Act for furthering the aims of these banned organisations. During the course of the 1978 trial of PAC members (the Bethal Treason Trial), three of those awaiting prosecution died in police custody.

The torture of Mamagotla Paulina Mohale

Twenty-six-year-old Ms Mamagotla Paulina Mohale [JB00133/01GTSOW] was arrested in Amsterdam in the eastern Transvaal in November 1976 with fifteen other people en route to Swaziland to join the ANC. The group was taken to Krugersdorp police station where they were separated and tortured. Ms Mohale was the only woman in the group.

On the first day, Mohale was asked to look at photographs and identify students who had left and those she had taken out of the country. She denied her involvement with the ANC and was beaten. Mohale told the Commission that food and water were withheld from her until she agreed to speak. She was kept standing and forced to write a statement, which was torn up. She was beaten again and electric shocks were applied to her body. This continued for so long that she started bleeding profusely. Mohale told the Commission that, on the following day, she was blindfolded and again beaten. On the third day, Mohale collapsed and found herself back in her cell when she regained consciousness. She said that she was taken to a district surgeon who appeared to ignore the obvious signs of torture and assault:

"I was smelling of blood. There was blood that had clotted throughout my fingers, between my fingers, my toes and so on and my body and in my back. I had nerves in my head. When I just heard the key unlocking the prison cell I just used to be so petrified ... They were drugging me, they gave me a lot of tablets. I was asleep the whole time. I couldn't even walk, they were picking me up."

Mohale said that when the police were unable to extract information from her under torture, they arrested her mother:

"When I was in Krugersdorp they came to fetch me and took me to John Vorster Square. They said they wanted guns. When I arrived at John Vorster I found that they had arrested my mother. They told me that 'if you don't show us where these guns are we are going to kill your mother. We are also going to kill you.' They took me to tenth floor."

Mohale was told that if she did not talk, she would die like a number of other detainees, who allegedly 'jumped' to their death from the tenth floor of the Security Branch headquarters at John Vorster Square.

The following day, Mohale was taken to Pretoria Maximum Security prison. She was not allowed to see her mother. Finally, Mohale and eleven others were charged with being involved in a conspiracy to overthrow the government using violence. For the first time she was given access to a lawyer. Six of the accused, including Mohale, were acquitted. After her release the police continued to harass her. Her experiences in detention precipitated a nervous breakdown.

The torture of Gerald Thebe

Nineteen-year-old Mr Gerald Thebe [JB0091/02PS] was detained in Pretoria in July 1977, at a time when renewed tensions had arisen around the country as students prepared to commemorate the outbreak of the Soweto uprisings. Thebe told the Commission that he was intercepted by the police as he tried to leave the country secretly. He was arrested and beaten on the head with an iron bar every day for three weeks. He was also given electric shocks and suffered mental impairment as a result of his torture. He was later convicted and served a five-year sentence on Robben Island.

173 Ms Deborah Matshoba, an executive member of SASO, was detained in 1976.

Six weeks after her release from detention, she was re-detained under section 6

of the Terrorism Act. She told the Commission's special hearing on women that she was immediately taken to the female prison in Pietermaritzburg where she spent twelve months in solitary confinement. Ms Matshoba was given no explanation for her detention. When she demanded to know why she had been detained, she was severely tortured.

They held a braai outside, it was at night in Pietermaritzburg at the police station. They handcuffed me and ... manacled my ankle on a big iron ball. They made me stand the whole night. There was no chair, but I was given a pen to write a statement, tell them everything about myself and my involvement in SASO. I was an executive member of SASO at that stage.

I wrote a brief history of myself. It was Saturday. Sunday I continued the same thing. They kept on tearing the papers and telling me to write. The third night I started becoming delirious and my legs were swelling. I think that was on a Monday.

By Thursday, no, Tuesday. By the Tuesday I was counting nights and this man started beating me up. He held a towel, strangled me with a towel and started bashing my head against the wall... Obviously, I was very, very weak. I was being given food, but ... I could not sit down and when I collapsed, they kicked me. Eventually I must have passed out. I was bleeding. I must have passed out, because when I came to I was lying on the floor, all wet. They must have poured water over me and he threw a packet of sanitary pads at me. [I] got to the bathroom and I could see that I was menstruating and I was just wondering how he realised that.

The beating up lasted for a week. I was asthmatic and they refused to give me medication. Ultimately, when they realised that they could not get anything out of me and, perhaps, not mainly because of strength as much as it was actually because of weakness, the way I was physically weak and I could not speak anymore.

174 Matshoba was then moved to another police station to recover from the injuries she had sustained as a result of her torture. Conditions at the police station were extremely poor. The place was "swarming with lice ... and the blankets stinking and reeking of urine".

175 Matshoba said she became mentally unstable as a result of her torture. She said one policeman quietly slipped her the medication she needed for her asthmatic condition. Another told her that the police were waiting for her to die from her

asthma, a death for which the police could not be held culpable. On doctor's instructions she was taken back to the Pietermaritzburg female prison. Here she was subjected to solitary confinement and extreme hostility from the women warders. Matshoba told the Commission:

Perhaps, after an hour or two the wardress would open the cell, just the door, and leave the bars open and kick that plate of food in. For some time, I used to accept it and just continue eating it ... it would be clogged and have ants.

- 176 Driven to an extreme state by the continued isolation, Matshoba decided that she would try to end it by committing a criminal act in order to be charged and placed among the common law prisoners. Matshoba told the Commission she accosted a wardress one day.

[I] grabbed her hair through the bars and started bashing her head against the bars. I really gave it to her. I beat her up thoroughly and I could not let loose... It was quiet, the prisoners were locked in and it was quiet and it was just time for her to come and feed this animal and she was all by herself, she was screaming and there was nobody. Ultimately, she fell down. I do not know how they saw her, but then they came, picked her up. I was expecting anything from the Security Police, anything from being charged, but the best that I was hoping for was that I would be charged, go to court, be able to talk to somebody.

- 177 Instead of being charged, it appears that Matshoba's violent act precipitated a change in her treatment. She was visited by a magistrate who asked her what she needed. She was given a Bible. For the first time in ten months, her family knew where she was. She was allowed a thirty-minute visit from family members.

- 178 The security police thought that Matshoba had been broken and would be willing to testify against her colleagues. When she refused to do this, she was transferred to yet another prison where she was put in a cell without windows:

The next week the magistrate came with a statement which was read, written and typed and said I should sign it, because they would like me to be a witness, a state witness in several trials. It was several statements, actually. I refused and told him that, actually, I am not used to talking to magistrates, and I was taken to Middelburg Prison ...

- 179 Here she was confined to a small cell without a window. Matshoba said she talked to male prisoners at night through the toilet:

They taught me how to use the toilets and it was called telephone. Drain your water, use your cup, use your cup they told me, they spoke to me through the window at night. My drinking cup, I used it [to] drain the water into the bucket and we communicated very fluently and safely through the toilet.

- 180 Matshoba was re-detained immediately after her release from Middelburg. She was again taken to Krugersdorp and then to the Johannesburg prison, where she was placed with other female detainees for the first time. She had become seriously ill and fellow detainees were shocked by her condition:

Fortunately, this time it was section 10 and that is where I found Jubie that night, Jubie Mayet and Gladys Manzi... I weighed forty-three kilograms and I must have looked terrible, because they really cried when they saw me. I wondered how I looked like. I had not seen myself in the mirror for the past eighteen months. I had never seen my face and I remember Jubie and Gladys insisting that I have to go for a check-up and they insisted and called prison authorities that I have to and I was taken to hospital and x-rayed and pumped with a lot of vitamins and stuff like that ...

I had no hair, you know, my hair was just pulling out. It was just pulling out, you could just pick it out and I remember Jubie making an egg mixture and rubbing it on my hair and friends like Joyce and Ellen Kuzwayo sending me some cosmetics, baby oils and stuff like that to nourish my skin. I drew courage once more when I got to the Fort.

- 181 After six months, Matshoba was released and immediately placed under a five-year banning order.

Deaths in detention

The death in detention of Matthews Mabelane

Mr Matthews Mabelane [JB00322/01GTSOW] left South Africa for Botswana in October 1976, but was intercepted by police at Zeerust in the Western Transvaal, detained and taken to John Vorster Square police station in Johannesburg.

On 16 February 1977, two detectives came to the Mabelane home and asked his father, Mr Philip Mabelane, to accompany them to John Vorster Square:

"We went to the tenth floor where they told me that my child was there and was interrogated and jumped through the window and fell down from the tenth floor. I asked how did he come through because he was in your hands. No, we just saw him, suddenly we saw him going through the window.

"After that they told me that ... I do not have the right to take any steps regarding this matter, according to the law. All I could do is for them to release the corpse to me that I should bury it myself. Truly, I did that, I buried my son."

The death in detention of Walter Shandu

Mr Elias Zwelakhe Shandu's son Walter [JB1024/02PS], died in detention in 1978. Police told Mr Shandu that his son had been detained while on his way to Angola. He was interrogated and reportedly tortured in a South African police station. His corpse was returned to his parents from the mortuary in Zeerust after he allegedly committed suicide while in police custody. The family never saw the results of the autopsy. Mr Shandu was suspicious because of the marks on the neck and shoulders of his son's body. He asked the police to take him to the place where his son had committed suicide.

"Then they said, 'The police who were there are not here, they are off duty.' I continued asking them and they said 'do not ask us many questions because we know nothing'."

Like many of the relatives of people who died in detention, Mr Elias Shandu also became the target of police attention after his son's death:

"We buried him. These police were there at his funeral... After having buried him police used to come and harass me. They asked me, 'Was your son a member of the ANC?' I said 'I do not know' and they asked me, 'What about you, are you a member of the ANC?' I said I was a member of the ANC before it was banned, but now I am a church-goer."

182 In 1978, four of eighty-six 'co-conspirators' charged with furthering the aims of the PAC died in police custody while awaiting trial. These detainees were Mr Naoboth Ntshunsha [JB00921/01GTSOW], Mr Bonaventure Malaza, Mr Aaron Khoza [JB04458/03WR] (who died in Pietermaritzburg), and Mr Samuel Malinga [JB06044/01GTSOW]. The police alleged that all four had committed suicide.

183 The eighty-six accused were part of a major trial of PAC members, which began in February 1978, in which eighteen members of the PAC, including PAC leader

Mr Robert Sobukwe, Mr Zephaniah Mothopeng and Mr Mark Shinnars, were charged under the Terrorism Act with furthering the aims of the organisation. Other charges related to alleged recruitment of people to undergo military training for the PAC abroad; the use of a religious organisation, the Young African Religious Movement, as a cover; encouraging violence and sabotage during unrest in Kagiso in 1977, and attempting to re-activate the PAC.²⁰

184 The trial came to be known as the Bethal Treason Trial. It was held in the small rural town of Bethal in order to isolate the accused and reduce media coverage. The trial was also held *in camera*. Only journalists with cards signed by the commissioner of police were allowed to attend the hearings.

185 At the inquest on the death of Mr Bonaventure Malaza, state pathologist Professor Taljaard gave evidence that the post mortem results were consistent with hanging by a belt. The lawyer for the Malaza family, Mr Cullabine, questioned the state pathologist about other injuries not directly related to pressure on the neck. From the position of the body, the bars from which it hung and the use of the belt, Cullabine put forward three theories of how Mr Malaza hanged himself. Either he gently lowered himself into the 'noose', or he let himself fall into it, or he died at the hands of the security police. Mr Cullabine tried to show that the position of the body and the arm and the injuries on the body could not be consistent with the first two theories. A matter of contention at the inquest was how Malaza came to have a belt in the cell, as these are prohibited in terms of prison regulations and he had apparently been thoroughly searched. Despite all this, however, the magistrate found that Malaza's death was caused by hanging and that no one was responsible.

186 Another of the accused, Mr Mark Shinnars, testified at the Commission's Witbank hearings, alleging that most of the Bethal treason trialists were severely tortured:

In a sense, the trial was prismatic. It was something that took place in an isolated place and yet it reflected so much ... You ended up being an accused in the Bethal trial simply because you refused to break down. You refused to succumb to the immense torture in the form of isolation, interrogation, the pain that was inflicted and in some cases even death.

187 Although the official explanation for Mr Sam Malinga's death was suicide, Mr Shinnars contests this claim:

²⁰ SAIRR, *Survey* 1978.

I've tried to list some of our comrades who died during the situation leading up to the trial. Some of them were staying in the same sections, people like Sam Malinga ... [were] taken in for interrogation. He looked very blithe in a situation where many people couldn't even afford to smile but he was one of the rare people whose smile I can remember to this day. Hardly a week later we heard that Sam Malinga has committed suicide in detention.

188 Shinnars told the Commission about the coercion that led people to become witnesses for the state, saying they knew that state witnesses had been seriously assaulted. They knew of cases where people were made to spend time in a mortuary where there were corpses of motor vehicle accident victims, and were broken down until they agreed to testify, even, in some cases, against their spouses. Shinnars alleged that some of those involved in the interrogation and torture of the Bethal treason trialists were later became members of the Security Branch unit based at Vlakplaas.

189 On 5 February 1982, Dr Neil Aggett [JB00217/01GTSOW; CT00410/FLA], a twenty-eight-year-old medical doctor and organiser for the Food and Canning Workers Union, died while in detention at John Vorster Square police station in Johannesburg, apparently by committing suicide. He had been detained on 27 November 1981 and was the first white person to die in police custody. His funeral was attended by between 10 000 and 12 000 people.

190 Security Branch member William Charles Cecil Smith [AM4569/97] has applied for amnesty for the torture of Dr Aggett. From 1980, Smith said, he was part of an investigation into people associated with unions that were "furthering the aims of the ANC and other liberation movements via labour unrest and economic destabilisation". This investigation was commonly referred to as the Barbara Hogan investigation. According to Smith, the people who were arrested as a result of this investigation were tortured physically and psychologically. He personally participated in the torture of most of these detainees, including Ms Barbara Hogan, Dr Liz Floyd, Mr Carl Niehaus, Mr Michael Jenkins, Mr Jabu Ngwenya, Mr Keith Coleman, Mr Suresh Nanabhai and others. In addition, former Security Branch policeman Paul Erasmus [AM3690/96] applied for amnesty for illegally searching Aggett's home and supplying misinformation on the basis of which Aggett was to have been charged.

191 When the Labour Relations Amendment Act of 1981 was extended to cover African workers, giving them the right to organise but curbing political and

strike actions, the former state applied more pressure to trade unions as they began to use their newly acquired legal space. Between September 1981 and November 1982, thirty-four trade unionists were detained, a number under the Terrorism Act of 1967. Dr Aggett was among sixteen trade unionists detained in terms of the Terrorism Act.

- 192 During the inquest into Aggett's death, it emerged that he had made a statement about alleged assault and torture to a visiting magistrate, but that this was only investigated three weeks later. According to Aggett's partner, who testified at the Commission's Johannesburg hearings, the report was given back to the security police and, shortly afterwards, Aggett was found dead. Aggett was subjected to a sixty-hour interrogation session between 28 and 31 January. He had already spent two months in solitary confinement. Fellow detainees who had seen him during the last week of his life noticed a visible physical deterioration. A Mr Lerumo testified that he had seen Dr Aggett being escorted back to his cell only hours before his death, saying that he appeared to be in pain, had a spot of blood on his forehead and walked with enormous difficulty, like an extremely ill man.
- 193 Mr George Bizos, the Aggett family lawyer, conceded in his final argument that Dr Aggett had committed suicide, but said that Major A Cronwright and Lieutenant Whitehead, the men who had subjected Dr Aggett to intensive interrogation, were guilty of culpable homicide. He said Dr Aggett would not have taken his life had it not been for his seventy-day detention and treatment by the security police.
- 194 In December 1982, the presiding magistrate, Mr A Kotze, ruled that Dr Aggett's death was not brought about by any act or omission on the part of the police, and that he had died of suicide by hanging. Describing Dr Aggett as "a man devoted to a cause", he said that Aggett's disclosure of the activities of his associates had "brought about feelings of insecurity in his future because of a sense of betrayal". The magistrate accepted the evidence of more than thirty policemen as honest and reliable. The evidence of former detainees was described by Mr Kotze as contradictory and full of discrepancies.²¹

THE COMMISSION FINDS THAT A NUMBER OF STUDENT ACTIVISTS WHO SOUGHT TO LEAVE THE COUNTRY AFTER THE 1976 PROTESTS WERE INTERCEPTED AND DETAINED. MANY OF THEM WERE TORTURED WHILST IN DETENTION. THE COMMISSION FINDS A DIRECT CORRELATION BETWEEN THE NUMBER OF PEOPLE DETAINED AND THE NUMBER OF PEOPLE TORTURED.

THE COMMISSION FINDS THAT THE SECURITY BRANCH WAS RESPONSIBLE FOR THE DETENTION AND TORTURE OF MS MAMAGOTLA PAULINA MOHALE IN NOVEMBER 1976. THE COMMISSION FINDS

21 SAIRR *Survey* 1982; Don Foster, *Detention and Torture in South Africa*, 1987.

THAT SHE WAS TORTURED BY THE APPLICATION OF ELECTRIC SHOCKS. THE COMMISSION FINDS THAT THE DISTRICT SURGEON FOR KRUGERSDORP AT THE TIME FAILED TO ACT PROFESSIONALLY WHEN MS MOHALE WAS TAKEN TO HIM FOR MEDICAL ATTENTION. HE FAILED TO ENSURE THAT SHE WAS REMOVED FROM POLICE CUSTODY TO A HOSPITAL FOR MEDICAL ATTENTION AND CARE. HE FAILED TO ENSURE THAT THE POLICE WERE PREVENTED FROM KEEPING HER IN CUSTODY AND TORTURING HER FURTHER. THE COMMISSION FINDS THE DISTRICT SURGEON AND THE MINISTER OF HEALTH AT THE TIME RESPONSIBLE FOR GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT MR GERALD THEBE WAS ARRESTED ON 29 JULY 1977 AS HE SECRETLY TRIED TO LEAVE THE COUNTRY. HE WAS DETAINED IN MAFIKENG WHERE THE SECURITY BRANCH INTERROGATED, BEAT AND TORTURED HIM. THE COMMISSION FINDS THE MINISTER OF POLICE RESPONSIBLE FOR THE SEVERE ILL TREATMENT OF MR THEBE AND CONSEQUENTLY RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT MS DEBORAH MATSHOBA, AN EXECUTIVE MEMBER OF SASO, WAS SEVERELY ILL TREATED IN THE COURSE OF HER DETENTION, DURING WHICH SHE WAS HELD IN SOLITARY CONFINEMENT FOR TWELVE MONTHS AND TORTURED. THE COMMISSION FINDS THAT THE TREATMENT OF MS MATSHOBA CONSTITUTED SEVERE ILL TREATMENT AND TORTURE, AND FINDS THE FORMER STATE AND THE MINISTER OF LAW AND ORDER RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT MR MATTHEWS MABELANE WAS ARRESTED AND DETAINED BY THE SECURITY BRANCH AT ZEERUST WHILE ATTEMPTING TO LEAVE THE COUNTRY FOR BOTSWANA IN 1978. IN JANUARY 1977, THE POLICE INFORMED HIS PARENTS THAT HE WAS DETAINED AT JOHN VORSTER SQUARE. ON 16 FEBRUARY 1977, HIS PARENTS WERE INFORMED THAT HE HAD JUMPED TO HIS DEATH FROM THE TENTH FLOOR OF JOHN VORSTER SQUARE DURING INTERROGATION. THE COMMISSION FINDS THE FORMER STATE, THE MINISTER OF POLICE AND THE COMMISSIONER OF POLICE AT THE TIME RESPONSIBLE FOR THE DEATH IN CUSTODY OF MR MATTHEWS MABELANE AND FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT MR WALTER SHANDU WAS ARRESTED AND DETAINED BY THE SAP IN 1978 WHILE ON HIS WAY TO ANGOLA. SHORTLY AFTERWARDS, THE MABOPANE POLICE INFORMED HIS PARENTS THAT HE HAD COMMITTED SUICIDE. THE COMMISSION FINDS THE POLICE RESPONSIBLE FOR THE DEATH OF MR SHANDU, AND THAT THE FORMER STATE, THE MINISTER OF POLICE AND THE COMMISSIONER OF POLICE AT THE TIME WERE RESPONSIBLE FOR HIS DEATH. THE COMMISSION FINDS THEM RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS FURTHER THAT FOUR PAC MEMBERS, CHARGED IN THE BETHAL TREASON TRIAL WITH FURTHERING THE AIMS OF THE PAC, DIED IN POLICE CUSTODY. THE COMMISSION FINDS THAT MR NAOBOTH NTSUNTSHA, MR BONAVENTURE MALAZA, MR AARON KHOZA (IN PIETERMARITZBURG) AND MR SAMUEL MALINGA DIED AT THE HANDS OF THE POLICE. THE POLICE ALLEGED THAT ALL FOUR HAD COMMITTED SUICIDE. THE COMMISSION FINDS THE FORMER STATE AND THE MINISTER OF POLICE RESPONSIBLE FOR THEIR DEATHS AND RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE POLICE WERE RESPONSIBLE FOR THE TORTURE OF MR MARK SHINNERS, ANOTHER ACCUSED IN THE BETHAL TRIAL. THE COMMISSION FINDS FURTHER, ON THE EVIDENCE OF MR SHINNERS, THAT IN ALL PROBABILITY ALL OF THE ACCUSED IN THE BETHAL TRIAL WERE TORTURED. THE COMMISSION FINDS THE POLICE, THE MINISTER OF LAW AND ORDER, THE COMMISSIONER OF POLICE AT THE TIME AND THE FORMER STATE RESPONSIBLE FOR THE TORTURE OF THE BETHAL TREASON TRIALISTS.

THE COMMISSION FINDS THAT DR NEIL AGGETT, A MEDICAL DOCTOR AND A TRADE UNIONIST, DIED IN DETENTION ON 5 FEBRUARY 1982. THE POLICE ALLEGED THAT HE HAD COMMITTED SUICIDE. THE COMMISSION FINDS THAT THE INTENSIVE INTERROGATION OF DR AGGETT BY MAJOR A CRONWRIGHT AND LIEUTENANT WHITEHEAD, AND THE TREATMENT HE RECEIVED WHILE IN DETENTION FOR MORE THAN SEVENTY DAYS WERE DIRECTLY RESPONSIBLE FOR THE MENTAL AND PHYSICAL CONDITION OF DR AGGETT WHICH LED HIM TO TAKE HIS OWN LIFE. THE COMMISSION FINDS THE FORMER STATE, THE MINISTER OF POLICE, THE COMMISSIONER OF POLICE AND THE HEAD OF THE SECURITY BRANCH RESPONSIBLE FOR THE DETENTION, TORTURE AND DEATH OF DR NEIL AGGETT, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS FURTHER THAT A STATEMENT BY DR AGGETT TO A MAGISTRATE ABOUT HIS ASSAULT AND TORTURE WAS ONLY INVESTIGATED THREE WEEKS LATER. THE COMMISSION FINDS THAT THE FAILURE OF THE MAGISTRATE TO TAKE THE COMPLAINT SERIOUSLY IS AN OMISSION THAT LED TO HIS DEATH.

THE COMMISSION FINDS THAT THE FAILURE OF MAGISTRATES TO TAKE THE COMPLAINTS OF DETAINEES SERIOUSLY AND THEIR RELIANCE ON THE EVIDENCE OF THE POLICE CONTRIBUTED TO A CULTURE OF IMPUNITY THAT LED TO FURTHER GROSS VIOLATIONS OF HUMAN RIGHTS. THE COMMISSION FINDS THE MINISTER OF JUSTICE RESPONSIBLE FOR THESE GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS FURTHER THAT MR WILLIAM CHARLES CECIL SMITH WAS RESPONSIBLE FOR THE DETENTION AND TORTURE OF MS BARBARA HOGAN, MS LIZ FLOYD, MR CARL NIEHAUS, MR MICHAEL JENKINS, MR JABU NGWENYA, MR KEITH COLEMAN, MR SURESH NANABHAI AND OTHERS. THE COMMISSION FINDS THE MINISTER OF POLICE, THE HEAD OF THE SECURITY BRANCH AND THE COMMISSIONER OF POLICE RESPONSIBLE FOR THE TORTURE OF THESE DETAINEES.

Covert Action

- 195 The early 1980s witnessed the beginning of an era of covert, extra-legal government actions against anti-apartheid activists inside the country. The use of booby-trapped hand grenades to eliminate activists became increasingly common. An early example of this can be found in the murder of three young COSAS activists from the West Rand township of Kagiso on 15 February 1982. Many of the perpetrators named in later incidents also participated in this operation.
- 196 Mr Zandile Musi [JB01909/03WR] told the Commission that his elder brother, Mr Mbulelo Musi, went into exile in January 1982 with a Mr Ephraim Mfalapitsa. During the same year, Mr Zandile Musi and a fellow COSAS member, Mr Bimbo Madikela [JB01910/03WR], met Mfalapitsa and told him that they also wanted to go into exile. They were encouraged to remain at home. Musi told the Commission that Mfalapitsa made arrangements for them to receive training before he himself returned to exile. The next time Musi, Madikela and fellow COSAS members Ntshingo Matabane and Fanyana Nhlapo met Mfalapitsa, he was accompanied by Mr Joe Mamasela, whom Musi recognised by a scar on his face. They drove to a mining area.

When we got there, Mfalapitsa was walking ahead, we entered a shaft and he took out a grenade. He said it was an F1 grenade. He showed us how to operate it and told us to be careful as it was deadly. There was a box in the corner, which looked very suspicious. When I looked at the box I just heard an explosion. I thought it was a mistake. The last person with the grenade was Ntshingo. When I heard the explosion, I cried out to Ntshingo because I thought he was the one who had made a mistake.

We were injured. Even the building fell down. The people who died immediately were Bimbo and Ntshingo. Fanyana was next to me. We could not see each other. He could not see or walk, I was bleeding. What is painful to remember is that he had a hole in his body, because my hand went into his body when I tried to communicate with him ...

In the morning the police came. I was taken to hospital and then to prison. I was then taken out for investigation and a gun was placed in my mouth.

- 197 Musi was charged for illegal possession of firearms but was later acquitted. In 1985 he was arrested under the partial state of emergency and sentenced in October 1987 under the Explosives Act. He was sent to Robben Island and released in December 1990.
- 198 A number of former security policemen applied for amnesty for this incident: Mr Christiaan Siebert Rorich [AM501/97], Mr Jan Carel Coetzee [AM4120/96], Mr Abraham Grobbelaar [AM4143/96] and Mr Ephraim Mfalapitsa [AM3592/96] (see Volume Two).

THE COMMISSION FINDS THAT MR ZANDILE MUSI, MR BIMBO MADIKELA, MR NTSHINGO MATABANE AND MR FANYANA NHLAPO, ALL COSAS MEMBERS, WERE OFFERED INSTRUCTION IN THE USE OF HAND GRENADES BY VLAKPLAAS ASKARIS JOE MAMASELA AND EPHRAIM MFALAPITSA. ON THE 15 FEBRUARY 1982, MADIKELA, MATABANE, AND NHLAPO WERE KILLED AND MUSI WAS INJURED IN AN EXPLOSION.

THE COMMISSION FINDS A NUMBER OF SECURITY BRANCH OPERATIVES RESPONSIBLE FOR THIS OPERATION AND, IN PARTICULAR, BRIGADIER WILLEM SCHOON, THE HEAD OF THE SECURITY BRANCH, WHO AUTHORISED THE OPERATION THAT LED TO THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS. THE COMMISSION FINDS FURTHER THAT MR CHRISTIAAN SIEBERT RORICH, MR ABRAHAM GROBBELAAR, MR JOE MAMASELA AND MR EPHRAIM MFALAPITSA WERE RESPONSIBLE FOR CARRYING OUT THE OPERATION, FOR THE DEATHS OF THE THREE COSAS MEMBERS AND FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THE FORMER STATE, THE MINISTER OF POLICE, THE COMMISSIONER OF POLICE AND THE HEAD OF THE SECURITY BRANCH RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS. THE COMMISSION FINDS THAT, THROUGH THEIR ACTIONS, THE FORMER

STATE IS VICARIOUSLY RESPONSIBLE FOR CRIMINAL CONDUCT IN THAT IT SECURED THESE DEATHS THROUGH EXTRA-JUDICIAL METHODS.

Homelands

- 199 Most gross human rights violations in the homelands during this period arose out of conflicts between the homeland security forces and the SADF, and insurgents attempting to return to the country after having received military training overseas. Many of these were students who had fled the country in the wake of the 1976 protest. Those who tried to assist the guerrillas were detained and tortured by homeland police, sometimes in collaboration with the SAP.
- 200 During the 1970s, the former state's bid to establish independent homelands reached its peak when Ciskei, Bophuthatswana, Lebowa, Gazankulu, Venda, KaNgwane, KwaZulu and KwaNdebele were granted self-governing status. Reports of gross violations of human rights rose sharply in the homelands.
- 201 After Venda was granted independence in 1979, Lieutenant Colonel Mulaudzi, Commander of the Venda National Force and a former South African police officer, announced that Venda would not hesitate to call for the assistance of the SADF if their sovereignty was threatened by insurgents. Before independence, a fifty-kilometre wide strip on the Zimbabwean border was placed under the jurisdiction of the SADF. An anti-insurgency unit was added to the Venda National Force, which was already engaged in anti-guerrilla warfare and border duties in 1980.
- 202 In response to perceived security threats to Bophuthatswana, Chief Minister Lucas Mangope requested that the South African government provide military training before independence in December 1977. The SADF accordingly began instruction of a National Guard and, by independence, 221 men had completed basic training. A year later, the Bophuthatswana Police Force (BPF) was formed as a counter-insurgency unit and National Guard members were also dispatched for specialised SADF training in counter-insurgency. The Bophuthatswana Internal Intelligence Service was established in 1982 to gather, assess and disseminate information on internal security in the territory.
- 203 In 1981, the Bophuthatswana army and police co-operated with their South African counterparts in arresting several men alleged to be planning to attack South Africa and Lesotho. Chief Minister Mangope stressed that he would not allow Bophuthatswana to be used as a springboard for attacks on South Africa or other countries.

- 204 In 1982, a former member of MK reportedly testified before a senate committee in Washington DC that the ANC had decided to make the area west of Beit Bridge, as far as Mafikeng, an operational zone. The initial goal was to set up secret bases and first on the list of intended targets was the home of Chief Minister Mangope at Montshiwa near Mmabatho. Once the bases had been completed, a campaign was to be launched, involving the laying of landmines and attacks on small police stations.
- 205 The Commission received a number of statements from residents of Venda who were detained and tortured after helping insurgents to re-enter the country in 1980 and 1983. Local residents, particularly black subsistence farmers who owned orchards, played a crucial role in facilitating the work of insurgents by allowing them to hide arms caches on their land and providing essential resources such as food. By these means, political activists would also pass on essential intelligence information to insurgents, such as details affecting their movement into the country – for example, details about the movements of Venda and South African security forces and the levels of the Limpopo River.
- 206 Residents who assisted insurgents often suffered severe consequences and frequently became victims of gross human rights violations.

The case of Mbengeni Jonah Ravele

Mr Mbengeni Jonah Ravele [JB/01377/02NPVEN] was arrested by the Venda security forces in December 1980 for providing MK soldiers with food and shelter and showing them Venda topography. The Venda police ransacked his home and dug up his yard, searching for weapons. Guns were found, and he was charged for possession of illegal firearms. Police officers Ramushwana and Ramaligela interrogated, beat and tortured Mr Ravele. They reportedly took him to a mountain, tied him up, lit a fire under a tree and burnt his private parts. He was incarcerated for five years at Sibasa police station.

The case of Nkhetheni Reginald Tshibavhalemba

Mr Nkhetheni Reginald Tshibavhalemba [JB/01974/02NPVEN] helped MK cadres to find Mr Mbengeni Ravele's home. Ravele gave Mr Tshibavhalemba an MK booklet which Venda security forces found when they came to search for weapons in Tshibavhalemba's home. He was also interrogated, badly assaulted and tortured. His head was covered with a piece of cloth and he was given electric shocks for three days. He was then placed in solitary

confinement for three months and was released in May the following year. This experience left Tshibavhalemba mentally disturbed.

- 207 On 14 September 1983, Mr Humbelani Elvin Tshifhiwa Mulaudzi [JB1268/02NPVEN] and two other 'terrorists' were killed by Venda government security forces as they tried to cross back into South Africa via Beit Bridge. His body was later found so badly riddled with bullets that it was unrecognisable.
- 208 This incident precipitated a wave of retaliation against people suspected of assisting the insurgents.
- 209 In November 1983, the Venda police arrested and detained Mr Mufhungo Alfred Denga, Mr Samuel Radamba, Mr Tshikhudo Tshivase Samuel Mugivhela, Mr Robert Ratshitanga, Mr Peter Mudzielwana and Mr Wilson Sinyebwe, some of whom were subsistence farmers. Some of them were part of the underground operational network, with whom political activists negotiated clandestinely for assistance in transporting and harbouring guerrillas. Political activists also bought these farmers' products to sell to farmers in the former Rhodesia and Botswana, creating a cover for communication with the liberation movement, informing them about political developments inside the country and bringing in banned literature. The detainees were accused of assisting ANC 'terrorists'. Some were charged under section 3 of the Terrorism Act and others under the Internal Security Act of 1982. Some were found guilty of treason.

The case of Mufhungo Alfred Denga

Mr Mufhungo Alfred Denga [JB01414/02NPVEN] is now mentally handicapped as a result of having been tortured at Masisi police station in Venda. He was reportedly arrested because he helped transport three ANC cadres from Thohoyandou to Tshihwadza in the mountains of Venda where they were to be helped across to Zimbabwe.

Mr Denga was taken by police officers Managa and NemaKonde to Masisi police station in Mutale. He was kept alone in a dirty cell and was allegedly given food mixed with faeces. He did not eat for several weeks. When he was released in March 1984, he was suffering from severe mental disturbance. He is still receiving treatment.

The case of Samuel Radamba

Mr Samuel Radamba [JB01385/02NPVEN] was arrested by police officer Managa for harbouring 'terrorists' in his orchard and providing them with

food. He was interrogated, severely beaten and verbally abused at Sibasa police station. Mr Radamba was later transferred to Mutale, where he spent 108 days in detention. He was released in February 1984, with the condition that he report to his headman three days a week.

210 Deaths in custody in the homeland of Venda were also reported for this period.

The case of Tshikhudo Tshivase Samuel Mugivhela

Mr Tshikhudo Tshivase Samuel Mugivhela [JB01369/02NPVEN] died in detention on 20 January 1984 after being arrested by the Venda police for harbouring and feeding 'terrorists'. Like Radamba and Denga, Mugivhela owned an orchard where he planted mielies (corn) and sweet potatoes. Before arresting him, police searched his orchard for weapons, and his wives were interrogated to find out whether they were cooking for the 'terrorists'.

The Venda National Force refused to take responsibility for Mugivhela's death and claimed that he died from diabetes or typhoid. His brother believes that "he was beaten up as his neck seemed to have been strangled before he died".

211 The Lutheran Church played an active political role in Venda. Politically-conscious Christians in Venda formed the Bold and Evangelical Christian Organisation (BECO) in 1976/1977, with the aim of furthering the struggle against apartheid. Members of the church were subjected to severe repression by the homeland government. Two key members of the Lutheran Church, Reverend Simon Farisani [JB1425/990VE] and Mr Tshifhiwa Isaac Muofhe, were both detained and tortured during 1977. Following a bomb explosion at Sibasa police station in October 1981, repression of Lutheran Church leaders became particularly severe. Most of those arrested after the bomb blast were Lutheran Church members including Mr Muofhe, Pastor Farisani and Pastor Ndanganeni Petrus Phaswana.

The case of Tshifhiwa Isaac Muofhe

Mr Tshifhiwa Isaac Muofhe [JB00540/02NPVEN], president of BECO and an underground agent of the ANC, died on 12 November 1981, two days after being detained by Venda police. Captain Ramaligela and Constable Managa, members of the Venda Security Force, arrested Mr Muofhe on suspicion of being involved in the Sibasa bomb explosion. They interrogated him and later took him out in an open Landrover to point out particular places.

They alleged that Muofhe tried to escape by jumping from the vehicle in which they were travelling. Muofhe was taken back and detained at Matashe, the Venda central prison in Vondwe, near Sibasa. He was found dead the next morning.

A post mortem was performed which concluded that the cause of death was internal bleeding. An inquest was subsequently held at the Sibasa magistrate's court in August 1982. Ramaligela and Managa were charged with Muofhe's murder, found not guilty and discharged.

This was the third time that Muofhe had been arrested. In 1977 he was detained for ninety days at Sibasa police station, then moved to several other prisons before his release. In 1978, he was again detained for a weekend in Messina, tortured and given electric shocks by the SAP, who alleged that he was a terrorist.

The case of Pastor Simon Farisani

Shortly after Muofhe's death in November 1981, Venda security force members Ramaligela, Managa, Nesamari and Rambuda detained and tortured Pastor Simon Farisani in connection with the Sibasa police station bomb explosion and Muofhe's alleged involvement in it.

Pastor Farisani claimed that an attempt was made to force him to write statements to this effect and that he was tortured when he refused. He alleged that Venda police brought in a white policeman experienced in electric shock torture. Farisani was taken to a room where a bag was put over his head. A glue-like substance was poured on his hair, ears, thighs and private parts. He was given electric shocks, made to stand on his head and thrown onto concrete. He described his torture:

"I was just waiting for any fist that could hit on me so that I should die. And as I was praying, I was pleading to God to die ... They said I was not co-operating. I was beaten again. It was deep harassment. I was just beaten. This head felt a lot of pain. I don't know why I am not mad. Blood was flowing [from] my mouth; I couldn't see ... because my eyes were swollen ... They again said I wasn't co-operating, I was still laying there. Ramaligela said, "Just boil water in your kettle, we want to pour this water in his anus." Whilst I was laying there, my problem was that – just to pour water in my anus, boiling water in my anus. It didn't mean that I could die there and then – I was – such a case never happened to me. I know such a place is very delicate."

The case of Pastor Ndanganeni Petrus Phaswana

Pastor Ndanganeni Petrus Phaswana [JB01501/02NPVEN] was accused of being involved in the bombing of the Sibasa police station. He was arrested by Captain Ramaligela and Detective Managa on 5 January 1982.

Pastor Phaswana was severely assaulted and tortured. His beard and pubic hair were pulled out; a hood was placed over his head and a cold liquid substance was poured over his body. Electrodes were clipped onto his earlobes over the canvas bag and he was subjected to electric shocks for several hours.

THE COMMISSION FINDS THAT VENDA POLICE OFFICERS RAMUSHWANA AND RAMALIGELA ARRESTED MR MBENGENI JONAH RAVELE IN DECEMBER 1980 FOR GIVING MK SOLDIERS SHELTER. THEY TORTURED HIM AND BURNT HIS PRIVATE PARTS. THE COMMISSION FINDS THAT MR RAVELE WAS IMPRISONED IN SIBASA FOR A PERIOD OF FIVE YEARS. THE COMMISSION FINDS OFFICERS RAMUSHWANA AND RAMALIGELA RESPONSIBLE FOR THE TORTURE AND SEVERE ILL TREATMENT OF RAVELE, AND THE VENDA GOVERNMENT RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT NKHETHENI REGINALD TSHIBAVHALEMBA WAS ARRESTED AND TORTURED BY THE VENDA SECURITY FORCES. THE COMMISSION FINDS THAT THE TORTURE AND SOLITARY CONFINEMENT TO WHICH HE WAS SUBJECTED CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE VENDA SECURITY FORCES AND THE VENDA GOVERNMENT ARE HELD RESPONSIBLE.

THE COMMISSION FINDS THAT THE VENDA SECURITY FORCES WERE RESPONSIBLE FOR KILLING ACTIVISTS AS THEY CROSSED THE BORDER VIA BEIT BRIDGE.

THE COMMISSION FINDS THAT THE VENDA SECURITY FORCES ARRESTED AND DETAINED RESIDENTS WHO ASSISTED MK OPERATIVES – INCLUDING MR MUFHUNGO MR ALFRED DENGA AND MR SAMUEL RADAMBA – WHO WERE THEN TORTURED AND SEVERELY ILL TREATED . THE COMMISSION FINDS THE VENDA SECURITY FORCES AND THE VENDA GOVERNMENT RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT THE VENDA SECURITY FORCES WERE RESPONSIBLE FOR DEATHS IN CUSTODY. THE COMMISSION FINDS THAT MR TSHIKHUDO TSHIVASE SAMUEL MUGIVHELA WAS ARRESTED BY THE VENDA POLICE FOR HARBOURING AND FEEDING ‘TERRORISTS’. THE COMMISSION FINDS THAT MR MUGIVHELA DIED ON 20 JANUARY 1984 WHILST IN THE CUSTODY OF THE VENDA POLICE. THE COMMISSION FINDS THE VENDA POLICE RESPONSIBLE FOR MUGIVHELA’S DEATH AND FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE VENDA SECURITY FORCES TARGETED MEMBERS OF THE LUTHERAN CHURCH BECAUSE THEY WERE OPPOSED TO THE HOMELANDS GOVERNMENT. THE COMMISSION FINDS THAT PASTOR SIMON FARISANI AND MR TSHIFHIWA ISAAC MUOFHE WERE DETAINED AND TORTURED DURING 1977. THE COMMISSION FINDS THAT MUOFHE DIED ON THE 12 NOVEMBER 1981, TWO DAYS AFTER HE HAD BEEN DETAINED BY THE VENDA POLICE. THE COMMISSION FINDS CAPTAIN RAMALIGELA AND CONSTABLE MANAGAGA RESPONSIBLE FOR MUOFHE’S ARREST, DETENTION, TORTURE AND DEATH, AND FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT VENDA SECURITY FORCE MEMBERS RAMALIGELA, MANAGA, NESAMURI AND RAMBUDA DETAINED PASTOR FARISANI AND TORTURED HIM. THE COMMISSION FINDS THEM RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT PASTOR NDANGANENI PETRUS PHASWANA WAS DETAINED BY THE CAPTAIN RAMALIGELA AND DETECTIVE MANAGA OF THE VENDA SECURITY FORCES WHO TORTURED AND ASSAULTED HIM. THE COMMISSION FINDS THEM RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

Resistance and revolutionary groupings

Umkhonto weSizwe

- 212 In the wake of the Soweto protests and the intensified repression that followed, hundreds of students began secretly leaving the country. The largest exodus appears to have begun in October 1976, when students fled to Botswana, Lesotho and Swaziland. The head of the security police, Brigadier CF Zietsman, estimated in June 1978 that 4 000 black South Africans were undergoing guerrilla training in various African countries under the auspices of the ANC or PAC.
- 213 Mr Tsietsi Mashinini was amongst those who fled the country in the wake of the Soweto protest. His mother and his teacher, Mr Fanyana Mazibuko, told the Commission about the police harassment that followed the 16 June march, the social isolation and economic hardship the family suffered as a result, and how it forced not only Tsietsi but all his siblings into exile.
- 214 Many of those who left wanted to return immediately to use their training at home. The ANC similarly was beginning to change its strategy to focus on organisation within the country. Mr Murphy Morobe, who decided to leave the country for training after the violent response to student demonstrations against Kissinger's visit, told the Commission:

Our aim was to go to get crash courses in military training which we knew that the ANC was providing in its forward bases like around Swaziland or Mozambique ... by then the ANC had decided that instead of continuing to have such courses outside, they were beginning to deploy the operatives inside the country ...

It was not my intention and certainly that of my colleagues to leave the country. We wanted to see ourselves continuing inside the country and we had an interest in ensuring that the student movement remained intact... We

then came back, and it is after we came back that, once again, we were able to link up with the ANC underground operatives and carried on to do what we wanted to do.

- 215 Mr Joe Gqabi [JB00703/01GTSOW], a Robben Island veteran, played an important role in linking students who had been involved in the Soweto protest with the ANC's armed wing. Mr Gqabi was responsible for reactivating an ANC leadership in Soweto in late 1975 and establishing what ANC links existed with the SSRC. Unknown gunmen later shot him dead through the window of his car in Zimbabwe on 31 July 1981.
- 216 From Morobe's testimony to the Commission, it is evident that Gqabi played a central mentoring role in Soweto during the 1970s, both before and after the June 1976 protest. Although students such as Morobe operated within the paradigm of Black Consciousness, they retained strong ideological and political links with the ANC through operatives such as Gqabi. As violence escalated after 16 June, students continued to turn to older ANC activists such as Gqabi for advice about how to handle an increasingly difficult situation:

It was through those processes that our interaction with people like Joe Gqabi, for example, of the ANC continued. He was banned. We could not meet in his house. Each time we came into his house we did not speak, you know, everything will be written down on paper and we would just exchange paper because the houses would be bugged and [then] he would take all those papers and burn them up and throw them away ...

We would go to the rails in Mfula Park and we will sit there, at about eight, nine pm and we would talk about issues that we were involved in. And they will help us to have much broader perspective and ... to try to bring things under control and not to give [the system] any other excuses just to willy-nilly shoot and kill people.

- 217 The Black Consciousness Movement was given organisational expression through SASO and the Black People's Convention (BPC). It was influential in the formulation and propagation of new ideas that critiqued the apartheid government and began to create the organisational and intellectual framework through which it could be substantively challenged. Morobe, who joined South African Students' Movement (SASM)²² in 1973, gives a unique insight into perceptions of Black Consciousness organisations at this time. Morobe saw Black Consciousness organisations as necessary to fill the political and organisational vacuum left by

22 The secondary school equivalent of SASO and part of the Black Consciousness Movement.

the exiled liberation movement, rather than as a competing ideological force. The ethos of Black Consciousness was not seen as incompatible with the political philosophy of the ANC or PAC.

Even within the Black Consciousness organisation there was a general understanding that our role ... is to keep the home fires burning, because we understood that those liberation organisations that were banned were going to eventually come back one day. And we saw our role as continuing on where they left off and preparing the ground for their eventual return into the country. So, within the Black Consciousness organisation there was general acceptance that you could belong to either of the liberation organisations: it was a matter of your individual choice.

The Soweto Committee of Ten

218 After the collapse of the Soweto UBC, the Soweto Committee of Ten was formed to run the affairs of the area. It also called itself the Soweto Local Authority Interim Committee and was headed by Dr Nthato Motlana.

219 Formed at a meeting in *The World's* offices in June 1977, the Committee had the backing of a range of organisations including SASO, BPC, the Union of Black Journalists, the Black Women's Federation, black community programs and several church, social and welfare organisations. It included many of the key figures in Soweto at the time, including social worker Ms Ellen Khuzwayo and the headmaster of Morris Isaacson School, Mr Lekgau Mathabathe. According to Mr Percy Qoboza, editor of *The World* and a driving force behind the Committee's formation:

For the first time, blacks in Soweto have taken the initiative in establishing their brand of leadership outside the institutions of government, which have failed dismally in the past three decades.

220 The Committee of Ten drew up a blueprint for Soweto which envisaged a Soweto City Council with powers and structures similar to those of the white city councils. It intended to present this to the people of Soweto at a public meeting on 31 July 1977, but the meeting was banned and a number of the Committee's members were detained in terms of the Internal Security Act. In October 1977, the Committee of Ten was banned.

- 221 The Committee had effectively functioned for one month. However, according to former UBC councillor, Mr Mosala, it went underground and continued to organise in accordance with the M-Plan developed by the ANC in the 1960s.
- 222 By 1979, the Soweto Committee of Ten had transformed itself into the Soweto Civic Association. Later it played an important role in trying to establish an alternative 'people's authority' in the township during the 1980s.
- 223 Not only did the 1976 protest revitalise external opposition to apartheid, it also provided an important impetus to the creation of a number of internal organisations. The SSRC, which grew out of the SASM, was established at the beginning of August 1976, six weeks after 16 June. Its first president, Mr Tsietsi Mashinini, was a senior SASM office-bearer. The SSRC consisted of representatives of most of the secondary and high schools in Soweto.
- 224 The student organisers had also matured politically and now unequivocally located their battle against Bantu Education within a broader struggle against apartheid. It was believed that the apartheid system was about to crumble and that the campaign against Afrikaans and the apartheid system as a whole could be won.

Sabotage campaigns

- 225 The students who left South Africa after the 1976 Soweto protests provided the personpower for a renewed campaign of sabotage and guerrilla warfare in the early 1980s. Between October 1976 and May 1981, there were 112 MK attacks and explosions – part of an 'armed propaganda' campaign initiated by the ANC during this period. Many of the initial attacks focused on targets of strategic or economic importance such as the oil refinery at Sasolburg in June 1980, power stations in the eastern Transvaal in July 1981 and the Voortrekkerhoogte military base in August 1981. In 1980, there were bombings in Soweto as part of a campaign against rent increases. In August 1981, a bomb exploded in a shopping centre in Pretoria during working hours, days before an announcement by Mr Oliver Tambo, president of the ANC, that MK would now attack "officials of apartheid". The bomb was seen as a reprisal for the recent murder in Salisbury of ANC representative Joe Gqabi (see above).²³
- 226 MK campaigns during this period aimed to avoid civilian casualties. However, both the Goch Street shooting in 1977 and the Silverton bank siege in 1980 involved MK members who panicked, resulting in the deaths of civilians caught in the crossfire.

²³ Tom Lodge (1983), p 340.

227 Mr Solomon Mahlangu, a twenty-year-old standard nine pupil who fled South Africa in February 1976 and Mr Monty Motaung formed one of the first MK units from the new generation of Soweto recruits to be infiltrated back into South Africa. They killed Mr Rupert Kessner and Mr Kenneth Wolfendale in John Orr's Goch Street warehouse in July 1977, shortly after being confronted by police. Mahlangu and Motaung were charged under the Sabotage Act. Mahlangu was convicted and sentenced to death for his part in the incident. He was hanged in 1979, one of 133 people executed in that year. Motaung was beaten so severely by the police that he suffered brain damage and was declared unfit to stand trial.

228 Solomon's mother, Ms Martha Yebona Mahlangu [JB00182/02PS], told the Commission that she had been unaware that her son had any interest in politics. He had not told his parents of his decision to leave the country for military training. She simply received a message telling her not to look for her son.

229 Ms Mahlangu heard of her son's involvement in the killing of Mr Kessner and Mr Wolfendale on the radio:

It was a month before we could really find out that it was him. The only time we got to know was when the police came home to search our home ... they didn't say anything to us and didn't tell us what they were looking for. After a while they started looking for his clothes and then I asked them if they had found this person whose clothes they were looking for? They said yes, they had found him on the mountains of Middelburg. When I asked if I could go and see him, they said no, they would inform me when I could come and see him. They only came back to me after a month.

230 Ms Mahlangu later went to visit her son at John Vorster Square. She was not able to talk about the case or where he had been. "We just found out how life was and that's the only thing I asked about." His last message to her before he was executed was:

Mama, thank you for having been strong to come and visit me and not cry. But where my blood will drop, so many Solomons will grow up because I am innocent.

231 In the 1980 Silverton bank siege in Pretoria on 25 January, Mr Willem de Klerk [JB00697/02PS] lost his wife, Ms Anna de Klerk. Another civilian and three MK operatives were also killed. Members of an MK unit – Mr Stephen Mafoko, Mr Humphrey Makhubo and Mr Wilfred Madela [JBO3888/01GTSOW] – panicked when

they realised they had been seen by security force members, entered a bank and held its customers hostage. The police stormed the bank and a gunfight ensued.

232 Mr de Klerk described the events:

At the time of her death, my wife was thirty-eight years old. At that stage I had three sons or in fact three children, Pieter, Schalk and Marche and they were respectively fourteen, twelve and eight years old ... The hostages were, in general, all women and it can therefore be regarded as a very cowardly deed – a deed on a group of defenceless people.

At around seven o'clock that evening, the police task force entered the building and they then freed the hostages. During this process, several people were injured, one person died and my wife was injured ... I also believe that defenceless people who did not have anything to do with the political struggle and that they, surely, had a right to life. They did not form part of the struggle and therefore their lives should not have been at stake ...

It is, perhaps, the duty of each and every South African to contribute to this [truth and reconciliation] and therefore I feel that each and every person who at some stage in the past was a victim should come forward...

I understand why it happened, but I would just like to say that everybody who was part of this, everybody who was part of the planning of this, that they should come forward and say "this is what I did and this is how I contributed and I am now sorry for this".

THE COMMISSION FINDS THE ANC AND MK RESPONSIBLE FOR THE BOMBINGS IN GOCH STREET IN 1977. THE COMMISSION FINDS THAT MR SOLOMON MAHLANGU AND MR MONTY MOTAUNG WERE RESPONSIBLE FOR THE DEATHS OF MR RUPERT KESSNER AND MR KENNETH WOLFENDALE AND FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

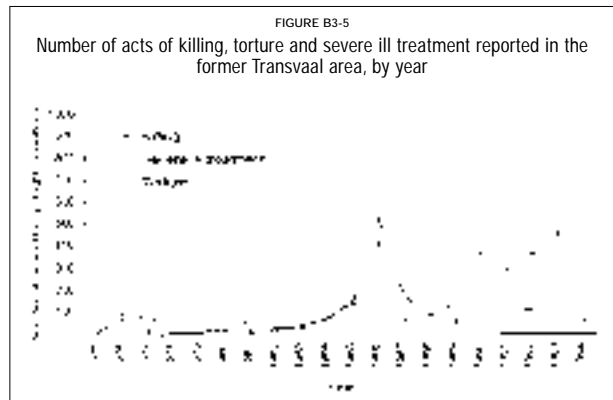
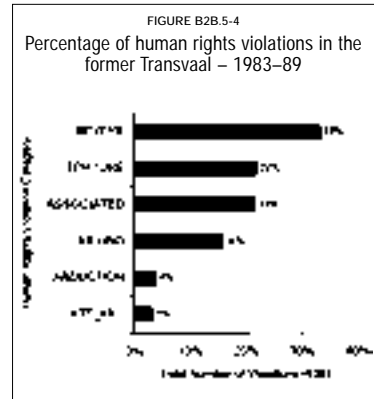
THE COMMISSION FINDS THAT MK MEMBERS MR STEPHEN MAFOKO, MR HUMPHREY MAKHUBO AND MR WILFRED MADELA WERE RESPONSIBLE FOR THE SILVERTON BANK SIEGE IN WHICH TWO CIVILIANS WERE KILLED AND A NUMBER INJURED. IN PARTICULAR THEY ARE RESPONSIBLE FOR THE DEATHS OF MS ANNA DE KLERK AND ANOTHER CIVILIAN AND ARE THUS RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THE ANC AND THE HEAD OF MK RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

■ 1983-1989

Overview of violations

233 This period was notable for the highest levels of gross human rights violations experienced in the former Transvaal. Reported levels of severe ill treatment (approximately 1 700 violations), torture (about 1 200 violations) and killing (850 violations) reached unprecedented heights.



234 In 1986, all major violations reached a peak, coinciding with the declaration of a national state of emergency, street battles between police and township residents, massacres in Mamelodi and Soweto and mass detentions across the region. Numbers fell dramatically in 1987, when the former state used legislative means provided by the national state of emergency to regain control of the political conflict.

235 The beginning of this period of conflict was marked by what came to be known as the Vaal uprising on 3 September 1984, when clashes between township residents and police led to the death of fourteen people and the injury of at least eight policemen. In response, the government launched a joint army and police operation, 'Operation Palmiet'. Over the next four months, approximately 142 people died in street battles. This escalating conflict is reflected in Figure B3-5, which shows a rapid increase in violations from 1984.

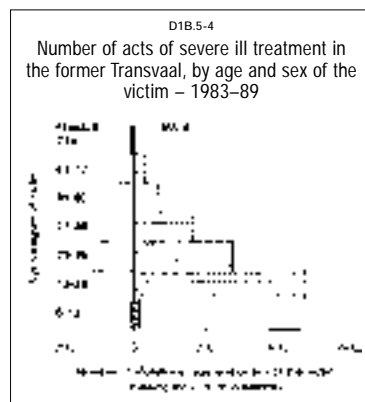
236 The dominant contexts in which gross human rights violations took place throughout the region during this period were:

- a public order policing
- b detention and torture
- c covert actions by the security forces
- d attacks on representatives of government authority and informers
- e bombing and landmine campaigns by MK
- f retaliatory violence used by the security forces and opposition groups, perpetuating the cycle of conflict.

237 Vicious street battles were an endemic feature of the period between 1984 and 1986, resulting in a large number of deaths. The Mamelodi massacre in November 1985 (thirteen dead), the 'Six Day War' in Alexandra in February 1986 (nineteen dead), the 'White City War' in Soweto in August 1986 (twenty-four dead) and the Winterveld massacre (eleven dead) were some of the salient events in this conflict. However, these incidents of mass killing constituted only a small proportion of the deaths that occurred in the ongoing conflict between police and township residents. Many died or were injured in small daily confrontations with the police and army.

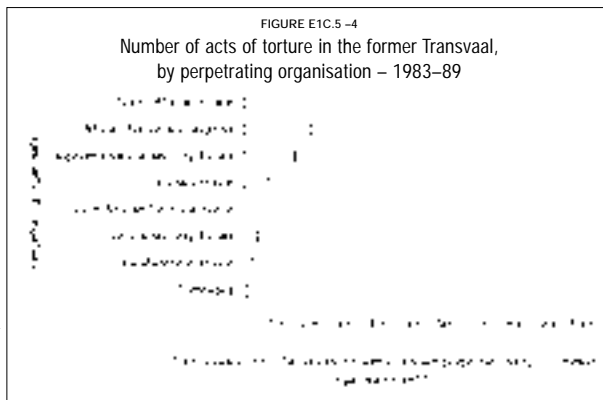
238 Most victims were young. The overwhelming proportion of victims of severe ill treatment were males between the ages of thirteen and twenty-four, placing the youth at the centre of street-level political conflict.

239 A large part of the explanation for the high number of deaths and injuries is that the police and army saw control of political protest as part

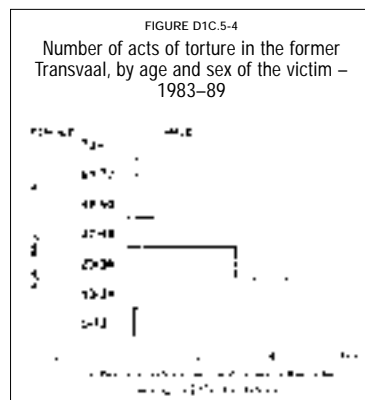


of a counter-insurgency war against 'terrorists' who posed a fundamental threat to the political order. This was used to justify their use of lethal force and the deliberate targeting of particular individuals during protests. Riot units were given specific orders to eliminate ringleaders. An attitude of contempt on the part of the security forces, evident in the submissions of many victims, stripped black people of their identity as human beings and made their lives expendable.

240 Even higher levels of torture were reported for this period. Figure B3-5 (on previous page) reveals that there were substantially more acts of torture than killings during 1986–87. Although the government had already passed legislation providing for detention without trial, these powers were substantially extended under the partial state of emergency, declared in June 1985, and the nation-wide emergency imposed in 1986. An estimated 70 000 detentions took place between 1980 and 1990. Approximately seventy people died in detention.



241 Torture occurred primarily in places of custody. The SAP was identified as the predominant perpetrator of torture and was responsible for approximately five times more incidents of torture than the ANC, which had the next highest number. The majority of victims of torture during this period were young males between the ages of thirteen and twenty-four.



242 The power to detain was extended to all police, railway police, prison officials and defence force members. This substantially increased the capacity of the government to detain large numbers of people. In many communities, an initial ‘short-term’ two-week period of detention was used for the systematic detention of young males, the most overtly politically militant sector of society. Activists were also targeted for longer-term preventive detention and for shorter detention for the purpose of interrogation.

243 The majority of those detained were beaten and/or tortured. A study undertaken by the University of Cape Town in the 1980s established that 85 per cent of a sample of 175 detainees had suffered torture. This assessment is supported by the testimonies of Commission deponents, the majority of whom were tortured during their detention. Mechanisms which might have helped safeguard detainees, such as the right to visits from lawyers or family, were denied.

- 244 Evidence that an individual was actually a member or supporter of a political organisation did not appear to be of primary concern to police. Mass detentions served rather as acts of generalised intimidation of a constituency perceived to be non-compliant and dangerous to the security of the state. The security forces held black youth collectively responsible for the violence sweeping the country, and thus used torture as an essential component of counter-revolutionary warfare. This became increasingly evident during the 1980s, when the numbers of people detained escalated rapidly. One of the objectives of torture was to undermine the individual – psychologically, politically and socially – and thereby reduce his or her ability to engage in political activity.
- 245 In 1985, the charge of high treason was revived and fifty-five people were charged with high treason in seven separate trials. One of these, the Pietermaritzburg Trial, sought to demonstrate that the South African Allied Workers Union, the UDF and some of its affiliates – all lawful organisations carrying out legal activities – were operating as part of a revolutionary conspiracy. The Delmas trial, in which twenty-two activists were charged, lasted from June 1985 until December 1989 and is alleged to have been the longest trial in South African history.
- 246 Amnesty applicants who held senior positions within the police force confirmed to the Commission that the torture of detainees, including the use of electric shocks, was routine practice. The relatively small number of amnesty applications for acts of torture is a reflection of this attitude. Torture was not regarded as a gross human rights violation or infraction of police practice, and its perpetrators did not face sanctions either within or outside the police force. A further sense of impunity was created by the fact that the victim was often the only witness. Because of the often degrading and humiliating nature of torture, many of those tortured were reluctant to talk about their experiences. Those who died were permanently silenced.
- 247 As the use of torture became increasingly widespread and systematic, the number of resulting deaths escalated. Instead of implementing measures to halt these killings, senior police officials tried to mask the consequences of unrestrained torture. The death in police custody of Mamelodi activist Stanza Bopape on the tenth anniversary of the Soweto uprising led to a high-level cover-up involving the commissioner of police and a range of other senior police officers.
- 248 During this period, there was also a substantial increase in the number of reports of brutality perpetrated by members of the homeland police forces – in

Bophuthatswana, Venda and Lebowa. By the 1980s, all the homelands, both independent and self-governing, had acquired their own police forces. As conflict escalated, these police forces were rapidly expanded. Methods of torture were brutal and simple. A number of deponents reported being sjambokked to within an inch of their lives. Reports of electric shock torture were less frequent but did occur, often when South African police became involved in an interrogation.

- 249 Beating was the most frequently reported form of torture in the former Transvaal during the 1980s, followed by forced posture and electric shock torture. Forced posture usually involved making a detainee stand, sometimes in an awkward position, for long periods of time.
- 250 Also notable in this period was an increase in covert operations carried out by the security forces, as in 'Operation Zero Zero' where eight young East Rand activists died after being given booby-trapped grenades by Vlakplaas operative Joe Mamasela. Covert operations led to a general escalation of violence on the East Rand, including the 'necklacing'²⁴ of a young woman, Ms Maki Skhosana, who was accused of being involved in the youths' deaths. In the wake of Ms Skhosana's highly publicised killing, State President PW Botha declared a state of emergency. Amnesty applicants to the Commission revealed that actions such as in 'Operation Zero Zero' were sanctioned at the highest levels of government. Security force members involved in covert operations had direct access to government resources and infrastructure which enabled them to counter opposition through unlawful actions, including murder and abduction.
- 251 During the 1980s, all who represented government authority – including police, community councillors and chiefs – became targets of widespread violence. Even those perceived to have simply been beneficiaries of the apartheid system, such as business people or teachers antagonistic to school boycotts, were vulnerable to attack. The numbers of persons killed for these reasons amounted to approximately a third of the total number of people killed between 1983 and 1989. According to the Human Rights Commission, the total number of people killed between 1984 and 1989 was 3 500. Of these, about 1 000 are estimated to have been policemen or victims of necklacing or burning. Police General van der Merwe told the Commission that the killing of policemen in townships during the 1980s constituted a fundamental threat to state security and provided a reason for the government's use of extra-judicial forms of 'elimination' during this period.

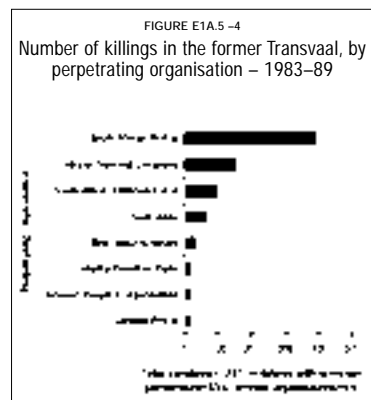
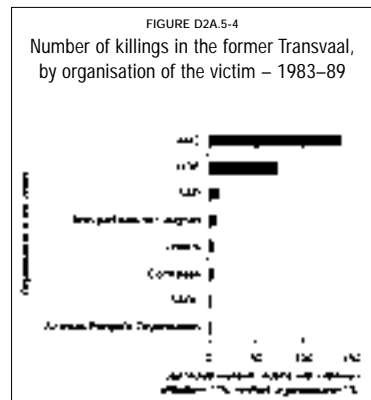
²⁴ The placing of a tyre doused with petrol around the victim's neck and setting it alight, thereby burning the victim to death.

252 Most attacks on government representatives were carried out through petrol-bombing and arson. The most infamous form of violence, used primarily against alleged informers, was the necklace method. Research sources outside the Commission indicate that at least 400 fatal incidents of necklacing took between 1984 and 1990. Approximately 400 people were killed by being doused with petrol and set alight, or when their homes were petrol-bombed. Only about a quarter of these were reported to the Commission, along with approximately the same number of non-fatal arson attacks. A number of arson attacks targeted political activists.

253 Approximately 144 policemen were killed between 1984 and 1987. The majority of victims were black policemen who lived and worked in the townships where they were attacked. Only about ten of these killings were reported to the Commission.

254 The perpetrators of these attacks were generally youth, often referred to as 'comrades', who were aligned to the United Democratic Front (UDF) but not necessarily members or activists. Commission data shows more than fifty acts of killing carried out by 'comrades' in the former Transvaal during this period.

255 In the context of escalating conflict and social dislocation, young people gained increasing power, exacting retribution on councillors, police, alleged informers, business people, chiefs and others. This self-appointed policing role also included the violent enforcement of the UDF's programmes such as consumer boycotts and stay aways. Those who violated these boycotts were exposed to summary punishment such as the forced consumption of toxic goods purchased in contravention of consumer boycotts. Others were brought before 'people's courts', set up in the absence of legitimate government structures. These courts were increasingly commandeered by youth who exacted swift and violent penalties from those they found guilty of offences.



- 256 In its submission to the Commission, the UDF placed the gross human rights violations committed by its members and supporters into a context including factors such as political immaturity, a climate of mistrust and fear generated by state violence and disinformation campaigns, a militaristic culture, particularly amongst youth, and widespread detention of leaders who could have curbed excesses. The UDF also acknowledged that it encouraged the use of defensive violence when activists and leaders were violently attacked, and that some UDF leaders, particularly youth leaders, publicly promoted political intolerance.
- 257 This period was notable also for a shift in the nature of the ANC's armed campaign within the country, largely in response to popular rebellion in the wake of the Vaal uprising. The new strategy involved the intensification of the organisation's military and political offensive and an important policy shift regarding civilian casualties. The ANC stated that, although it would not directly target civilians, the risk of civilian casualties would not be allowed to stand in the way of intensified armed struggle. Civilian deaths and injuries would be an inevitable consequence of this policy.
- 258 It was in this context that a series of bombs were planted in urban centres such as Johannesburg and Pretoria and a landmine campaign launched in the border areas of the northern and eastern Transvaal in 1985. Approximately 130 people died, the majority of whom were black civilians. Commission data shows approximately 150 killings carried out by members of the ANC during this period in the former Transvaal.
- 259 Violent retaliation created a self-perpetuating cycle of violence which dramatically escalated levels of conflict in townships around the country. This included the use of violence in public order policing, and attacks by opposition groups on representatives of government authority. While the violent dispersal of political protest was intended to curb further political opposition, it frequently had the opposite effect and precipitated the mobilisation of entire communities.

The state and allied groupings

The Vaal uprising

- 260 The Vaal uprising was sparked by the announcement of a rent increase by the newly elected Lekoa Black Local Authority in September 1984. The ensuing conflict led to a large number of deaths and to the occupation of the area by the South African Defence Force (SADF).

- 261 On the first day of clashes between police and residents in the Vaal, fourteen people died and at least thirty-two were injured. By the end of the month, ninety people were dead, among them four councillors. The government moved quickly to try and stem the violence.
- 262 The Vaal Civic Association responded to the proposed rental increase by calling for a public stay away from work and school, scheduled for 3 September 1984. An estimated 60 per cent of workers stayed away and almost 93 000 pupils in the Vaal Triangle boycotted classes.²⁵ Two thousand Sebokeng residents marched to the Houtkop Administration Board Offices to protest against the rent increases.
- 263 Widespread violence broke out. Councillor Motjeane's husband, Mr Caesar Motjeane [JB03870/01GTSOW] was one of three councillors killed in the first days of the uprising. He was hacked, shot, stoned and burnt to death. The house of Councillor Ntsoereng [JB01046/03VT] was burnt on September 5. Shops, bottle stores, a bus depot, a school and a beer hall were set alight and hundreds of cars were damaged.
- 264 Councillor Sonny Mofokeng [JB01048/03GTSOW] was one of the first councillors to be targeted in the hours after the outbreak of violence in Sebokeng in September 1984. His home, his father's home and his business were burnt to the ground:

I saw a group of people coming towards my direction and they were shouting. I listened to them and they were saying they wanted Sonny Mofokeng and I tried to get a look at those people. They were armed with pangas as well as knobkerries heading towards my direction. And I went into the house. I told my wife what was happening outside. I also told my three children that I had seen people armed and coming towards my direction singing that they wanted Sonny Mofokeng and I warned them that we should escape for our lives. I opened the car, I put my children as well as my wife in the car because at that time my wife was expectant ... they were pelting my house with stones.

- 265 Mofokeng and his family sought refuge at the local police station. Over the police radio he heard about the death of two other councillors. Later that night there was an announcement that his house was on fire.
- 266 Residents reported that they were assaulted and shot at without provocation by police patrolling the Vaal townships. As the violence intensified, police used tear

²⁵ SAIRR Survey 1984, p 71.

gas and rubber bullets, and later birdshot and buckshot. Official figures stated that at least fourteen people had died and eight policemen and thirty-two civilians had been injured. However, residents and church leaders claimed that the figures were much higher, alleging that at least 250 people had been injured.

267 Conflict quickly spread to the neighbouring Vaal township of Sharpville. Private homes – including the house of an SAP warrant officer, beer halls, administration board buildings, buses and cars were stoned and set alight. The deputy mayor of Sharpville, Mr Sam Dhlamini, was hacked and stabbed to death. In Boipatong, the administration offices, a post office and a councillor's house were set alight. In Bophelong, the council offices and the home of an SAP warrant officer were burnt down.

268 The police placed all councillors' homes under guard. Transport into the township had virtually come to a standstill. People injured in the clashes were afraid to go to the hospital for fear of being arrested.

269 Residents wounded in police shootings were presumed to be perpetrators, irrespective of whether they had been involved in any offensive action such as stone-throwing or petrol-bombing. Many of those injured reported being detained or, if too seriously wounded, placed under police guard in hospitals before they recovered sufficiently to be imprisoned.

270 Mr Ramorakane Simon Mohajane [JB00824/03VT] was detained rather than hospitalised after being shot by police while standing outside his friend's home:

It was on a Sunday the 8th September 1984 ... a group came from the other direction running ... I only heard a blow on the head and it was from a gun. I was shot. I fell and I was asking myself what is happening. And the whites were around me trampling on me, kicking me and they even sprayed their tear gas on my face ... They were wearing soldiers' camouflage ... They were trampling on me, they were kicking me. I don't have some of the teeth in my mouth. As I was lying on the ground they were continually tear-gassing me. I cannot see as I am talking to you now. I am blind. I have been to many doctors and they said to me you will never see until you die ...

271 Shortly after the initial outbreaks of violence, Mr Louis le Grange (Minister of Law and Order), Mr FW de Klerk (MP for Vereeniging), General Magnus Malan (Minister of Defence), Mr Gerrit Viljoen (Minister of Education) and Mayor Mahlatsi

of the Lekoa Town Council undertook a tour of inspection of the Vaal townships. Two thousand people blocked the main road through Sebokeng, forcing the ministers to turn back. After this, Le Grange announced that he did not believe rent increases were the main reason for the unrest but claimed that certain “unnamed individuals and organisations” were behind “what was happening in the Vaal Triangle”.²⁶

272 Following the violence, over 1 000 people were arrested in the Vaal during September 1984. Some were charged while others were detained under section 29 of the Internal Security Act.²⁷

273 In the early hours of the morning of 23 October 1984, about 7 000 police and SADF troops conducted a major search and arrest operation in Sebokeng, Sharpville and Boipatong in the Vaal triangle in an exercise known as ‘Operation Palmiet’ (Bullrush). The police conducted house-to-house searches, while soldiers armed with R1 rifles lined the streets at ten-metre intervals to ensure that residents stayed indoors.

274 According to Mr le Grange, the purpose of the exercise was to “restore law and order” and to rid the area of “criminal and revolutionary” elements. About 400 people were arrested on charges relating to influx control and possession of stolen goods, dagga, firearms and pornographic material.

275 The violence that occurred in the Vaal precipitated a shift in the government’s response to political opposition. For the first time the army was used to curb civilian political protest. Over the next two or three years the SADF played an increasingly significant role in township violence. Armed only with live ammunition, the army was equipped to use maximum force when dealing with civilian protest, leading to a rise in the number of deaths in street clashes.

276 The government’s motivation for the deployment of troops in the Vaal townships is summarised in Mr le Grange’s declaration: “as far as we’re concerned it is war, plain and simple”.²⁸

277 In response to the deployment of troops in the townships, a range of UDF-affiliated organisations and trade unions representing students, workers and residents called

26 SAIRR, Survey 1984, p 72.

27 Section 29 of the Internal Security Act No 74 of 1982 provided for indefinite detention for interrogation. Detainees were held in solitary confinement.

28 *Leadership*, October 1984.

a two-day stay away in the Transvaal on 5 and 6 November. The importance of the regional stay away was evident from its scale alone: between 300 000 and 800 000 workers and large numbers of students observed the call in the PWV region.

- 278 'Operation Palmiet' was strongly criticised both in South Africa and internationally. According to Mr Jules Browde SC, chair of Lawyers for Human Rights, the use of both the defence force and the police caused untold damage to race relations and the cause of human rights in South Africa. He said:

*This action suggests that the army is to be used to enforce influx control and to suppress black political aspirations. This means the army will be perceived by blacks to be the instrument of white political repression and will promote hostility towards the defence force among blacks.*²⁹

- 279 The SADF's response was that the use of the army in civil disorder was not without precedent. The government had decided to use troops in Sebokeng because it felt that it was responsible for the protection of all South Africans, their property and the property of the state. The troops had manned roadblocks, thrown a cordon around the townships, protected important points, supplied logistical support, and provided communication and reconnaissance flights.

THE COMMISSION FINDS THE FORMER STATE, THE MINISTER OF BANTU ADMINISTRATION AND THE VAAL LOCAL AUTHORITIES RESPONSIBLE FOR THE SEVERE ILL TREATMENT OF THE RESIDENTS OF BLACK TOWNSHIPS IN THE VAAL IN THAT THEY ALLOWED AND IMPOSED INCREASES IN RENT AT A TIME WHEN THE TOWNSHIPS HAD NO INFRASTRUCTURE AND THE AVERAGE INCOME OF RESIDENTS WAS AROUND R264.00 PER MONTH. THE COMMISSION FURTHER FINDS THAT THE REFUSAL OF THE LOCAL AUTHORITIES TO TAKE INTO ACCOUNT THE FACT THAT MOST RESIDENTS LIVED BELOW THE POVERTY LINE FURTHER CONTRIBUTED TO FUELLING INTENSE ANGER AGAINST THEM, WHICH CONTRIBUTED TO THE SUBSEQUENT VIOLENCE. THE COMMISSION FINDS THAT THE WAY IN WHICH THE CONFLICT WAS MANAGED BOTH BY THE LOCAL AUTHORITIES AND THE ORGANS OF THE FORMER STATE CONTRIBUTED TO AN ESCALATION IN VIOLENCE. AS A CONSEQUENCE, NINETY PEOPLE DIED AND COUNTLESS OTHERS WERE INJURED. THE PARTIES RESPONSIBLE FOR THESE GROSS HUMAN RIGHTS VIOLATIONS ARE THE FORMER STATE, THE MINISTER OF BANTU AFFAIRS AND THE VAAL LOCAL AUTHORITIES.

THE COMMISSION FINDS THAT THE USE OF EXCESSIVE FORCE AND IMPROPER CROWD CONTROL METHODS TO QUELL THE PROTESTS AND DISPERSE CROWDS HAD THE EFFECT OF MOBILISING THE RESIDENTS AGAINST THE POLICE AND REPRESENTATIVES OF THE STATE'S AUTHORITY LIVING IN THE TOWNSHIPS, SUCH AS THE COUNCILLORS. HITHERTO UNPOLITICISED RESIDENTS BECAME AWARE OF THE POLITICAL DIMENSION OF THE CONFLICT, RESULTING IN MASSIVE OPPOSITION TO THE STATE. THUS VIOLENT POLICE DISPERSAL METHODS WERE MET BY RETALIATORY ACTION BY TOWNSHIP RESIDENTS AGAINST COUNCILLORS AND POLICEMEN LIVING IN THE TOWNSHIPS. THE COMMISSION FINDS THAT THE FAILURE TO USE PROPER CROWD CONTROL METHODS, THE USE OF EXCESSIVE FORCE, THE USE OF LIVE AMMUNITION ON RESIDENTS, THE FAILURE TO DISPERSE PEOPLE IN AN ACCEPTABLE MANNER BY CALLING ON THEM TO DISPERSE

²⁹ *The Star*, 22 August 1984.

AND GIVING THEM ADEQUATE TIME TO DISPERSE, AND THE FAILURE TO USE ALTERNATIVE METHODS TO DISPERSE THE CROWD RATHER THAN LIVE AMMUNITION LED TO THE DEATHS OF AT LEAST NINETY PEOPLE AND THE INJURY OF MANY OTHERS. THE COMMISSION FINDS THE COMMISSIONER OF POLICE, THE MINISTER OF LAW AND ORDER, AND THE VAAL COUNCILLORS RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

'OPERATION PALMIET' EVOKED INTENSE ANGER AGAINST THE STATE. THE OCCUPATION OF THE TOWNSHIP BY THE ARMY, THE MANNER IN WHICH HOUSE-TO-HOUSE SEARCHES WERE CONDUCTED, THE ROUNDING UP OF ACTIVISTS AND THE SECURITY FORCES' TREATMENT OF ORDINARY PEOPLE AS THE ENEMY WITHOUT ANY PROVOCATION LED TO GREATER VIOLENCE.

THE COMMISSION FINDS THAT AGAINST THIS CONTEXT, 'OPERATION PALMIET' LED TO GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE HEAD OF THE SADF, THE COMMISSIONER OF POLICE, THE MINISTER OF LAW AND ORDER, THE MINISTER OF DEFENCE AND THE FORMER STATE MUST ACCEPT RESPONSIBILITY.

WHILST THE COMMISSION FINDS THAT THE STATE WAS RESPONSIBLE FOR THE INITIAL OUTBREAK OF VIOLENCE, AND THE BRUTALITY AND VIOLENCE THAT FOLLOWED, THE CIVIC STRUCTURES AND STUDENT ORGANISATIONS ARE HELD RESPONSIBLE FOR THE BRUTAL KILLING OF COUNCILLORS AND POLICEMEN. THE COMMISSION FINDS THAT THE NECKLACING OF MR CAESAR MOTJEANE CONSTITUTES A GROSS HUMAN RIGHTS VIOLATION FOR WHICH THE CIVIC STRUCTURES, STUDENT ORGANISATIONS AND THE UDF MUST ACCEPT RESPONSIBILITY.

THE COMMISSION FINDS FURTHER THAT THE KILLING OF TWO OTHER COUNCILLORS WAS DIRECTLY ATTRIBUTABLE TO THE ACTIONS OF THE CIVIC STRUCTURES, AND HOLDS THEM AND THE UDF RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS FURTHER THAT THE BURNING OF THE HOMES OF COUNCILLORS, POLICEMEN AND THEIR RELATIVES (AMONGST THEM COUNCILLOR SONNY MOFOKENG, HIS FATHER AND COUNCILLOR NTSOERENG), CONSTITUTES A GROSS HUMAN RIGHTS VIOLATION FOR WHICH THE CIVIC AND STUDENT STRUCTURES AND THE UDF MUST ACCEPT RESPONSIBILITY.

THE COMMISSION FINDS THAT THE BRUTAL KILLING OF COUNCILLOR SAM DHLAMINI BY PROTESTERS BELONGING TO THE CIVIC AND STUDENT STRUCTURES CONSTITUTES A GROSS HUMAN RIGHTS VIOLATION FOR WHICH THE CIVIC AND STUDENT STRUCTURES AND THE UDF MUST ACCEPT RESPONSIBILITY.

Public order policing

280 Rent boycotts were launched in townships across the Vaal following the announcement of rent increases by black local authorities, now under some pressure to meet their budget deficits and become self-financing. Township residents could not afford the rapidly escalating rents they were expected to pay. The 56 per cent rent increase announced by the Lekoa Town Council affected at least 300 000 people in the Vaal who were already paying some of the highest rents in the country, half of which were in arrears. The rent increases were in stark contrast to a 17 per cent rise in income between 1980 and 1985.

- 281 Opposition organised through civic and student organisations proliferated. Attacks on councillors trying to implement the increases intensified, leading to the resignation of many in 1984. Between January 1985 and July 1986, rent boycotts were launched in Ratanda, Katlehong, Atteridgeville, Mamelodi, Alexandra, Tembisa, Soweto and Vosloorus. By August 1987, it was estimated that rent boycotts in the PWV had cost more than R188 million.
- 282 Rent boycotts quickly spread beyond the confines of the PWV. In June 1985, tension around rent and school boycotts in the townships surrounding Barberton in the eastern Transvaal reached a peak. Many of those injured in the course of the ensuing conflict were not direct participants in the boycotts. Ms Thoko Lindiwe Mhlabane [JB01211/01MPNEL], eight months pregnant at the time, was waiting for a taxi to go to work during a boycott when she was shot in the hip by the police. She told the Commission that she was teargassed by a black policeman and beaten by a white policeman. When she regained consciousness, she was in hospital.
- 283 Violent government reaction to rent protests culminated in police shooting on a protest march on 21 November 1985 in Mamelodi where thirteen people died. Most victims were shot in the back. Captain le Roux of the SAP, who participated in the shooting, told the 1989 inquest hearing that the police had adopted a shoot-to-kill approach, aiming particularly at people who appeared to be leading the crowds.
- 284 In statements to the Commission, victims of the Mamelodi massacre spoke of a lack of warning before police opened fire. Mr Phillistus Botsietsa Lerutla [JB00756/02PS] was severely injured when police opened fire on the gathering. Mr Simon Boyizeli Msiza [JB00788/02PS] told the Commission that there had been a degree of coercion in getting township residents to participate in the march, although most protesters were supportive of the campaign against rent increases. Before the protesters could hand over the memorandum, he said, the police opened fire. His wife, Ms Elizabeth Baphelile Msiza, was shot in the back three times as they were fleeing, even though they were already more than a kilometre from the scene. "The Hippos", he said, "moved around the place like rabbits."
- 285 The Mamelodi massacre radicalised the township community. As in the Vaal, the violence of the police response to rent protests escalated protest and opposition, rather than curbing it. Sustained rent and consumer boycotts and stay aways were launched. Some of this protest was also accompanied by violence, and the toll of deaths and injuries rose as police again tried to curb the protests.

THE COMMISSION FINDS THAT THE IMPOSITION OF RENT INCREASES BY THE MAMELODI BLACK AUTHORITIES LED TO INTENSE ANGER IN THE TOWNSHIP AND CONTRIBUTED TO THE VIOLENCE WHICH SUBSEQUENTLY TOOK PLACE. THE COMMISSION FINDS FURTHER THAT THE MANNER IN WHICH THE CONFLICT WAS MANAGED, BOTH BY THE LOCAL AUTHORITIES AND THE POLICE, CONTRIBUTED TO AN ESCALATION OF VIOLENCE. THE COMMISSION FINDS THAT THE USE OF EXCESSIVE FORCE AND IMPROPER CROWD CONTROL METHODS BY THE SAP LED TO THE MASSACRE ON 21 NOVEMBER 1985 IN WHICH THIRTEEN PEOPLE DIED AND MANY OTHERS WERE INJURED. THE COMMISSION FINDS THAT THE POLICE ADOPTED A SHOOT-TO-KILL POLICY AND FIRED ON PEOPLE REPEATEDLY AS THEY FLED. THE COMMISSION FINDS THAT NO ATTEMPT WAS MADE TO USE MINIMUM FORCE; INSTEAD, THE POLICE FIRED ROUND UPON ROUND OF LIVE AMMUNITION. THE COMMISSION FINDS CAPTAIN LE ROUX, THE COMMANDER IN CHARGE OF THE POLICE ON THAT DAY, AND MAYOR NDLAZI RESPONSIBLE FOR THE DEATHS AND INJURIES DURING THE MASSACRE ON 21 NOVEMBER 1985. THE COMMISSION FINDS THAT THE MASSACRE CONSTITUTES A GROSS HUMAN RIGHTS VIOLATION AND HOLDS THE COMMISSIONER OF POLICE, THE MINISTER OF LAW AND ORDER, THE MINISTER RESPONSIBLE FOR BLACK LOCAL AUTHORITIES AND THE FORMER STATE RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

- 286 Further clashes between the police and residents of White City, Jabavu, in Soweto during protests against rent and service charge increases in August 1986 resulted in the deaths of twenty-four people. Mr Tokelo Charles Maloke [JB05246/01GTSOW] was one of those who died in the 'White City War'.
- 287 As organisational capacity became stronger in Soweto, public protests against rentals and council bodies proceeded with vigour between March and June 1986. (The partial state of emergency was lifted on 7 March, but a new nation-wide state of emergency was declared on 12 June.) A total of 75 000 houses were involved in a rent boycott. The Council responded by cutting off services and prosecuting rent defaulters. On 16 June 1986, Soweto municipal police raided homes in Naledi, demanding rent receipts. One thousand women and high school students took to the streets in protest.
- 288 By September 1987, at least 166 families had been evicted from their homes for not paying rent between August 1986 and September 1987, by which time the debt of the municipal council had risen to R122 million. In 1987, the Soweto Civic Association was restricted and many of its leaders detained.
- 289 The Commission received statements from people who were shot by the police during conflicts around the rent boycott. On 14 November 1986, Ms Lillian Sibongile Mnguni [JB01859/01GTSOW], an executive member of the civic association in Meadowlands, was shot in the back by police evicting people from their homes. At the time of the shooting, the deponent and other activists were barricading the streets to prevent the police from entering the township.

THE COMMISSION FINDS THAT THE RENT INCREASE IMPOSED ON RESIDENTS IN SOWETO RESULTED IN A RENT AND MUNICIPAL LEVY BOYCOTT BY THE SOWETO CIVIC ASSOCIATION. THE COMMISSION FINDS THAT TWENTY-FOUR PEOPLE WERE KILLED AND HUNDREDS WERE INJURED IN THE 'WHITE CITY WAR' BETWEEN POLICE AND SOWETO RESIDENTS. THE COMMISSION FINDS THAT THE POLICE USED EXCESSIVE FORCE AND IMPROPER CROWD CONTROL METHODS TO QUELL THE PROTESTS. THE COMMISSION FINDS FURTHER THAT THE STATE ATTEMPTED TO STIFLE AND SUPPRESS ALL POLITICAL PROTEST BY IMPOSING RESTRICTIONS ON THE SOWETO CIVIC ASSOCIATION AND DETAINING THE LEADERSHIP. THE COMMISSION FINDS THE COMMISSIONER OF POLICE, THE MINISTER OF LAW AND ORDER AND THE LOCAL COUNCIL RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

- 290 During these years, protests over rents coalesced with student protests about a range of educational issues. Following the January 1984 protests and clashes with the police in Atteridgeville near Pretoria, student leaders were suspended and schools in the townships closed down by the Department of Education. In response to police brutality, students intensified attacks on the homes of those perceived to be sympathetic to the policies of the state.
- 291 A thirteen-year-old pupil, Daniel Mothupi [JB01010/02PS], was shot dead on 10 February 1986 by a policeman while he was erecting a roadblock during the school boycott in Atteridgeville. According to Daniel's father, Mr Piet Mothupi, his son had been forced to participate in the boycott. At the inquest into Daniel's death, the magistrate found that the shooting was justified "as a public violence case".
- 292 In August 1984, students at Katlehong's twenty-nine schools began boycotting classes. The epicentre of Katlehong's school rebellion was Lethukuthula High School, where pupils left the school grounds, stoned vehicles and erected barricades. Three delivery vehicles were set alight near Katlehong High School. On the same day, 29 August, eight police vans surrounded Thokoza's Thoko Thaba High School and fired tear gas at pupils trapped in classrooms. The pupils were then *sjambokked* and beaten. The next day, Katlehong pupils marched to Thoko Thaba High School to gather more support.
- 293 In Tembisa, a July 1984 schools boycott involving about 4 000 pupils from five secondary schools marked the beginning of open conflict in the township. During August, pupils marched through the streets of Tembisa demanding that they be allowed to form representative councils. They set fire to a secondary school and the township mayor's house, and also tried to attack teachers and community councillors. Police arrested eleven people.

294 Ms Matilda Mavundla [JB01281/01ERKWA] told the Commission that her fourteen-year-old son, Kenneth, was shot by police on his way home from school in Wattville in August 1984. Teachers had sent students home when they saw police all over the location.

THE COMMISSION FINDS THAT THE INITIAL PROTEST ACTION SPILLED OVER INTO STUDENT DISSATISFACTION OVER A NUMBER OF ISSUES, INCLUDING CORPORAL PUNISHMENT AND POOR TEACHING. THIS RESULTED IN STUDENT PROTESTS WHICH LED TO THE CLOSURE OF SCHOOLS. THE COMMISSION FINDS THAT STUDENT PROTESTS WERE MET WITH VIOLENT POLICE ACTION WHICH RESULTED IN MANY STUDENTS BEING KILLED AND INJURED. THE COMMISSION FINDS THAT THE POLICE USED DEADLY FORCE WHEN ALTERNATIVE METHODS OF RIOT AND CROWD CONTROL WOULD HAVE RESULTED IN LESS DEATHS AND INJURIES. THE COMMISSION FINDS THE COMMISSIONER OF POLICE AND THE MINISTER OF LAW AND ORDER RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE STUDENTS ENGAGED IN RETALIATORY ATTACKS ON ALL STRUCTURES AND INDIVIDUALS PERCEIVED TO BE IDENTIFIED WITH THE STATE SUCH AS POLICE OFFICERS, COUNCILLORS, ADMINISTRATION OFFICES, MAYORS, TEACHERS AND SCHOOLS. THE COMMISSION FINDS THAT STUDENTS STONED VEHICLES AND SET FIRE TO DELIVERY VEHICLES AND COUNCILLORS' HOUSES. THE COMMISSION FINDS THAT THE STUDENTS' CONDUCT CREATED A CLIMATE WHICH EXACERBATED THE VIOLENCE, RESULTING IN GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE STUDENT ORGANISATIONS OF THE TIME MUST ACCEPT RESPONSIBILITY.

295 Deaths often led to violent retribution. ANC member Shadrack Mzimkhulu 'Moozie' Goliath, died in police custody in 1986 after allegedly planning to bomb the Khutsong police station on the West Rand. According to his brother [JB00407/03WR], Goliath had wanted to avenge the fatal shooting by police of his colleague and friend, named only as Gerry. It took three weeks before the police would release Goliath's body to his family. His brother alleges that he had been shot in the neck. The Commission heard that the police gave mourners only fifteen minutes to complete the burial, after which they approached and assaulted mourners.

296 During the 1980s, people who gathered for night vigils and funerals of victims of political violence were continually being dispersed violently by police – by *sjambokking*, teargassing and shooting with live ammunition.

297 Ms Philla Moima [JB01011/02PS] told the Commission that her grandson George was killed in 1986 at the funeral of one of his friends, who had been shot dead during political conflict. George's funeral also became violent.

298 Ms Joyce Mafuya's [JB00994/02PS] fifteen-year-old son Godfrey was shot on 7 December 1985. He never recovered from his injuries. Ms Mafuya told the Commission:

He was crippled by then. I use to feed him, he was on a wheelchair. There were still two bullets in his head and two on his body. They only extracted four bullets from him. His hands were lame. I use to feed him, wash him and then take him back for treatment to the hospital until he became very ill ... He passed away on the 7 of December 1987. His body was swollen, his head also.

- 299 The funeral and night vigil for Godfrey Mafuya were closely monitored. Ms Mafuya said that soldiers and police hovered around the home and watched as the family buried the boy.

THE COMMISSION FINDS THAT NIGHT VIGILS AND FUNERALS BECAME PART OF THE POLITICAL ARENA AND THEREFORE OF THE POLITICAL CONFLICT. FUNERALS AND NIGHT VIGILS WERE OFTEN THE ONLY PLACES WHERE COMMUNITIES COULD GATHER WITHOUT RESTRICTION, BUT THE POLICE THEN BEGAN TO ATTACK PEOPLE WHO GATHERED AT NIGHT VIGILS, RESULTING IN A NUMBER OF DEATHS AND INJURIES. THE COMMISSION FINDS THAT THE POLICE ATTEMPTED TO RESTRICT THE NUMBER OF MOURNERS AT NIGHT VIGILS AND FUNERALS. THEIR HEAVY PRESENCE AT FUNERALS INCITED YOUTHS INTO DIRECT CONFRONTATIONS WITH THEM. THE FUNERAL FEAST FOR MOURNERS REPRESENTED ONE OF THE MOST IMPORTANT SYMBOLIC WAYS OF DEALING WITH THE COUNTLESS DEATHS THAT TOOK PLACE. IN THE TESTIMONY HEARD BY THE COMMISSION, ONE OF THE MOST COMMON REFRAINS BY MOTHERS WAS THAT THE POLICE KICKED AND SCATTERED THE FOOD MEANT FOR THE MOURNERS. THE COMMISSION FINDS THAT THE POLICE WERE RESPONSIBLE IN THIS INSTANCE FOR CREATING A CLIMATE CONDUCIVE TO GROSS HUMAN RIGHTS VIOLATIONS, AND FINDS THE COMMISSIONER OF POLICE AND THE MINISTER OF LAW AND ORDER RESPONSIBLE FOR THESE GROSS HUMAN RIGHTS VIOLATIONS.

- 300 In Alexandra, an attempt by police to disperse a funeral sparked conflict that continued unabated for a week and fundamentally altered the political landscape of the township. The conflict became known as the Six Day War.
- 301 On 15 February 1986, over 11 000 people attended the funeral of Mr Michael Dirading (19), a member of the Student Representative Council at Alexandra High School, who was shot by a security guard in Wynberg. As mourners made their way back from the graveyard, they were confronted by a large contingent of security police. Soon after people arrived at Michael's home, the police opened fire on the crowd with tear gas, scattering people in all directions. Youths responded by barricading the streets with burning tyres.
- 302 By 17 February, at least nineteen people were dead and thirty-seven wounded. Residents stayed home from work and students did not attend school. A protest meeting at the local soccer stadium was attended by approximately 40 000 people. Police moved into the township en masse.

- 303 Over the following few days, civil war conditions raged in Alexandra. Youths pitted themselves against the SADF, SAP, councillors and informers.
- 304 The testimonies received by the Commission indicates an extremely high level of apparently deliberate and unprovoked police violence. Victims and relatives alleged that police randomly opened fire on residents in township streets and that, in some cases, those wounded were executed by police. Denial of medical treatment was also cited by deponents as a factor in some of the deaths. This ranged from leaving injured people lying in the streets for hours without help to blocking the ambulances' access to the victims.
- 305 Mr Nkosana Mngadi [JB01764/01GTTEM] testified that members of the security forces opened fire without warning or provocation as he and three of his friends were driving in Alexandra on 17 February. Mr Mngadi, who lost his leg as a result of the shooting, was one of two survivors of the attack. He told the Commission that they were shot at from Hippos parked in the area and that it took three hours before police got him medical assistance.
- 306 Nineteen-year-old Mr Jabulani Mkhele [JB01878/01GTTEM] was shot dead on his way to work on 18 February. His mother, Ms Dora Mkhele, testified that her son was shot dead by white policemen. His brother and two friends fled, but were pursued by the police and shot. Dora alleges that not only did the police refuse to allow any medical assistance to the injured, but they deliberately shot them again to ensure that they were fatally wounded.
- 307 Ms Margaret Madlana's [JB01732/01GTTEM] twelve-year-old son Bongani was shot dead by the SAP on 17 February. Ms Madlana witnessed police smashing a child's head against a rock after he was shot. She had not realised that she was witnessing the death of her own child, Bongani. Later she went to the government mortuary:

I stood in the queue and then one of the people there came to me and asked me what am I looking for. I told them that I am looking for my son. They asked me where is your son from. I told them I am from Alexandra. They asked how old was my son. I told them he was twelve. He said "Mommy, we have seen one child but we don't think – there is one child here but we don't think he is twelve years old because he came alone, he was carried in a Hippo, he came alone and he is from Alexandra. I don't know whether this is the one that you are looking for." And I told them mine

is twelve years old, but he is short. And they asked me, "Are you strong enough to come and identify your child?" I said, "Yes, I can" ...

I found so many bodies lying on the ground. This one of mine was sitting on top of the plank and they asked me, "Is this your child?" I said "Yes". I found this is my child. I said, "Bongani, you left me behind."

- 308 After Ms Madlana had made a statement to the police about Bongani's death, she was questioned and asked to reveal the names of student leaders. Police later showed Ms Madlana and her husband photographs which apparently showed Bongani holding a petrol bomb. Police arrived at Bongani's funeral and threatened the Madlana family. Ms Madlana expressed her terrible anger and pain about the death of her son:

I would like to apologise before God ... The way they killed my son, hitting him against a rock, and we found him with a swollen head. They killed him in a tragic manner and I don't think I will ever forgive in this case, especially to these police who were involved and who were there.

- 309 After negotiations following a township stay away, security forces agreed to maintain a lower profile. By 22 February, the township appeared to be relatively quiet. On 5 March, a mass funeral for seventeen victims of the violence was held without incident.

- 310 Others shot dead in the Six Day War in 1986 included: Mr Solomon Mosue [JB01578/01GTTEM], Mr Jerry Molebatsi Smiles [JB01777/01GTTEM], Mr Steven Sithole [JB01734/01GTTEM], Ms Lucy Ledwaba [JB02499/01GTTEM] and Mr Jerry Mthembu [JB00130/01GTTEM]. Ms Daisy Mashigo [JB01877/01GTTEM] was shot by the SAP on 17 February and left permanently disabled. Four-year-old Ruben Lengwati [JB02503/01GTTEM] was shot in the head during a mass funeral and remains mentally retarded. Prior to the killing of Mr Mthembu, the police allegedly threatened to kill his sister, Ms Maria Mthembu, who was detained on 1 February when five months pregnant, and gave birth at John Vorster Square security police headquarters. During February, the Mthembu's home was petrol-bombed. Police allegedly later confessed that they had intended to kill Maria, not Jerry.

- 311 On 19 April 1986, in the wake of the Six Day War, the Alexandra Consumer Boycott Committee launched a boycott of local businesses, particularly those owned by councillors and policemen or whites. Its demands included the withdrawal of

the SADF from the township, the release of political prisoners, improved housing and electricity, lowering of rentals and the resignation of all councillors from the town council. Shopkeepers in Alexandra alleged widespread intimidation of shoppers by gangs of youths on the first day of the boycott. One white owner of a restaurant reported that his business dropped by 20 per cent. On the third day of the boycott, the army sealed off the township after two people died in a night of violence.

- 312 By 22 April, pressure exerted on the council caused it to collapse following several resignations. This period also saw the emergence of 'street committees', many of them organised by trade unionists who led the Alexandra Action Committee (AAC), and 'alternative structures' such as 'people's courts'.
- 313 On the night of 22 April, disaffected police who had been driven from the township retaliated by attacking the homes of activists. Five people died. (See the section on *Vigilantes* below for more detail.) Despite the vigilante attack, the AAC announced on 30 April that 'people's power' had been established in Alexandra and that residents could now defend themselves against police. Streets and schools were renamed in a symbolic display of popular control. The following month, township organisation went underground after a mass meeting of all township organisations where it was agreed that the AAC should be the sole representative of the Alexandra community. However, the declaration of a nation-wide state of emergency on 12 June brought 'people's power' in Alexandra to an end. Security forces swept through the township the night before the emergency was declared, detaining large numbers of people ranging from high-profile leaders to grass-roots activists.

THE COMMISSION FINDS THAT THE FUNERAL OF MR MICHAEL DIRADING WAS PEACEFUL UNTIL THE POLICE FIRED TEAR GAS AT THE 11 000 MOURNERS ATTENDING THE FUNERAL. THE COMMISSION FINDS THAT THE ATTACK BY THE POLICE ON UNARMED MOURNERS LED TO VIOLENT CLASHES BETWEEN THEMSELVES AND ALEXANDRA RESIDENTS, IN WHICH THIRTY PEOPLE WERE KILLED AND MANY OTHERS WERE INJURED. THE COMMISSION FINDS THAT THE POLICE ACTED IN A DELIBERATELY PROVOCATIVE MANNER BY SHOOTING AT PEOPLE WITHOUT ANY PROVOCATION. THE COMMISSION FINDS THAT THE POLICE PREVENTED THE INJURED FROM RECEIVING MEDICAL TREATMENT, WHICH LED TO FURTHER DEATHS. THE COMMISSION FINDS THE SAP, THE COMMISSIONER OF POLICE, THE MINISTER OF LAW AND ORDER, THE SADF AND THE MINISTER OF DEFENCE RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS THAT OCCURRED IN ALEXANDER IN FEBRUARY 1986 IN WHAT IS COMMONLY REFERRED TO AS THE SIX DAY WAR.

THE COMMISSION FINDS THAT DURING THE 'SIX DAY WAR', STATE EMPLOYEES SUCH AS POLICE OFFICERS, AND OTHERS PERCEIVED TO BE REPRESENTATIVES OF THE STATE, WERE ATTACKED AND KILLED. ONE OF THESE WAS POLICE OFFICER SAMUEL MASHILE, WHO WAS BURNT TO DEATH BY UNKNOWN ALEXANDRA RESIDENTS. THE COMMISSION FINDS THESE RESIDENTS RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

Detention and torture

- 314 The Detainees' Parents' Support Committee estimated that fourteen individuals died in police custody in 1984–85 alone. Evidence of endemic police torture which has emerged from amnesty applications and victims' submissions to the Commission indicates that many of these deaths occurred as a result of torture.
- 315 The Commission's data for the former Transvaal reflects a peak in the incidence of torture during this period (1983–89) with approximately 1 500 torture violations recorded, constituting 20 per cent of all gross human rights violations recorded during this period. Nearly a third of these acts of torture occurred in the second quarter of 1986, after the declaration of a national state of emergency. This is the highest peak of torture in the former Transvaal during the Commission's mandate period.
- 316 Many of the victims of torture were youths and young men between the ages of thirteen and twenty-four. A number were activists who held local leadership positions. Several were detained and tortured repeatedly. The government hoped that the detention of these activists would significantly weaken organised opposition and contain the wave of mass protest that was sweeping the country. The strategy worked, to a large extent, and by 1987 many organisations had collapsed in the absence of most of their leaders.
- 317 Although Johannesburg's John Vorster Square was the national Security Branch headquarters and interrogation centre, most of those detained and tortured in this region by the 1980s were local activists. In earlier decades, the capacity for specialised interrogation of alleged terrorists and subversives had been limited to a few teams of high-ranking policemen based in the Transvaal or Western Cape. By the 1980s, however, the use of torture and assault in the interrogation of political detainees had spread throughout the country and was being used routinely by policemen of all ranks at small and large police stations and in a variety of different contexts. Among the Transvaal police stations named as venues of torture in statements to the Commission are Protea, Alexandra, Dunnotar, Germiston, Makwassie and Carletonville. Some detainees report that they were not taken to police stations but were held in secret venues where they were severely tortured before being released.
- 318 The work of the Security Branch was crucial to the maintenance of South African national security. Torture and assault of detainees by this unit was not questioned.

It was even tacitly encouraged in the interests of defending the country against the total onslaught facing it. Lieutenant van Niekerk, an amnesty applicant, told the Commission:

In the Security Branch we had the situation where we dealt with the ANC, the onslaught of the MK, acts of terror and it was of crucial importance that that onslaught should have been stopped. And within this whole national political context, the Security Branch was allowed to do this ... In the Security Branch, it was a method used to obtain information – urgent information that we had to acquire – and it was approved, and it was used generally.

- 319 Another amnesty applicant, Captain van Loggerenberg, described some of the torture methods he had become acquainted with during the course of his work as a police officer in the Eastern Transvaal:

... if we talk about it, there are various methods which were used, the shocking method ... With the old type of telephones, the winding telephones, where you apply the electrodes to a person's body and you wind the telephone [electric shock] ... and several other methods ... The broomstick method ... You make a person hang between two chairs, the other method is making him hang by his arms where he has been handcuffed, and the other one is where a person stands on a brick balancing on his heels or on his toes for hours while you are conducting interrogation [forced posture].

- 320 All the reports of torture and assault submitted to the Commission are notable for the punitive nature of the violence directed against the detainees. Only in a very few instances was a serious effort made to interrogate detainees in order to acquire credible information from them. Generally torture and assault would start before questions had been posed and continue long after it became clear the detainee knew nothing, would not talk or in fact had talked. Violence was often sustained and intense, bringing detainees to the brink of death. Despite the severe injuries sustained by detainees during their torture, medical attention was itself used as a punitive measure, often being withheld until it appeared that a detainee might die. Many of those who had been badly assaulted were simply left to recover from their injuries over time before torture would be resumed. Sometimes these detainees would be held in solitary confinement for several months.

- 321 During their incarceration many detainees were coerced into making confessions. These confessions were accepted – and sometimes even elicited – by magistrates, as Mr Thabang Mopeloa testifies below. The personal consequences for detainees

and their families were substantial. Under torture, Ms Winnie Zondo [JB05603/01GTSOW] implicated her brother and sister in an incident of murder and arson. She and her two siblings spent the next six years in jail until they were released under indemnity provisions.

- 322 Despite the fact that the emergency regulations and legislation such as section 29 of the Internal Security Act already provided for indefinite periods of detention free from the scrutiny of family, friends and lawyers, there was a move during this period towards the use of extra-judicial methods, as indicated by reports of police wearing balaclavas to hide their faces, and of detainees being taken to private venues rather than police stations for periods of torture.
- 323 Mr Spankie Lesotho [JB02167/03WR], a founder member of the Azanian Students' Movement (AZASM), from Khutsong at Carletonville in the Western Transvaal, testified to the Human Rights Violations Committee of his experience as an emergency detainee. As a member of AZASM, he organised protests against corporal punishment and other educational grievances. Some of these protests were violent and involved the burning of school buildings, administrative offices and shops. He was repeatedly detained from 1985 onwards and then served a six-month sentence for public violence. On his release in 1986 he was detained again. He told the Commission that he was held for three weeks, and tortured. He was forced to frog-jump, his head was hit against a wall and his hair was torn out. A complaint to a prosecutor that he had been tortured merely elicited further abuse.
- 324 Mr Jacob Khoali [JB00238\01ERKAT] was a town councillor who became a member of the Katlehong Residents Action Committee (KRAC), a UDF-affiliated civic organisation. When the home of Katlehong's mayor, Mr Khumalo, was burnt down after the funeral of a victim of a police shooting, Mr Khoali was detained for fourteen days by the Germiston police and accused of involvement in the incident. He was assaulted and as a result falsely identified another Katlehong resident as a participant in the arson attack.
- 325 Mr Khoali was again arrested and held at Modderbee prison after the state of emergency was declared in June 1985. He was taken to a private house in Primose called the 'waarkamer' where he was subjected to the 'helicopter' torture method and given electric shocks. As a result of his assault and torture by the police, both Khoali's legs were amputated above the knee and the use of his left arm is impaired.

326 Mr Thabang Reginald Mopeloa [JB01527/03NW] of Leboleng township in the Western Transvaal told the Commission of his detention and torture. On 17 June 1986, youth had gathered to sing freedom songs. As they were singing, there was a blackout in the township. They heard families shouting and crying that they were being attacked by “faceless people” wearing balaclavas and wielding plastic batons. The attackers arrived at Mr Mopeloa’s home at about 03h00 and asked for him. Mopeloa said they beat him “as if they were beating the cows that didn’t want to get into the kraal”. Mopeloa and other youths were taken to the local police station, Makwassie, where they were slapped by white policemen wearing balaclavas. Eighteen-year-old Ms Cynthia Kedibone Morake [JB01852/03NW] was one of five young women arrested in the same incident.

327 Mr Mopeloa, who told the Commission that he didn’t belong to any organisation at the time, was accused of being an ANC leader in the area and interrogated about his alleged involvement in the burning of a municipal office. When he denied that he was politically involved he was severely tortured. When he asked what evidence the police had that he was an ANC leader, he was beaten and handcuffed to the roof of a cell while electric shocks were applied to his genitals. The police did not allow his parents to see him:

After the three days that I spent at Makwassie, my parents were trying to get hold of me, to come and visit me. But unfortunately I was badly beaten and assaulted and they wouldn’t even recognise it was Reggie.

328 The nightmare continued when the youths who had been detained were transferred to Stilfontein prison. While they were in the police van, the police told them that they were going to be thrown into an old mine shaft at Stilfontein. A tear gas canister was thrown into the vehicle.

329 At Stilfontein prison the young detainees were again teargassed and beaten. They were placed in a dark cell, and the beating continued. Later they were taken outside in freezing winter temperatures and sprayed with water and made to lie on the ground. They were surrounded by police vehicles and beaten once again with plastic batons. Mr Mopeloa told the Commission:

I was badly assaulted. I couldn’t bear the pain ... and even asked God to take my life. They poured water on me and they made me lie in the bush and they said I should roll. They said I should sing and I was singing a song ‘God we praise you’, and they put a hose-pipe into my mouth, they said “You are singing nonsense, why don’t you sing the Mandela song, we want to listen to that ... ”

I said to them, "I do not have an idea of what you are talking about, I can't even sing those songs." They forced me to sing and I kept on singing the hymns.

- 330 His torturers still did not believe that he knew nothing about political activity in the area.

They said, "You don't want to tell the truth. We want to show you now that you will tell us the truth ... " They took the hose-pipe and put it into my mouth and they opened the tap. My tummy was full of water and I felt as if it was going to burst. I couldn't breathe. Thereafter Scheepers came close to me and he said, "I am now showing you Mandela." He used his boot to kick me on the stomach and water came out of my mouth and nose. I was just in a terrible state ... After that they made me run along the cars that were parked in a circle. There were soldiers and policemen, whom I do not know, but I only knew Scheepers. Everybody I come across, used his stick to hit me. Each one of them wanted to have their share on me.

- 331 After five days of continuous assault Mr Mopeloa was finally taken to court. He hoped to find some relief from the judicial system, but was disappointed:

I was expecting at the court of law to give my statement. But no statement was taken from me. What actually happened was, one of the prosecutors came to me and he intimidated me and said if I do not agree to the charges against me, that is public violence, I will be sentenced for five years ... We were so scared of the boers at that time, and I was so scared of prison and when they mentioned five years, I got a shock of my life, and I have seen many people who have come from prison, whose lives have been turned into tragedy. I confessed after that intimidation from the prosecutor Jordaan, and I said yes, I was present. You know I just wanted to be free.

- 332 Mr Kokane Isaac Ditshego [JB03221/02GTTEM], secretary of the Moutse Civic Association, which was campaigning against the incorporation of the area into the KwaNdebele homeland, was arrested and tortured in police custody in 1986. While his initial arrest and assault was carried out by the KwaNdebele Police, they were clearly working in co-operation with the SAP, who subjected Mr Ditshego to suffocation by 'tubing' (placing a tyre tube over his face).

- 333 Like a number of other detainees, Ditshego reports that after his arrest he was not immediately taken to a police station. First he and his cousin were kept in a police van for approximately four hours:

It was about one o'clock at night. They put me in a cage, in a dog cage, as you know the police cars have this dog kennels at the back where they put two dogs. They had one dog in the other kennel and they put the two of us, me and my cousin in ... They drove with us to Hillbrow and parked their car there ... for the whole night and they went around on foot playing machines, drinking, doing whatever they want and they came back round about five o'clock.

- 334 Mr Ditshego and his cousin were not taken to a police station but were driven to an abandoned farmhouse where they were interrogated and lashed. He described the attempts of the police to suffocate him:

And all of a sudden I saw one of them with a car tube, a piece of a car tube about that size. These guys, bearing in mind that they were almost all of them heavily built, to me they looked quite a bit abnormal, they were too big and I didn't even – I didn't see such big policemen around here, I mean they were very fat people. They let me lie on my back, yet still handcuffed. One of them sat on my legs and one of them sat on my chest. On my stomach here and the other one comes in front of me and put that tube on my face to suffocate me. That was the worst thing they could do to me. I get suffocated only when windows are not open but what more then, when a tube of a car is pressed on my face and all what they are saying is that "Nou gaan jy waar praat". They did that to me three times. I cannot count how many seconds or how long they kept pressing the tube on one's face or how long did they do it on me but it was only when I felt I was about to die when they could remove the tube.

- 335 When Ditshego lost consciousness, the police poured water over him to revive him. He was left for two weeks before the torture started again. Ditshego told the Commission that he was brought to the brink of death by a blow to the head.

... one of the biggest of them all, when I just entered the door there, hit me with his fist under the ear and I fell and died a little bit.

- 336 When Ditshego regained consciousness, the police appeared to have been concerned that they had actually killed him, but had made no attempt to assist him or call for medical help. They forced him to stand for a day before taking him back to the cells.

Deaths in detention

- 337 Mr Stanza Bopape [JB0500/02NPPTB, JB03703/01ERTEM], a well-known activist and general secretary of the Mamelodi Civic Association, died in police custody

at John Vorster Square on 12 June 1988, three days after he had been detained with his flatmate Mr Bheki Nkosi [JB05244/O1ERKAT]. A high-level cover-up, including a fake escape and secret disposal of Mr Bopape's body was approved by the commissioner of police, General Johan van der Merwe, in order to avoid the negative political ramifications of his death in police custody. Until the recent amnesty applications of a number of policemen involved in Bopape's death, a public fiction had been maintained that Bopape 'escaped' from police custody while being transported from Johannesburg to the Vaal. According to the then Minister of Law and Order, Mr Adriaan Vlok, Bopape escaped when three policemen with whom he was travelling got out of the car to change a punctured tyre. Bopape allegedly found the keys to unlock his handcuffs and fled. Police reported that they shot at him but failed to apprehend him, and claimed that he must have left the country to join the ANC.

- 338 Mr Bopape's mother, Ms Mokgaetji Francina Bopape, breaking down several times, made an impassioned plea at the Commission's Pietersburg hearings for information about her son's whereabouts. After a fruitless search by her husband for Bopape in the ANC exile community, Ms Bopape became convinced that her son had died in police custody. However, she was never able to confirm this. She told the Commission that she wanted "the police who were with him [to] come here and tell us where the bones are".
- 339 In the months that followed Ms Bopape's testimony, a number of the policemen involved in Mr Stanza Bopape's arrest and interrogation applied to the Commission for amnesty, claiming that he had died of a heart attack after they had applied electric shocks to his body.
- 340 According to the amnesty applicants, they had information that Bopape had been involved in a variety of violent attacks, including several bombings and the murder of three police officers in Atteridgeville. When questioned about his activities, Bopape apparently refused to provide the police with any information. As the day wore on and Bopape still remained uncooperative, a decision was made to "give him a little fright". It was proposed that electric shocks should be used. A police officer was sent to fetch the electric shock equipment from another police station.
- 341 All the amnesty applicants claim that Bopape was not assaulted prior to the decision to use electric shocks on him and that the device was turned only a few times before he slumped forward, dead.

342 However, Mr Bheki Nkosi, Bopape's flatmate who was detained with him, told the Commission that Bopape's torture may have been more severe. He described to the Commission how he himself was given electric shocks of increasing intensity when he did not respond to questions put to him.

343 Van Niekerk describes how Bopape was prepared for the shocks:

We decided to tie Mr Bopape on a chair ... There was a strong wooden chair in my office and because of the fact that my office was quite small we pushed the chair out into the corridor which was quite broad – wide – and Mr Bopape was placed on the chair. His shirt was removed, his hands were tied to the supports of the chair and his feet to the legs of the chair. Sergeant du Preez had the shock device in his hand ... There were two cords running from the device and at the tip of it, of these cords, there were two pieces of cloth which was wrapped around the tips of the cords. This device was turned two or three times by Sergeant du Preez and whilst he was turning it, Mr Engelbrecht pushed these cords against his body and moved it over Mr Bopape's body ... It didn't take very long, maybe two to four minutes, the device was turned, then it was stopped, then someone asked him whether he wanted to say something and if there was no reaction to that, then the machine was turned again and this must have happened around three times. By the third time Mr Bopape's head fell forward and I realised there was something wrong. We immediately untied him, placed him on the floor and Sergeant du Preez gave him mouth to mouth resuscitation. It seemed that he was dead already and I think all of us standing there ... all thought that he was dead.

344 Realising the political implications of Bopape's death – on the eve of the tenth anniversary of the 1976 Soweto protests and at the height of conflict between the government and opposition groups – the police officers involved in his interrogation did not try to obtain medical confirmation of his death, or medical assistance to resuscitate him. Instead, Van Niekerk telephoned his superior, General Erasmus, to express his concern about the possible political consequences of Bopape's death and suggest that a 'plan' should be made. The plan was that Bopape's body was to be hidden while Van Niekerk and the other policemen involved in his interrogation waited for instructions regarding the next step:

... we thought we would put the body back in the office where Mr Mostert and Engelbrecht interrogated him at first and he was placed on the floor and a blanket was thrown over him. And then we waited to receive feedback from General Erasmus.

- 345 At approximately 18h00 that evening General Erasmus arrived at John Vorster Square to tell the waiting policemen what plans had been made. He had discussed the matter with the commissioner of police, who had suggested that a fake escape be arranged. Brigadier Visser of the Eastern Transvaal Security Branch would assist with the disposal of the body.
- 346 As night fell, Bopape's body was secreted out of the police station and taken away by the Johannesburg Security Branch members. Near Bronkhorstspuit they met up with members of the Eastern Transvaal Security Branch and drove together to a dirt road, where Bopape's body was moved from the boot of Lieutenant Zeelie's car to the boot of a car driven by Captain van Loggerenberg of the Eastern Transvaal Security Branch.
- 347 Van Loggerenberg drove to the Komati River, near a picnic spot frequented by police officers. He arrived at about 02h00 and immediately went to a crocodile-infested pool, where he deposited the body:

I rolled the body into the river and the body, the corpse sunk away into the water. I cannot tell you that it immediately disappeared, but I did not stay to look.

THE COMMISSION FINDS THAT THE SPECIAL BRANCH OF THE SAP WAS RESPONSIBLE FOR THE DETENTION AND TORTURE OF MANY YOUNG PEOPLE, INCLUDING MR SPANKIE LESOTHO, MR THABANG REGINALD MOPELOA, MR BHEKI NKOSI AND MR STANZA BOPAPE DURING THE PERIOD 1983-89.

THE COMMISSION FINDS THAT MR LESOTHO WAS ARRESTED IN THE CARLETONVILLE AREA AND DETAINED FOR LONG PERIODS DURING WHICH HE WAS SEVERELY BEATEN AND SUBJECTED TO REPEATED ELECTRIC SHOCK TORTURE. THE COMMISSION FINDS THAT MR MOPELOA WAS ARRESTED IN JUNE 1987 BY THE SAP AND SUBJECTED TO SEVERE BEATINGS AND TORTURE. THE COMMISSION FINDS THAT MR NKOSI WAS DETAINED AND TORTURED WITH ELECTRIC SHOCKS BY THE SAME SPECIAL BRANCH MEMBERS WHO DETAINED AND TORTURED MR BOPAPE. THE COMMISSION FINDS THAT THE TORTURE CONSTITUTES A GROSS HUMAN RIGHTS VIOLATION FOR WHICH THE THEN HEAD OF THE SPECIAL BRANCH, THE COMMISSIONER OF POLICE AND THE MINISTER OF LAW AND ORDER MUST TAKE RESPONSIBILITY .

THE COMMISSION FINDS THAT MR BOPAPE, A WELL-KNOWN ACTIVIST AND GENERAL SECRETARY OF THE MAMELODI CIVIC ASSOCIATION, DIED WHILST BEING TORTURED BY MEMBERS OF THE SECURITY BRANCH³⁰ AT JOHN VORSTER SQUARE ON 12 JUNE 1988. THE COMMISSION FINDS FURTHER THAT A NUMBER OF POLICEMEN WERE INVOLVED IN A COVER-UP OF BOPAPE'S DEATH AND DISPOSING OF HIS BODY, INCLUDING THE FORMER COMMISSIONER OF POLICE, GENERAL JOHAN VAN DER MERWE, GENERAL ERASMUS, BRIGADIER VISSER OF THE EASTERN TRANSVAAL

30 Amnesty hearings in connection with Bopape's death were in progress at the time of reporting. See amnesty applications of Mr Petrus Lodewikus du Toit [AM4131/96], Mr Gerrit Nicholas Erasmus [AM4134/96], Mr Hendrik Albertus Buekes Mostert [AM4403/96], Mr Leon van Loggerenberg [AM5010/97], Mr Schalk Jan Visser [AM5000/97], Mr Charles Alfred Zeelie [AM3751/96], Mr Johan Ludwig du Preez [AM4404/96], Mr Jacobus Hermanus Engelbrecht [AM4402/96], Mr Adriaan Pieter van Niekerk [AM4353/96] and Mr Johannes Velde van der Merwe [AM4157/96].

SECURITY BRANCH, AND CAPTAIN VAN LOGGERENBERG. THE COMMISSION FINDS THE DISAPPEARANCE, TORTURE AND DEATH OF BOPAPE TO CONSTITUTE A GROSS VIOLATION OF HUMAN RIGHTS AND FINDS THE POLICEMEN AND THE MINISTER OF LAW AT THE TIME RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS. THE POLICEMEN HAVE APPLIED FOR AMNESTY.

Disappearances

- 348 Mr Ramatua Nicholas Thlapi [JB01185/03NW], from Ikageng at Potchefstroom, was arrested in Jouberton on 20 March 1986 along with several other young activists. Mr Thlapi subsequently disappeared in police custody. At the time of his disappearance, the SAP claimed that they had released him the day of his arrest. Mr George Morwaabusi Mangwejane [JB01452/03NW], one of the activists detained with Thlapi, said he last saw him lying on the floor in the Stilfontein police station, bleeding from the mouth. He claimed that he saw Constable April Tshwaedi jump on Thlapi's chest.
- 349 In 1993, former policeman Mr George Mbathu, who had detained Thlapi and the other activists, gave Lawyers for Human Rights a sworn statement alleging that Warrant Officer Viljoen, Sergeant Makiti and Constables Tseladimitlwa, Tshwaedi, Majaja and Mano had been involved in the arrest. He also alleged that Thlapi was dead and that his body had been dumped down a mine shaft. Later he pointed out an old disused mine shaft just outside Stilfontein.
- 350 On 29 December 1993, Lawyers for Human Rights, the Independent Board of Inquiry (IBI) and members of the SAP accompanied the Thlapi family to the mine, where a camera was lowered down the shaft and the family watched the camera's progress on a monitor. A number of shadows appeared on the screen, but there was no conclusive proof that Thlapi's body had been dumped there. In the light of what he had seen, Mr Abbey Dlavane of Lawyers for Human Rights felt that further investigation of the site was warranted. The police investigation into Thlapi's disappearance continues. Two of the policemen mentioned by Mbathu have been charged with serious assault against other detainees at the Welverdiend police station in Carletonville.

Staged escapes

- 351 Two KwaNdebele families made statements to the Commission regarding relatives who disappeared in strikingly similar circumstances. Both individuals were arrested by the police but were subsequently reported to have escaped from custody. Over a decade later, neither has been seen or heard from again. Even

their families have given up hope that they are still alive. No one has applied for amnesty for either incident, but the Commission's investigations have made some progress in unravelling the mysteries surrounding these disappearances. KwaNdebele policemen are implicated in the probable deaths of both detained activists. A report on one of the cases has been sent to the Attorney-General for consideration.

- 352 On 11 February 1987, Mr Jim Msebenzi Mahlangu [JB02465/01MPMOU], a fifty-one-year-old headman, was detained at his home at 159 Tweefontein 'G' by three white and three black KwaNdebele policemen. Ms Anna Mbele, one of Mr Mahlangu's wives, and Ms Maria Mahlangu, his mother, witnessed his detention. They were told that he was being detained under the emergency regulations.
- 353 Later the same night, policemen returned to the Mahlangu home, claiming that he had escaped while directing them to an arms cache hidden at a friend's house. Before the police left, they detained one of the sons, Mr Themba Mahlangu, saying that the boy would "speak the truth". Themba Mahlangu was held at Kwaggafontein police station for five days under the emergency regulations without being questioned. He did not see his father. Ms Anna Mbele searched police stations and mortuaries in the area, but found nothing.
- 354 The disappearance of Mr Mahlangu appears even more suspicious given the headman's previous political involvement. Mahlangu had a good working relationship with 'comrades' in the area and played an active role in the local 'people's court'. He had also assisted in a special police investigation into outstanding charges against KwaNdebele politicians and members of the Imbokodo vigilante group (see below). Mahlangu had helped the police collect statements on a raid in Tweefontein from twelve residents who might otherwise have been reluctant to co-operate with the police. These statements were central to the case against Imbokodo leaders.
- 355 The KwaNdebele Police insisted that they had no record of Mahlangu's detention, though entries in the investigation diary of the disappearance docket suggest that individual policemen may have known about the case, but had refused to give a statement. The investigation was subsequently closed for lack of information.
- 356 On 6 February 1987, Ms Happy Shabangu and her brothers Lucas and Stephen Shabangu were working at the Bundu Inn in Moutse, KwaNdebele, owned by their father, Mr JB Shabangu. Between 12h30 and 13h00 that afternoon, six

KwaNdebele policemen arrived at the premises in several vehicles. They have been identified as Warrant Officer Eric Magagula, Constable SJ Kritzinger and Sergeants Arnoldus van Schalkwyk, Sam Mphelo (since deceased), Dumisani Mahlangu and Jacob Mthombeni.

- 357 The officers expressed a particular interest in searching the staff room that belonged to the Shabangus' elder brother, Mr George Shabangu [JB02849/01MPMOU]. Happy Shabangu unlocked the room and watched as the policemen searched the premises. One of the officers produced a firearm, alleging that he had found it on a ledge near the top of the wall in George's room. Happy, however, was suspicious of the policeman's claim as the gun had been recovered before the search was conducted. Nevertheless, she signed the policeman's pocketbook to confirm the particulars of the weapon when instructed to do so. The policemen told Happy that the weapon implicated George in a recent robbery at the Moteti Top Sport Garage. Again, Happy's suspicions were aroused, as she knew that the garage was owned by Mr Nyembe, her father's close friend. As the policemen left the premises, Lucas and Stephen Shabangu were detained for further questioning.
- 358 The policemen proceeded to Matchiding, where Sergeant Mthombeni led them to the house of George Shabangu's girlfriend, Ms Connie Mokwena. George was at the house and was also arrested and taken with his brothers to the Siyabuswa Murder and Robbery Unit.
- 359 On arrival, the younger brothers were placed in separate interrogation rooms across a garden from the room to which George was taken. Stephen was questioned twice regarding the gun. He stated then, and continues to affirm, that he had no knowledge of the gun. During a break in the questioning, Stephen witnessed two of the policemen, Dumisani Mahlangu and Eric Magagula, driving off in a pale brown minibus. When they returned some fifteen minutes later, Van Schalkwyk allegedly rushed to the combi to fetch a brown case. While Van Schalkwyk was on his way back to the room in which George was held, Stephen allegedly overheard the policeman say words to the effect that George was in for a hard time.
- 360 Shortly after Mahlangu, Magagula and Van Schalkwyk entered the room in which George was being held, Stephen and Lucas heard screams which they believe to have been from their brother. The screams lasted for approximately an hour before they suddenly ended. When the screams stopped, Mahlangu, Magagula and Mthombeni returned to Lucas and Stephen to take them home.

When the brothers inquired after George, the policemen told them not to worry as he was in their care.

- 361 Later that night, Magagula and Van Schalkwyk returned to the Bundu Inn to report that George Shabangu had allegedly escaped that evening while pointing out an arms cache in the Marapong area. George Shabangu has not been seen since.
- 362 Four section 29 subpoena hearings were conducted with respect to the incident and several sworn *affidavits* were collected. A report on the Commission's investigations into the disappearance of George Shabangu has been forwarded to the Attorney-General for consideration.

THE COMMISSION FINDS THAT MR RAMATUA NICHOLAS THLAPI WAS LAST SEEN IN THE CUSTODY OF THE POLICE BASED AT JOUBERTON POLICE STATION IN 1986. THE COMMISSION FINDS THAT HE WAS ASSAULTED AND TORTURED BY WARRANT OFFICER VILJOEN, SERGEANT MAKITI AND CONSTABLES TSELADIMITLWA, TSHWAEDI, MAJAJA AND MANO OF THE JOUBERTON SECURITY BRANCH. THE COMMISSION FINDS THE JOUBERTON SECURITY BRANCH RESPONSIBLE FOR MR THLAPI'S DISAPPEARANCE, AND FINDS THAT IN ALL PROBABILITY HE WAS KILLED BY THE JOUBERTON POLICE IN WHOSE CUSTODY HE WAS LAST SEEN. THLAPI'S DISAPPEARANCE AND DEATH CONSTITUTE GROSS HUMAN RIGHTS VIOLATION FOR WHICH THE COMMISSION HOLDS THE COMMISSIONER OF POLICE, THE HEAD OF THE SECURITY BRANCH AND THE MINISTER OF LAW AND ORDER RESPONSIBLE.

WITH RESPECT TO THE CASE OF MR GEORGE SHABANGU, THE COMMISSION FINDS THAT :

- THE SEARCH OF MR SHABANGU'S ROOM ON 6 FEBRUARY 1987 BY WARRANT OFFICER ERIC MAGAGULA, CONSTABLE SJ KRITZINGER AND SERGEANTS ARNOLDUS VAN SCHALKWYK, SAM MPHELO, DUMISANI MAHLANGU AND JACOB MTHOMBENI OF THE KWANDEBELE POLICE WAS CONDUCTED ILLEGALLY.
- MR SHABANGU WAS DETAINED BY THE KWANDEBELE POLICE FOR POLITICAL REASONS AND NOT, AS CLAIMED BY THE POLICE, TO INVESTIGATE AN ARMED ROBBERY AT A LOCAL GARAGE.
- MR STEPHEN SHABANGU'S EYEWITNESS STATEMENT REGARDING EVENTS AT THE SIYABUSWA MURDER AND ROBBERY UNIT ARE IN ALL PROBABILITY AN ACCURATE ACCOUNT.
- THE SIYABUSWA MURDER AND ROBBERY UNIT POSSESSED A BROWN LEATHER CASE CONTAINING AN ELECTRICAL DEVICE USED REGULARLY TO SHOCK DETAINEES DURING INTERROGATIONS.

THE COMMISSION FINDS IT UNLIKELY THAT THE POLICE WOULD HAVE CONDUCTED A NIGHT-TIME SEARCH FOR AN ARMS CACHE WITH A SUSPECT THEY CONSIDERED DANGEROUS – AND WITHOUT TAKING SHOVELS OR TORCHES. THE COMMISSION REJECTS THE ASSERTION BY THE KWANDEBELE POLICE THAT MR GEORGE SHABANGU ESCAPED WHILE POINTING OUT AN ARMS CACHE. THE COMMISSION HOLDS THE KWANDEBELE POLICE RESPONSIBLE FOR THE DISAPPEARANCE OF MR SHABANGU ON 6 FEBRUARY 1987 AND FINDS THAT IN ALL PROBABILITY HE WAS KILLED BY THE KWANDEBELE POLICE, IN WHOSE CUSTODY HE WAS LAST SEEN. THE COMMISSION FINDS THE DISAPPEARANCE AND DEATH OF MR SHABANGU TO CONSTITUTE A GROSS VIOLATION OF HUMAN RIGHTS, FOR WHICH THE HEAD OF THE KWANDEBELE POLICE MUST ACCEPT RESPONSIBILITY.

Covert action

- 363 The evidence of amnesty applicants to the Commission has provided confirmation of an increase in the use of extra-judicial mechanisms to control political opposition in the country during the mid-1980s. The secret Vlakplaas Security Branch police unit played a significant role in this escalation of covert activity. However, evidence from amnesty applications made to the Commission indicates that such extra-judicial activities became increasingly localised and widespread. Members of the Soweto Security Branch applied for amnesty for a range of illegal activities, including bomb attacks to boost the credibility of informers and the use of booby-trapped grenades against activists.
- 364 In the 'credibility operations', informers who had infiltrated MK cells would be assisted with various sabotage operations in order to maintain their credibility. These sabotage acts primarily involved destruction of property but may have also led to loss of life. Most of these operations were carried out between 1985 and 1987 by a team consisting of black police informers and white Security Branch officers. In 1989 a slightly different team organised a more serious operation – the murder of three activists using booby-trapped limpet mines.
- 365 One of the victims remains unidentified to this day, another is simply referred to as 'Castro', the third is identified in a statement as Mr Ncebe Cassius Snuma [JB01654/01GTSOW]. Mr Cindi Snuma reports that Ncebe, a UDF activist, disappeared mysteriously after leaving home on 18 July 1989. In September 1996, police at Braamfontein gave Mr Sandile Snuma some photographs by which he was to identify his brother Ncebe's body. Sandile was allegedly instructed not to contact the media or the Commission as two suspended policemen had been involved in Ncebe's death and any outside interference might jeopardise the investigation. According to the police, Ncebe was killed when a bomb given to him by an ANC member exploded in his possession.

THE COMMISSION FINDS THAT THE SOWETO SECURITY BRANCH USED EXTRA-JUDICIAL METHODS TO KILL ACTIVISTS, INCLUDING MR NCEBE CASSIUS SNUMA, ONE 'CASTRO' AND AN UNIDENTIFIED YOUTH. THE COMMISSION FINDS THAT THESE EXTRA-JUDICIAL KILLINGS CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP, THE SADF AND VLAKPLAAS MUST ACCEPT RESPONSIBILITY. THE COMMISSION FINDS THE COMMISSIONER OF POLICE, THE MINISTER OF LAW AND ORDER, THE HEAD OF THE SADF AND THE MINISTER OF DEFENCE RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

- 366 Important new information about the booby-trapped hand grenades has emerged both through the testimony of victims to the Human Rights Violations Committee

and through the amnesty applications of senior security force personnel. The evidence reveals the level of co-operation between the covert units of the SAP, Vlakplaas and the SADF Special Forces. In his amnesty application Mr Willem Schoon states that he discussed the booby-trapped hand grenades with Major General Joep Joubert of the SADF Special Forces. He was told that Special Forces were able to reduce the timing device in a hand grenade to zero seconds. These hand grenades were later given to the East Rand activists. The distribution of booby-trapped hand grenades to young activists on the East Rand was seen as a means of re-establishing control over East Rand townships.

367 Eight people were killed in different hand grenade explosions on 26 June 1985. At least seven people were injured. The media announced the following day that the victims had been "on their way to commit acts of terror when they were killed by their own weapons".

368 In an application for amnesty, Brigadier Jack Cronjé said this had been a propaganda exercise to create the impression that 'terrorists' had blown themselves up because they were poorly trained. "Our actions maintained the trust of white voters in the apartheid government and convinced them to vote for this government." The use of the grenades had the dual benefit of permanently eliminating activists as well as making them appear incompetent, simultaneously undermining the credibility of the ANC's armed wing, MK, within the township community and boosting the credibility of the South African security forces within the white community.

369 Amnesty applications from senior police officials make it clear that the use of booby-trapped hand grenades was authorised at the highest levels of government, but the exact line of command remains murky. Former Commissioner Johan van der Merwe was second in command of the Security Branch at the time of the hand grenade attack. He claims in his amnesty application that he initiated the project and gained the direct consent of his superiors up to the level of the Minister of Law and Order, Mr Louis le Grange. Police Commissioner Johan Coetzee was reportedly involved in the planning stage of the operation and Van der Merwe reported to him in full on its completion. However, Van der Merwe was reluctant to commit himself as to whether the use of the hand grenades had been approved at a higher level (i.e. the State Security Council) or to comment on a claim by Brigadier Cronjé that Van der Merwe was merely implementing a project initiated by the State President and the Minister of Law and Order.

370 By mid-1985, the use of state-sanctioned murder to contain opposition was

well established. Although General van der Merwe does not acknowledge that orders were given to carry out illegal activities, he does state that “the impression was created” that the security forces should use any means necessary to halt the “total onslaught” facing the country:

I can say that if you talk with your people now it seems that the perception did exist that it was expected of them to do a lot more than that which could be done within the parameters of the legal system. Apart from our duties in terms of the Police Act and Regulations our instructions normally came from the State Security Council. What I would like to emphasise that in respect of all instructions coming from the State Security Council all these instructions fell within the ambit of the law. Instructions from the State Security Council, as far as I am aware, were never extra-legal by nature ... but if you look at the general perception at the time, the impression was created that the enemy had to be halted at all costs.

371 Brigadier Cronjé, in his testimony, is more explicit about the chain of command:

This instruction was given to me in Springs by General van der Merwe and during this instruction he specifically indicated to me that this came directly from Minister le Grange and that it had indeed been authorised by President PW Botha, as well as Commissioner Johan Coetzee, both of whom knew about this and authorised it ... If it should be claimed therefore by anyone that the State Security Council was not aware of the actions of the security forces and the security police or of any specific incidents this would not be true.

372 According to Van der Merwe, the project, which was to become known as ‘Operation Zero Zero’ was initiated in response to intelligence reports which indicated that a group of activists were planning armed attacks on the homes of black policemen living in East Rand townships. The activists were allegedly simply waiting for a consignment of hand grenades from an arms cache before launching their attacks.

373 Van der Merwe states that he was personally in charge of the operation, intercepting the explosives which the activists were to use and modifying their time-delay mechanism before passing them on to the askaris. The instruction was given to supply the activists with these ‘Zero Zero’ hand grenades.

374 After the incident, violence erupted in Duduza and continued for the next month. At least three people were wounded when police fired birdshot and tear gas to disperse more than 6 000 residents who had gathered around the bodies of the

men killed in the hand grenade explosions. Members of the dead men's families and other residents sat near the bodies and refused to allow police to remove them. After firing tear gas and birdshot to disperse the crowd, the police took the bodies away [see JB02576/01ERKWA].

- 375 Residents believed a police informant was behind the deaths of the students. At the first funeral, Archbishop Desmond Tutu saved a suspected informer from being necklaced. But at the second funeral, the fury of Duduza was unleashed on Ms Maki Skhosana [JB00289/01ERKWA], suspected of being an informer because of her relationship with one 'Mike', who was in fact Vlakplaas operative Joe Mamasela posing as an MK operative (see under Necklacing, below). Soon after Skhosana's necklacing, State President PW Botha declared a state of emergency on 20 July 1985 affecting thirty-six magisterial districts.

THE COMMISSION FINDS THAT EIGHT PEOPLE WERE KILLED AND SEVEN SERIOUSLY INJURED IN SEPARATE HAND GRENADE AND LIMPET MINE BLASTS ON 25 JUNE 1985. THE COMMISSION FINDS THE FOLLOWING INDIVIDUALS RESPONSIBLE FOR SUPPLYING EAST RAND ACTIVISTS WITH BOOBY-TRAPPED HAND GRENADES AND LIMPET MINES, RESULTING IN GROSS HUMAN RIGHTS VIOLATIONS: FORMER VLAKPLAAS HEAD WILLEM SCHOON; FORMER SPECIAL FORCES OFFICER, MAJOR GENERAL JOEP JOUBERT; FORMER COMMISSIONER OF POLICE, GENERAL JOHAN VAN DER MERWE; BRIGADIER CRONJÉ; FORMER VLAKPLAAS COMMANDER, EUGENE DE KOCK; VLAKPLAAS ASKARIS DANIEL NKALA AND JOE MAMASELA, AND SPECIAL BRANCH MEMBERS ROELOF VENTER, MARTHINUS DELPORT AND FRANCOIS STEENKAMP. THE COMMISSION FINDS THE FORMER MINISTERS OF DEFENCE AND OF LAW AND ORDER RESPONSIBLE FOR THE ACTIONS OF THEIR OPERATIVES.

Ambushes

- 376 At an amnesty hearing in Pietersburg, new information emerged about an operation which led to the killing of six MK members in an ambush near the Botswana border in 1987.
- 377 Former Northern Transvaal security police chief, Colonel Willem van der Merwe, stated that he was involved in a plan to provide police transport for a group of MK insurgents who wanted to enter the country from Botswana on 10 July 1986.
- 378 "The idea was to keep track of the activities of such groups, and to eventually arrest them inside South Africa," he said. In this particular case, the plan had been to halt the vehicle carrying the insurgents at a roadblock. Several police units and members of Five Reconnaissance Battalion based at Phalaborwa were involved. Sergeant Mathews Sehlwana, the driver of the minibus, was briefed on his role. The plan was to lob a tear gas canister into the vehicle to force the insurgents

to surrender. Sehlwana was to jump out of the vehicle and seek shelter. "We believed that, with a show of force, we would be able to arrest them," Van der Merwe said. Although not actively involved in the operation, he supervised the formulation of the plan.

379 Sehlwana said his task as a member of the security police was to gather information about the movements of ANC insurgents planning cross-border raids from Botswana. Informants told him six infiltrators were seeking transport to South Africa. He offered to assist them, saying his father was a taxi-owner. According to official documentation before the amnesty committee, three of the victims were identified as Mr WT Alset [JB04421/02PS], Mr LM Moloi and Mr TR Mogashoa. The other three were not identified. At the time, Sehlwana was operating as a member of an anti-insurgency unit commanded by Captain Koos van der Berg. He informed Van der Berg of the infiltration plan. According to testimony heard by the Commission, two of the insurgents were planning to bomb the Checkers shopping complex in Pietersburg, two wanted to get to Phalaborwa, and the remaining two were heading for Johannesburg. The police ambush was carefully rehearsed, and Sehlwana went ahead with an arrangement to pick up the six men in a minibus provided by the police. Sehlwana said he was under the impression the insurgents would be arrested.

380 On 10 July 1987 he picked up the six men at a prearranged spot near Alldays in Northern Province and drove to a bridge where his colleagues were waiting. He testified that the insurgents were armed with automatic rifles and grenades and opened fire when they were attacked. All six MK operatives were killed in the shoot-out.

381 Van der Merwe said he was shocked to hear on the day of the operation that the plan had gone awry. The findings of an inquest, ordered at the time, did not reflect what happened at the scene of the shooting, he contended. In applying for amnesty in respect of this incident, Van der Merwe said he believed he and the other security policemen had acted lawfully in terms of existing legislation. "Our task was to prevent the violent overthrow of the government." Van der Merwe confirmed having authorised a R2 000 payment to Sehlwana for having done a "good job".

THE COMMISSION FINDS THAT A NUMBER OF ACTIVISTS LEAVING OR ENTERING THE COUNTRY WERE KILLED IN AMBUSHES BY THE SADF AND SAP NEAR THE BORDERS WITH SWAZILAND, MOZAMBIQUE, LESOTHO AND BOTSWANA. A NUMBER OF AMNESTY APPLICANTS, INCLUDING SPECIAL BRANCH MEMBERS AND COVERT GROUPS SUCH AS VLAKPLAAS MEMBERS HAVE

ADMITTED AMBUSHING AND KILLING SUCH ACTIVISTS. THE COMMISSION FINDS THAT ON 10 JULY 1987, SIX ANC MEMBERS WERE AMBUSHED AT ALLDAYS AND SHOT DEAD BY POLICE. THE COMMISSION FINDS THAT THE KILLING CONSTITUTES GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE MINISTER OF LAW AND ORDER, THE COMMISSIONER OF POLICE AND THE FORMER STATE MUST ACCEPT RESPONSIBILITY.

THE COMMISSION FINDS, AS A RESULT OF EXHUMATIONS, THAT A NUMBER OF CADRES WERE TORTURED AND KILLED AFTER HAVING BEEN ABDUCTED. EXHUMATIONS HAVE REVEALED THAT SUCH CADRES WERE SHOT DEAD WITHOUT ANY ATTEMPT TO DEAL WITH THEM IN A JUDICIAL MANNER. THE COMMISSION FINDS THAT LOWER-RANKING OPERATIVES, NOTING THE STATE SECURITY COUNCIL'S USE OF COUNTER-INSURGENCY STRATEGIES AGAINST THOSE IT CONSIDERED A THREAT, INTERPRETED THIS TO MEAN THAT SUCH CADRES SHOULD BE KILLED. THE COMMISSION FINDS THE MINISTER OF LAW AND ORDER, THE MINISTER OF DEFENCE AND THE HEAD OF THE STATE SECURITY COUNCIL RESPONSIBLE FOR GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT THE FORMER STATE CONTRACTED WITH A NUMBER OF FUNERAL UNDERTAKERS' FIRMS TO BURY CADRES WHO WERE SHOT IN AMBUSHES OR EXECUTED EXTRA-JUDICIALLY. THE COMMISSION FINDS THAT THE UNDERTAKERS COLLUDED WITH THE STATE IN MANY CASES TO CONCEAL THE CIRCUMSTANCES OF DEATH OF SUCH CADRES FROM THEIR FAMILIES AND THE PUBLIC AT LARGE.

THE COMMISSION FINDS SUCH UNDERTAKERS, THE MINISTER OF LAW AND ORDER AND THE MINISTER OF DEFENCE RESPONSIBLE FOR THE SEVERE ILL TREATMENT OF THE FAMILIES OF THESE CADRES.

- 382 On 23 August 1987, Mr Caiphus Nyoka [JB00285/01ERKWA], a student activist from Daveyton, was killed in an alleged shoot-out with police during a raid on his room in the backyard of his parents' home. He sustained approximately ten gunshot wounds.
- 383 A number of policemen involved in the incident which led to the death of Mr Nyoka, and several of his relatives and friends made submissions to the Commission.
- 384 Nyoka was allegedly linked to eight hand grenades and six limpet mines found on two men on 23 August 1987. The men told the police that they had received the contents of the bag from him, and that they were supposed to return to his home that night. The two men, Mr Daniel Moseng and Mr Moses Mahlangu, were taken to Daveyton police station and the bag was given to Sergeant Engelbrecht of the Security Branch.
- 385 Arrangements were made to arrest Nyoka. Engelbrecht, who knew Nyoka, was to identify and arrest him with the help of Sergeants Stander and Marais. Any other people who might be in the room were to be removed, as the police did not know how Nyoka would react.

386 When the group of police officers including Marais, Engelbrecht, Stander and two others arrived at the house, they knocked and ordered the occupants to open the door. Getting no reaction, they kicked the door in. Inside, Engelbrecht used his flashlight to identify Nyoka. He saw three other men and took them outside immediately. He heard Marais ordering Nyoka to keep still. The next moment he heard shots and ordered the three men to lie down on the ground. Engelbrecht turned on the light in the room and found Nyoka, who was fatally wounded, holding a knife in his left hand. Marais said that Nyoka had reached under the bed and grabbed something which shone and looked like a weapon. Marais and Stander had then simultaneously shot at him.

387 The three men outside were arrested and taken to Benoni police station for questioning. They were Mr Excellent Mthemba, Mr Exodus Nyakane and Mr Elson Mnyakeni. According to these three young men, they had attended a funeral in Daveyton with Nyoka and had gone to a shebeen together afterwards. At the end of the evening Nyoka said they could all sleep in his room. They talked about the funeral and then went to sleep until the police kicked down the door.

388 At the police station, the young men were interrogated and tortured. Mr Nyakane heard someone screaming while he was left in an office in the Daveyton police station. Later, he was locked in a locker and smelled tear gas fumes. He was taken to another office and his face was covered with a cloth causing him breathing difficulties. He was given electric shocks on both hands. As the shocks continued, the cloth was tightened. He was hit in the face. An object was then put in his mouth and he was shocked again. He fell to the floor still handcuffed to the chair. During the torture, he was questioned about whether he knew two other men, which he denied. He was later taken back to the previous room and locked in a locker again. He peeped through the door and witnessed two other people being locked inside lockers. He also heard more screams. He was later taken back to Daveyton and released.

THE COMMISSION FINDS THAT ON 23 AUGUST 1987, MR CAIPHUS NYOKA, A YOUNG ACTIVIST FROM DAVEYTON, AND THREE OF HIS COMRADES WERE SLEEPING AT HIS HOME IN DAVEYTON. THE COMMISSION FINDS THAT MEMBERS OF THE BENONI SECURITY BRANCH ENTERED THE ROOM, TOOK THE THREE COMRADES OUT INTO THE YARD AND THEN EXECUTED MR NYOKA IN COLD BLOOD. THE COMMISSION FINDS THAT THE THREE OTHER MEN, MR EXCELLENT MTHEMBA, MR EXODUS NYAKANE AND MR ELSON MNYAKENI, WERE TAKEN TO THE BENONI HEADQUARTERS OF THE SECURITY BRANCH AND TORTURED.

THE COMMISSION FINDS THAT THE KILLING OF MR CAIPHUS NYOKA BY MEMBERS OF THE BENONI SECURITY BRANCH CONSTITUTES A GROSS VIOLATION OF HUMAN RIGHTS, AND HOLDS THE MINISTER OF LAW AND ORDER, THE COMMISSIONER OF POLICE AND THE HEAD OF THE

FORMER STATE RESPONSIBLE. THE COMMISSION FINDS THAT THE TORTURE OF THE THREE MEN NAMED ABOVE CONSTITUTES A GROSS VIOLATION OF HUMAN RIGHTS, AND HOLDS THE BENONI SECURITY BRANCH, THE COMMISSIONER OF POLICE AND THE MINISTER OF LAW AND ORDER RESPONSIBLE.

Homelands

- 389 The conflict which had emerged in the urban areas from 1984 began to manifest itself in homelands across the country during 1986. In Bophuthatswana, KwaNdebele and Lebowa in particular, violence reached intense levels.
- 390 Numbers of recorded violations in the Transvaal homelands rose dramatically in this period, with most reports emanating from KwaNdebele and Bophuthatswana.
- 391 With the spread of UDF and COSAS activities to the homelands during 1986, many forms of township protest also reached these areas. In most homelands the response to open political protest was severe, resulting in widespread detention and torture by homeland police.
- 392 The homelands, particularly those that had achieved 'independent' status, had security powers that sometimes exceeded those of the South African state itself. A discernible difference in the nature of violations emerged in this period between the self-governing homelands (those without their own police forces and army) and the independent homelands, which had their own security apparatus. In the independent homelands, Venda and Bophuthatswana, acts of torture were by far the most common violations (42 per cent), while in the self-governing homelands torture makes up a relatively small percentage (26 per cent). Many of the statements (particularly for Venda) referred to the detention and torture of activists and suspected MK guerrillas. Almost half of the perpetrators are identified as members of the homeland police forces themselves. However, the involvement of the SAP in detention and torture in both Venda and Bophuthatswana is significant. A number of deaths were reported arising out of acts of torture.
- 393 In the homelands as in the urban areas, a cycle of retaliatory violence was set in motion as violence intensified between homeland security forces and UDF-aligned youth. Petrol-bombing, arson and necklacing were all used during the course of these attacks. One of the main targets of attack by opposition groups were the chiefs who, like community councillors in the urban areas, became increasingly unpopular for their implementation of government policy. The first major protests in the Transvaal against chiefly authority occurred in Lebowa and

KwaNdebele. In many places, chiefs bore the brunt of youth anger, suffering physical assault, attacks on their houses and expulsion from their villages. The rise of the youth movement under the banner of the South African Youth Congress (SAYCO) and the UDF rapidly and systematically destroyed the power of chiefs in many districts.

- 394 Partly in response to the rise of youth organisations and in lieu of formal coercive mechanisms such as homeland armies, this period saw the emergence of conservative vigilante organisations, most notably Imbokodo, Inkatha and Kabasa. These are discussed in the section entitled Vigilantes below, and in more detail in the Homelands chapter in another volume of this report.
- 395 In Venda, gross human rights violations took place in two major contexts. The most significant of these was the conflict between the homeland government and emerging civic, youth and other UDF-affiliated structures which protested against the homeland administration. The second was the conflict between homeland security forces and ANC insurgents crossing the borders from neighbouring countries through the homelands.
- 396 In 1985 the Northern Transvaal Action Committee (NTAC) was launched in Thohoyandou. The NTAC and the Youth Congress mobilised and organised local residents and students against the homeland system, culminating in an anti-independence campaign led by Venda University students and drawing in pupils from a number of secondary schools. The Venda government responded by setting up roadblocks and raiding villages and townships, searching for local leaders.
- 397 The Venda government appears to have made extensive use of detention and torture in its efforts to control opposition. The SAP were frequently involved in the interrogation of suspected MK members in Venda.
- 398 The Venda government experienced considerable instability after the death in May 1988 of the Life President, Chief Mphephu, and his replacement by his cousin, Mr Frank Ravele. Opposition to the homeland government took an extraordinary turn as government officials were widely believed by residents to be involved in more than twenty cases of 'medicine murder' (murder of people for their body parts to make medicines or 'muti') which took place between 1987 and 1989. Many of the officials appointed after Ravele's accession to power were reportedly illiterate and deeply rooted in traditional beliefs about the power of ritual sacrifice.

- 399 The medicine murders evoked widespread anger in the homeland. Government officials were accused of mishandling the investigation and alleged perpetrators were reportedly granted bail and had charges against them withdrawn. Protest activities brought the homeland to a standstill for a brief period.
- 400 Clashes between the security forces and students became inevitable. The Venda security forces patrolled villages and raided the homes of political activists. They detained student leaders and dispersed student meetings violently. Priests and pastors who supported the students were arrested, detained and tortured. The youth retaliated by assaulting people suspected of ritual murders, and attacking their homes. Homes of schoolchildren who attended classes during the school boycott were also burnt down.
- 401 Commission data which shows that 12 per cent of the violations reported to the Commission from the independent homelands during this period were killings, as opposed to torture (42 per cent) and severe ill treatment (44 per cent). It appears that Venda Police tended to beat (rather than shoot) students who engaged in political protests. However, assault could also lead to severe physical damage.
- 402 Mr Ndwamato Peter Rumani [JB01269/02NPVEN] was severely assaulted by Venda policemen during a student march to Makhado police station in June 1989. Rumani was sick at the time and did not participate in the march. However, the police found him in bed and *sjambokked* him until he lost consciousness. He was reportedly refused medical attention and claims that he still suffers from the effects of the assault.
- 403 Ms Tshinane Daphney Kwinda [JB01416/02NPVEN] was sixteen years old when she was seriously assaulted by several Venda policemen in August 1988, during a protest march against corporal punishment. Ms Kwinda lost her right eye in the assault and sustained injuries to her entire body. As a result of her injuries she was unable to continue with her education. Shortly afterwards, a group of policemen visited Kwinda at home and threatened "to take serious steps" if she intended taking the matter further.
- 404 President Ravele appointed a commission to investigate the causes of the unrest and ritual murders in Venda. Judge le Roux, the Chief Justice, was appointed the sole commissioner for this investigation. His findings were that the unrest emanated from the controversial death of Mr James Mavhina, a mentally unstable teacher who disappeared mysteriously before his mutilated body was discovered. When

pupils at his school did not receive a explanation from the school and government authorities, they launched a school boycott and a stay away in 1988.

- 405 Judge le Roux concluded that Mr Mavhina had in fact committed suicide, and said that the community's perception of his death as ritual murder had been promoted by 'radical' organisations such as the ANC and UDF in collaboration with the Venda Lutheran Church which, under the banner of Christianity, condoned and promoted violence against apartheid and the homeland governments.
- 406 Mr Lufuno Joshua Mulaudzi [JB01374/02NPVEN], a student at Venda University and a member of the UDF-affiliated NTAC and SAYCO, was arrested and interrogated as a result of his involvement in the launch of the 1986 anti-independence campaign. Mr Mulaudzi was allegedly tortured at Sibasa police station by officers he names as Nesehari and Mganga. He said he was forced to write a statement about his organisational activities. He was subsequently charged with public violence, but the charges were never pursued. During the following two years, the Venda Police allegedly continued to monitor his activities and on one occasion reportedly threatened him with death for continuing with his political activities.
- 407 Mr Motimedi Malaka [JB01270/02NPVEN], a long-term activist who had already been detained in 1976 and 1977 for his involvement in Black Consciousness organisations, was detained again and tortured in 1985 for his leadership role in NTAC. He was subsequently hospitalised for three months.

THE COMMISSION FINDS THAT THE VENDA POLICE AND THE VENDA DEFENCE FORCE USED UNDUE FORCE IN DEALING WITH STUDENT AND COMMUNITY PROTESTS TO INTIMIDATE PEOPLE AND PREVENT THEM FROM EXPRESSING OPPOSITION TO THE VENDA GOVERNMENT.

THE COMMISSION FINDS THAT THE VENDA POLICE AND THE VENDA DEFENCE FORCE WERE RESPONSIBLE FOR THE TORTURE AND SEVERE ILL TREATMENT OF STUDENTS, CHURCH AND COMMUNITY LEADERS. THE COMMISSION FINDS THAT THE TORTURE AND SEVERE ILL TREATMENT CONSTITUTES A GROSS HUMAN RIGHTS VIOLATION FOR WHICH THE VENDA GOVERNMENT IS HELD RESPONSIBLE.

THE COMMISSION FINDS THAT THE VENDA GOVERNMENT AND IN PARTICULAR THE VENDA POLICE AND THE VENDA DEFENCE FORCE COLLABORATED WITH EACH OTHER IN THE ARREST, DETENTION AND TORTURE OF MK CADRES OPERATING IN VENDA. THE COMMISSION FINDS THAT THE SOUTH AFRICAN SECURITY FORCES CO-OPERATED WITH THE VENDA DEFENCE FORCE IN DEALING WITH OPPONENTS OF THE VENDA GOVERNMENT.

- 408 In Bophuthatswana, freedom of political expression and activity could hardly be said to exist. The ruling Bophuthatswana Democratic Party dominated parliament throughout the territory's history, and various attempts to establish alternative parties and associations floundered as a result of severe repression.

409 Mr Matome Cornelius (Ronnie) Sekhaulelo [JB03711/03NWRUS], a nineteen-year-old COSAS activist, and Mr Mahase Rampone [JB02751/03NWRUS] were two of the students killed by Bophuthatswana Police during student protests in February and March 1986. Mr Sekhaulelo's aunt, Ms Thalitha Sekhaulelo, told the Commission that she went to the bus stop where the incident took place:

... at a distance I was seeing police beating with batons and sjamboks and iron bars. When I arrived there they were picking Ronnie to police van ... When I arrived at that van Ronnie was inside that van and he was lying, his leg was curled as if it is broken ... I handled his leg and I said to Ronnie, "Ronnie!" then he didn't respond, then I did that again and then he didn't respond.

410 The police informed Sekhaulelo's family that he was dead and restricted his funeral to family only.

411 Not only did the government of Bophuthatswana act coercively against its political opponents, it was also involved in the ongoing persecution of non-Tswanas in the homeland, whom Chief Minister Mangope blamed for political opposition in the territory.

412 The experience of the Winterveld community is a stark example of this ethnic persecution. By 1986 it was alleged that the police had killed fifty people in the Winterveld area and detained and tortured approximately 500.

413 Winterveld, an informal settlement in the Odi district of Bophuthatswana, was inhabited mostly by non-Tswanas, but was incorporated into Bophuthatswana at the time of the territory's independence. From this period onwards, the Winterveld community experienced ongoing harassment by the Bophuthatswana authorities.

414 On 26 March 1986, conflict between the Winterveld community and the Bophuthatswana authorities culminated in a meeting of between 5 000 and 10 000 people which was held on a soccer field in Winterveld. Bophuthatswana police, led by Colonel AM Molope, opened fire on the crowd, killing eleven people and injuring 200. More than 1 000 people were arrested and charged with attending an illegal gathering or with public violence. Police allegedly continued to assault residents even as they fled, dragging them out of houses and subjecting them to extensive battering, both at the scene and at GaRankuwa police station. Colonel Molope, who had given the order to open fire, was promoted soon after the massacre. A commission of enquiry into the shootings (the Smith Commission) began its investigation in April. Two months later, Colonel Molope was shot

dead in a Winterveld house. Both the PAC and ANC claimed responsibility for the shooting. In July 1988 the Bophuthatswana administration announced that it would not publish the commission's finding as its recommendations had already been implemented.

415 Although the findings of the Smith Commission were never published, this Commission was able to gain access to the report. The evidence given to the Smith Commission states that the majority of the people being arrested for suspected involvement in these activities were between the ages of twelve and twenty, and that many were assaulted while in custody, kept for longer than the statutory forty-eight hours without charge, and then often released without charges being brought against them.

416 The report said "initially the meeting was calm but sometime after the arrival on the field of Brigadier Molope the crowd became unruly. It was probably something that Brigadier Molope said to the people that upset them and triggered off an advance on the police." The report found that the shooting was justified in order to protect the lives of the policemen.

THE COMMISSION, HAVING HEARD THE TESTIMONY OF WITNESSES AND HAVING READ THE REPORT OF THE SMITH COMMISSION, FINDS THAT ON 26 MARCH 1986, RESIDENTS GATHERED IN THE ODI STADIUM TO ELECT A COMMITTEE TO NEGOTIATE THE RELEASE OF DETAINEES WITH THE BOPHUTHATSWANA GOVERNMENT. THE PEACEFUL GATHERING WAS DISRUPTED BY THE BOPHUTHATSWANA POLICE UNDER THE COMMAND OF COLONEL MOLOPE, WHO THREATENED THE CROWD IN HIS ADDRESS TO THEM. THE COMMISSION FINDS THAT THE POLICE STARTED BEATING PEOPLE IN THE CROWD AND ALSO SHOT TEAR GAS INTO THE CROWD. THE CROWD BECAME INCENSED BY COLONEL MOLOPE AND HIS POLICE, AND STARTED THROWING STONES AT THEM. THE COMMISSION FINDS THAT THE POLICE DID NOT ENGAGE IN PROPER RIOT CONTROL MEASURES BUT INSTEAD USED EXCESSIVE AND DEADLY FORCE ON THE CROWD. THE POLICE FIRED REPEATEDLY ON THE CROWD WITH LIVE AMMUNITION, KILLING ELEVEN PEOPLE AND SEVERELY INJURING TWENTY-EIGHT OTHERS.

THE COMMISSION FINDS THAT COLONEL MOLOPE INCITED AND ENRAGED THE CROWD WITH HIS THREATS AND THEN UNLEASHED VIOLENCE ON THEM WHICH WAS EXCESSIVE IN THE CIRCUMSTANCES. THE COMMISSION FINDS COLONEL MOLOPE AND THE BOPHUTHATSWANA SECURITY FORCES RESPONSIBLE FOR THE WINTERVELD MASSACRE. THE COMMISSION FINDS COLONEL MOLOPE, THE BOPHUTHATSWANA SECURITY FORCES AND THE BOPHUTHATSWANA GOVERNMENT RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE COMMUNITY, AND PARTICULARLY ACTIVISTS IN THE AREA, WERE ENRAGED BY THE ACTIONS OF COLONEL MOLOPE. THIS LED TO HIS ASSASSINATION ON 21 JUNE 1986. WHILST BOTH THE ANC AND THE PAC CLAIMED RESPONSIBILITY FOR HIS DEATH, THE COMMISSION IS UNABLE TO DETERMINE WHICH OF THE LIBERATION MOVEMENTS SHOULD BEAR RESPONSIBILITY. THE COMMISSION FINDS, HOWEVER, THAT HIS ASSASSINATION CANNOT BE CONDONED AND FINDS THE ACTIVISTS IN THE WINTERVELD AREA RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

- 417 Two years later, in February 1988, disaffected elements of the Bophuthatswana Defence Force (BDF) staged an attempted coup. They were led by Mr Rocky Malebane-Metsing, leader of the opposition Progressive People's Party (PPP), and Warrant Officer Mothuloe Timmy Phiri of the Bophuthatswana National Guard Unit. The coup lasted only fifteen hours before members of the SADF intervened and restored Mr Lucas Mangope to power. Five people died and one person was injured in the course of the coup and counter-coup. While the actions of the SADF, which had been sanctioned at State Security Council level, severely undermined the homeland's claim to independence, the coup also had far-reaching implications for the citizens of Bophuthatswana who were subjected to even more stringent repressive measures than had been in force before the coup.
- 418 Some of the reasons for the coup included disaffection in the BDF, allegations of corruption, misappropriation of government funds and manipulation of the October 1987 elections in Bophuthatswana as well as dissatisfaction with low salaries in the civil service and defence ministry. The dominance of whites in the BDF was another source of discontent.
- 419 A number of organisations such as Transvaal Rural Action Committee (TRAC), the Bafokeng Women's Club, the Black Sash and the PPP were banned in the wake of the 1988 coup. A ninety-day detention law was introduced. Batswana in the Bafokeng region, as well as members of youth clubs and women's cultural groups, were harassed and detained by members of the BDF and SADF.
- 420 By 23 February 1986, 423 people were being held in connection with the coup. Of these, 182 were members of the National Guard Unit and fifty-seven were members of the BDF. Two were policemen. In the wake of the coup, hundreds of opponents of the Bophuthatswana administration went into hiding as the Bophuthatswana security forces conducted what was termed a clean-up operation.
- 421 The increase in repression after the 1988 coup is reflected in the Commission's data, with the number of violations in Bophuthatswana almost trebling from one year to the next (thirty in 1987 to eighty-three in 1988). Several members of the PPP were detained and severely tortured in the wake of the coup.
- 422 PPP member Samuel Galeboe Thwane [JB00361/03NW] was one of those detained by security police after the attempted coup and was interrogated by two white policemen whose identities were not revealed. He testified to the Commission:

After seven days at (Rooigrond Central Prison) ... I was told to remove my clothes and was tortured with electric shocks to my genitals. This lasted from 7 in the morning until 5 in the evening. I was then taken to my cell. Several days passed until I was eventually released on the 24th of February without any charges pressed against me ... On the 26th of February I was re-detained on the orders of Commissioner Seleke. I was driven back to Rooigrond Central Prison. On the 28th Captains Molale and Mojanaga and nine other security policemen tortured and assaulted me. I was subjected to electric shocks to my genitals and repeatedly slapped and kicked. I was threatened with death and kept in solitary confinement and deprived of visits from my family. I was eventually released in May 1988 without any charges being pressed ...

- 423 Ms Caroline Masethebe Rampe [JB06400/03NWRUS] told the Commission that her son, Mr Falvius Bathusi Molelekeng (24), an active PPP member, was arrested on 11 February 1988 and died shortly after his release from detention. She said Molelekeng was tortured so badly, he could neither sit down nor walk upright. Before his death, she said, "he was telling me that 'Mother, those people have killed me' ".

THE COMMISSION FINDS THAT FIVE PEOPLE WERE KILLED AND ONE PERSON WAS INJURED DURING THE COUP ON 10 FEBRUARY 1988 BY MR ROCKY MALEBANE-METSING AND THE COUNTER-COUP FIFTEEN HOURS LATER BY PRESIDENT MANGOPE WITH THE ASSISTANCE OF THE SOUTH AFRICAN GOVERNMENT. THE COMMISSION FINDS MR ROCKY MALEBANE-METSING, PRESIDENT MANGOPE AND THEIR RESPECTIVE SUPPORTERS, AS WELL AS THE SECURITY FORCES OF THE SOUTH AFRICAN GOVERNMENT, RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT 423 PEOPLE WERE DETAINED AND TORTURED BY THE SECURITY FORCES OF THE MANGOPE GOVERNMENT IN THE AFTERMATH OF THE COUP. THE COMMISSION FINDS THAT THE TORTURE CONSTITUTES A GROSS VIOLATION OF HUMAN RIGHTS, FOR WHICH THE BOPHUTHATSWANA GOVERNMENT AND PRESIDENT LUCAS MANGOPE MUST ACCEPT RESPONSIBILITY.

- 424 The year 1988 also saw a high degree of inter-clan rivalry in response to the perceived nepotism of Mangope's government and the economic and political domination of his clan over other Tswana people. In 1988 there was a serious dispute in Taung when a chief affiliated to the Mangope regime, Mr Steven Molale, was imposed by governmental authorities over Chief Sam Mankuroane [JB04296/03NW], whom many of the Batlhaping tribe felt to be their rightful leader.
- 425 Several reports were received of the police beating people and using tear gas during this period. In October 1988 Chief Mankuroane went into exile. According to the statement given by Mr Piet Basimane Kgabileng [JB04325/03NW], a

roadblock was set up to prevent the chief from leaving. He was eventually smuggled out of the town in an ambulance. On 9 October 1988 a community meeting was held to inform the chief's supporters of his whereabouts in exile. Following the meeting, many people were beaten and intimidated by the Bophuthatswana Police. Ms Nananyane Susan Monye [JB04314/03NW] told the Commission that although she did not attend the meeting, she was attacked at about 14h00 by two Bophuthatswana Police members who demanded to know where Chief Mankuroane was, and started beating her before she was able to reply.

They then took me to the Chief's Court. There was a group of both young and elder people. The police then started sjambokking and hitting us with batons. I manage to escape at about 6pm from these beatings. I ran towards a nearby house behind the shop. I hid myself behind the toilet till about 9pm. Then I walked home.

THE COMMISSION FINDS THAT THE BOPHUTHATSWANA GOVERNMENT SOUGHT TO CONTROL THE APPOINTMENT OF CHIEFS IN AN ATTEMPT TO STIFLE POLITICAL OPPOSITION. THE BOPHUTHATSWANA GOVERNMENT IGNORED TRIBAL CUSTOM AND THE HEREDITARY SYSTEM OF CHIEFTAINCY AND DEPOSED THOSE WHO WERE SUPPORTIVE OF THE LIBERATION MOVEMENTS, REPLACING THEM WITH CHIEFS OF THEIR OWN CHOICE CONTRARY TO THE WISHES OF THE COMMUNITY.

THE COMMISSION FINDS THAT THIS POLICY OF THE BOPHUTHATSWANA GOVERNMENT CREATED A CLIMATE CONDUCIVE TO CONFLICT AND GROSS HUMAN RIGHTS VIOLATIONS OCCURRED.

426 In Lebowa, tension between the homeland government of Lebowa and UDF-affiliated organisations escalated dramatically in the wake of the formation of a UDF branch in the Northern Transvaal. Widespread attacks on the homes of chiefs, police, alleged witches and anyone else suspected of any connection with the homeland government ensued. The Lebowa government responded with increasingly indiscriminate violence. Marches and gatherings were dispersed with live ammunition. Dozens of people, including the very young and old, were rounded up and viscously assaulted. Among those detained were the chairperson of the UDF in the Northern Transvaal, Mr Peter Nchabaleng, who died two days after his arrest.

427 The Commission's data reflects the rapid escalation of torture in this period, with approximately sixty violations recorded between 1983 and 1989 in Sekhukhuneland, the heart of the conflict. Violence reached a peak in March 1986, when a battle broke out between Lebowa police and 'comrades'. As the conflict escalated, a sense of impunity appears to have developed among the Lebowa Police, who are described by a number of witnesses to the Commission as

boasting about the death of Mr Nchabaleng, and their power to exact the same price from them.

- 428 Mr Peter Nchabaleng [JB00498/02NPPTB] died in police custody on 11 April 1986. Mr Nchabaleng was a central figure in the establishment of the UDF in the Northern Transvaal. He was an experienced political activist and as such was a considerable political threat to the homeland and South African government authorities. Nchabaleng spent eight years on Robben Island for MK activities. On his release in 1971 he was banished to his birthplace, Apel in the Northern Transvaal, where he became involved in local politics. In 1977 he was again charged for involvement in MK activities in Sekhukhuneland. His wife, Ms Matsatsi Nchabaleng, testified that he was threatened with death and beaten by policemen when he was arrested. Nchabaleng's son Morris was also detained. During the course of Mr Morris Nchabaleng's detention and torture, different police boasted that they had killed his father, and would kill him as well.

... in a police station, it was full of blood, water and one policeman by the name of Mapetho told me that the blood that I see is my father's blood ... He undressed me. He called other people who were also in the cells to come and grab me and they stretched my legs and my hands and then they were all supposed to hit me, and then they put me into water and they removed me and said to me that they will take me to show me where my father died. They showed me a big trunk and they said to me, "This is where your father died and you are also going to die here."

- 429 Mr Stephen Moganedi [JB05134/02NPPTB] was detained with a minibus-load of people when they stopped at a shop on the way back from a funeral. Police from Motatema police station shot at them and detained them, believing that the group of youths had intended to plant a bomb in the shop. Mr Moganedi was severely assaulted and tortured at Motatema police station. Unlike most reports of torture in Lebowa, Moganedi's assault appeared to have been carried out by white policemen whom he names as De Kock and Geld.

I told them that I didn't understand why they were torturing and assaulting me. They asked me if I knew Mandela and I said even if I do not know him personally I want him to be released so that we could be freed. I was then kicked and De Kock said I should lie down and he kicked at me. They started kicking me on my thighs and they twisted my testicles and they hit me with a fist and they used their boots to assault me and I started crying and they demanded that I should tell them the truth. I asked them what truth they want ...

- 430 The police told him that they had arrested and killed Mr Peter Nchabaleng and that Moganedi would die too because he was Nchabaleng's friend.
- 431 Mr Makompo Lucky Kutumela [JB00511/02NPPTB; JB04847/99OVE], a twenty-six-year-old journalist and AZAPO member, was beaten to death at Makopane police station in March 1986. He had apparently been detained because of articles he allegedly wrote, which implicated the police in murder. His death precipitated a number of revenge attacks.
- 432 An inquest the following year concluded that Mr Kutumela had been murdered; a post mortem report revealed forty-one sjambok marks on his body. However, the Kutumela family were never notified of the subsequent court case against the policemen involved and only learned later that they had been found not guilty.
- 433 Union activist Yasser Phokela Rasethaba [JB00557/02NPPTB] narrowly escaped death after being detained by the Lebowa Police in 1986. Mr Rasethaba described to the Commission the repressive conditions in Lebowa at the time:

In Seshego specifically and other areas surrounding it, there were human rights abuses in those areas. I can give an example, we were not allowed to hold any meeting ... every time we wanted to hold meetings whether for the workers or the people, we were attacked in different ways. We were attacked in churches, they threw tear gas canisters ... The other things which were disturbing were, they used to kidnap people in Seshego, they used to assault and do bad things to them, some of them now are paralysed, some of them have been buried, we just buried them before this Commission started ...

- 434 Mr Rasethaba was stopped at a roadblock on his way to church in the evening. He was put in a police van which drove from house to house detaining other people. After several hours in the van, he identified one of the policemen as his neighbour. Rasethaba said that this policeman told him:

Rasethaba, there is nothing that we can do, comrades in Seshego are burning our houses, us policemen, our houses are being burnt, there is nothing I can do, we want to protect our houses.

- 435 Instead of being taken to a police station, Rasethaba and the others who had been detained were driven to a deserted graveyard. He was briefly questioned about his political activities and was then severely beaten. He was then taken to the police station where he was beaten again. As a result of his severe beating,

Rasethaba said, he was “raving unintelligibly”. Eventually he was hospitalised. A month later he was subpoenaed to appear in court along with thirty-nine others on charges of public violence. After three court appearances, the case was withdrawn.

THE COMMISSION FINDS THAT THE LEBOWA GOVERNMENT AND ITS SECURITY FORCES WERE RESPONSIBLE FOR THE ARREST, TORTURE AND DEATH OF MR PETER NCHABALENG IN APRIL 1986 AND THE ARREST, TORTURE AND DEATH OF MR MAKOMPO LUCKY KUTUMELA IN MARCH 1986. THE COMMISSION FINDS THAT MR YASSER PHOKELA RASETHABA WAS DETAINED BY THE LEBOWA SECURITY FORCES IN 1986 AND WAS SEVERELY ASSAULTED BY THEM. THE COMMISSION FINDS THE LEBOWA GOVERNMENT AND ITS SECURITY FORCES RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

- 436 In October 1985, Mr Ngoako Ramalepe [JB02813/02NP], chairperson of the Student Representative Council (SRC) at Modjadji College of Education in the Gazankulu homeland, was beaten to death by members of the Lebowa Police after being arrested at a shopping centre. Mr Ramalepe had just returned from a march to celebrate the recent release from detention of another colleague. Mr Robert Makoga, also an office-bearer in the SRC, was arrested with Ramalepe and was severely beaten at the police station. He alleges that Station Commander Ramulta of the Lebowa Police gave the order for the two to be arrested. Makoga told the Commission:

When I woke up I realised that we were in the bush. They dumped us there and I realised that Ngoako was with me there. As Ngoako was my senior or he was older than me, I could not pick him up, I just ran away and went back to the township in Gabane location. When I got there I explained to the students what happened to us and they decided to go to the hospital to look for Ngoako and they found that Ngoako was there at the hospital mortuary and he was dead and Mr Ramusi came to us the next day. He fetched me and he took me to his offices to get a statement from me

- 437 Sixteen-year-old Wilson Tibane [JB03220/02NPTZA] was also part of the wave of conflict which swept across Gazankulu during 1986. He was among a group of youths who marched towards Dan Village near Tzaneen to demand an end to the homeland government. They were intercepted by Gazankulu police who opened fire. Wilson Tibane was shot and killed. At his funeral the police violently dispersed mourners who ignored government restrictions on the number of people who could attend the gathering.

THE COMMISSION FINDS THAT MR NGOAKO RAMALEPE, THE CHAIRPERSON OF THE SRC AT THE MODJADJI COLLEGE OF EDUCATION, WAS ARRESTED AND DETAINED IN OCTOBER 1985 TOGETH-

ER WITH A FELLOW ACTIVIST, MR ROBERT MAKOGA. THEY WERE BOTH SEVERELY ASSAULTED BY THE LEBOWA POLICE AND MR RAMALEPE WAS KILLED. THE COMMISSION FINDS THE LEBOWA GOVERNMENT AND ITS SECURITY FORCES RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS IN RESPECT OF MR RAMALEPE AND MR MAKOGA.

Forced removals

- 438 By the early 1980s, nearly 1.3 million forced removals had taken place in the Transvaal. A further 600 000 people were scheduled for relocation in terms of the 1975 plan to consolidate the homelands. Urban relocation was implemented more thoroughly in the Transvaal than anywhere else in the country. Some townships were moved in their entirety to the nearest homeland, from where people would then commute. Strict labour recruitment measures and control on housing over the years restricted access to prescribed areas. Most 'black spots' (African-owned land in 'white areas' bought before 1913) were removed, but there was active resistance in the few that remained in the western and eastern Transvaal.
- 439 Although forced removals are not defined by the legislation as gross violations and thus do not fall within the mandate of the Commission, the resistance of communities to these removals led to confrontations which sometimes resulted in gross violations. Examples from the eastern, north-western and northern Transvaal are given below.
- 440 In the eastern Transvaal, the Driefontein Council Board of Direction, chaired by Mr Saul Mkhize, spearheaded resistance to the government's plans for the removal of Driefontein. Residents were severely harassed by police, culminating in the fatal police shooting of Mr Mkhize at a protest meeting on 2 April 1983. According to the official police statement, Mkhize was shot dead by one of two young constables who had been sent to investigate a complaint that an illegal meeting was being held at Driefontein school. The crowd allegedly became 'riotous', forcing the two policemen to fire tear gas and retreat. The policemen then opened fire, fatally wounding Mkhize.
- 441 Mkhize's death caused considerable embarrassment to the government because the imperatives of internal and international pressure at this time made the public display of brute force untenable. During the 1980s an attempt was therefore made to change government discourse around removals from 'forced' to 'voluntary'.

THE COMMISSION FINDS THAT THE FORCED REMOVALS OF COMMUNITIES LED TO CONFRONTATIONS WITH THE AUTHORITIES. THE COMMISSION FINDS THAT MR SAUL MKHIZE, A DRIEFONTEIN COMMUNITY LEADER, WAS KILLED BY THE POLICE DURING A MEETING HELD

BY THE DRIEFONTEIN COUNCIL BOARD OF DIRECTION TO PROTEST REMOVAL FROM DRIEFONTEIN. THE COMMISSION FINDS THAT THE KILLING OF MR MKHIZE CONSTITUTES A GROSS HUMAN RIGHTS VIOLATION FOR WHICH THE POLICE, THE MINISTER OF LAW AND ORDER AND THE FORMER STATE MUST ACCEPT RESPONSIBILITY.

- 442 For twenty years the north-western Transvaal communities of Braklaagte and Leeuwfontein struggled to stay on their 'black spots' near Zeerust, until they were forcibly incorporated into Bophuthatswana in December 1988. In April 1989, protest against the incorporation escalated into conflict, with intermittent school boycotts in both communities.
- 443 In Braklaagte, the Bophuthatswana Police allegedly set up roadblocks to stop pupils and ask them whether they regarded themselves as Bophuthatswanan or South African citizens. Those who said they were South Africans were allegedly struck with rifle butts. After the stoning of the house of a villager believed to be in favour of incorporation, police arrested more than 100 people and reportedly assaulted many of them. Doctors stated they had treated forty people for weals and wounds. In May, Bophuthatswana police clashed with residents of Leeuwfontein and allegedly assaulted many. Chief Mangope warned residents that the police were under his orders to maintain law and order in the area.
- 444 The conflict culminated in the killing of nine policemen and two civilians at a general meeting of the Leeuwfontein and Braklaagte communities on 1 July. The police reportedly halted the meeting, ordered the crowd to disperse and then opened fire with tear gas and rubber bullets. Police asserted that they were surrounded and attacked and had no choice but to defend themselves. Four of the policemen died when an army vehicle was set alight, trapping those inside; the other five were clubbed, stoned and hacked to death. A number of people were arrested, some by the SAP. Some were alleged to have been badly assaulted.
- 445 Sixteen people were charged with the murder of the nine policemen. TRAC, which was present during the incident, and its parent body, the Black Sash, were banned under the Internal Security Act.
- 446 In April 1986, when the government unilaterally incorporated the northern Transvaal township of Vleifontein into the Venda homeland, residents protested fiercely. Venda-speaking residents of the former ethnically mixed Tshikota township had been moved to Vleifontein a few years earlier in anticipation of their ultimate removal to the homeland. However, when the government tried to implement

this incorporation, they met with serious opposition, because residents had been misled about the reasons for their earlier move from Tshikota.

- 447 At a mass meeting attended by almost all the adults in Vleifontein, a twelve-person committee called the Venda Crisis Committee (VCC) was elected, representing teachers, students and workers. The VCC's brief was to negotiate for the reversal of the incorporation or, if this was not possible, to allow Vleifontein residents to return to Tshikota township.
- 448 The Venda government responded by moving its army and police into the township. Homes of VCC members were raided and activists were assaulted and tortured by the Venda Police. In the early hours of 13 June 1986, the Venda Police detained three young VCC members, Mr Steven Nemavide, Mr Russel Molefe and Mr Mpho Ronald Mashau. According to eyewitnesses the three were severely *sjambokked* after their arrest. Soon afterwards five other members of the VCC were detained, including Mr Edward Makgato, Mr Punki Phulwana, Mr Peter Tshikota, Mr Stephen Mokoditsoa, Mr Sonnyboy Mulaudzi and Bethuel Mudau.
- 449 The parents of fourteen-year-old Bethuel Mudau [JB03119/02NPLTM] told the Commission that Bethuel died shortly after being released from three months' detention at Vuwani police station. He was unable to return to school as a result of constant ill health and what his parents described as "a wound on the head".
- 450 Pitso Manamela [JB03207/02NPPLTM], a sixteen-year-old student involved in anti-incorporation protests, was detained and tortured on 13 June 1986 after allegedly having participated in petrol-bombing the home of a policeman who supported the incorporation of Vleifontein into Venda. Manamela was later charged with public violence.
- 451 On the same day, a bus transporting Vleifontein residents to work in Louis Trichardt was stopped at a roadblock manned by Venda Police. After commuters refused to disembark, the bus driver was ordered to drive to Tshitale police station, twenty kilometres away, where the commuters were ordered out and *sjambokked* by a row of policemen. The police said the passengers had to realise that Vleifontein was now part of Venda. The commuters were eventually released on bail three days later. The Commission heard that Ms Elisa Nthangeni [JB03334/02NPLTM] was one of the passengers on the bus who had been beaten by police.
- 452 Mr Muzila Phulwana [JB03216/02NPLTM] was also stopped at a roadblock on 13 June and was asked whether he had paid his Venda taxes. Mr Phulwana was

a long-term community activist who had fought against the removal of residents from Tshikota township to Vleifontein and was now a member of the VCC opposing the incorporation of the township into Venda. Phulwana was briefly detained before being released and re-detained on 15 June. After being beaten at Vuwani and Sibasa police stations, Phulwana was taken to Masise, where he was held for three months in solitary confinement. He was tortured with electric shocks and beaten. Convinced that the food he was being given was poisoned, he refused food and water, and was eventually admitted to the Trizine hospital.

THE COMMISSION FINDS THAT A NUMBER OF PEOPLE WERE SEVERELY BEATEN AND ILL TREATED IN THE CONFLICT BETWEEN THE BOPHUTHATSWANA POLICE AND THE RESIDENTS OF BRAKLAAGTE, WHO WERE RESISTING INCORPORATION INTO THE HOMELAND. THE COMMISSION FINDS THE BOPHUTHATSWANA POLICE AND THE BOPHUTHATSWANA GOVERNMENT RESPONSIBLE FOR THE SEVERE ILL TREATMENT OF THE BRAKLAAGTE RESIDENTS AND FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE POLICE REFUSED TO ALLOW A JULY 1989 MEETING OF BRAKLAAGTE AND LEEUWFFONTEIN RESIDENTS TO GO AHEAD, AND FIRED ON THE CROWD WITH TEAR GAS AND RUBBER BULLETS. THE COMMISSION FINDS THE BRAKLAAGTE AND LEEUWFFONTEIN COMMUNITY RESPONSIBLE FOR THE SUBSEQUENT KILLING OF NINE POLICEMEN AT THE SCENE, AND THEREBY RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE VENDA SECURITY FORCES OCCUPIED THE VLEIFONTEIN TOWNSHIP AND ARRESTED, DETAINED AND TORTURED ACTIVISTS AND MEMBERS OF THE VLEIFONTEIN CRISIS COMMITTEE WHO RESISTED THE TOWNSHIP'S INCORPORATION INTO VENDA. THE COMMISSION FINDS THAT THE DETENTION OF A FOURTEEN-YEAR-OLD BETHUEL MUDAU FOR A PERIOD OF THREE MONTHS AND HIS SEVERE ILL TREATMENT BY THE VENDA POLICE RESULTED IN HIS DEATH SHORTLY AFTER HIS RELEASE. THE COMMISSION FINDS THE VENDA SECURITY FORCES RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

Vigilantes

453 Vigilante activities increased in the Transvaal at this time. The main groups were Imbokodo and Inkatha (used in the KwaNdebele homeland to enforce removals and facilitate independence) and disaffected police and/or councillors responding to attacks against them. Kabasa appeared to be concerned mainly with curbing political organisation by the UDF.

Alexandra

454 On 22 April 1986, the township of Alexandra was besieged by groups of men wearing balaclavas, who drove through the township in private cars, shooting randomly and singing songs, including 'We are the new comrades'. The group divided itself up and systematically sought out activists and community leaders.

By morning, at least five people had been killed, thirteen vehicles destroyed and several activists' homes burnt. Many residents believed that the state was supporting the vigilantes, and some claimed that the vigilantes included black policemen who had been driven out of the township during earlier disturbances. In response, residents embarked on a stay away and held a protest meeting, which was attended by about 45 000 people.

- 455 Mr Obed Bapela [JB01889/01GTTEM] told the Commission that a group of gangsters, perceived to be members of the police, modelled themselves on the Soweto-based Ama Cabasa vigilante group:

... So they put those cloths on their heads, but then they had their uniforms on, the blue shirts and their navy blue trousers, but their blue shirts were not inside their trousers, they just pulled them out so that they pretended to be that group of Ama Cabasas who were on an attack. And from the direction that they came from is the Wynberg police station and then entered Alexandra, attacked all those targeted areas and they attacked all those areas where it was places of our meetings where in some instances it was our own people, our own leaders who stayed in those places and attacked during that night. And when they left Alexandra they retreated back to Wynberg police station.

- 456 The Commission received a number of statements from victims of this attack on the night of 22 April 1986:

- 457 Ms Moko Melita Lephuting [JB01785/01GTTEM] believes that the police attacked her family because they were activists. Her husband, Mr Samuel Zwane, was stabbed to death, her son Kenneth was wounded and their house was burnt down in the attack.

- 458 The Commission heard that Mr Linda Twala [JB01826/01GTTEM] and his family were attacked at their home on the same night. Mr Twala was a UDF activist who had been involved in politics in Alexandra since the 1970s. Ms Phumzile Twala [JB01871/01GTTEM] and two of her sisters, Ms Nomgcobo Madikane [JB00279/01GTTEM] and Ms Gladys Twala [JB01870/01GTTEM], were left alone in the house when their father went out in the evening. A crowd gathered in the yard and threw a brick through the window. The three sisters fled from the house and hid themselves in a dog kennel behind a neighbour's house. From here Phumzile was able to see members of the crowd stoning the house and then throwing 'bombs' into it, setting it alight. She alleges that the attackers were white men with blackened faces, wearing police uniforms and carrying AK-47s.

459 Other recorded violations on 22 April 1986 in Alexandra include an assault on Mr Boy Mabusane Moqhae [JB01827/01GTTEM], whose house was burnt to the ground; an assault on Ms Maria Malakoane [JB01882/01GTTEM]; the beating and stabbing of Mr Johannah Koapeng [JB02483/01GTTEM], allegedly by the police, and the shooting of UDF member Edward Raadt [JB02484/01GTTEM] by members of the Kabasa gang.

THE COMMISSION FINDS THAT GANGSTERS IN THE TOWNSHIP ACTING IN COLLUSION WITH THE POLICE FORMED VIGILANTE GANGS WHICH ATTACKED ACTIVISTS AND COMMUNITY LEADERS. THE COMMISSION FINDS THAT A VIGILANTE GROUP WENT ON THE RAMPAGE IN ALEXANDRA ON 22 APRIL 1986, ATTACKING ACTIVISTS AND COMMUNITY LEADERS. FIVE PEOPLE WERE KILLED, THIRTEEN VEHICLES DESTROYED AND SEVERAL HOMES BURNT DOWN. THE COMMISSION FINDS THAT THE POLICE FAILED TO ASSIST THE COMMUNITY AND THAT THE ATTACK WAS LAUNCHED FROM THE POLICE STATION IN WYNBERG.

KwaNdebele: Imbokodo

460 The Commission held a special hearing in Moutse, KwaNdebele, in 1996 to focus on the conflict in and around this homeland, and the operation of vigilante groups, notably Imbokodo and Inkatha. Imbokodo's role was to realise the KwaNdebele government's aspiration for independence through the forcible incorporation of Moutse, which would make the homeland a more viable geographic and political entity. At Leandra in the eastern Transvaal, the Inkatha vigilante group was similarly trying to coerce residents to accept incorporation into KwaNdebele.

461 The political conflict over independence and incorporation which engulfed the KwaNdebele area from mid-1985 until 1988 became, in effect, a civil war. Human rights violations – committed by a variety of individuals and groups on all sides of the conflict – were numerous and widespread. Scores of people were killed, not only by the security forces deployed to repress the unrest, but also by erstwhile neighbours, fellow students, business colleagues, and even family members. KwaNdebele's limited infrastructure was razed to the ground in a matter of months. Schools stood empty, shops and offices were gutted and entire communities lived in fear. By the winter of 1986, KwaNdebele had been irrevocably changed.

462 At the very centre of this maelstrom was a vigilante organisation known as Imbokodo ('the grinding stone'), led by the homeland's political and economic elite. Imbokodo was formed as a vigilante organisation with the support of the South African government to assert the dominance of the KwaNdebele elite and to achieve the political goals of independence and incorporation. Its members carried out daring and brutal attacks in which hundreds of ordinary residents were viciously

assaulted and publicly humiliated. The resentment and anger that followed such operations radicalised a previously apolitical population and was a significant cause of the unrest. However, once the conflict had begun, 'comrades' ruthlessly and methodically attacked suspected Imbokodo members and their families. Scores of suspects were summarily killed, often by the infamous necklace method.

- 463 At the hearing in Moutse, over 250 statements were made to the Commission regarding the conflict in KwaNdebele and Moutse in the mid-1980s. Collectively, the statements include almost 700 reports of gross violations. Of the 421 alleged incidents in which deponents have named perpetrators, over half list Imbokodo as the responsible organisation. These include allegations of Imbokodo involvement in seventeen deaths. 'Comrades' or ANC members are identified as alleged perpetrators in 14 per cent of the statements, including twenty-four killings. Amongst residents who approached the Commission, at least thirty-four victims had ties to Imbokodo or to the former KwaNdebele government. Together, their statements document twenty murders, all of which involved the burning of the deceased's body. At least nineteen of the deponents claimed that their residential and/or business properties were completely destroyed in arson attacks.
- 464 Vigilante activity was not new to the area. Earlier vigilante activity had targeted perceived agitators. When Imbokodo began their raids, entire communities were targeted, leading to widespread and indiscriminate assaults on residents. Although earlier vigilante activity enjoyed the express approval of the royal family, and as a result was accepted as legitimate by a large sector of the population, the actions of Imbokodo were denounced by the royal family and were clearly unacceptable to the vast majority of KwaNdebele residents. In the changed circumstances of the mid-1980s, vigilantism became a source of conflict rather than a means of diffusing it.
- 465 On balance, it is clear that the Imbokodo was a central protagonist in the KwaNdebele conflict. Its members were both perpetrators and victims of the violence that engulfed and nearly destroyed the homeland. Although not directly established or controlled by the South African government, politicians and policy-makers in Pretoria failed to act against the Imbokodo even when their officials on the ground encouraged them to do so.
- 466 On 1 January 1986, a large number of Imbokodo members (and KwaNdebele men forcibly enlisted for the day) attacked the Moutse villages of Moteti and Kgobokoane. In their effort to repel the invasion, Moutse residents killed a number

of vigilantes. These included four Imbokodo members suspected of trying to abduct the Bantoane chief at the royal kraal in Kwarrielaagte, Moutse. Approximately 360 Moutse residents were abducted from their homes and taken to the community hall in Siyabuswa where they were subjected to up to thirty-six hours of torture and ritual humiliation. While chanting Imbokodo slogans, the victims were forced to perform physical exercises until they collapsed. They were subsequently stripped naked and publicly *sjambokked* on a concrete floor covered with soapy water.

467 On 28 April, Imbokodo members surrounded the Mandlethu High School in Vlaklaagte No. 1, leading to clashes between students and vigilantes. The police eventually intervened to separate the two groups. After the Imbokodo were escorted from the area, the students returned home peacefully. That night, however, the Imbokodo returned and engaged in a house-to-house raid in the village. Those of school-going age were especially targeted. A number of youth were loaded into cars and bakkies and taken to Emagezini, a small industrial complex in Kwaggafontein, where they were assaulted with a variety of weapons. Many were severely wounded.

468 Mr Jacob Skosana, a father of eight, was the only adult taken to Emagezini. When rumours reached him that one of his daughters had been taken from school by the vigilantes, Mr Skosana allegedly confronted various Imbokodo members about his daughter's whereabouts. That night a group of men abducted him from his home. Early the next morning, Skosana's body was dumped back in the yard of his home, but surrounded by fire so that his family could not retrieve it immediately. The body had allegedly been mutilated.

469 Mr Skosana's funeral drew thousands. When the police arrived, reportedly with SADF back-up, they ordered the assembled crowd to disperse immediately. Soon afterwards they fired on the mourners with birdshot, rubber bullets and tear gas, creating panic in the crowd. Ms Sarah Mthimunye (19) [JB02212/01MPMPL] was run over by a bus when its driver was overcome by the tear gas. Many others were injured in the mêlée. That night, 'comrades' began burning businesses owned by suspected Imbokodo members and MPs in the KwaNdebele legislative assembly.

470 On 7 May 1986, State President PW Botha announced that KwaNdebele would take independence on 11 December 1986. When the press reports reached the homeland, residents approached the Ndzundza royal kraal and requested the king to call a public gathering with the KwaNdebele cabinet. The meeting was held on 12 May and was attended by an estimated 20 000 residents, the area's chiefs and two representatives of the homeland cabinet (who were advised to

travel to the meeting in a Casspir armoured personnel carrier). At the meeting, three demands were presented to the government representatives: (1) the disbanding of Imbokodo; (2) the cancellation of independence; and (3) the resignation of members of the KwaNdebele cabinet and legislative assembly for acting without a popular mandate. The cabinet promised to prepare a response for a report-back meeting scheduled for 14 May, and the crowd dispersed peacefully.

- 471 A few days later, local magistrate JN Theron prohibited the report-back meeting at the royal kraal. An estimated 25 000 people assembled the following day, unaware of the magistrate's prohibitions. Commuters were stopped by youths at barricades on the Pretoria road and redirected to the royal kraal. The Putco bus company later reported that 'comrades' had commandeered its entire KwaNdebele fleet of some 300 buses. While the assembled crowds were still waiting for the KwaNdebele cabinet to arrive, security forces dispersed the meeting with tear gas and rubber bullets fired from a hovering helicopter and from several patrolling Casspirs. Participants have testified that no warnings or instructions were given to the crowd prior to the actions of the security forces. Chaos ensued. The bodies of two men were later found at the royal kraal.
- 472 In the midst of the confusion, a number of youths were abducted by Imbokodo members and taken to a makeshift detention camp in the Vaalbank area. Fifty-four youths were held there without food or water and were subjected to periodic assaults by their Imbokodo guards. The youths alleged that their guards trampled on their stomachs, squeezed their genitals in vice-grips and burnt their feet with hot coals. One of the youths, Mr Johannes Ramahlale, managed to escape on 19 May and report the matter to the police, who raided the camp the next day and released the 'comrades'.
- 473 In the days following the dispersed meeting at the royal kraal, a virtual civil war spread across KwaNdebele as 'comrades', Imbokodo and security forces engaged in running skirmishes. In addition to direct conflict, students, teachers and civil servants held successful stay aways in the following weeks in protest against the cabinet's policies and the detention of various resistance leaders. Statements collected by the Commission confirm the escalation of violations, and especially of killings, in the three months following the meeting at the royal kraal.
- 474 On 11 June, 'comrades' carried out a planned attack on a Vlaklaagte business complex owned by KwaNdebele cabinet minister and vigilante leader Mr Piet Ntuli. At least one security guard was killed during the attack. Imbokodo retaliated the

following day by raiding Tweefontein, a large collection of villages in the Vlaklaagte area. Eyewitnesses have reported that the Imbokodo drove through the area in convoy, firing indiscriminately at youths running through the streets. At least four young men were fatally wounded. A number of residents were assaulted with *sjamboks* and *knobkerries*. Others were abducted and loaded onto a lorry accompanying the convoy.

- 475 Although the 'burning' of KwaNdebele reached its peak in May and June 1986, violence and unrest continued. The KwaNdebele cabinet remained committed to the goals of incorporation and independence while the Ndzundza royal family and the Moutse chiefs successfully marshalled popular resistance to such plans. The embattled Imbokodo retained sufficient strength to intimidate and attack the government's opponents, while the youth grew increasingly assertive, more effectively organised and much more violent in their approach. The homeland remained a no-go area until independence was called off in August.
- 476 On 29 July 1986 cabinet minister and vigilante leader Mr Piet Ntuli [JB02515/01MPMOU] was assassinated by South African security forces by means of a car bomb attached to his government vehicle.
- 477 A number of security force operatives have applied for amnesty for participation in or knowledge of the operation. These include: Brigadier Jack Cronjé (former divisional commander of the Northern Transvaal Security Branch); his subordinates Captain Jacques Hechter and Captain Jacob van Jaarsveld; Captain Chris Kendall (Security Branch commander at Bronkhorstspuit); General Joep Joubert (Commander General of SADF Special Forces); Sergeant Deon Gouws and Warrant Officer Stephanus A Oosthuizen (both of the SAP uniform branch).

THE COMMISSION FINDS THAT IMBOKODO ABDUCTED 360 MOUTSE RESIDENTS AND HUMILIATED AND TORTURED THEM AT A COMMUNITY HALL IN SIYASBUSWA. THE COMMISSION FINDS THAT THE TORTURE AND ASSAULT OF THE MOUTSE RESIDENTS CONSTITUTE A GROSS VIOLATION OF HUMAN RIGHTS FOR WHICH IMBOKODO, KWANDEBELE CHIEF MINISTER SS SKOSANA AND VIGILANTE LEADER PIET NTULI (DECEASED) ARE HELD RESPONSIBLE.

THE COMMISSION FINDS THAT ON 28 APRIL 1986, IMBOKODO ABDUCTED YOUTH FROM THEIR HOMES IN VLAKLAAGTE NO. 1 AND ASSAULTED THEM AT EMAGAZINI IN KWAGGAFONTEIN. THE COMMISSION FINDS THAT THE ASSAULTS ON THE YOUTHS CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH IMBOKODO, CHIEF MINISTER SS SKOSANA AND MR PIET NTULI ARE HELD RESPONSIBLE.

THE COMMISSION FINDS THAT MR JACOB SKOSANA WAS ABDUCTED BY IMBOKODO, TORTURED AND ASSAULTED, AND THAT HIS BODY WAS MUTILATED BY MEMBERS OF IMBOKODO. THE COMMISSION FINDS THAT THE ABDUCTION, TORTURE AND ASSAULT CONSTITUTE GROSS HUMAN

RIGHTS VIOLATIONS FOR WHICH IMBOKODO, SS SKOSANA AND PIET NTULI MUST ACCEPT RESPONSIBILITY.

THE COMMISSION FINDS THAT THE SOUTH AFRICAN SECURITY FORCES ASSASSINATED MR PIET NTULI, THE LEADER OF IMBOKODO, ON 29 JULY 1986. THE COMMISSION FINDS BRIGADIER JACK CRONJÉ, CAPTAIN JACQUES HECHTER, CAPTAIN JACOB VAN JAARVELD, CAPTAIN CHRIS KENDALL, GENERAL JOEP JOUBERT, SERGEANT DEON GOUS AND WARRANT OFFICER STEPHANUS OOSTHUIZEN, THE COMMISSIONER OF POLICE, THE MINISTERS OF DEFENCE AND OF LAW AND ORDER, THE HEAD OF THE SADF AND THE FORMER STATE RESPONSIBLE FOR THE DEATH OF MR NTULI, AND THUS FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

KwaNdebele: Inkatha

- 478 In Labohang township, adjoining Leandra in the eastern Transvaal, attempts to move residents to the homeland of KwaNdebele led to violent confrontations with the police. In spite of a 1983 ruling of the Supreme Court that Leandra residents should not be moved, the violence continued.
- 479 In December 1985 four people, Ms Nelly Madonsela, Mr Aubrey Mokoena [JB02806/01MPWES], Mr Thomas Masombuka and Ms Rose Khumalo, were killed by the police during a stay away to protest the forced removal of residents to KwaNdebele. In the wake of these deaths there were further attacks on police and councillors' homes. Armed youths marched in the streets, saying they wanted to root out all police and informers. Twenty youths were arrested. A march was organised to demand their release, and running street battles with the police followed.
- 480 The Leandra Action Committee (LAC), led by Chief Ampie Mayise and Mr Abel Nkabinde, also came under attack for protesting against the proposed removal. On 11 January 1986, Chief Mayise was publicly hacked to death in a mob assault on his house. The attackers were allegedly members of a vigilante group calling themselves 'Concerned Citizens' or Inkatha, who conducted a number of attacks on members of LAC and the Mpumelelo Youth Congress in retaliation for violence against police and councillors. Many of its members were drawn from a football club owned by a prominent figure amongst the vigilantes. Although the vigilantes called themselves Inkatha, it appears that this was merely a general identification with the conservative traditionalism of the Inkatha movement in Natal, rather than any formal links to the political party. Chief Minister Buthelezi in fact publicly disowned the Leandra vigilantes.
- 481 Chief Mayise's widow described the attack to the Commission:

He took his nap and I told him, alerted him that the Inkatha was coming and

he woke up. We looked through the window and we could see that group approaching our house and they got to our house. They had bottles, nip bottles and they started attacking us, throwing those bottles and stones over our house and we were inside the house at that time, the two of us. Suddenly the house was set alight. The roof burst open and I decided to go outside to ask as to what was their problem and why they were attacking us. As I tried to go outside they attacked me, throwing stones at me, and we decided to run away. Outside there by, there was a car parked and he got inside then ... They got hold of him, they took him with ... After quite some time my son – the one who is sitting next to me – came and told me that my husband was lying down there, the father, and he tried to pick him up, but he failed.

482 Ms Mayise names Mr Siphon Gadebe and Mr Maboy Zondo as two of the people whom she saw assaulting her husband.

483 A week after Chief Mayise's death, Mr Nkabinde and other LAC supporters applied for an urgent interdict restraining twenty-three named members of Inkatha, but further violent incidents took place after the chief's funeral. The police did not intervene.

484 During January 1986, an attempt was made on the life of Mr Nkabinde, whose home was also burnt. He later identified Sam and Joseph Zondo as leading assailants in the attacks on him. Mr Jan Nkabinde [JB02828/01MPWES], a relative of Mr Abel Nkabinde and executive member of the Mpumelelo Youth Congress, was severely assaulted and threatened with death by the vigilantes. He had fled the area after the attack on Chief Mayise, but was abducted from his hiding place:

... the group of people who got into the house then came to me and told me that they have been sent by Mr Zondo to come and collect me, because he wanted to talk to me ... After about 100 m they started hitting me, telling me that it is long that they have been warning me about these things, but I was not listening ... They took me to the graveyard ... Upon our arrival Mr Zondo said that I should be killed, because if I can be left and I am their enemy, I am going to kill them if I am not being killed. So I was assaulted by pangas ... After I was beaten he asked me that I had to choose how I, how do I want to be killed. So they closed my eyes and he put a gun on my head and told me that I am going to die. Then I apologised to them. Then one of them who was having the pangas, looking at me, he was ready as if, he stood as if he was ready to kill so I apologised to him.

THE COMMISSION FINDS THAT THE LEANDRA POLICE KILLED MS NELLY MADONSELA, MR AUBREY MOKOENA, MR THOMAS MASOMBUKA AND MS ROSE KHUMALO DURING A STAY AWAY, AND FINDS THE LEANDRA POLICE RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE CONFLICT AROUND INCORPORATION GAVE RISE TO THE FORMATION OF A VIGILANTE GROUP IN LEANDRA CALLING ITSELF 'INKATHA'. THE COMMISSION FINDS INKATHA RESPONSIBLE FOR THE KILLING OF CHIEF AMPIE MAYISE, THE BURNING OF HIS HOUSE AND THE ATTEMPTED KILLING OF MEMBERS OF HIS FAMILY. IN PARTICULAR, THE COMMISSION FINDS INKATHA VIGILANTE GANG MEMBERS SIPHO GADEBE AND MABOY ZONDO RESPONSIBLE FOR THE ATTACK ON CHIEF MAYISE. THE COMMISSION FINDS INKATHA MEMBERS SAM AND JOSEPH ZONDO RESPONSIBLE FOR THE ATTEMPTED KILLING OF LAC LEADER MR ABEL NKABINDE AND THE ARSON ATTACK ON HIS HOME. THE COMMISSION FINDS INKATHA RESPONSIBLE FOR THE ASSAULT AND ATTEMPTED KILLING OF MR JAN NKABINDE, A NEPHEW OF MR ABEL NKABINDE, AND HOLDS THE INKATHA VIGILANTE GROUP RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

KaNgwane: Kabasa

485 The eastern Transvaal self-governing homeland of KaNgwane, led by Chief Minister Enoch Mabusu, also experienced an escalation of tension at this time. At the end of 1985, violence flared in the Nsikazi region of KaNgwane, claiming the lives of at least two leading businessmen, a trade unionist and a chief. In February 1986, education-related protests led to sustained conflict lasting well into the year. In February alone, at least four people died in unrest-related incidents in KaNgwane, and damage estimated at R2 million was caused in the townships of Kabokweni and KaNyamazane.

486 It was in this context that the vigilante group, Kabasa, emerged as a powerful and violent conservative force in opposition to the wave of radical protest in the homeland. The Kabasa gang was formed in 1986 and operated in the areas surrounding Nelspruit, including KaNyamazane, Pienaars Trust, Luphisa Trust and Kabokweni.

487 Accounts from members of the community suggest that the Kabasa gang, which had about seven members, was formed essentially to fulfil the needs of a group of elite businessmen known to the community as *Sibaya S'khulu* (meaning the main or central kraal). The most prominent members of *Sibaya S'khulu* were Mr Enos Mazibuko and Mr Julius Nkosi. It seems likely that the Kabasa gang was first mobilised in response to violence associated with the school boycott launched in February 1986. This included attacks on businesses, development board offices, a school and police vehicles.

488 On 14 January 1986, development board offices and police vehicles were stoned and petrol-bombed at Kabokweni. The crowd was dispersed with birdshot. On

the weekend of 22 February about 4 000 youths set fire to the Khumbula High School and two shops, one of which belonged to a school inspector. A week later, twenty-three vehicles and a number of buildings were burnt in further unrest in KaNyamazane.

- 489 Twenty-six pupils appeared in Kabokweni Magistrate's Court on charges of public violence. Thousands of fellow pupils marched to court to attend the trials, and pushed down a courtyard fence to get in. Police opened fire, killing at least three pupils and injuring eighty. Ms Elizabeth Mdluli [JB00954/01MPNEL] was one of those shot outside the court. The lawyer for the children appearing in court stated later that there had been no provocation by the crowd and that the police had given no warning to disperse. In later reports it emerged that most of the pupils had been shot in the back. The shootings later came to be known as the Lowveld massacre.
- 490 The court shooting was followed by several incidents of unrest, including an attempt by a group of 200 pupils to hijack seven buses. In another incident, a boy was killed when police dispersed a group of alleged stone-throwers. At Kadisiki school, a boy was seriously injured by police firing birdshot at 400 pupils who were 'intimidating' scholars.
- 491 Restrictions were placed on the funeral of the three students killed in the Lowveld massacre. However, hours before the funeral on 22 March, as mourners were returning from the night vigil, there was further confrontation between students and police. Mr Msongelwa Amos Maseko [JB00943/01MPNEL] was walking back home from the night vigil with a group of friends when they encountered the police. He told the Commission that the police opened fire from a vehicle without warning. Maseko was shot and injured. One youth was shot dead by police, another was run over by a police vehicle, and four were seriously injured.
- 492 It is in the wake of these events that the Kabasa gang appears to have come to the fore. The Commission received several reports of joint activities between the security forces and Kabasa during June 1986. The Kabasa gang appears to have co-operated closely with both the SAP and the SADF. KaNgwane did not have its own security forces at this time.
- 493 On 16 June 1986, a meeting of students to mark the anniversary of the 1976 Soweto uprising was violently dispersed, according to Commission deponents, by members of the SADF and Kabasa. Students had gathered on the previous

evening to prepare for the commemoration. Ms Mildred Mthethwa's [JB01224/01MPNEL] fifteen-year-old brother, Bethuel, was killed when the members of the SADF and Kabasa opened fire on the protesters. Ms Mthethwa told the Commission of events before the funeral:

When the hearse arrived, the police were following the car ... When the police arrived at home they take the door, they were questioning where Bethuel is, they went here and there until they found him. They kicked him even while he was dead, they continues kicking him. When they were busy kicking the corpse, my father was becoming very angry. He tried to fetch something which we could use to fight the police because he was angry at what they were doing to the corpse. He questioned them, how can they kick somebody who is already dead? He therefore asked the police to kill him and when we all saw that our father was angry, we also decided to help our father to fight against the police. We fought against them. The police went out of the house.

- 494 Ms Phindile Mavis Ngobe [JB00984/01MPNEL] told the Commission that she was also shot. She and three other injured students were taken to Temba hospital by township residents. They were followed by members of the SADF who refused to allow the students to be admitted to hospital and instead called the police in Nelspruit to come and detain them. In detention they were assaulted and denied medical treatment.
- 495 Mr Madala Andres Ndlazi [JB00949/01MPNEL] lost his teenage son, Sydney, during the same incident. Ndlazi told the Commission that he came home to find his son lying dead in the dining room. He questioned both the army, who were at the scene, and police at the local police station, about the shootings. Both denied any involvement.
- 496 Mr Neville Shabangu [JB00940/01MPNEL], a founding member of the Lowveld Youth Movement, a local UDF affiliate, alleges that Kabasa members were involved in burning down his home. His nephew had been one of those shot dead by police outside the Kabokweni court about a month earlier. Shabangu was at home at the time of the arson attack and suffered severe burns which hospitalised him for more than four months. While in hospital, he was questioned by police about the identity of the arsonists. The day after his discharge from hospital, Shabangu was detained for three months and tortured. He told the Commission that members of the Kabasa gang were working with the police and were seen helping in the police station.

THE COMMISSION FINDS THAT STUDENT ORGANISATIONS WERE RESPONSIBLE FOR THE BOMBING OF POLICE VEHICLES AND DEVELOPMENT BOARD OFFICES IN KAPOKWANI, KANGWANE, ON 14 JANUARY 1986. THE COMMISSION FINDS THE STUDENTS RESPONSIBLE FOR THE ARSON ATTACKS ON THE KHUMBULA HIGH SCHOOL AND TWO SHOPS ON 22 FEBRUARY 1986.

THE COMMISSION FINDS THAT THOUSANDS OF STUDENTS GATHERED PEACEFULLY ON 11 MARCH 1986 TO SUPPORT TWENTY-SIX STUDENTS WHO WERE DETAINED AND CHARGED WITH PUBLIC VIOLENCE. THE COMMISSION FINDS THAT THE KANGWANE POLICE ATTACKED THEM WITHOUT PROVOCATION AND WITHOUT GIVING THEM ANY WARNING TO DISPERSE, FIRED REPEATED ROUNDS OF LIVE AMMUNITION INTO THE UNARMED CROWD. THREE STUDENTS WERE KILLED AND EIGHTY WERE SERIOUSLY INJURED, MOST BEING WOUNDED IN THE BACK. THE COMMISSION FINDS THE KANGWANE POLICE RESPONSIBLE FOR THE KILLING AND SEVERE ILL TREATMENT OF THE STUDENTS, AND THUS FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THE MINISTER OF LAW AND ORDER AND THE CHIEF MINISTER OF KANGWANE RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

Resistance and revolutionary groupings

497 As the conflict deepened and escalated during the mid 1980s, gross human rights violations became increasingly generalised, drawing in an ever-widening range of sectors, organisations and individuals as perpetrators. The ANC, MK and individuals associated with the UDF were identified as perpetrators during this period.

Attacks on representatives of government authority and informers

498 Individuals aligned to the UDF, frequently referred to as comrades, engaged in a range of violent actions against local representatives of the apartheid government and anyone perceived to have been beneficiaries of the apartheid system, targeting councillors, police and government-appointed chiefs in rural areas. People who owned businesses, and any other individuals who were perceived to have unfairly amassed wealth in poor townships were also vulnerable to attack. Teachers and school principals who were conservative or opposed to school boycotts were targeted in some instances. Black local authority offices, schools, homes and businesses were also frequently attacked.

499 Many youths associated with the UDF increasingly became self-appointed community police, identifying and sometimes eliminating alleged informers or 'impimpis'. Methods used included petrol bomb or hand grenade attacks on homes, necklacing, stabbing and beating. This policing role also extended to the implementation of the UDF's programmes, such as the consumer boycotts and stay aways. This phenomenon reached its peak in the 'people's courts' which were set up in some townships as a rudimentary form of alternative governance.

Sabotage campaigns

- 500 The period between 1983 and 1990 was marked by a significant shift in the nature of the ANC's armed campaign within the country. This was at least partially precipitated by the popular rebellion which swept across the country after the clashes in the Vaal in September 1984. At the ANC's Kabwe conference in 1985, consensus was reached about the need to increase the organisation's military and political offensive. A strategy was adopted which aimed at the seizure of power through a people's war. This involved integrating armed MK combatants with mass organisations inside South African townships, and rendering the townships ungovernable through attacks on the security forces and other representatives of the state.
- 501 Two campaigns were launched in 1985–86 in the Transvaal, one involving bomb attacks on urban targets, the other involving landmines. Both led to civilian casualties. Most of the people who testified to the Commission about this type of violation are white, though it is evident from police statistics that the majority of victims of the ANC's armed actions were black.
- 502 From late 1985 to mid-1987, certain MK units were tasked with the laying of anti-tank landmines in the rural areas of the northern and eastern Transvaal, the aim being to target military patrols. A number of civilians – farmers, farm labourers and members of their families -- were killed in approximately thirty landmine explosions. According to the ANC, twenty-three people died, two of whom were MK members laying a mine. However, other sources give a death toll of thirty-seven: twenty-five civilians, nine MK members and three security force members. Some of the victims of these landmine explosions have testified to the Commission. Most of the casualties appeared to have been women and small children.
- 503 On 16 December 1985, the Van Eck and De Nysschen families were holidaying at Messina when their vehicle detonated a landmine. Three women and four children between the ages of three and nine died in the blast. There were four survivors: Mr Johannes Frederick van Eck [JB00707/01MPWES] and his eighteen-month-old baby boy, Mr de Nysschen and his daughter, who was seriously wounded. To this day, Mr van Eck does not know what happened to his three-year-old son, who had been travelling with them. He described the emotional trauma to the Commission:

Do you know how it feels to be blasted by a landmine? Do you know how it feels to be in a temperature of between of 6 000 and 8 000 degrees? Do you know how it feels to experience such a blast that is so intense that even the fillings in your teeth are torn out. Do you know what trouble reigns if you

survive the blast and that you must observe the results thereof? Do you know how it feels – how it feels to look for survivors, only to find the dead and maimed? Do you know how it feels to see crippled loved ones lying and burning? Do you know how it feels to look for your three-year-old child and never, Mr Chairman, never to see him again and for ever after to wonder where he is? ... Mr Chairman, do you know how it feels to try to cheer up a friend while your own wife and two children lie dead? Do you know how it feels to leave a baby of eighteen months behind to go and look for help?

- 504 Two ANC insurgents, Mr Mthetheleli Mncube and Mr Mzondeleli Nondula were subsequently arrested for their involvement in the landmine blasts. They were tried for murder and possession of illegal weapons and were sentenced to death, later commuted to life. In 1992 both were freed in terms of an indemnity agreement on the release of political prisoners between the ANC and the De Klerk government. According to Van Eck, Mncube was given a hero's award by Mr Nelson Mandela in 1993.
- 505 In 1986, Ms Lindiwe Mdluli, a farm worker in the eastern Transvaal, and her eight-month-old baby were on their way to spend Sunday with their family when they were also killed in a landmine explosion.
- 506 Mr Johannes Roos [JB01350/01MPNEL] and his family were on their way home from a Sunday evening church service on 17 August 1986. Roos was following his wife in a separate car when the vehicle she was driving detonated a landmine. Ms Roos died three days later as a result of her injuries. Their son sustained severe brain damage and died seven months later. Mr Roos told the Commission of the trauma of seeing this happen right in front of him.

THE COMMISSION FINDS MR MTHETHELELI MNCUBE AND MR MZONDELI NONDULA RESPONSIBLE FOR PLANTING THE LANDMINES THAT KILLED MEMBERS OF THE VAN ECK AND DE NYSSCHEN FAMILIES. THE COMMISSION FINDS THAT THREE WOMEN AND FOUR CHILDREN WERE KILLED AND THE REMAINING MEMBERS WERE INJURED. THE COMMISSION FINDS MK AND THE ANC RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT MK PLANTED LANDMINES RESULTING IN THE DEATH OF MS LINDIWE MDLULI AND HER EIGHT-MONTH-OLD BABY. THE COMMISSION FINDS MK AND THE ANC RESPONSIBLE FOR THESE GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT MR JOHANNES ROOS LOST HIS WIFE AND THEIR SON IN A LANDMINE EXPLOSION FOR WHICH MK WERE RESPONSIBLE. THE COMMISSION FINDS MK AND THE ANC RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS FURTHER THAT THE ANC'S POLICY OF MINING AREAS IN THE NORTHERN AND EASTERN TRANSSVAAL LED TO THE DEATHS OF A NUMBER OF CIVILIANS. THE COMMISSION

ACKNOWLEDGES THAT THE ANC HAS ACCEPTED RESPONSIBILITY FOR THE LOSS OF LIFE THAT OCCURRED DURING THE LANDMINE CAMPAIGN. THE COMMISSION NOTES FURTHER THAT THE LANDMINE CAMPAIGN WAS TERMINATED BY THE ANC DUE TO THE HIGH NUMBER OF CIVILIAN CASUALTIES.

- 507 During the 1980s, MK planted a number of bombs in urban areas of the Transvaal. According to ANC policy, the targets selected were meant to be security force personnel or the buildings in which they worked, such as police stations or military installations, but the reality was that more civilians than security force personnel were killed in such explosions.
- 508 The first major bomb blast of this kind was the Church Street bombing in Pretoria on 20 May 1983.³¹ Twenty-one people were killed and 219 injured when a car bomb exploded outside the building which housed the administrative headquarters of the South African Air Force. Eleven of the dead were employees of the South African Air Force, two others were MK operatives. The remaining casualties were civilians.
- 509 Three amnesty applications have been received in respect of this incident. Mr Aboobaker Ismail [AM109/97] applied for amnesty in his capacity as an 'Instructor (1978–79)', 'a member of the command structure of Special Operations (1979–87)' and 'Chief of Ordinance (1987–90)'. Mr Johannes Mnisi [AM7096/97] tested the devices and was part of the contact with Mr Freddie Shongwe and Mr Izekiël Masango, the MK operatives who died in the explosion. Ms Helene Pastoors [AM7289/97] delivered the car with the explosives for the two operatives to pick up.
- 510 A number of those injured by the Church Street bomb, and relatives of those who died in the blast, have testified to the Commission. Most of the deponents described the traumatic personal and economic cost of the blasts rather than the circumstances of the blast itself.
- 511 Ms Adrianna de Wet [JB00689/02PS], a member of the South African Air Force, lost her mother in the blast. Ms Walters [JB00696/02PS] lost her husband, Stephanus. Mr Neville Clarence [JB00702/02PS] was a member of the South African Air Force. He lost his sight as a result of injuries sustained in the blast. Ms Marina Geldenhuys [JB00163/01ERTEM], an employee of the South African Air Force, sustained severe injury to her eardrums, as well as other injuries.

THE COMMISSION FINDS MR ABOOBAKER ISMAIL, MS HELENE PASTOORS, MR JOHANNES MNISI, MR FREDDIE SHONGWE AND MR IZEKIEL MASANGO RESPONSIBLE FOR THE CHURCH STREET BOMBING IN WHICH A NUMBER OF PEOPLE WERE KILLED, INCLUDING MS MEYER AND MR STEPHANUS WALTERS, AND SEVERAL OTHERS INJURED, INCLUDING MR NEVILLE CLARENCE

³¹ For more information on this and other bombings, see Volume Two of this report.

512 During 1987 there were several bomb blasts in Johannesburg. One of these bombings took place on 20 May outside the Johannesburg Magistrates Court. Four policemen were killed and fourteen other people injured. Mr Adriaan Pieter Duvenhage's son [JB02168/03WR] André, a policeman, went to assist the injured and was killed when a second explosive was detonated. Two applications for amnesty have been received in respect of this incident (Mr William Mabele [AM5313/97] and Mr Joseph Kgoetle [AM7500/97]).

Attacks on the police

513 Attacks on policemen and their homes escalated dramatically once the ANC adopted the strategy of a 'people's war'. According to the former Minister of Law and Order, Mr Adriaan Vlok, 144 policemen were killed between 1984 and 1987.

514 Most of the information which the Commission collected about attacks on members of the SAP emerges from MK members' amnesty applications rather than from the police themselves coming forward to describe these attacks on them.

515 In 1988, Constable Edmund Gregory Beck [JB00135/01GTSOW] was patrolling with two other constables when he was shot in an ambush allegedly carried out by ANC members. Two recently arrested rent defaulters were in the police van at the time of the ambush. One of these was critically injured. Constable Beck was hospitalised for a year after the incident. He described the ambush at a Commission hearing:

I just suddenly heard the sound of automatic and rapid fire from – machine gun fire. Then I heard screams at the back ... the people at the back of the van that I was patrolling with were hit, one civilian was hit through the neck. And then suddenly I heard shots all over round me that was shot from the sides, concentrating on my position as the driver. The shots riddled through the bodywork of the vehicle, past my body, past my head and shattered the windscreen and windows of the vehicle. I then accelerated to pick up speed in order to get the people to safety and I didn't know whether my assailants were on foot or by car, but eventually the engine of the vehicle was struck and I was hit through the right leg at the tibia several times ...

516 Mr Mayeza Peter Mahavle [JB01101/01MPNEL] details the difficulties he faced as a black policeman working in the eastern Transvaal during the 1980s. He suffered

two arson attacks in 1981 and 1986. According to Mr Mahavle, both incidents resulted from mistaken identity. In the first case he allegedly resembled a policeman who had detained ANC members, and in the second he was mistaken for a policeman who had shot a young boy during a stay away in 1986. Mahavle told the Commission that in spite of being targeted because of his role as a policeman, he also faced suspicion from his white colleagues who suspected that he had sympathies with the forces for liberation.

THE COMMISSION FINDS THE 'COMRADES' RESPONSIBLE FOR THE ATTEMPTED KILLING OF MS MAHAVLE, THE WIFE OF POLICE OFFICER MAYEZA PETER MAHAVLE, AND THE ARSON ATTACK ON THEIR HOME, IN 1981. THE COMMISSION FINDS THE UDF AND THE ANC RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS.

- 517 Few former community councillors came forward to testify to the Commission about the many attacks that were perpetrated against them in the Vaal area during this period. Such was the extent of violence against councillors that by June 1985 only five of the thirty-eight black local authorities remained in office. Attackers did not always discriminate between councillors and their families, who were frequently caught in the crossfire. The issuing of firearms to councillors for their defence contributed to the conflict. This is evidenced by events in Sebokeng, where a councillor opened fire on a group of marchers protesting against rent increases, thereby precipitating widespread violence.

Necklacing

- 518 The necklace became a terrible symbol of the brutalisation of political conflict in South Africa during the mid-1980s and claimed at least 400 lives. Most of the victims were alleged informers, although councillors, police, and chiefs were also vulnerable to this sort of attack. Most of the perpetrators aligned themselves with the UDF. Although official policy of both the UDF and the ANC was to condemn necklacing, the public statements of the leadership of these organisations were sometimes ambiguous and appeared to give tacit and sometimes overt approval to the practice.
- 519 Ms Maki Skhosana [JB00289/01ERKWA] was necklaced in July 1985, on suspicion of complicity in the deaths of eight young COSAS activists on the East Rand. They had died while trying to use hand grenades which had been booby-trapped by security force agents (see under Covert Action above). Ms Skhosana, who was herself involved in student politics, had been the first person contacted by 'Mike' (Vlakplaas operative Joe Mamasela posing as an MK operative), and had put him in contact with the COSAS activists. It later emerged that Skhosana,

unaware of Mamasela's position within the police, was involved in a relationship with him. Survivors of the attack still seem divided as to whether Skhosana had in fact betrayed them. However, after her sister, Ms Evelina Puleng Moloko, testified at the Commission hearings, the family was formally accepted back into the East Rand community in a significant symbolic process of reconciliation.

THE COMMISSION FINDS THAT MS MAKI SKHOSANA WAS WRONGLY ACCUSED OF BEING AN INFORMER AND RESPONSIBLE FOR THE DEATH OF THE 'COMRADES' IN THE BOOBY-TRAPPED HAND GRENADE INCIDENTS. THE COMMISSION FINDS THAT MS SKHOSANA WAS NOT AWARE OF THE FACT THAT 'MIKE' WAS JOE MAMASELA, AN ASKARI. THE COMMISSION FINDS THAT THE NECKLACING WAS A GRUESOME ACT OF EXTRAORDINARY VIOLENCE THAT CAST A BLIGHT ON THE STRUGGLE FOR FREEDOM. THE COMMISSION FINDS THE 'COMRADES' AND THE COMMUNITY AT DUDUZA RESPONSIBLE FOR THE NECKLACING OF MS SKHOSANA, AND THAT THE UDF AND THE ANC MUST ACCEPT RESPONSIBILITY FOR THIS GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE ROLE PLAYED BY THE STATE IN MANIPULATING COMMUNITY PARANOIA AND INFILTRATING INFORMERS INTO COMMUNITIES AND ACTIVIST STRUCTURES CREATED A CLIMATE WHICH GAVE RISE TO VIOLENCE AND GROSS VIOLATIONS OF HUMAN RIGHTS.

520 Mr Frank Mlotshwa, the son of Ms Bayeni Annie Silinda [JB01323/01MPNEL], was burnt as an informer in September 1986. The reasons for his murder are unclear, but appear to be related to the fact that he had previously worked for the Nelspruit municipal council and did not immediately comply when ordered by a group of sjambok-wielding 'comrades' to come to a meeting. Mr Mlotshwa spent four days in hospital before he died.

521 Nineteen-year-old Mr Lucky Mnisi [JB1099/01MPNEL] was burnt to death on 3 July 1986. Mr Mnisi was a student activist who was repeatedly detained by police. It appears that, as a result of the violence he experienced while in detention, he agreed to work for the police. He was murdered soon after his release from jail. Before his death he told his mother, Ms Jameya Mnisi, that he had agreed to work for the police. Ms Mnisi told the Commission:

He said, "Yes mother, the police ended up arresting me, they took me to the cells and they assaulted me and after assaulting us we spent a week in jail and at the end of that the police gave us uniforms and they gave us guns." And I said, "Why did you take those?" And he said "Mother, I thought that they would leave me alone."

THE COMMISSION FINDS THAT THE 'COMRADES' WERE RESPONSIBLE FOR THE FATAL BURNING OF MR FRANK MLOTSHWA. THE COMMISSION FINDS THE 'COMRADES', THE UDF AND THE ANC RESPONSIBLE FOR HIS DEATH AND THUS FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT MR LUCKY MNISI WAS BURNT TO DEATH BY 'COMRADES' BECAUSE HE WAS SUSPECTED OF BEING AN INFORMER. THE COMMISSION FINDS THAT THE

ROLE PLAYED BY THE STATE IN COMPROMISING MANY ACTIVISTS AND COERCING THEM INTO BECOMING INFORMERS AND ASKARIS RESULTED IN THE MURDERS OF MANY ACTIVISTS AND COMMUNITY MEMBERS. THE COMMISSION FINDS THE FORMER SOUTH AFRICAN GOVERNMENT RESPONSIBLE FOR CREATING A CLIMATE WITHIN WHICH GROSS HUMAN RIGHTS VIOLATIONS WERE COMMITTED. THE COMMISSION FINDS THE 'COMRADES', THE COMMUNITY, THE UDF AND THE ANC RESPONSIBLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS.

Inter-organisational conflict

- 522 Although the 1980s were fairly quiet in terms of inter-organisational conflict compared to the 1990s, political divisions did lead to some violence, in particular between adherents of Black Consciousness and Charterist organisations such as the UDF.
- 523 Violence seemed to occur primarily between the youth or student branches of the UDF-aligned student organisation, COSAS, and the Black Consciousness student organisation, AZASM. A variety of violent methods were employed in the battle for ideological supremacy, including hand grenade attacks on homes. Conflict occurred primarily in the urban townships of Soweto, Tembisa, Mohlakeng and Alexandra, but one Commission deponent reports violence from as far afield as Lebowa in the northern Transvaal.
- 524 Conflict erupted early in 1985 when groups of Black Consciousness-aligned activists disrupted a rally at Regina Mundi Church in Soweto which was to have been addressed by Senator Edward Kennedy from the United States. The resulting conflict involved abductions, kidnappings, killings, bombings and attacks on homes. The president of AZAPO, Mr Ishmael Mkhabela, alleged that the last nine months of 1985 saw at least four members of AZAPO killed, nineteen attacked, thirteen arrested and thirty-three of its members' houses burnt in UDF-AZAPO conflict. Sites of conflict included Dlamini, Tladi, Moletsana, and Orlando East.
- 525 A few people came to the Commission to testify about this conflict. The two witnesses who testified at the Commission's Soweto hearings were both mothers whose sons had been killed in apparently targeted assassinations. Mr Walter Dhlamini (19) [JB00331/01GTSOW] was shot dead on his way home from school, allegedly by members of AZAPO. Mr Lereng Mahau (22) [JB00419/01GTSOW] was stabbed, stoned and necklaced, allegedly by UDF members, after attending the funeral of another youth killed in the conflict. Despite their youth, both Mr Dhlamini and Mr Mahau were long-term political activists. Dhlamini had been repeatedly detained and tortured by local police before his death. Mahau had recently been released after serving a five-year term on Robben Island for sabotage.

Before they murdered him, Mahau's attackers allegedly accused him of thinking he was 'smart' because he had been to Robben Island.

THE COMMISSION FINDS THAT ONE OF THE LEGACIES OF APARTHEID WAS THE POLITICAL DIVISION THAT EXISTED IN COMMUNITIES BETWEEN THE CHARTERISTS AND THE ADHERENTS OF THE BLACK CONSCIOUSNESS MOVEMENT. WHILST RECOGNISING THE ROLE THAT THE STATE PLAYED IN EXPLOITING THE DIVISIONS IN COMMUNITIES, THE COMMISSION FINDS NEVERTHELESS THAT THE STUDENT FORMATIONS OF THE UDF AND AZAPO, NAMELY COSAS AND AZASM, WERE ENGAGED IN BATTLES FOR IDEOLOGICAL SUPREMACY AT COMMUNITY LEVEL. THE BATTLES WERE BLOODY AND RESULTED IN A NUMBER OF DEATHS AND INJURIES, ALONG WITH A NUMBER OF HOMES BEING BURNT. THE COMMISSION FINDS THAT THE POLITICAL INTOLERANCE BETWEEN RIVAL POLITICAL GROUPINGS RESULTED IN THE GROSS VIOLATION OF HUMAN RIGHTS, FOR WHICH THE UDF AND AZAPO ARE FOUND TO BE RESPONSIBLE.

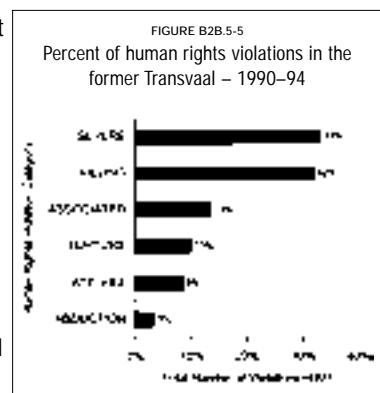
■ 1990-1994

Overview of violations

526 Between 1990 and 1994, political violence claimed the lives of approximately 15 000 people. According to the HRC, during the preceding five years, 1984-1989, 3 500 people had died as a result of political conflict. The SAP estimated that, in 1990, damage to buildings and vehicles as a result of 'unrest' led to losses of R105 million compared to R34 million lost the previous year³².

527 Evidence before the Commission shows almost twice the number of reported killings (circa 1 550) occurred between 1990 and 1994 as in previous period (circa 850), becoming the most frequently reported violation.

528 The contest for power set in motion by the unbanning of organisations and the opening up of political processes in 1990 led to a substantial proportion, although not all, of the violence reported in the Transvaal in the period. The violence took the form of internecine conflict, rather than direct conflict with the security forces as in previous decades.



529 Much of the conflict that took place during this period was concentrated in the PWV (Pretoria-Witwatersrand-Vereeniging triangle) region of the Transvaal. Until July 1990, ongoing internecine violence had remained largely confined to Natal. However, in the wake of an Inkatha Freedom Party (IFP) rally at Sebokeng in the

³² Centre for the Study of Violence and Reconciliation, *Review of Political Violence*, 1990.

Vaal Triangle, which left twenty-seven people dead, it moved rapidly to the Transvaal, spreading to the East Rand, Soweto, the West Rand and Alexandra townships. In each case, non-Zulu hostel-dwellers were driven out of the hostels, which became launching pads for attacks against surrounding communities and, in particular, informal settlements.

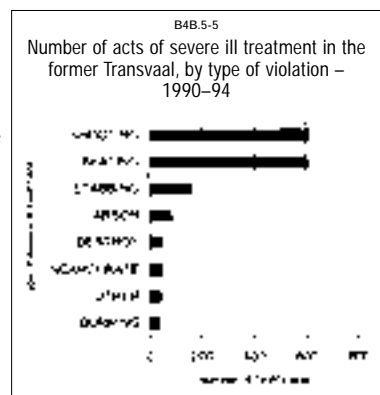
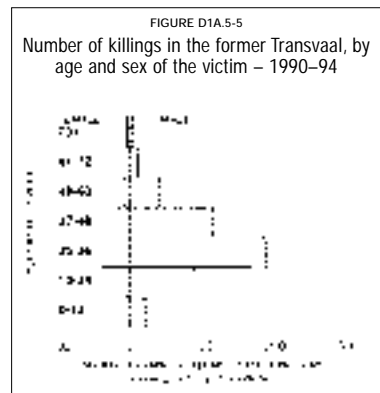
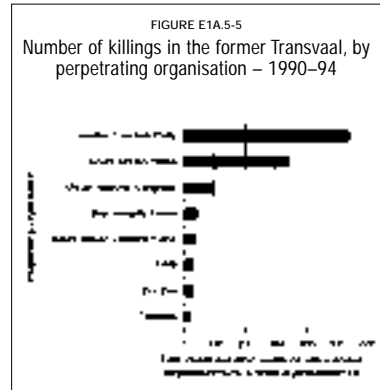
- 530 Ironically, the violence of the 1990s took place in the context of political reform and a process of negotiated transition. However, it was precisely this process that precipitated the rapidly escalating conflict. The unbanning of political organisations by FW de Klerk in 1990 and the possibility of democratic elections created an environment of intensified political competition as long-banned political organisations returned to re-establish themselves in the country, while other organisations such as the IFP entered the national arena as a formal political party.
- 531 Although the violence was precipitated and fundamentally shaped by the contest for political power which took place in the wake of the unbanning of political organisations, there were a variety of other divisions, including generational, economic, territorial and personal, that impacted on the form that violence took and motivated people's participation in it. These conflicts were intensified by the context of poverty and disempowerment within which they occurred.
- 532 The stakes were very high. The open expression of diverse political opinions had long been suppressed and levels of political intolerance were extremely high. In July 1990, COSATU called a stay away to protest against the high levels of violence in KwaZulu-Natal. Allied to this initiative, a number of organisations, most notably the South African Youth Congress (SAYCO), declared Inkatha "an enemy of the people" and the houses of many IFP officials in the Transvaal, particularly those town councillors who had allied themselves to Inkatha, were petrol-bombed.³³ On the other hand, members of the IFP were reportedly involved in a forced recruitment campaign in the PWV hostels, were expelling non-Zulu residents from hostels and engaging in numerous acts of violence against township residents and ANC supporters.
- 533 Evidence before the Commission for the area covered by the Johannesburg office reflects a shift away from the direct conflict between former state and its political opponents that dominated all previous decades. During preceding periods, the most frequently identified perpetrator was consistently the South African Police (SAP), during the 1990s, the number of violations attributed to the Inkatha Freedom

³³ Hostels on the Reef, the Goldstone Report, Dr Anthony Minnaar, Centre for Conflict Analysis, Human Sciences Research Council in *Indicator SA*, Vol. 10 No 2 Autumn 1993.

Party (IFP) exceeded those attributed to the SAP. The SAP, however, remained the second most frequently identified perpetrators of reported violations. During this period, members of the ANC were also identified as perpetrators of gross violations. The arming of ANC self-defence units (SDUs) increased levels of violence as these units became involved in local conflicts, sometimes abusing their power. Right-wing organisations during this period also engaged in sometimes violent opposition to the political reforms introduced by state president Mr F W de Klerk. Criminal gangs, such as the Toasters and the Zim Zims, were also drawn into the political conflict, becoming perpetrators of political violence for the first time.³⁴

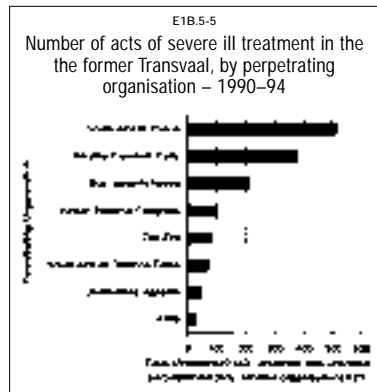
534 Not only did the violence of the 1990s claim more lives, its nature changed dramatically. Indiscriminate massacres in which gunmen opened fire on train commuters, people drinking in shebeens or sleeping in their beds became endemic. Violence against women, children and the elderly rose dramatically. The more generalised nature of the violence in the early 1990s is reflected in a wider age range of victims. However, the deaths of victims in the 25–36 age group show the most significant increase during this period. The number of women victims of killing also rose during this period, particularly in the 25–36 age group. By far the majority of victims of killing violations were, however, men.

535 The dominant forms of severe ill treatment occurring during this period were shooting, beating, and stabbing.



34 Please note that in 63% of killing violations, no perpetrator is recorded.

536 The major perpetrators identified are the South African Police and the Inkatha Freedom Party.



537 As the conflict continued, it became more sustained and pervasive and developed a momentum of its own. This was reflected in the intensified destabilisation of the political environment. In some areas, such as Soweto during the early 1990s and later in the East Rand, violence degenerated into an ongoing war of attrition with hundreds of people fleeing their homes to escape the killing.

538 Conflict between hostel-dwellers and residents of adjacent townships and settlements was a major site of conflict in this period. Since the 1976 attack by Mzimhlope hostel residents on protesting students in Soweto in which seventy people died, there had been a history of animosity between the two communities. This was exacerbated during the 1980s as the urban-centred nature of township politics frequently marginalised hostel residents.

539 The question of ethnicity gradually came to play a decisive part in the conflict between hostel-dwellers and township residents. After 1990, ANC-aligned organisations began calling for the abolition of the hostels and their replacement by family units. This fundamentally threatened the security of hostel residents who wanted to maintain their families and homes in the rural areas but could not afford to do so unless they could stay in the low-cost urban hostels.³⁵

540 Allegations of forced recruitment in the Transvaal hostels were prevalent in the early 1990s and were attributed principally to the IFP, which was launched as a national political party in July 1990. Soon after this, the organisation began a vigorous recruitment drive in the Transvaal area where surveys had shown not only a lack of support, but overt animosity towards the organisation.³⁶ The attempt by the IFP to politicise and manipulate ethnic identity was a powerful political tool and served as a springboard for Inkatha's attempt to penetrate the urban Transvaal and launch itself as a national political force. For hostel residents themselves, ethnic identities were used as a means of coping in a hostile urban environment. The result was the political mobilisation of a defensive community along ethnic lines.

³⁵ *The Human Face of Violence: Hostel Dwellers Speak*, Lauren Segal, Centre for the Study of Violence and Reconciliation, Seminar Paper no 6, September 1991.

³⁶ Community Agency for Social Enquiry (CASE).

- 541 The allegations of forced recruitment in the Transvaal were similar to those made in Natal during the mid-1980s in areas controlled by the KwaZulu government. However, in the Transvaal the IFP did not have the same administrative control as in KwaZulu-Natal and had to rely on more direct physical coercion. The IFP also accused the ANC of not allowing any opposition. Hostels were built at a time when African people were seen as temporary sojourners in South Africa's towns and cities. The large dilapidated buildings built to house single males in large concentrations created the ideal context for coercion and forced recruitment. This environment also facilitated rapid mobilisation, instant meetings and preparation for armed attacks.
- 542 During the early 1990s, violence from the hostels was characterised by mass *impi* (traditional army) attacks. Counter-attacks from the informal settlements followed a similar pattern. Initially, the primary locus of conflict occurred between squatter and hostel communities with conflict spreading to formal townships only later. The conflict led to a process of territorial polarisation with squatter camps and hostels becoming identified with either the ANC or IFP. Residents were no longer able to make personal political choices and in fact to do so could often be life threatening. The process of political polarisation, which increasingly overlapped with ethnic identity, led to major migrations of people from one area to another.
- 543 Allegations by residents that the police had not intervened to prevent violence or had overtly sided with attackers became commonplace during the 1990s. In August 1990, when Thokoza hostel residents attacked Phola Park squatters on the East Rand, the police issued a statement declaring that they would "not get involved in a political fight" between Zulus and Xhosas.³⁷ The ANC argued that political violence was being orchestrated and fanned by members of the security forces in order to undermine and weaken the recently unbanned organisation.
- 544 Over the next four years, political and civic leadership repeatedly issued warnings of impending attacks. These were ignored (as in the Sebokeng Massacre on 22 July 1990 where twenty-seven people died; the Nangalembe night vigil massacre where forty-five people died; the Boipatong massacre where forty-five people died). In addition, once attacks were underway, there were repeated allegations (at Boipatong, Swanieville and the Alexandra Night Vigil Massacre) that the police had failed to respond to calls for assistance. In the wake of the massacres, police frequently failed to arrest perpetrators. After the Boipatong and Swanieville massacres, attackers were escorted back to the hostels. Incidents of political

³⁷ *Business Day*, 15 August 1990.

violence were not investigated or so poorly investigated there was no possibility that they would lead to convictions.

545 Evidence of the part played by sectors of the SAP and SADF in directly fuelling violence during the 1990s first emerged during the early 1990s. The Goldstone Commission revealed that a police informer, Mr Michael Phama, operating in a SDU in Phola Park, planned and carried out the killing of eighteen IFP supporters in Thokoza on 8 September 1991, precipitating a renewed outbreak of conflict on the East Rand. In November 1992, a Goldstone Commission investigation led to the seizure of documents from a secret military intelligence base. These revealed that, in 1991, the Chief of Staff of Military Intelligence had authorised the hiring of convicted double murderer, Mr Ferdi Barnard, to run a task force aimed at destabilising the ANC and its armed wing, MK.

546 In March 1994, on the eve of South Africa's first democratic elections, further revelations were made by the Goldstone Commission concerning alleged police involvement in the instigation of violence, including the organisation of train and hostel violence and gun-running. Those implicated included Lieutenant General Basie Smit, SAP Deputy Commissioner and Major General Krappies Engelbrecht, head of the department of Counter-Intelligence of the SAP. These two officers allegedly initiated a project that involved the manufacture of home-made guns, as well as the importation of a large range of weaponry from Namibia after the country gained independence. These arms were allegedly sold directly to senior members of the IFP, including Mr Themba Khoza, chairperson of the Transvaal Inkatha Youth Brigade. Central to the whole operation was Colonel Eugene de Kock, former commander of the C10 Security Branch unit, Vlakplaas. However, weapons stored at Vlakplaas were transferred to another venue and a number of former members of the unit continued to work under De Kock in various destabilisation operations.³⁸

Massacres

547 Between 1990 and 1992 there were 112 massacres in the Transvaal. The number of massacres and the resultant death tolls escalated steadily during this period. Twenty-five incidents occurred in 1990, forty-four in 1991 and forty-three in 1992. The death tolls for these years were 217 in 1990, 403 in 1991 and 334 in 1992.

548 The major massacres occurring between 1990 and 1993 were part of the so-called 'Reef township war'. Among them were:

³⁸ Peace Action, Monthly Report, March 1994.

- a the Sebokeng massacre on 22 July 1990 (twenty-seven killed);
- b the Tembisa Vusimuzi hostel massacre on 12 September 1990 (twenty-five hostel residents killed);
- c the Jeppe Station train attack, Johannesburg, on 13 September 1990 (twenty-six commuters killed);
- d the Thokoza Hostel attack on 2 December 1990 (thirty residents killed);
- e the Sebokeng Funeral Vigil attack on 12 January 1991 (thirteen people killed);
- f the Gobizitwna Beer Hall attack, Sebokeng on 23 May 1991 (thirteen people killed);
- g the Alexandra Funeral Vigil massacre on 12 May 1992 (fifteen people killed);
- h the Swanieville squatter settlement massacre, Kagiso on 12 May 1991 (twenty-eight people killed);
- i the Thokoza hostel attack in May 1993 (sixteen hostel residents killed);
- j the Crossroads squatter camp massacre, Katlehong on 3 April 1992 (twenty-one people killed);
- k the Boipatong massacre, Vaal on 17 June 1992 (forty people killed).

549 In the Vaal, the conflict was triggered by an ANC rally on 2 July 1990. The IFP alleged that speaker after speaker resolved to remove all IFP members from the Vaal townships and to act against the IFP in support of a week-long campaign protesting against the ongoing conflict and violence in KwaZulu-Natal. In the days following the rally, it alleged that ANC-aligned youths attacked the homes and businesses of people perceived to be supporters of the IFP.

550 The IFP called a peace rally in Sebokeng on 22 July 1990. Prior to the rally, COSATU had tried to seek an urgent interdict, on the basis of intelligence reports from hostels which indicated that the IFP were coercing and forcing recruitment of hostel-dwellers. On the day of the rally, ANC supporters gathered outside the stadium and allegedly hurled abuse, and threw stones and petrol bombs at arriving buses. Following the rally, IFP supporters marched through Sebokeng, attacking and killing people on their way back to the hostel complex.

- 551 Over the next few months, conflict continued between the IFP and the ANC, resulting in expulsion of IFP supporters from their homes as well as 350 Zulu-speaking people from the Sebokeng hostel complex. Initially, these people lived in the veld but were subsequently accommodated at the KwaMadala Hostel, a building owned by ISCOR, the biggest employer in the Vaal.
- 552 On 3 September 1990, Inkatha members carried out an attack in the early hours of the morning on the Sebokeng Hostel. Twenty-three people were killed in this initial attack. A further fifteen people died when the SADF opened fire on the crowd.
- 553 These conflicts in the Vaal (and in other areas of the Reef) took place against the background of ongoing negotiations between the former state, the ANC and other organisations. The ANC and many other organisations alleged that there was a 'third force' behind these killings. Mr de Klerk appointed the Goldstone Commission, headed by Judge Richard Goldstone, to initiate an investigation into these conflicts.
- 554 During the 1990s, criminal gangs became increasingly drawn into the political conflict taking place in the PWV – their easy use of violence making them extremely effective participants in the contest for political power and territorial control. Associated with this was an attempt to establish people's power in many areas including the Vaal. The establishment of related 'people's courts' and street committees added to the culture of intolerance.
- 555 The 'forced removal' of IFP supporters from the Vaal townships and the primarily Zulu-speaking hostel residents from the Sebokeng hostel complex to the KwaMadala Hostel led to ongoing conflicts between these two groupings from the end of 1991 until the massacre that took place in Boipatong in June 1992. The Boipatong massacre prompted the ANC to suspend negotiations with the Government in protest against its failure to halt the violence sweeping the country at the time.
- 556 The Commission heard evidence from families of victims of the Sebokeng massacre of 22 July 1990 in which IFP supporters, returning from a rally, conducted random attacks on township residents and killed twenty-seven people. Among the victims was nineteen-year-old Fanyana Reuben Maduna. Ms Mamasondo Maduna [JB00795/03VT] told the Commission that she was told that her son was lying in the road:

When we went there to look, he was already removed and taken to the hospital, and a police van came and they said to us we must go and fight for ourselves.

But I did not understand what they meant because I did not know what they were referring to...

And when we got to the hospital, we found that he had been dead. On the following day, we went to the mortuary at the hospital. When we got there, we found the place full.

- 557 It took the police at least four hours to arrive at the scene of the Sebokeng Massacre on 3 September 1990, although both the SAP and municipal police stations were less than 500 metres from the scene. The initial attack began at 01h00 and was carried out by Inkatha supporters armed with guns, hand grenades, home-made bombs, spears and axes. The attack continued for a number of hours. When the police *did* arrive, they allegedly found the group of attackers trapped inside the hostel by the Sebokeng residents, who were gathering outside. Police reported that they prevented further casualties by keeping the attackers and the residents apart.
- 558 The police subsequently called in the SADF, who arrived after 09h00 and, apparently without provocation, opened fire on the crowd outside the hostel. The crowd scattered. According to the police, they called in the SADF after the local ANC leaders Mr Bavumile Vilakazi and Mr Ernest Sotsu refused to allow the police to escort the Inkatha members from the scene before senior ANC members from Johannesburg arrived.
- 559 Mr Hamilton Piyose [JB00810/03VT] was shot dead by the SADF during this incident. According to his wife, Ms Alishia Bukiwe Galela, Piyose went to the Sebokeng hostel after he heard about the conflict at the hostel the night before. They had relatives living in the hostel. Their son, Mr Witness Galela, told the Commission what he saw at the hostel:

They (IFP members) were inside and they were surrounded by police. As we were still standing there, I saw my father, but I really doubted to go to him. Then I went to the other side of the road and I peeped through the hole to see the whole incident.

And the Zulus were right inside the hostel. As we were still watching all that was happening just behind us, there came soldiers ... and we turned around to face them to see what they had come to do. They got out of their Casspirs – nobody threw any stones at them, nobody was aggressive, we were just peeping through the hole to see what was happening at the hostel. All of

them got out of the Casspirs and they formed sort of a guard of honour and they were facing us.

We were a group, there were many of us, and we were facing them. We restrained ourselves. We told ourselves that we should just sit down. My father at that moment was at a distance ... because there were many of us; we were all sitting down from the front up to the back. Just before the last row at the back sat down we just heard a loud explosion and we realised that we were being thrown with a tear gas canister. And out of the corner of my eye, I could see my father because he was at a distance. And I didn't want to really face him because somehow I was scared. I saw him, it was as if he was trying to stand up and at that particular moment, I ran away.

560 Witness Galela did not know whether to go back and help his father, from whom he had so far hidden his presence:

I went back to look for my father, and when I went there I looked but I could not see any trace that he was there. I ran around trying to look for him but I could not find him anywhere. I kept on looking and I had this doubt in my mind that my father couldn't have run away. Probably something happened to him because he's an elderly man and he looked like he had a problem standing up and he had a very big build. And I felt in my heart of hearts that something had happened.

I went straight home and I asked my mother whether my father had come back. My mother said, no, he hadn't yet come back. I didn't tell my mother.

561 Ms Galela described her interaction with her son when he returned home:

My elder child asked me where the father was and I explained that the father had gone to the hostel and I knew nothing... He ... asked whether the father had not come back. I said the father had not come back. Then he started shaking. Then he started telling me that it meant that whatever he saw was the truth, but I didn't know what he was referring to. He went out the door.

562 Ms Galela eventually found her husband in the mortuary after searching for him for three days at local hospitals.

563 Mr Themba Khoza, the IFP Youth Brigade leader of the Transvaal and Security Branch and allegedly an informer³⁹, was arrested with guns and explosives in

³⁹ In his amnesty application to the Commission and at his trial, Mr Eugene de Kock alleged that Mr Themba Khoza was a paid Security Branch informer.

his car at the scene of the Sebokeng massacre and was subsequently charged with unlawful possession of firearms and ammunition. Despite apparently strong evidence against Khoza, charges against him were dropped. Amnesty applications made to the Commission indicate that Vlakplaas operatives supplied Mr Khoza with a car, bail money and at least some of the weapons that were used at the Sebokeng massacre, and that Vaal police tampered with evidence in order to secure Khoza's release. This cover-up is discussed in more detail elsewhere in this report.

564 In the attack which has become known as the Nangalembe Night Vigil Massacre in Sebokeng on 12 January 1991, forty-five people were killed at a night vigil for ANC Youth League (ANCYL) member, Mr Christopher Nangalembe [JB00317/03VT]. Mr Victor Khetisi Kheswa was allegedly responsible for Nangalembe's death. According to Kheswa's mother, the two boys had grown up together. Kheswa, however, had a long history of criminal involvement and, when youth in Sebokeng and Evaton launched an anti-crime campaign, Kheswa inevitably came into conflict with some of his former associates in the ANCYL. One of the allegations against Kheswa was that he had killed a young women by forcing her to drink acid. Christopher Nangalembe sat on the 'panel' of a 'people's court' that accused Kheswa of this and other crimes. Kheswa was then shot, allegedly by members of the 'people's court'. Kheswa survived the attack.

565 Two days after Kheswa's shooting, some of his associates, who were to form a gang that was later implicated in many acts of violence in the Vaal, met to discuss how to respond to the ANC's anti-crime campaign. Among them was Mr Silwane Kubheka whose mother was an IFP official. He allegedly suggested that the group should seek help from the IFP.

566 Christopher Nangalembe's brother, Mr Mandla Nangalembe, told the Commission that the nature of the violence perpetrated by the Kheswa gang after it formed an alliance with the IFP changed:

They used to steal cars ... They only started troubling the community when they had joined the IFP because now they were having guns, they were armed and they could shoot and kill people... When they emerged, it was when they were members of the IFP.

567 On 2 January 1991, the first 'drive-by shootings' took place in Sebokeng, reportedly carried out by members of the Kheswa gang. The following day, Kheswa's mother was arrested in possession of AK47s.

568 On 5 January, Christopher Nangalembe, the ANC activist who had sat on the 'people's court' that had 'tried' Kheswa for various crimes, was abducted on the 5 January. His body was found the following day on a rubbish heap near Boipatong. He had been strangled with a piece of wire.

569 Mandla Nangalembe told the Commission that, before his death, their mother received a telephone call threatening to kill the whole family and burn their house down if they "couldn't get Chris". Several members of the Kheswa gang intercepted Christopher Nangalembe in the street in a car. (Kheswa himself was in hospital recovering from injuries. Mandla decided to go and seek help from the police:

I went to the Houtkop Police station. When I got there to report that my brother had been abducted and he was at Khetisi's place, the police told me that they were afraid to go there. They told me that if I was talking about Khetisi, Khetisi was armed to the teeth and they did not want to tamper with him. These were the policemen who were telling me this... The second thing they told me that they didn't know the number of the house... I must bring the number to them.

570 Shortly thereafter, Mandla Nangalembe received the news that his brother, Christopher, was dead. The family went to collect the body:

We got Chris at the dumping site. He was tied, his throat was tied with a wire and this wire was twisted with a pair of pliers. People saw him in the morning they could only identify him with his ANC card that he used to carry with.

571 The family was afraid to organise a night vigil for fear of being attacked. However, members of the community insisted and offered to protect the vigil goers. Mandla Nangalembe again went to request protection from the police.

572 On the night of the vigil youths patrolled the area and stones were placed across the road. A vehicle was seen and shots were allegedly fired from it. It had no registration plates but was believed to be associated with the Kheswa gang. On arrival at the night vigil, people in the vehicle opened fire and lobbed three hand grenades into the crowd that had gathered.

573 As a result of the attack, Ms Paulina Masimula [JB00836/03VT] spent five months in hospital recovering from gunshot wounds; Ms Elli Ndlebe's [JB00875/03VT] son, Mr Michael Zwandile, died and her daughter-in-law was injured; Ms Sophie Nomfutse Simelane's [JB00820/03VT] son, Andrew Maqwane was killed.

574 When the police arrived on the scene, Mr Mandla Nangalembe was told to accompany them to the police station. He again tried to point out the attackers:

As we were going, this car which had shot people and abducted my brother was following us. I pointed this car to them and said that this was the car that had abducted my brother. They said I must keep quiet because they were doing their job.

575 Mandla Nangalembe was then taken back to the scene of the massacre:

There were four Boer police. They did not even look at the corpses. They just collected the bullets that were strewn, the cartridges that were strewn around the yard, they just ignored the corpses. They even ignored the people who needed first aid who were lying down on the ground. I approached them and showed them that there is the car that had been busy shooting. They did not even pay attention to what I was saying. They flatly ignored me.

576 Mr Khetisi Kheswa and ten others were arrested for their involvement in the Nangalembe night vigil massacre. At least one of the suspects was tortured by the police. They were all acquitted due to lack of evidence and sought refuge in KwaMadala Hostel. This attack precipitated the formation of SDUs in the Vaal area.

IN REVIEWING THE EVIDENCE PRESENTED TO THE COMMISSION CONCERNING THE NANGALEM-BE NIGHT VIGIL MASSACRE, THE COMMISSION FINDS:

- THE KHETISE KHESWA GANG WAS RESPONSIBLE FOR THE MASSACRE IN SEBOKENG ON 12 JANUARY 1991 AND FOR THE KILLING OF MR CHRISTOPHER NANGALEMBE.
- THE SAP IGNORED THE REQUEST THAT POLICE PROTECTION BE PROVIDED AT THE NIGHT VIGIL MADE BY MANDLA NANGALEMBE.
- THAT THE STREET COMMITTEE IN THE SEBOKENG AREA WAS RESPONSIBLE FOR THE ATTEMPTED KILLING OF MR KHETISI KHESWA.
- THAT THERE WERE STRONG LINKS BETWEEN THE IFP AND THE KHESWA GANG AND THAT THE IFP WAS SUPPLYING THE KHESWA GANG WITH GUNS.
- THAT THIRTEEN PEOPLE WERE KILLED AT THE NIGHT VIGIL AND MANY OTHERS INJURED.
- THAT THE KHESWA GANG, THE IFP AND THE POLICE MUST ACCEPT RESPONSIBILITY FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

577 On 3 July 1991 Mr Ernest Sotsu's wife, Constance, his daughter, Margaret and his two-year-old grandson, Sabata, were murdered during an attack on their home while Sotsu⁴⁰ was attending an ANC conference. Two younger children,

40 Mr Ernest Sotsu, a resident of Boipatong township since the 1950s, was a former MK self-defence unit leader and trade unionist.

ten-year-old Vusi and twelve-year-old Vuyani, survived the attack by climbing out of the bathroom window. [JB0211/03VT] Both claim that Mr Victor Khetisi Kheswa was one of the attackers. The two surviving children allegedly identified Khetisi Kheswa as the attacker in an identity parade and consequently Khetisi Kheswa was charged but was released on bail. Before Kheswa could stand trial for the triple murder, he died in police custody⁴¹.

THE COMMISSION FINDS THAT CONSTANCE SOTSU, THE WIFE OF ERNEST SOTSU, HER DAUGHTER MARGARET AND HER TWO-YEAR-OLD GRANDSON SABATA WERE KILLED BY VICTOR KHETISI KHESWA AND HIS GANG ON 3 JULY 1991.

- 578 The 17 June 1992, the Boipatong massacre was allegedly launched from the KwaMadala hostel in the Vaal by a group of more than 200 men armed with knives, *pangas* and guns, leaving at least forty-five people dead and twenty-two injured. Victims included at least nine children, two babies and seventeen women, one of whom was pregnant.⁴² Residents were raped, hacked, stabbed, shot, beaten and disembowelled. Hundreds of homes were attacked and looted. Victims said they had been attacked by white men in security force uniform and black men with red and white head bands speaking Zulu and chanting Zulu slogans.
- 579 Conflict had been brewing in Sebokeng for some time. Zulu-speaking people in the township gravitated towards the KwaMadala hostel as tensions between themselves and the ANC increased. Attacks were allegedly perpetrated against the property of IFP supporters and Zulu-speaking people.
- 580 Repeated complaints from residents about violence emanating from KwaMadala hostel were ignored, as were petitions made by the Vaal Council of Churches to the police, ISCOR and the Goldstone Commission from early 1991. No action was taken and violence escalated unchecked.
- 581 According to the an article published in the *Weekly Mail*, twenty people were killed and ten injured in nine incidents of violence linked to KwaMadala hostel between January 1991 and May 1992, prior to the Boipatong massacre⁴³. Before the massacre, the South African Council of Churches (SACC) submitted evidence to the Goldstone Commission to the effect that most of the violence in the Vaal emanated from KwaMadala.

41 See *Boipatong Massacre*.

42 Forty-three of the casualties were Ms Violet Msibi, Mr Michael Msibi, Mr Sibusiso Msibi, Ms Ronica Msibi, Ms Julia Mgcina, Ms Flora Nkala, Ms Flora Moshope, Ms Matilda Hlubi, Mr Andries Manyeka, Ms Linah Manyeka, Ms Maria Mlangeni, Ms Martha Nonjoli, Ms Ntombi Nonjoli, Ms Elizabeth Moloi, Ms Anna Letsoko, Mr Andrie Letsoko, Mr Jim Richard, Mr Benjamin Mosoetsa, Mr Samuel Mosoetsa, Ms Nelly Kuba, Ms Annah Sebolai, Mr Percival Sebolai, Ms Berlinah Lerobane, Ms Aleta Moeti, Ms Maria Dlamini, Ms Pauline Dlamini, Mr Jacob Mtambo, Mr Benjamin Genu, Mr Meshack Mzizi, Ms Rebecca Mathope, Aaron Mathope (9 mo.), Ms Maria Ramoetsi, Mr Simon Ramoetsi, Mr Johannes Khoza, Mr Michael Mnyila, Mr Thomas Lekabe, Mr Sibisi, Ms Elizabeth Kgaile, Ms Elizabeth Ndamase, Mr Jonas Mbatha, Ms Lisa Mbatha, Ms Agnes Malindi and Poppy Mbatha (3).

43 *Weekly Mail*, 26 June 1992.

- 582 Before the attack that occurred on 17 June 1992, a large contingent of police in plain clothes and camouflage uniforms began patrolling the township and removing barricades. A resident described this as being “unusual in Boipatong”. Members of SDUs repaired the barricades after the police left. A number of warnings were received and passed on to high-ranking officers in the local police. At about 20h00 on the night of 17 June, Boipatong residents, fearing an attack, patrolled the streets. At 21h00 police arrived in the township and patrolling youths were ordered to get off the streets.⁴⁴ Those who did not were allegedly teargassed. The police reported that they fired birdshot when a police patrol was petrol-bombed on three occasions. The police denied using tear gas.
- 583 At approximately 21h30, Mr Meshack Theoane, a petrol attendant at a petrol station on the corner of Frikkie Meyer and Nobel Boulevard, approximately 300 metres from Boipatong, activated an automatic alarm when he witnessed a large group of armed men crossing the highway from the direction of KwaMadala hostel. The alarm was connected to the police station at Vanderbijlpark. Shortly thereafter, two white men arrived at the filling station in a van and asked Theoane why he had rung the alarm. He explained that there was a group of armed men entering the township from KwaMadala, but they seem uninterested in this information and left the area.
- 584 A security guard who was with Meshack Theoane at the filling station, then radioed his employers to report the movement of the armed men. Two white security men arrived at the filling station a few minutes later and apparently called the police on their radios. Two white policemen then arrived at the filling station and spoke to the security men, whereupon the security men said that the police had instructed them to take Theoane and the security guard away from the filling station because it was not safe. However the attendant and the guard returned to the garage later and saw the armed group leave Boipatong at about 22h30.
- 585 At 22h00, workers on the late shift at nearby factories Iscor, Metal Box and Cape Gate reported seeing two groups of police, one on the west and the other on the east side of the township, dropping off men from Casspirs at points next to Slovo squatter camp. Soon afterwards, the attacks began.
- 586 The attackers started at the Slovo squatter settlement and then moved through the township, killing and injuring people and damaging property (at least fifty homes were attacked in the township). Twenty people died in Slovo Park.

⁴⁴ There is some uncertainty about the time at which the police arrived in Boipatong on the night of the massacre. Reports by residents appear to indicate that they were in the township at the time of the attack, but police deny this.

- 587 The attackers divided into three groups. The first squad allegedly moved ahead – shouting, breaking windows and causing confusion. It was followed by a second squad, armed mainly with *pangas* and *assegais*, which broke into houses and attacked residents. While this was happening, the third squad, reportedly consisting mainly of armed white men, surrounded the houses and gunned down anyone who tried to escape through the windows and doors. Twenty-one people died in Boipatong township.
- 588 Numerous allegations were made about the attackers and alleged security force collusion in the attack. Residents reported the following:
- a The attackers were Inkatha-supporting hostel-dwellers from the KwaMadala Hostel which was owned by Iscor.
 - b Some of the attackers were wearing white headbands, white gloves and white *takkies*.
 - c The attackers asked for comrades or ANC members.
 - d White men were allegedly involved in the attack. One resident alleged that the attack was led by white people with blackened faces; two residents reported that they heard a white man saying “*Moenie praat nie, skiet net...*” (Don’t talk, just shoot); and white uniformed men in armoured vehicles were seen assisting the attackers.⁴⁵
 - e Attackers were seen getting out of police armoured vehicles on the outskirts of the township.
 - f A resident from one of the first homes attacked reported that a police Hippo backed into the fence surrounding the house moments before they were attacked.
 - g One resident reported that he saw a green police Casspir parked next to Slovo camp as he fled his home.
 - h A police Casspir followed the attackers as they left the township in the direction of the KwaMadala Hostel.
 - i Police failed to respond to calls of help from residents.

⁴⁵ A number of witnesses who were interviewed, particularly those from Slovo Park, made reference to the participation of white men in the attack. None of these whites were identified as policemen, but several statements confirm the presence of security force vehicles in the area during the massacre. In some instances these vehicles were perceived as accompanying and possibly assisting the attackers. Many witnesses were unable to distinguish between various security force vehicles.

589 The Commission received a number of statements from victims of the Boipatong massacre, some of whom also spoke at a special hearing. Ms Dinah Sibongile Manyika [JB00122/03VT] told the Commission that both her parents were stabbed to death. Mr Klaas Mathope's [JB00124/03VT] wife and nine-month-old son Aaron were killed. Ms Jane Nozililo Mbongo [JB00125/03VT] was stabbed, her husband killed and her younger daughter also stabbed. Ms Miriam Molete [JB00139/03VT] told how her husband was killed and how she, her sister and three-year-old daughter Mita were stabbed. Ms Paulina Matsie Mbatha [JB00140/03VT], who is now in a wheelchair, told the Commission how she was stabbed in the neck, stomach and back with a sharp instrument.

590 Some of the victims subsequently described their experiences during the massacre:

I was asleep and was awakened by women screaming. I thought she was being beaten by her man/husband. I went out to help. When I came out I saw four men throwing a baby onto the floor ... All had white headbands ... I continued to watch and saw a man standing at the back of the house next to mine. He was standing still and fixing the gun. I saw the back of his neck and hair. It was a white man ... When I passed house no 81 I saw the woman lying in the house and the baby child outside. The baby was dead; it could have been hit in the head.

My father was killed. I was asleep and my mother woke me up. She said we must get out, as it is bad outside. My mother took the baby, my younger sister on her back ... I saw a man in a dark blue overall and a sports cap running after my mother and then I heard him start to stab her and the baby. My father went out to see ... then this man started hacking my father ... My mother managed to crawl back into the house ... Next morning my father was found in the veld with bullet wounds and he is dead. My baby sister was taken to hospital for treatment.

My house was attacked at about 10:30pm. I was in bed, and heard people breaking windows, chopping doors and then my house was attacked. I asked, "what do you want?" They said "money". They spoke in Zulu saying "Usuthu". Some had red headbands and others had white headbands.

In our house we were sleeping and woke up because we heard breaking of our windows. One group was busy hitting the shacks (they had white headbands and white bands on their arms); they saw me and attacked the house saying, "Get out Mandela's dogs".

591 Mr Victor Mthembu, leader of the youth section of the IFP in KwaMadala hostel, was one of the participants in the attack. In his amnesty application, he gave his own version of how it was carried out. On the night of 17 June all men in the hostel were called to a meeting:

I attended the meeting where Mkhize, one of the indunas said that we are very tired of the people being killed in Boipatong which resulted in the IFP people having to live in the KwaMadala hostel because their houses were being burnt and they were being killed in Boipatong. Gqonqo said that night we were going to Boipatong to kill the people and said nobody was allowed to stay behind, only the women had to stay in the hostel...

They told us to take our traditional weapons and we had to put red headbands around our heads so that we would be recognised and would not kill one another by mistake... The people of Umsinga were carrying fire arms. I saw about ten who had guns. We were about 300 people who were going to Boipatong... We went into the township and started killing people and looting their houses.

592 Mr Victor Mthandeni Mthembu [AM1707/96] claimed that regional IFP leader, Mr Themba Khoza, came to the hostel the day after the massacre and allegedly told hostel residents to burn any evidence including blood-stained clothes and looted goods.

593 In the wake of the massacre, numerous Boipatong residents alleged that white men with blackened faces had taken part in the attack, that the security forces were present during the massacre and had either stood by and watched while the attack took place or actively participated by transporting the attackers to or from Boipatong. As the Goldstone Commission began its deliberations, tapes of transactions in the Control Room of the Internal Stability Unit (ISU) were erased.

594 Despite these allegations of police complicity in the Boipatong massacre, Justice JMC Smit, delivering judgement on sixteen KwaMadala hostel residents convicted of involvement in the massacre, unequivocally stated that, in the light of the testimony he had heard, there was no evidence to support the allegation that the police in any way participated or were involved in the Boipatong massacre. He concluded that the erasure of the tapes was the result of incompetence rather than a deliberate attempt to hide evidence of police complicity in the attack and came to a similar conclusion as regards the bullet shells which had been destroyed. Justice Goldstone also stated that he had not received any evidence that led him to conclude that

the police were involved in the attack. In addition, Dr PA Waddington, who headed the enquiry into the police investigation of the massacre, concluded that the omissions in the police investigation were the result of inefficiency and incompetence rather than part of a deliberate cover-up.

- 595 When the accused in the KwaMadala trial appeared in court, they alleged that the police had assaulted them. On 10 July 1993, one of the accused, Mr Khetisi Kheswa (28) died in police custody. Three police officers were suspended pending an internal inquiry into Kheswa's death. Kheswa had previously been accused of killing thirty-five people in other incidents of unrest. Kheswa, popularly known as the 'Vaal monster', had become infamous since an attack on the Nangalembe night vigil which led to the death of forty-five people. Some of the incidents to which he was linked included the death of six members of the Lefhiedi family, whose son had recently returned from exile, and the murder of ANC activist Ernest Sotsu's wife, daughter and grandson.
- 596 A *post mortem* conducted by the state pathologist found that Kheswa had died of natural causes (heart failure caused by a virus). The conclusions reached at a later, private *post mortem* commissioned by the IFP and the Kheswa family were that he had died of "conditions including acute suffocation, electrocution, hypothermia and occult toxic substances." The Attorney-General declined to hold an inquest based on the first *post mortem*. Kheswa was in the custody of Detective Sergeant Peens at the time of his death.
- 597 In August 1993, a second accused, Mr Themba Mabote, died while allegedly trying to escape from a moving police vehicle. Mabote allegedly jumped from the window of a police van and was then run over by a second police van. There were two police officers in the vehicle from which he escaped. Mabote was not wearing handcuffs. Detective Sergeant Peens was in the second vehicle. Whether he was the driver or the passenger is contested. At a section 29 hearing, Peens' superior, Brigadier Mostert, stated that Peens was a passenger, not the driver of the second police vehicle. Detective Sergeant Peens was himself *subpoenaed* to appear before the Commission. In the early 1990s, Peens was implicated in several cases of torture and deaths in police custody. He was initially linked to the death of Mr Tsepo Lengwati, an MK member, who had informed his attorneys of his fear that Peens intended to kill him. Despite this, Lengwati was removed from the Leeuhof Prison by Peens for purposes of 'investigation'. He was later shot dead during an alleged escape attempt.

598 On June 20 1992, President De Klerk arrived in Boipatong to express his sympathy to the bereaved families. The depth of anger in the township, however, had been seriously underestimated. As police Casspirs started to leave two hours after the president's departure, youths threw a branch in front of the last Casspir, and when policemen got out to move it the crowd shouted insults at them. Other police went to the scene and created a line facing the crowd, leading to a tense stand-off. Finally the crowd began to leave, and the Casspirs followed them back to the township. One man was shot, however, and when the crowd tried to retrieve his body they were ordered to move back by the police. The crowd shouted at the police. In response, a police officer apparently fired his gun to try to frighten the crowd. This shot was followed by a twenty-second spate of gunfire from the police onto the crowd. Journalists who witnessed the event stated that no order to fire had been given. At least two people were killed and eighteen injured. The police maintained that no casualties had resulted from this incident and that television pictures showing casualties lying on the ground were fabricated by members of the crowd faking death or injury.

THE COMMISSION FINDS THAT FORTY-FIVE PEOPLE WERE KILLED AND TWENTY-TWO SEVERELY INJURED IN BOIPATONG ON 17 JUNE 1972 IN AN ATTACK PERPETRATED BY RESIDENTS OF THE KWAMADALA HOSTEL, WHO WERE PRIMARILY SUPPORTERS OF THE IFP. THE COMMISSION FINDS THAT KWAMADALA HOSTEL RESIDENTS, TOGETHER WITH THE POLICE, PLANNED AND CARRIED OUT AN ATTACK ON THE COMMUNITY OF BOIPATONG AND THE SURROUNDING INFORMAL SQUATTER SETTLEMENT, SLOVO PARK, ON 17 JUNE 1972. THE COMMISSION FINDS THAT THE POLICE COLLUDED WITH THE ATTACKERS AND DROPPED THEM OFF AT SLOVO PARK.

THE COMMISSION FINDS THAT WHITE MEN WITH BLACKENED FACES PARTICIPATED IN THE ATTACK. THE COMMISSION FINDS FURTHER THAT, DESPITE THE PRESENCE OF ARMoured VEHICLES IN THE TOWNSHIP, THE POLICE FAILED TO INTERVENE AND STOP THE ATTACKERS, DESPITE CALLS BY THE RESIDENTS OF BOIPATONG AND SLOVO PARK TO DO SO.

THE COMMISSION FINDS THAT THE POLICE WERE RESPONSIBLE FOR DESTROYING CRUCIAL EVIDENCE IN THAT THEY ERASED THE TAPES OF TRANSACTIONS IN THE CONTROL ROOM OF THE ISU.

THE COMMISSION FINDS FURTHER THAT THE KWAMADALA RESIDENTS IN THE CUSTODY OF THE POLICE WERE BEATEN AND ASSAULTED BY THEM. THE COMMISSION FINDS THAT KHESISI KHESWA, ONE OF THE ACCUSED, DIED IN POLICE CUSTODY. THE COMMISSION FINDS THAT THE SAP WAS RESPONSIBLE FOR THE DEATH OF THEMBA MABOTE, ANOTHER ACCUSED IN THE BOIPATONG MATTER. THE COMMISSION FINDS THAT THE SAP COLLUDED WITH THE KWAMADALA RESIDENTS IN PLANNING THE ATTACKS. THE COMMISSION FINDS FURTHER THAT THEY OBSTRUCTED THE ENDS OF JUSTICE BY TAMPERING WITH THE EVIDENCE RELATING TO THE MATTER. THE COMMISSION FINDS FURTHER THAT TWO OF THE SUSPECTS DIED WHILST IN THE CUSTODY OF THE POLICE.

THE COMMISSION FINDS THE KWAMADALA RESIDENTS TOGETHER WITH THE SAP RESPONSIBLE FOR THE MASSACRE, WHICH RESULTED IN THE DEATHS OF FORTY-FIVE PEOPLE AND THE

INJURY OF TWENTY-TWO OTHERS. THE COMMISSION FINDS THE COMMISSIONER OF POLICE, THE MINISTER OF LAW AND ORDER AND THE IFP RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

- 599 Although drive-by shootings occurred throughout the PWV, the Vaal was particularly subject to this form of violence. All the shootings were marked by repeated allegations that the police had failed to respond to calls for assistance, sometimes allegedly allowing the killers to drive through the township for several hours. Evidence subsequently emerged that members of the IFP based at KwaMadala hostel were apparently involved in organising and executing attacks that took place during 1993. In November 1993, seven men were charged on fifty-six counts of murder and sixteen of attempted murder in relation to attacks on Sebokeng residents in April, June and July.
- 600 In the Vaal, the failure or inability of police management to respond to the safety concerns of black policemen led them to form the ironically named vigilante group, 'Codesa'. Initially Codesa's activities were legal. They set up roadblocks, searched for weapons and so on. However, as the attacks on black members of the SAP escalated, their tactics changed. They began actively hunting down SDU and MK members, assaulted, and sometimes murdered them. During one incident, three youths were killed and their bodies dumped in Poortje. This change in tactics led to a split in Codesa. The two groups then became known as Codesa I and II. Evidence seems to suggest that the latter group was involved in a number of drive-by shootings. A number of police witnesses subsequently came forward with information on the activities of the group.
- 601 The Commission has also received an amnesty application from Mr Victor Mthandeni Mthembu [AM1707/96, AM6130/97], vice-chairperson of the Sebokeng IFP Youth League, for the murder of four ANC members in Zone 3 Sebokeng, during an attack on Sebokeng residents on 12 July 1993.⁴⁶ Mthembu stated that he received an instruction from Prince Gideon Zulu, also known as Vanana Zulu, based at KwaMadala hostel to go and kill members of the ANC and was given firearms to carry out these attacks. Mthembu, who is currently serving a twenty-year sentence in Pretoria Central prison for his involvement in this killing as well as his role in the Boipatong massacre of June 1992, explained how he became involved in the series of drive-by shootings which took place during 1993 (see further below):

After the Boipatong massacre, Vanana Zulu called me and asked me which person can we use to attack the ANC people. I told him he must choose between Siphso, Temba Mabote, myself and Victor Kheswa to do the attacks.

⁴⁶ Mthembu's amnesty application for this incident had not been heard at the time of reporting.

He told me he would give us weapons to go and attack those people ... Several times during 1993 Mr Vanana Zulu or Prince Zulu as he was also known called us – that was myself, Victor Kheswa, Themba Mabote and Siphokuzi – and gave us weapons and ammunition and said we must go out and kill the people of the ANC. We robbed a car from a lady and we drove in the car and would stop and then some of us would get out and shoot the people in Sebokeng where we knew ANC people were living ... Every time we came back after going out and shooting ANC people at random we would come back and give back the fire arms and the ammunition to Prince Vanana Zulu who hid it ... The hit squad of Umsinga also went out several times on their own initiative to shoot members of the ANC. They also shot ANC members at random.

- 602 After the leader of the Kheswa gang, Victor Kheswa, died in police custody, the group was encouraged by Vanana Zulu to take revenge for his death. Although he had died in police custody, revenge was to be taken against local ANC members because they were believed to be 'happy' about Kheswa's death.

Self-defence units in the Vaal

- 603 The formation of armed militias in the Vaal was internally sanctioned by the ANC in November 1990 in response to the conflict with between the ANC and IFP in the area. However, the formation of SDUs precipitated a power struggle in Sebokeng between approximately 200 MK members who had returned from exile and local ANC and civic structures. The MK group was led by former MK operative, Mr Ernest Sotsu who was also a local ANC leader and trade unionist. Mr Jerry Ndamase representing the National Union of Metal Workers (NUMSA) set up a rival SDU structure. Sotsu believed that the rival group had been "bribed by a 'third force' of Iscor management and the security forces to sow seed of conflict in the Vaal".⁴⁷ In turn, the group led by Ndamase charged Sotsu with using for personal gain levies he had imposed on hostel residents to raise money for arms and of refusing to accept the political leadership of legitimate hostel structures.
- 604 Tensions between the two factions escalated steadily during 1992, and in May, Mr Colbert King, a NUMSA shop steward was murdered and four more people were killed during the ensuing months. A commission of enquiry was established and an uneasy peace enforced; however, the peace did not last long and, in July, two NUMSA members were shot dead execution style.⁴⁸

47 *Weekly Mail*, 5 June 1992

48 *Weekly Mail*, 31 July 1992

- 605 A protracted and complex conflict between SDUs in the Sharpville area began in February 1993 and continued until late 1994.
- 606 Tensions initially emerged in February 1993 when MK members approached the then ANC chairperson, Mr Siza Rani, to account for organisational finances of which he was sole signatory. MK members also demanded that ANCYL members, supposedly under Rani's command, be disarmed threatening that, if their wishes were not complied with by 19 February, they would themselves take action against the youth and confiscate weapons. On 19 February, unknown persons attacked ANCYL members and Mr Oupa Manete was killed.⁴⁹
- 607 In the wake of Manete's death, some sixty youths from his neighbourhood organised themselves into a gang they called the 'Germans'. The Germans immediately became involved in a host of common crimes and it was alleged that they were co-operating with the security forces to identify ANC supporters in other parts of Sharpville. Further, in July 1993, Oupa Manete's younger brother, Mr Lucky Manete, decided to avenge the death of his brother. An MK member, Mr Benny Scott, was shot and killed. As a result, MK cadres based in the Joe Slovo section of Sharpville forcibly disarmed the Germans, who were from the Matthew Goniwe section, and handed Lucky Manete over to the police. Whilst out on bail, he was gunned down in Sharpville's Rivonia Tavern. This turn of events, aggravated by subsequent violence at Manete's funeral, transformed the conflict into one between clearly defined, geographically bounded camps.

THE COMMISSION FINDS THAT RIVAL SDU FORMATIONS UNDER THE LEADERSHIP OF FORMER MK OPERATIVE ERNEST SOTSU AND NUMSA MEMBER JERRY NDAMASE ENGAGED IN A POWER STRUGGLE IN SEBOKENG WHICH LED TO THE DEATHS OF A NUMBER OF PEOPLE, INCLUDING A SHOP STEWARD, MR COLBERT KING.

THE COMMISSION FINDS THAT THE CONFLICT BETWEEN RIVAL SDU GROUPS IN THE SHARPVILLE AREA ESCALATED DURING THE PERIOD FEBRUARY 1993 TO 1994. THE COMMISSION FINDS THAT SDU MEMBERS WERE ENGAGED IN GUN RUNNING AND PROTECTION RACKETS. THE COMMISSION FINDS THAT, DURING THE CONFLICT, OUPA MANETE WAS KILLED AND THAT SIXTY YOUTHS FROM HIS AREA FORMED A VIGILANTE GROUP CALLED THE GERMANS. THE COMMISSION FINDS THAT OUPA MANETE'S BROTHER, LUCKY MANETE, LAUNCHED A RETALIATORY ATTACK, RESULTING IN THE DEATH OF AN MK MEMBER BENNY SCOTT. THE COMMISSION FINDS THAT SDU MEMBERS SEARCHED FOR LUCKY MANETE AND HANDED HIM OVER TO THE POLICE AND THAT HE WAS GUNNED DOWN IN A TAVERN WHILE OUT ON BAIL.

⁴⁹ The ANCYL members later captured three IFP supporting residents who confessed to the crime, but before their statements could be fully investigated two of the captives were burnt to death when commemorations of the Boipatong massacre the previous year became violent. The third escaped.

608 The Commission received statements from victims of what came to be known as the Alexandra Night Vigil Massacre⁵⁰, which took place early on the morning of 26 March 1991. At about 04h00, gunmen attacked an all-night vigil for political violence victim, Ms Jane Ramakgola (41), killing fifteen people and injuring sixteen others, including a seven-month-old baby. The attack took place within 800 metres of the police station. Six members of the IFP were later arrested for this attack and appeared in the Rand Supreme Court. All were acquitted.⁵¹

609 Ms Kate Martha Maphanga-Mkhwanazi [JB01884/01GTTEM], sister of the woman for whom the night vigil was being held, told the Commission that the attackers were clad in police uniform and were also wearing balaclavas.

THE COMMISSION FINDS THAT, WHILST ALEXANDRA WAS RELATIVELY PEACEFUL COMPARED TO OTHER AREAS ON THE REEF, A NUMBER OF EVENTS SUCH AS THE UNBANNING OF THE ANC, THE DECISION BY THE IFP TO BECOME A NATIONAL PARTY AND THE ONGOING CONFLICT BETWEEN THE IFP AND THE ANC IN KWAZULU-NATAL CREATED A CLIMATE OF POLITICAL INTOLERANCE WHICH GAVE RISE TO THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS. DURING THIS PERIOD, FIFTEEN PEOPLE WERE KILLED AND SIXTEEN SERIOUSLY INJURED WHEN GUNMEN OPENED FIRE ON MOURNERS AT A NIGHT VIGIL ON 26 MARCH 1991.

THE COMMISSION FINDS FURTHER THAT THE SAP WAS INFORMED ABOUT THE NIGHT VIGIL AS WELL AS THE FEARS OF THE COMMUNITY OF AN IMPENDING ATTACK BY IFP SUPPORTERS. THE SAP WAS ASKED TO PROVIDE SOME PROTECTION TO MOURNERS. THE COMMISSION FINDS THAT, NOT ONLY DID THE SAP FAIL TO PROVIDE ANY ASSISTANCE OR PROTECTION, BUT ARRIVED SEVERAL HOURS AFTER THE ATTACK HAD TAKEN PLACE. THE COMMISSION FINDS THE SAP RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS IN THAT THE SAP FAILED TO PROTECT CITIZENS WHEN THEY WERE UNDER A LEGAL DUTY AND OBLIGATION TO DO SO.

610 On 12 May 1991, a pre-dawn attack by approximately 1000 Inkatha-supporting hostel residents from Kagiso on Swanieville, a neighbouring informal settlement, left at least twenty-seven people dead and scores injured. (See Ms Caroline Pinkie Nyembe [JB02379/03WR], Ms Noleni Fourie Kwinana [JB02350/03WR], Ms Doreen Manyobe [JB02345/03WR], Mr Simon Zolile Nkani [JB02366/03WR] and Mr Zamile Jackson Cetyewayo [JB01584/03WR]).

611 Several of the victims of this attack testified at the Commission's public hearings. Swanieville resident, Ms Thelma April, told the Commission that IFP members killed her boyfriend, Mr Joseph Makhubela [JB01703/03WR], on the night of the squatter camp attack. Mr Buka Pinzi [JB01707/03WR] lost an eye in the attack. He said he had:

50 See also JB01782/01GTTEM, JB01784/01GTTEM, JB0177/01GTTEM, JB02337/01GTTEM and JB02488/01GTTEM.

51 Everett, D., 'Funeral Vigil Massacres: Mourning the Mourners', CASE, March 1992 in Review of Political Violence, Graeme Simpson, Janine Rauch, Centre for the Study of Violence and Reconciliation, 1992.

heard on a radio broadcast that Swanieville men should not patrol the squatter camp that night and they should be asleep by 8pm. The radio announcer said the police would patrol the area.

- 612 Following the attack, an internal police inquiry found that there was no evidence of police involvement. However, the investigation questioned how a group of 1 000-strong, heavily armed men could have assembled and travelled approximately ten kilometres on foot to Swanieville without being seen, and why the local riot unit continued with its usual shift change without responding to the attack. Statements in the possession of the Commission state that police vehicles were on the scene before the attack or they were seen shortly after the first shots were fired.
- 613 Several Inkatha members were arrested and brought to trial for the attack on Swanieville. Judge CJ Botha acquitted the men but criticised the police for failing to take action more promptly to identify the killers. The court found that:
- a The police had first encountered the group of hostel residents at 07h00 and had escorted the men back to the hostel. The SAP commanding officer and the video unit were only informed of the incident at 09h30.
 - b The police could not be criticised for escorting the group back to the hostel as this had probably prevented further conflict. However, he said he could not understand why the police had not made sure that they could identify the men at a later stage.
 - c It was surprising that vital police evidence, such as logbooks and files, had disappeared mysteriously when they were needed during the investigation. (Earlier during the trial, the judge found that the statements made by the accused to the police were inadmissible. The accused had claimed that police had assaulted them to force them to make incriminating statements)
 - d He could not exclude the possibility that police officers had participated in the massacre.

THE COMMISSION FINDS THAT RELATIONSHIPS BETWEEN THE ANC AND THE IFP WERE TENSE AND THAT ON 12 MAY 1991, IFP SUPPORTERS MARCHED ON SWANIEVILLE, AN INFORMAL SETTLEMENT ON THE OUTSKIRTS OF KAGISO, CARRYING BOTH TRADITIONAL AND MODERN WEAPONS. THE COMMISSION FINDS THAT THE SAP COLLUDED WITH THE MARCHERS AND FAILED TO TAKE ACTION AGAINST THEM EITHER BEFORE OR AFTER THE ATTACK. THE COMMISSION FINDS THAT TWENTY-SEVEN PEOPLE WERE KILLED DURING THE ATTACK ON THE SETTLEMENT AND MANY WERE SERIOUSLY INJURED. THE COMMISSION FINDS THAT THE POLICE WERE CALLED UPON TO TAKE ACTION BEFORE THE MARCH, BUT FAILED TO DISARM MARCHERS OR TO PREVENT THE MARCH AND/OR PREVENT THE ATTACK ON THE COMMUNITY WHEN THEY WERE UNDER A LEGAL DUTY TO DO SO.

THE COMMISSION FINDS THAT THE SAP WAS DERELICT IN ITS DUTIES AND, BY OMISSION, ALLOWED THE GROSS VIOLATION OF HUMAN RIGHTS. THE COMMISSION FINDS THE SAP RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT AN IFP SPOKESPERSON, SUZANNE VOS, CONFIRMED THAT IFP SUPPORTERS FROM THE NEARBY HOSTEL HAD CARRIED OUT THE ATTACK. THE COMMISSION FINDS THE IFP RESPONSIBLE FOR THE ATTACK ON SWANIEVILLE AND THE KILLING OF TWENTY-SEVEN PEOPLE AND THE INJURY OF MANY OTHERS AND THEREBY RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

614 During March 1991, twenty-four people were killed and fifteen injured at Meadowlands hostel in Soweto. After this initial clash, violence continued unabated well into the next year. In April, conflict between ANC and IFP supporters at Nancefield hostel left fifty-five people injured. Police used tear gas and shotguns to disperse the two groups. On 19 April 1991, Mr Moses Khumalo, mayor of Soweto's Diepmeadow township and chairperson of the local IFP branch, was ambushed and shot dead with an AK47. After his funeral on Sunday 27 April, ten people were hacked and stabbed to death, allegedly by IFP members.⁵² IFP supporters returning from this funeral assaulted Mr George Sokhela [JB01243/01GTSOW].

THE COMMISSION FINDS THAT ONGOING CONFLICT BETWEEN THE IFP AND THE ANC IN SOWETO DURING THE 1990S LED TO THE KILLING OF TWENTY-FOUR PEOPLE AND THE INJURY OF FIFTEEN OTHERS AT THE MEADOWLANDS HOSTEL. THE COMMISSION FINDS THAT THE AMBUSH AND KILLING OF MR MOSES KHUMALO, THE MAYOR OF DIEPMEADOW AND AN IFP SUPPORTER FURTHER HEIGHTENED TENSIONS. THE COMMISSION FINDS THAT TEN PEOPLE WERE HACKED AND STABBED TO DEATH FOLLOWING THE FUNERAL OF MR KHUMALO ON 27 APRIL 1991.

615 On 8 September, at least thirteen people were killed and eighteen injured in an attack on Soweto residents after an IFP rally at Jabulani Stadium. In the ensuing battle between residents and Inkatha supporters, hand grenades were allegedly thrown into the crowd of Inkatha supporters, killing five. A further eight people were later killed, allegedly by Inkatha supporters in retaliation.⁵³

616 The Commission received a number of statements from victims of the attack after the IFP rally. Mr Buti Simelane was stabbed and shot dead [JB00337/01GTSOW]. Mr Daniel Marumo's mother, Ms Elizabeth Marumo, was hacked to death [JB00618/01GTSOW]. Ms Emma Motsoeneng's house in Mofolo was attacked. Her mother, daughter and sister were hacked to death and household goods were stolen [JB00923/01GTSOW]. Each of these attacks was attributed to members of the IFP returning home from the rally. Mr Pius Khenka was first shot by the SAP and then stabbed to death by supporters of the IFP after the rally [JB03071/01GTSOW]. Ms Nomacala Tshabalala was injured; her son

52 South African Institute of Race Relations, *Survey* 1991–1992, p. 496.

53 HRC database, sources – Soweto Crisis Committee, *Citizen, Sowetan, Business Day, Star*, 9 September 1991.

stabbed to death and her home looted after the rally [JB04579/01GTSOW]. Mr Clifford Phiri was murdered and his body found at Dube hostel after the rally [JB00925/01GTSOW].

- 617 Ms Bongisiwe Manyamalala [JB05394/01GTSOW] lost her husband in conflict following the rally. Her husband had been involved in assisting people who were displaced from their homes. He was driving back when he encountered the rally-goers on their way home. He tried to take another route but encountered a further group. They opened fire on the car. Ms Manyamalala told the Commission:

They shot at him. He couldn't get control over the car and the car came to a standstill. They were there already, within a short time; a group of people was there. Four them, or the men who were there, it is said that they are the people who killed him. When he stopped the car, they pelted the car with stones. They opened the door of the car; they took him out of the car. When I was identifying him in the mortuary, he was hit by a knobkierrie on his forehead and his clothes that he was wearing. He had a lot of wounds. There was another one that I think it was the worst wound, which was on his ribs. I don't even know whether it was a spear or if it was a knife. There was no bullet wound. You could see that they used spears or knives to stab him.

- 618 The murder of Mr Elbin Manyamalala was witnessed by journalists. The police were present but allegedly did not intervene to assist him.

THE COMMISSION FINDS THAT, ON 8 SEPTEMBER 1991, THE IFP DECIDED TO HOLD A RALLY IN THE JABULANI STADIUM. THE POLICE WERE INFORMED OF THE RALLY AS WELL AS THE FEARS OF RESIDENTS IN SOWETO RELATING TO THE RALLY. THE POLICE FAILED TO DIRECT THAT THE MARCHERS SHOULD TRAVEL ON ONE ROUTE AFTER THE RALLY. INSTEAD, IFP MARCHERS WERE ALLOWED TO MOVE FREELY, CARRYING ARMS, ALONG SEVERAL ROUTES FROM THE STADIUM. IN THE AFTERMATH OF THE MARCH, IFP SUPPORTERS ATTACKED INNOCENT RESIDENTS, KILLING THIRTEEN OF THEM AND INJURING EIGHTEEN OTHERS. THE POLICE FAILED TO TAKE ACTION TO PREVENT THESE ATTACKS. THE COMMISSION FINDS THE IFP AND THE SAP RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

- 619 On 8 September 1991, a three-month period of relative calm was shattered days before the signing of the National Peace Accord. Approximately 300 members of the Hostel-Dwellers Association on their way to a peace meeting at the Thokoza stadium on the East Rand were sprayed with gunfire by three AK-47 wielding gunmen, killing at least twenty-three people.⁵⁴ By the following night, forty-two people were dead and at least fifty injured in retaliatory attacks that swept Katlehong, Tembisa and Johannesburg. Both the ANC and Inkatha later

⁵⁴ See JB03068/01ERKAT – Mthiyeni Joseph Mthethwa was shot during this attack.

stated that they believed the killing was provoked with the aim of derailing the peace process. Members of the Political Violent Crime Unit based on a farm in Katlehong called Vlakplaas arrested and allegedly tortured a number of SDU members in response to the attack. All were subsequently released.

- 620 The Goldstone Commission found in 1992 that this attack had been planned and carried out by a police informer, Mr Mncugi Ceba, who posed as the head of an ANC SDU in Phola Park. One of the participants in this attack, ANC member, Mr Michael Phama [AM3155/96], who is currently serving a life sentence for his involvement in the incident, applied to the Commission for amnesty for the killings. He stated in his amnesty application that he was ordered by his SDU commander to shoot "because IFP members might attack our people as they always attack when they have a rally".⁵⁵

THE COMMISSION FINDS THAT, ON 8 SEPTEMBER 1991, TWENTY-THREE PEOPLE WERE KILLED AT THE THOKOZA STADIUM ON THE EVE OF THE SIGNING OF THE NATIONAL PEACE ACCORD ON THE EAST RAND.

THE COMMISSION FINDS THAT FORTY-TWO PEOPLE DIED AND AT LEAST FIFTY PEOPLE WERE SEVERELY INJURED IN VIOLENCE THAT BROKE OUT BETWEEN SUPPORTERS OF THE ANC AND THE IFP IN THE TWO DAYS THAT FOLLOWED.

THE COMMISSION FINDS THAT THE INITIAL ATTACK WAS INITIATED BY ONE MICHAEL PHAMA, A MEMBER OF AN ANC SDU, ACTING ON THE INSTRUCTIONS OF HIS COMMANDER, MR MNCUZI CEBA. THE COMMISSION FINDS THAT CEBA WAS A POLICE INFORMER IN THE PAY OF THE SAP.

- 621 On 10 September, two days after the attack, the police declared four East Rand townships unrest areas as the death toll rose to sixty-nine with 101 people injured. On the same day, at least eleven people were killed and thirty-six injured when a car was ambushed, a commuter bus riddled with bullets and blasted with a hand grenade and a crowded railway station shot up by gunmen.

- 622 In May 1993, an ANC march past a Thokoza hostel catapulted the East Rand into turmoil. In the wake of the march, eighty-one people were killed and ninety-nine injured in seventy-one general incidents of political violence.⁵⁶ In the months that followed, violence continued. Between July and September 1993 alone, 544 bodies were found. Over a thousand women and children fled their homes to seek shelter and safety at hospitals and community halls. More than a hundred homes were gutted during the conflict.

- 623 On 22 May, at least nine people were killed and sixty-nine injured in clashes

⁵⁵ Phama's amnesty hearing had not taken place at the time of writing.

⁵⁶ Human Rights Commission, Monthly Repression Report, May 1993.

between ANC supporters, Inkatha hostel-dwellers and police.⁵⁷ It was reported that a march planned by the ANC was to start at Thokoza stadium, proceed through Thokoza to Alberton police station and there present a memorandum of demands.

- 624 During the march, reports were received of armed IFP supporters dancing outside the Thokoza hostel. Police also negotiated with the hostel-dwellers and march organisers in an attempt to defuse the situation. When the marchers reached the Thokoza hostel compounds, however, random shooting from the hostel and nearby houses began and the marchers returned fire. The ANC alleged that police shot at marchers as they tried to escape. The hostel-dwellers claimed that police fired tear gas at them.

THE COMMISSION FINDS THAT THE ANC THOKOZA BRANCH FAILED TO TAKE PROPER PRECAUTIONS IN THE PLANNING AND ORGANISING OF THE MARCH AND WAS RECKLESS AND NEGLIGENT IN ARRANGING THE ROUTE THAT TOOK THE MARCHERS PAST THE IFP-DOMINATED THOKOZA HOSTEL. THE COMMISSION ALSO FINDS THAT THE ANC FAILED TO EXERCISE CONTROL OVER THE MARCHERS, SOME OF WHOM WERE ARMED. THE COMMISSION FINDS THAT SHOOTING BEGAN FROM THE HOSTEL AND THAT THE MARCHERS RETURNED FIRE. THE COMMISSION FINDS THAT THE SAP, HAVING BEEN FOREWARNED OF THE MARCH, FAILED TO PROVIDE PROPER PROTECTION TO THE MARCHERS IN TERMS OF ITS LEGAL OBLIGATION TO DO SO.

- 625 On 28 March 1994, approximately fifty people were killed and more than 300 injured during violence associated with a march through Johannesburg in support of the Zulu king.⁵⁸ The violence occurred after Transvaal indunas (traditional leaders) called on Zulus in the PWV region to stay away from work and gather at the Library Gardens in Central Johannesburg to demonstrate their support for the Zulu sovereign, King Goodwill Zwelethini. After the events of 28 March, the IFP leadership was at pains to emphasise that the march was an independent initiative of the 'Zulu people', rather than a political gathering organised by the IFP. However, senior IFP leadership was present at the gathering and involved in its organisation.

- 626 From the start, information about the proposed gathering was confused. Many people believed that the marchers intended gathering at the offices of the Independent Electoral Commission (IEC) in order to demonstrate their opposition to the elections. However, such a march did not take place. It subsequently emerged that senior IFP leadership had received permission from the Johannesburg magistrate to hold a gathering at the Library Gardens, but had not sought permission for a march of any kind. No organised march did in fact happen. Instead, armed groups of men launched a series of 'offensives' against ANC offices in the city centre.

⁵⁷ The Commission has taken one statement regarding this attack. See JB02171/01ERKAT.

⁵⁸ See JB03415/01ERKWA, JB04497/01GTSOW, JB03731/01GTSOW and KZN/NM/116/NC.

The first three such offensives focused on the ANC regional offices. When the marchers moved on the ANC headquarters at Shell House, ANC security guards responded with automatic gunfire, killing eight people. Several of the ANC security guards who opened fire at Shell House applied to the Commission for amnesty. These hearings were ongoing at the time of reporting.⁵⁹

Ethnic and territorial polarisation

- 627 A crucial component of the escalation of conflict in many townships was the emphasis on ethnic and political boundaries through territorial control of particular areas. Thus, at the beginning of the conflict between township and hostel residents, most non-Zulus were driven from the hostels, while squatter communities around hostels were repeatedly attacked, often leading to their decimation. A Zulu ethnic identity and IFP political affiliation became absolute prerequisites for residence in the hostels. Thus, ideological, ethnic, political and territorial fortresses were created. On the other hand, people of Zulu ethnic origin or IFP political affiliation or those simply suspected of either of these, were forcibly and violently driven from the townships and obliged to seek refuge in the hostels, thus further reinforcing divisions.
- 628 The meshing of territorial and political boundaries through extreme coercion is illustrated by the stories of two Soweto residents on opposite sides of the political divide. In May 1990, IFP member George Mncube [JB04474/0101GTSOW] was reportedly threatened with death by the chairperson of the local civic association and harassed by 'comrades' in Meadowlands, Soweto after he had tried to prevent the eviction of another IFP member. Eventually, he was forced to move out of the township into Dube hostel.
- 629 Ms Dudu Howard and Mr Nester Howard were killed because they were trying to move out of an IFP stronghold, Msingville, the squatter camp in Mofolo, Soweto during September 1991 [JB00256/01GTSOW].
- 630 Once territorial boundaries were established, they were violently defended, making it impossible for people to return to their homes. The consequence was that many people who could not be absorbed into family or friendship networks were left homeless and remain so to this day.
- 631 In Thokoza, a systematic programme of political coercion was undertaken from January 1993 in Phenduka section, an IFP stronghold where many former

⁵⁹ Please note that the killing of eight marchers by ANC security guards, which has come to be known as the Shell House massacre, is dealt with in more detail elsewhere in the report.. See also AM5275/97, AM4688/97, AM5542/97, AM5543/97, AM5544/97, AM5545/97, AM5546/97, AM5547/97, AM5548/97, A5550/97, AM5551/97, AM5552/97, AM5553/97 and AM5554/97.

Khalanyoni hostel residents had fled after the hostel was destroyed by Phola Park residents. Residents of Phenduka reported that they had been forced to attend meetings, pay protection money and participate in self-protection units (SPUs). Those who did not conform were issued with 'eviction' notices by armed youths. Most of the victims were long-term residents of Thokoza.

- 632 At the same time, Zulu-speaking residents were also forced out of their homes by SDU members, in particular areas of Thokoza such as Unit F, Extension 2.
- 633 In Katlehong, a violent process of 'ethnic cleansing' was carried out against Zulu speakers living in the township. The majority of victims were shack-dwellers whose families came from Natal. Most of these people were forced to flee to the Kwesine and Buyafuthi hostels in Katlehong during May and July 1993 after their homes had been razed to the ground. Many people were targeted simply because of a perceived association with hostel residents, Zulu speakers or the IFP. Sections most affected included Mngadi, Radebe and Likole.
- 634 Ms Zondiwe Mtshali and her husband, Mr Benson Mtshali, were victims of the blurring of ethnic and political boundaries. Benson Mtshali was burnt to death in September 1993 because he was Zulu-speaking. His attackers assumed that this meant that he was an IFP member. Ms Mtshali told the Commission that she and her husband had faced harassment and ostracism before his death and that they had been forced to seek refuge with other Zulu speakers. However, because of their refusal to align themselves politically, they faced further difficulties.

THE COMMISSION FINDS THAT, IN THE PERIOD 1990 TO 1994, 'ETHNIC CLEANSING' TOOK PLACE ON THE REEF, PARTICULARLY IN AREAS SUCH AS THE EAST RAND AND ALEXANDRA. THE COMMISSION FINDS THAT INDIVIDUALS AND COMMUNITIES BECAME IDENTIFIED BY THE LANGUAGE THEY SPOKE, THE CHURCH THEY SUPPORTED, POLITICAL MEMBERSHIP, AREAS THEY LIVED IN AND THE SCHOOLS THEIR CHILDREN ATTENDED. THE COMMISSION FINDS THAT THE STATE, THE IFP AND THE ANC CREATED A CLIMATE OF POLITICAL INTOLERANCE IN WHICH THOUSANDS OF PEOPLE WERE FORCIBLY DISPLACED FROM THEIR HOMES. THE COMMISSION FINDS THAT THIS CLIMATE OF POLITICAL INTOLERANCE FACILITATED THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT MS ZONDIWE MTSHALI AND HER HUSBAND BUSA MTSHALI WERE VICTIMS OF THE ETHNIC POLARISATION THAT TOOK PLACE IN MOST OF THE REEF TOWNSHIPS. THE COMMISSION FINDS THAT BUSA MTSHALI WAS KILLED BY SDUS BECAUSE OF THE FACT THAT HE SPOKE ZULU AND WAS AUTOMATICALLY PERCEIVED TO BE ALIGNED TO THE IFP.

- 635 In March 1991, Alexandra was engulfed by a wave of violence. By the end of the month, seventy people were dead. Earlier, tensions had begun building in the township when the Civic Associations of South Africa (CAST) launched a

campaign urging councillors to resign. A number of councillors, particularly the mayor, Prince Mokoena, had responded by joining the IFP. Mokoena also allegedly told KwaMadala hostel residents that the Alexandra Civic Organisation intended to demolish the hostel, fuelling hostel residents' fears that they would lose their place in the urban areas. People living in the squatter settlements bordering KwaMadala hostel were the first to be violently attacked by the new KwaMadala hostel residents.

- 636 The violence resulted in geographical polarisation. Zulu speakers living in the township felt increasingly threatened and sought refuge in the main men's hostel, the Madala or M1. At the same time, several hundred non-Zulu-speaking men living in the hostel felt at risk and left for the township. Roosevelt Street, previously a busy arterial road, now formed the main border between the two communities.
- 637 The Commission received statements from people who were displaced from their homes in Alexandra during 1992, many of whom remain homeless to this day. Ms Esther Grant [JB01763/01GTTEM] who lived opposite Madala hostel said she had to flee her home in 1992 because people were being "slaughtered".
- 638 Ms Bertha Lesiba's shack was burnt down on 9 February 1992, allegedly by ANC supporters who believed her to be an IFP member [JB02494/01GTTEM]. The Phetoane family was forcibly removed from home on 12 March 1992, allegedly by members of the IFP. Ms Jenifer Ramatlo was forcibly displaced from her home, allegedly by members of the IFP [JB01766/01GTTEM]. Ms Lettie Nyathi was displaced from her home, which was subsequently occupied by hostel residents during conflict between the hostel and township community in March 1992 [JB01773/01GTTEM]. Ms Mampi Mazibuko was displaced from her home during conflict between the IFP and ANC on 23 March 1992 [JB01776/01GTTEM]. Mr David Mofokeng was shot dead in January 1992. His mother, Ms Maria Makgajane was displaced from her home by IFP members [JB01879/01GTTEM].

Drive-by shootings

- 639 During the 1990s, so-called 'drive-by' shootings, where gun-men opened fire from fast moving cars, often shooting indiscriminately at people, became an increasingly endemic. Drive-by shootings had occurred during the 1970s, particularly in the wake of the Soweto uprisings where people reported that they were randomly shot at by police driving around the township. However, it was only during the 1990s, and particularly in the PWV, that drive-by shootings began to form an essential part of the fabric of political violence.

- 640 According to the HRC, 139 people died as a result of drive-by shootings between January and the end of October 1993, the year when this type of killing peaked.⁶⁰
- 641 Drive-by shootings were a strategy, a methodology of violence which could take place in a variety of contexts e.g. attacks on taxis, night vigils, in the street etc. They also sometimes lead to a large number of deaths, which in turn could be classified as massacres.
- 642 Reports of drive-by shootings include the following:
- a On 23 May 1991, two men with AK47s opened fire on some 100 patrons of the Gobzitwana Kooperasie Beer Hall in Sebokeng. Five people died instantly and, within four days, the death toll had risen to thirteen.
 - b On 7 July 1991, five people were killed and fourteen injured when two masked men opened fire on the Erika Tavern in Zone 7, Sebokeng. It is believed that the same group was involved in the attack on 23 May, as well as the attack on the Nangalembe night vigil. (See Malebohang Sebina Khosi JB00812/03VT)
 - c Early in April 1993, an attack on a shebeen led to the death of three civic members and the injury of five others. The civic members were apparently celebrating their election as civic leadership. According to eyewitnesses interviewed by the peace-monitoring organisation, Peace Action, about six gunmen burst into the shebeen at approximately 21h30. One attacker went to talk to a taxi owner who had recently been elected onto the civic leadership structure. After emptying everyone's pockets of their money, the gunmen allegedly opened fire on the people assembled in the shebeen.
 - d On the eve of Chris Hani's funeral in April 1993, unknown gunmen drove back and forth through Sebokeng shooting randomly at residents. Nineteen people were killed and ten injured. Alina Mapelo Magoda [JB00811/03VT] testified before the Commission that she heard gun shots. She turned off the house lights. Shortly afterwards, a neighbour knocked at the door of her house. Her husband went outside and found the bodies of her daughter and her friend Molebatsi. Both were victims of the drive-by shootings that took place that night. Ms Maria Maki Moshodi [JB00827/03VT] lost three members of her family in a drive-by shooting on the eve of Chris Hani's funeral. Edward Maseko (8), Maria Moshodi and Paul Moshodi were all gunned down in front of the Moshodi house in Sebokeng.

60 Drive-by Shootings, Janine Rauch, 1993, CSVR Seminar No 9.

- e Over one weekend in June 1993, twenty-three people were killed by gunmen in a series of drive-by shootings. As Zone 8 Sebokeng residents settled down to watch a long anticipated boxing match on television, gunmen launched a carefully planned attack. First they shot two people walking in the street and, when residents left their homes to investigate, the men positioned themselves strategically in the crowd and opened fire, killing thirteen others. During the same week, a further ten people were shot dead from moving cars at various points in Sharpville.⁶¹
- f On 12 July 1993, at least fourteen people were killed and sixteen others injured when gunmen in a white Toyota Cressida, drove through the streets of Evaton and Sebokeng's Zone 12, randomly shooting at residents. Four women were amongst those injured. It was reported that nine people were killed instantly; others died in hospital. The vehicle used in the killings had been stolen from a Sebokeng woman and was later found abandoned in Sharpville. One of the injured said that the vehicle drove past them, before three gunmen appeared and opened fire. The gunmen reportedly spoke "like Zulus". The Azanian National Youth Unity claimed that "white racists" were involved in the attacks. The injured were identified as Mr Ezekiel Mabuya, Mr Amos Mathe (16), Mr Petrus Phoswa, Mr William Pule, Mr Izike Maboe (18).⁶²

643 The pattern of attack in the last three incidents was similar in the sense that, first, there appeared to be no financial motive; second, in each instance, gunmen drove through the township shooting indiscriminately; third, the victims appeared to be randomly chosen; fourth, the areas chosen, particularly Sebokeng, were strongly identified with political organisations, such as the ANC or PAC; finally, although the police were called for assistance, they did not respond.

THE COMMISSION FINDS THAT 139 DEATHS CAN BE ATTRIBUTED TO DRIVE-BY SHOOTINGS. THE COMMISSION FINDS THAT THIS WAS A STRATEGY ADOPTED BY A HOST OF DIFFERENT POLITICAL GROUPINGS AND DESIGNED TO SOW TERROR IN THE HEARTS OF THE COMMUNITY. DRIVE-BY SHOOTINGS TOOK PLACE IN A NUMBER OF DIFFERENT CONTEXTS, BUT ALWAYS INVOLVED SEEMINGLY RANDOM ATTACKS ON CROWDS OR GROUPS GATHERED AT NIGHT VIGILS. THE COMMISSION FINDS FURTHER THAT VICTOR MTHEMBU, A SENIOR OFFICIAL IN THE SEBOKENG IFP YOUTH LEAGUE, WAS RESPONSIBLE FOR A SERIES OF DRIVE-BY SHOOTINGS ON ANC-ALIGNED RESIDENTS. THE COMMISSION FINDS THAT THE IFP LEADER AT KWAMADALA HOSTEL, PRINCE GIDEON ZULU AKA VANANA ZULU INITIATED AND INSTRUCTED VICTOR MTHEMBU TO ATTACK ANC RESIDENTS IN A SERIES OF DRIVE-BY SHOOTINGS. THE COMMISSION FINDS THAT PRINCE GIDEON ZULU SUPPLIED VICTOR MTHEMBU WITH ARMS TO CARRY OUT THE ATTACKS.

61 Peace Action, Monthly Report, June 1993.

62 HRC database, Sources (HRC Transvaal; ANC PWV Peace Desk; SAPA, *Star*, 13 July 1993; *Citizen, Sowetan, Business Day*, 14 July 1993; SAPA, *Star*, 15 July 1993).

Train violence

- 644 Train violence began in July 1990 with a series of attacks on commuters travelling on the Johannesburg–Soweto line that left one person dead and approximately thirty injured. Shortly after the initial outbreak of violence in Sebokeng, Soweto commuters were attacked on trains by armed men alleged to have been Inkatha supporters, who chanted the Zulu war cry, "*usuthu*".
- 645 Although only 15 per cent of commuters used trains, violence on trains between July 1991 and June 1992 occurred twice as frequently as taxi and bus violence combined. Between 1990 and 1993, approximately 572 people died in more than 600 incidents of train violence. Only three people were convicted. Most of the larger scale attacks took place relatively early. Over time, the violence developed a momentum of its own.
- 646 From July 1990, the death toll steadily mounted, reaching a peak of forty-nine people killed and 129 injured by September. The most infamous of these attacks was the 'Benrose massacre' on 13 September where twenty-six people were killed and 100 injured by two gangs of men wielding a range of weapons including *pangas*, knives, sharpened instruments and guns. Fleeing passengers were killed by a second group of attackers waiting at the next station. Witnesses alleged that some attackers ran off towards George Goch hostel and others that the attackers had been speaking Zulu. The SAP suggested that the attack followed a prayer meeting in the train in which Buthelezi and King Goodwill Zwelithini had been insulted.
- 647 As train attacks escalated, commuters increasingly organised themselves in defence against the violence. People not 'belonging' to a particular coach would be considered a threat to commuters usually occupying that coach. A number of commuters were thrown from trains when they boarded the 'wrong' coach (did not have the appropriate political affiliation or ethnic identity). East Rand resident, Mr Paulos Nkondo told the Commission that he got into the 'wrong' coach in July 1991 when passengers were violently attacked.
- 648 Despite the fact that train commuters were usually organised along identifiable lines, train attacks were frequently indiscriminate. Young and old, male and female,

supporters of all political parties and representatives of all political groups fell victim to the violence. This apparent lack of targeting seems to suggest that train violence might have been aimed predominantly at causing general terror, rather than at achieving a clear, direct, political objective. The terrible fear induced by train attacks is evidenced by numerous reports of people jumping to their death from moving trains.

- 649 Of the three people who were convicted in 1993 for train violence offences, two applied to the Commission for amnesty. Both said that they are IFP members or supporters and saw themselves as participating in a political conflict between the ANC and IFP. Mr Xolani Mnguni [AM3551/96] said that he was acting under the orders of an IFP official and describes how he and his accomplice specifically targeted an 'ANC coach'.
- 650 On 25 June 1991, an attack on Kliptown train station left seven people dead and eighteen injured. The SAP arrested three men from Nancefield hostel in connection with this incident. Charges were later withdrawn due to lack of evidence. Mr Albert Msuseni Dlamini, a resident of Mazibuko hostel in Katlehong [AM1557/96], was involved in an attack on Katlehong station on 9 October 1991. He was arrested by commuters during the attack and was sentenced in April 1993 to ten years imprisonment on one charge of attempted murder, and one of illegal possession and use of a .38 revolver. He claimed that he had been promised R9000 for the attack by "the Boere". His amnesty application was rejected on 1 August 1997.
- 651 Mr Xolani Mnguni received the death sentence in February 1993 for the murder of Mr Matsosale William Aphane on 29 November 1992 on a Naledi–Cleveland train. He said that he was acting under the orders of Mr Hadebe of the IFP who allegedly issued an order to kill any ANC supporter or any person speaking badly about Buthelezi. Mnguni and an accomplice entered a coach on the train that they knew was occupied by ANC supporters.
- 652 The East Rand was a major site of train violence. According to the Institute for the Study of Public Violence (ISPV), the track from Katlehong to Kwesine station was the line with the highest risk in South Africa. The Human Rights Committee records that the Germiston\Katlehong line suffered eighteen attacks resulting in twenty-seven deaths and eleven injuries between August and December 1992.
- 653 The first large-scale attack on the East Rand took place on 1 July 1991 on the Germiston–Katlehong line when eleven people were thrown from a moving train.

654 In July 1991, Mr Paulos Nkondo () of Mandela Section, Natalspruit was on his way home from work by train, when a group of men he thought were train conductors boarded the train at Germiston and started beating and hacking commuters with pangas.

We were full in the train and different people and women were with us from Thokoza. The train left at 6 o'clock instead of at ten to six and some people came into the train whom I thought were ticket examiners. I did not pay any attention to them... They had dust coats [on] when they got into the train and that led me to think that they were the ticket examiners. When the train took off from Germiston suddenly the people changed and I was so surprised because in my mind they were ticket examiners ... From the other coach I heard a gun shot and when I was trying to peep and look to see what was happening I just received this bang on my head and that was from a panga... They were all over the train... They were speaking Zulu... There were many, I think about ten of them standing and seated.

655 Nkondo was stabbed, hacked and then thrown off the train.

656 Three large scale attacks also took place in 1992. In one attack on 13 November 1992, Mr Lazarus Shabangu [JB00354/01ERKWA] of Daveyton and his fellow passengers, the majority of whom were women, became the victim of an attack on train commuters by unidentified men. A group of about fifteen men opened fire indiscriminately. Shabangu was shot twice (despite an operation to remove the bullets, one is still lodged in his head), hacked on the forehead and assaulted. He was then thrown off the train but by then, he had already lost consciousness.

657 On 3 November, six people were killed and seven injured in a spree of violence that continued unchecked for three stations. Commuters waiting to board train number 7810 were shot at from the train by a group of armed men. Three people were killed.

658 The primary form of violence on East Rand train lines were continuous small-scale attacks initiated by one or two attackers.

659 Some IFP leaders publicly dissociated themselves from the involvement of IFP members in train violence as early as 1990 – at an IFP youth rally in George Goch Stadium in My 1990, Stezi Lamula, chairperson of the IFP's Mapetla, Soweto branch, expressed the IFP's displeasure about the harassment of commuters.

He stressed that such actions were not official IFP policy. However, it is also clear that both local and regional IFP leadership were centrally involved in the authorisation and planning of train violence. For example, a witness before the Goldstone Commission testified that IFP leaders Themba Khosa, Musa Myeni, Humphrey Ndhlovu and Zondi were involved in train violence. The witness, a former Nancefield hostel dweller himself, testified that two train attacks had been planned at the Nancefield Hostel (Kliptown St, 25 June 1991 and Nancefield St, 23 October 1991). Some information, if still fairly tenuous, appears to be emerging regarding the involvement of elements of the security forces, particularly the SADF's covert special forces in train violence. Most of this evidence has emerged through the Goldstone Commission and was rejected unsubstantiated. At least one person who gave evidence to the Goldstone Commission has now approached the Truth Commission– Mr Felix Ndimene, a Mozambican who had served as a sergeant in Recce 5. Ndimene claimed that he had been abducted from Mozambique on 23 August 1982 and brought to the SADF's Phalaborwa base where he was tortured and forced to join the SADF. In an interview with the *New Nation* in July 1991, Ndimene alleged that the Selous Scouts of Pietersburg and 'Verkenning Regiment 5' (VR 5, Recce 5), together with members of RENAMO, had been involved in train violence, particularly the Benrose massacre. He also alleged that the intelligence division of Spoornet Security was composed of former members of the special forces who orchestrated the violence on trains.

660 SAP member Mr Wayne Hugh Swanepoel, who applied to the Commission for amnesty [AM3727/96], to the Commission, implied that there was a link between the SADF and the SAP in the commission of train violence as early as 1988. Swanepoel said that he was involved in supplying guns to CCB member Mr Eugene Riley, which he believed had been passed onto members of the IFP. He said that he and others in his unit were involved in throwing people from the trains around 1988 "in an attempt to cause the ANC and the IFP to blame each other." About five people were thrown off. They wore balaclavas and painted those parts of their skin that were exposed. Afterwards, they would go to the scene of the crime "to make sure they were dead," and the case would be investigated by his own unit. He claimed that the people who assisted them were paid by the CCB and that the orders came "from inside the security police and higher up."

661 The Commission received information confirming the involvement of the Vlakplaas unit in train violence, as well as the link between this unit and hostel residents. Mr Joe Mamasela, former Vlakplaas *askari* alleged in the *New Nation* in March 1997 that alleged train killers stayed at Eikenhof farm in the Vaal area. A state-

63 See Duduza, Katlehong, Thokoza and Benoni hearings.

ment by *askari* Mr Xola Frank ("Jimmy") Mbane (enclosed in the files of amnesty applicants Mr Thapelo Johannes Mbelo (ref.no 3785/96) and Mr Wilhelm Riaan Bellingan (ref.no 5283/97)) alleges that most briefings for train operations took place at Vlakplaas. The train squad consisted of himself, Khayo, Sylvester, Mvelase, Shushe and Joss. Kilino served as commander and paid them R1 000 after successful operations. He further alleged that hostel-dwellers from the Nancefield Hostel were used at times in train attacks.

THE COMMISSION FINDS THAT TRAIN VIOLENCE WAS INITIATED BY GROUPINGS OPPOSED TO A DEMOCRATIC TRANSITION AND THE POSSIBILITY OF AN ANC LED GOVERNMENT.

THE COMMISSION FINDS THAT, WHILST TRAIN VIOLENCE WAS NOT OFFICIAL IFP POLICY, A NUMBER OF INDIVIDUALS AND LEADERS WITHIN IFP STRUCTURES WERE INVOLVED IN TRAIN ATTACKS.

THE COMMISSION FINDS THAT BETWEEN 1990 AND 1993, 572 PEOPLE DIED IN MORE THAN 600 INCIDENTS OF TRAIN VIOLENCE. THE COMMISSION FINDS THAT 62 PEOPLE WERE KILLED AND 100 INJURED IN THE BENROSE MASSACRE ON 13 SEPTEMBER 1990. THE COMMISSION FINDS THAT, ON A BALANCE OF PROBABILITIES, IFP SUPPORTERS WERE RESPONSIBLE FOR THE ATTACK. THE COMMISSION FINDS THAT, IN A NUMBER OF INCIDENTS, IFP SUPPORTERS COLLABORATED WITH MEMBERS OF THE SADF'S SPECIAL FORCES AND MEMBERS OF VLAKPLAAS IN PLANNING TRAIN VIOLENCE ATTACKS. THE COMMISSION FINDS THAT THE SAP AND THE SADF ARMED IFP MEMBERS.

THE COMMISSION FINDS THE IFP, THE SAP AND THE SADF RESPONSIBLE FOR THE KILLINGS THAT TOOK PLACE DURING TRAIN VIOLENCE ATTACKS AND THEREBY THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

Abductions

- 662 During the 1990s, reports of the abduction of people into hostels became increasingly frequent. During the latter half of 1993, in the wake of the ANC march past a Thokoza hostel (see above), a number of people were abducted into Mshayazafe hostel in Thokoza.
- 663 In one incident, the victims, Mr Dan Makhanye and Mr Amos Buti Tshabalala [JB00314/01ERKAT], were travelling along Khumalo road which passes Mshayazafe hostel when they were stopped and forced to drive into the hostel. Ms Zondi Ngobeni told the Commission that her husband, Amos Tshabalala, never returned home.
- 664 In another incident, on 29 July 1993, three young girls – fifteen-year-old Thembi Brilliant Mahlope, sixteen-year-old Molly Zondi and fourteen-year-old Winnie Makubela – who were on an errand for Ms Gloria Mahlope [JB03425/01 ERKAT],

were abducted into Mshayazafe hostel in Thokoza on the East Rand and raped. Two of the girls were stabbed and shot dead. Winnie Makubela was shot and wounded but managed to escape. Ms Gloria Mahlope said:

When I went to see my child at the mortuary, I found that she had been chopped, she was full of grass all over and was naked. There was a post mortem, because they were found with lots of wounds and they had been stabbed all over their bodies...it was shown that they had been shot in the stomach. They were found with bullets in their stomach.

THE COMMISSION FINDS THAT MR AMOS TSHABALALA WAS ABDUCTED AND KILLED ON 1 AUGUST 1993 BY IFP-SUPPORTING HOSTEL-DWELLERS AT MSHAYAZEFE HOSTEL, THOKOZA. THE COMMISSION FINDS THAT HOSTEL-DWELLERS OF THE SAME HOSTEL WERE RESPONSIBLE FOR THE ABDUCTION, RAPE AND DEATH OF MS THEMBI MATLOPE AND MS MOLLY ZONDI AND FOR THE RAPE AND ATTEMPTED KILLING OF MS WINNIE MAKUBELA. THE COMMISSION FINDS THE IFP RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

Taxi conflict

665 In the context of intense political competition, economic competition for routes and passengers frequently became politicised, leading to 'taxi wars' around the country. Because some taxi owners lived in hostels and some in the townships, and because they had a range of political affiliations, these economic conflicts frequently became intertwined with other dynamics, particularly the political conflict between the ANC and IFP.⁶⁴

666 Taxi conflict on the East Rand first flared in March 1990 when tensions between the Katlehong Taxi Organisation (KATO) and the Germiston and District Taxi Association (GDTA), exploded into open violence. While the conflict was initially an economic dispute over control of taxi routes, it quickly became politicised. Most members of GDTA were Zulu speakers from Natal who lived as tenants in the township and were never fully integrated into the township community. KATO, on the other hand, won the loyalty of the youth by providing discounts for students. Thus, COSAS students became targets of the GDTA, particularly after some of its members were attacked.

667 On 3 March 1990, after approximately seven people, mainly taxi passengers, had died in conflict between the drivers of the GDTA and the KTO, about 10 000 attended a meeting organised by the Katlehong Civic and Crisis Committee and resolved to boycott the taxis until it was safe to use them. Three days later, GDTA taxi operators killed five school pupils and teachers at Katlehong High

⁶⁴ See JB002181/01ERKAT.

school, allegedly in response to the burning of the house of a GDTA official. On 8 March, the death toll in Katlehong reached fifteen as GDTA-aligned vigilantes continued to seek out and kill youths. Hostel inmates aligned themselves with the GDTA drivers, after a taxi load of migrants from Natal, headed for the hostel, was mistakenly attacked by some youths.

668 In September 1993, there was a spate of violent attacks on taxis in Thokoza. Forty-eight people died and forty-five were injured during these attacks.⁶⁵ Residents speculated that people associated with hostels in the East Rand were using hit squads to force taxi drivers to use the route along Khumalo Street, past the hostels. The military precision with which the attacks were carried out would seem to bear out the theory that the attacks were carried out by hit squads.

669 The Commission received statements from victims of taxi violence during this period. On 14 March 1992, Mr Josiah Monaisa was shot and killed while travelling in a taxi that was hijacked by two armed men and driven to Meadowlands hostel [JB00775/01GTSOW]. Ms Pamela Sebathe was travelling in a taxi when a bullet hit her and she lost vision in her eye. [JB01231/01GTSOW]. Mr Isaiah Nhlanhla Mchunu was shot and severely injured while travelling in a taxi near Mzimhlophe hostel on 3 June 1992 [JB05415/01GTSOW].

THE COMMISSION NOTES THAT TAXI ASSOCIATIONS, PARTICULARLY IN THE EAST RAND, WERE PERCEIVED TO BE IDENTIFIED EITHER WITH THE IFP OR THE ANC. THE COMMISSION FINDS THAT A NUMBER OF INDIVIDUALS WERE EITHER KILLED OR SEVERELY INJURED WHEN UNKNOWN GUNMEN AND ASSAILANTS OPENED FIRE OR LOBBED HAND GRENADES ON GROUPS OF PEOPLE TRAVELLING IN TAXIS. THE COMMISSION FINDS THAT IFP-ALIGNED TAXI DRIVERS WERE ACCUSED OF DELIBERATELY ABDUCTING ANC-ALIGNED TOWNSHIP RESIDENTS RESULTING IN THE DEATH, TORTURE AND DISAPPEARANCE OF THOSE PERSONS.

Union conflict

670 In the far East Rand township of Ratanda, disagreement between workers over the need for a strike at the Escort Bacon Factory coalesced around two unions – the Food and Allied Workers Union (FAWU) affiliated to the Congress of South African Trade Unions (COSATU) and the United Workers Union of South Africa (UWUSA), set up by the Inkatha Freedom Party. The conflict inevitably became drawn into the wider battle for political control that was being waged on a local level all over the PWV.

671 The labour dispute in Ratanda led to ongoing conflict in the area between July and December 1992, including attacks on homes and the petrol-bombing of buses

⁶⁵ Human Rights Committee.

taking workers to and from work. Violence peaked in August, a month before FAWU workers returned to work in September. Some IFP members joined the COSATU-aligned FAWU, rather than its Inkatha counterpart, UWUSA, because they believed that FAWU could represent their interests more effectively. However, Inkatha members assumed that those who joined FAWU had associated themselves with the ANC. Workers who belonged to both the IFP and FAWU thus became targets of attack. Similarly, it was assumed that people who belonged to UWUSA were necessarily members of Inkatha and became a targets of attack.

672 Mr Sipho Wellington Ndumo [JB02993/01ERKWA], a member of UWUSA, was attacked and stoned by a group of students in Ratanda in 1992 because of his IFP membership.

673 It was not long before political, ethnic and territorial polarisation began, with non-UWUSA members being violently forced out of the hostel. On 24 July 1992, after an early morning explosion at the hostel, FAWU members fled. Residents of the squatter settlement, Mandela Village, located opposite the hostel, were systematically attacked over the next month, precipitating a mass exodus that left the hostel residents completely isolated.⁶⁶

674 The Commission received a large number of statements from victims of two bus attacks. Both took place as buses turned into Protea Road, about 250 metres from the hostel. During the first incident on 28 September 1992, a bus carrying workers from the Escort Bacon Factory in Heidelberg to the local township, Ratanda, was attacked with hand grenades. One person was killed and thirteen injured. A woman lost her leg.

675 Ms Deborah Jokazi [JB03472/01ERKWA], one of the victims of this attack, describes why in the context of the conflict between UWUSA and FAWU, the bus in which she was travelling became a target of attack:

On the 28 of September in 1992, we were FAWU members ... We were all from work, but there were UWUSA people who used to use a different transport and we FAWU were using a different transport... It was a public transport but, during that time, because there was a fight between FAWU, FAWU wanted their own transport and they were also using their own transport.

676 She alleges that she saw a "boy" outside the hostel pointing at the bus and that the police teargassed the bus after hand grenades had been thrown at it:

⁶⁶ See statement JB001705/01ERKWA.

677 On 14 November, a bus carrying people back to Ratanda from a sports event organised by the ANCYL was raked with gunfire as it turned into Protea Road, about 250 metres from the hostel. Approximately twenty rounds of ammunition were fired. One person died and eight others were injured.

THE COMMISSION FINDS THAT CONFLICT BETWEEN IFP AND ANC HOSTEL DWELLERS IN RATANDA ON THE EAST RAND EMANATED FROM A LABOUR DISPUTE AT THE ESCORT BACON FACTORY. THE COMMISSION FINDS THAT THE TWO UNIONS INVOLVED WERE FAWU, AFFILIATED TO COSATU, AND UWUSA, A UNION SET UP BY THE IFP. THE DISPUTE LED TO VIOLENT CONFLICT BETWEEN THE TWO UNIONS AND THEIR SUPPORTERS, INCLUDING ATTACKS ON THE HOUSES OF UNION OFFICIALS AND THE PETROL BOMBING OF BUSES TRANSPORTING WORKERS TO AND FROM WORK.

THE COMMISSION FINDS THAT THE IFP-ALIGNED UWUSA LAUNCHED AN ATTACK ON FAWU MEMBERS ON 24 JULY 1992, FORCING THEM OUT OF THE HOSTEL. THE COMMISSION FINDS UWUSA AND THE IFP RESPONSIBLE FOR THE DISPLACEMENT OF FAWU WORKERS.

THE COMMISSION FINDS THAT FAWU WORKERS USED DIFFERENT BUSES TO AND FROM WORK AND THAT, ON 28 SEPTEMBER 1992, A BUS CARRYING FAWU MEMBERS FROM WORK WAS ATTACKED WITH HAND GRENADES, KILLING ONE PERSON AND SEVERELY INJURING THIRTEEN.

THE COMMISSION FINDS THAT, ON 14 NOVEMBER 1992, A BUS CARRYING FAWU WORKERS BACK TO RATANDA FROM A SPORTS EVENT WAS ATTACKED 250 METRES AWAY FROM THE HOSTEL AND CAME UNDER GUNFIRE, KILLING ONE PERSON AND INJURING EIGHT OTHERS.

THE COMMISSION FINDS THAT, ON A BALANCE OF PROBABILITIES, THE ATTACKS ON THE BUSES WERE CARRIED OUT BY IFP-ALIGNED SUPPORTERS.

Criminalisation of political conflict

678 During 1990, criminal gangs became increasingly drawn into the political conflict in the PWV, becoming extremely effective participants in the contest for political power and territorial control. For criminal gangs, association with political organisations also provided valuable protection for and legitimated their criminal activities. Many gangs had become alienated from communities, and ‘anti-crime campaigns’, often initiated by ANC-aligned youth, sometimes led to violent retribution against gang members.

679 Criminalisation of political conflict was further facilitated by the police who frequently failed to intervene in the violence perpetrated by gangs, either by allowing them to carry out acts of violence unhindered or by failing to investigate incidents of violence perpetrated by gangs. Certain police units, such as Vlakplaas, were also more directly involved in supplying weapons to the IFP. Gangs that linked up with the IFP were one of the recipients of these weapons. The most significant example of direct security force involvement in gang violence is the Black Cats, who were given training by the KwaZulu Police. These trained gang members

were then sent back to the Transvaal to attack ANC leaders in Wesselton and Ermelo. Here they received further assistance from local police who deliberately concealed and tampered with evidence that implicated KwaZulu police and gang members in acts of violence.

The Toaster gang

- 680 The Toaster gang, which was allegedly responsible for considerable violence in the township of Tembisa, consisted largely of former 'comrades' who had been pushed out of the political circle of the ANC. The gang specialised in car hijackings. As the township community began to mobilise against the activities of the gang, it was forced to find a new home. The Vusimuzi hostel offered the ideal refuge, both physically secure and providing the possibility of a new political identity. The gangs' facility for violence was effectively utilised by the Inkatha Freedom Party.
- 681 Ms Kellina Manana [JB01691/01ERTEM] testified about the events relating to the killing of her husband, local ANC activist Mr Abel Butana, allegedly by members of the Toaster Gang on 25 February 1992. Mr Dumisani Henry Dlamini and his family were allegedly attacked by members of the Toaster Gang and IFP members in Umtjambeka Section on the evening of 1 April 1992. The attackers shot his friend in the left hand and fatally wounded his mother, Ms Lephina Dlamini [JB01597/01ERTEM]. He alleges that the family was attacked because they were ANC supporters.
- 682 On 12 April 1992, seven men were shot dead and six people seriously injured after gunmen armed with AK-47 rifles and shotguns travelling in a minibus and three cars, opened fire on residents preparing to patrol the township streets. The incident took place in Umthambeka section between 06h30 and 07h00. Witnesses reported that the attackers drove back to Vusimuzi hostel. Residents and police alleged that the Toaster Gang was responsible for an attack that appeared to be an attempt to deter residents from trying to defend themselves against attacks by the gang. Four of the casualties were identified as Mr Duma Fakude (35) [JB02319/01ERTEM], Mr Anton Chauke (52), Mr Absolom Mayo (35) and a person identified as 'Oupa' (37). The injured included Mr Eave Cefane (38), Ms Moffat Makaza, Mrs Friedah Monama (29), Ms Josephine Ntuli (22) and Ms Johanna Ledwaba.⁶⁷
- 683 In February 1993, charges against sixteen members of the Toaster Gang allegedly involved in this attack were withdrawn due to lack of evidence.

67 HRC database, 12 April 1992. Sources: Star 13 April 1992; Business Day, Citizen, 14 April 1992; ANC PWV Region, Tembisa Peace Corps.

Charges against another five members of the gang (twelve of murder, two of attempted murder, sixteen of robbery, one of rape and illegal possession of firearms) were also dropped due to lack of evidence.⁶⁸

684 On 1 May 1993, the leader of the Toaster Gang, Mr Yster Clement Jones, was shot dead by a Vusimuzi hostel resident. A senior IFP official, Mr Humphrey Ndlovu, later claimed on SABC television that Jones had been a member of the IFP. On 9 May, mourners returning from Jones' funeral were allegedly fired on and retaliated by shooting an ANC member, injuring three other people and damaging approximately thirty houses in Giyani and Ethafeni section. Witnesses to the attack by the mourners alleged security force collusion, saying that the attack happened in the presence of the security forces that made no attempt to arrest or stop the assailants.

685 The following day, Jones' body was exhumed from Emifihlweni cemetery by a group of people and taken five kilometres away to the Ndayeni Section taxi rank where it was set alight. Two weeks later, it was reburied by the IFP. A pact between ANC PWV and Inkatha leaders from Vusimuzi hostel was signed, with both parties pledging to keep the peace during Jones' second funeral.

686 This did not, however, prevent a massacre which took place on 31 July when thirty people were killed and twenty injured after members of the Toaster Gang and hostel residents from Vusimuzi hostel attacked homes in Umthambeka section and Ndayeni, Tafeni, Ntsonalanza sections of Tembisa township. The attack was apparently precipitated by the burning of a Toasters gang member by a group of residents from Umthambeka section. Homes were petrol-bombed and vehicles set alight during the attack. The attackers were repulsed by residents and retreated to the hostel, before launching another attack on homes in the township. Twelve of the victims were killed when armed men stopped a taxi and opened fire on the passengers. Nine of the injuries were women.

687 At a roadblock manned by hostel residents, twelve minibus taxi passengers were killed. Mtzulisi Mashobane, a five-year-old who survived because his mother threw him out of the window, told the press how he watched his parents burn to death when their taxi was stopped at the entrance to Tembisa by a group of armed men who shot all twelve passengers before setting the taxi alight. Mashobane and the driver were the only survivors. Other hostel residents were deployed in Umthambeka section where they killed and maimed widely. On Sunday morning,

⁶⁸ *New Nation*, 26 February 1993.

hostel residents raided Thafeni section. Three men were arrested by police in connection with this incident.

- 688 Ms Nomusa Ngwandi's home was attacked and her husband, Mr Lucky Brian Ngwandi [JB01596/01ERTEM] killed during the massacre on 31 July. Her husband had been on the streets patrolling with a self-defence unit when the Toaster Gang attacked. He tried to conceal himself by pretending to be a member of the Gang, but was discovered. Ms Ngwandi alleges that the police were involved in the attack:

Then I tried to open a window to see what is happening outside, then I saw some men who were carrying guns. They were in a Casspir. They were shooting relentlessly.

THE COMMISSION FINDS THAT THE TOASTER GANG WAS FORMED BY FORMER 'COMRADES' EXPELLED FROM THE ANC IN TEMBISA. INITIALLY THE GANG SPECIALISED IN CAR HIJACKINGS. THE TOASTER GANG ALIGNED ITSELF WITH RESIDENTS IN THE IFP-CONTROLLED VUSIMUZI HOSTEL WHEN THE COMMUNITY IN THE TOWNSHIP BEGAN TO MOBILISE AGAINST THEM. THE COMMISSION FINDS THAT, ON 12 APRIL 1992, THE TOASTER GANG LAUNCHED AN ATTACK FROM A MINIBUS AND THREE OTHER VEHICLES ON RESIDENTS PREPARING TO PATROL THE TOWNSHIP. THE ATTACK RESULTED IN THE DEATHS OF SEVEN MEN AND INJURY TO SIX OTHERS. THE COMMISSION FINDS THAT THE LEADER OF THE TOASTER GANG WAS KILLED BY A RESIDENT FROM VUSIMUZI. THE COMMISSION FINDS THAT MOURNERS RETURNING FROM THE FUNERAL OF THE TOASTER GANG'S LEADER WERE ATTACKED AND RETALIATED BY SHOOTING AN ANC SUPPORTER. THE COMMISSION FINDS THAT A PEACE PACT WAS SIGNED BETWEEN ALL THE WARRING PARTIES TO ALLOW FOR THE REBURIAL OF THE LEADER OF THE TOASTER GANG.

THE PEACE PACT WAS NOT ADHERED TO AND, ON 31 JULY 1992, MEMBERS OF THE TOASTER GANG AND VUSIMUZI RESIDENTS ATTACKED HOMES IN TEMBISA. VEHICLES WERE ALSO SET ALIGHT. IN THE ENSURING CONFLICT BETWEEN TOWNSHIP DWELLERS AND HOSTEL RESIDENTS, A MINIBUS WAS STOPPED AT A ROAD BLOCK WHERE TWELVE PASSENGERS, NINE OF WHOM WERE WOMEN, WERE SHOT AND THE MINIBUS SET ALIGHT. IN ALL, THIRTY PEOPLE WERE KILLED AND TWENTY OTHERS INJURED .

THE COMMISSION FINDS THE TOASTER GANG AND THE VUSIMUZI RESIDENTS RESPONSIBLE FOR THE ATTACKS ON RESIDENTS IN TEMBISA. THE COMMISSION FINDS THAT THE SECURITY FORCES ASSISTED THE GANG AND HOSTEL RESIDENTS BY ARMING THEM. THE COMMISSION FINDS THAT THE SECURITY FORCES FAILED TO INTERVENE IN THE CONFLICT AND PROTECT RESIDENTS, DESPITE BEING UNDER A DUTY TO DO SO.

The Khumalo gang

- 689 The Khumalo Gang, based in Thokoza, was another major participant in the East Rand conflict. By 1993, Reverend Mbhekisini Khumalo, leader of the gang, had been personally linked to at least nine murders and five attempted murders. The gang quickly became associated with the political conflict in Thokoza, including

the murder of political leaders in the township. The assassinations of Mr Sam Ntuli, General Secretary of the Civic Association of the Southern Transvaal in September 1991, and Mr Vusi Tshabalala, the deputy secretary of the Thokoza Civic Association in October 1992, were both linked to the Khumalo Gang.

- 690 Statements made to the Commission indicate that the Khumalo gang began to carry out acts of violence from 1991. For example, Ms Nkosi claims that her son, Mr Dickson Nkosi [JB05120/03VT], was abducted on 5 September 1991 and, according to his sister, Nomosonto, he was taken to a van, beaten and later shot. The group of people allegedly responsible was associated with Reverend Khumalo. Khumalo himself said that violence between himself and township residents first emerged after his home was attacked by a group of ANC comrades calling themselves 'the Bad Boys'.
- 691 In January 1993, gang related activity in Thokoza reached an unprecedented level. Eleven people died and, in one shooting spree on 15 January, nine people were shot. Members of the Khumalo gang were implicated in all of these deaths. One of those killed during the month was Ms Sabeth Khumalo, Khumalo's wife who had allegedly fled to Tembisa to escape her husband. Khumalo was twice arrested and charged with a range of offences including murder, attempted murder and illegal possession of firearms. However, on both occasions he was released on bail. As levels of violence escalated, several eye-witnesses decided to come forward with information that could implicate the Khumalo gang in a number of deaths. The homes of two people who gave statements to the police were subsequently attacked and burnt. In one incident three people in the house at the time were shot.
- 692 From evidence before the Commission, the gang appeared to have been fundamentally integrated into the organisational hierarchy of the IFP. It was the IFP leadership who initiated political projects and directed their execution. Junior members of the Khumalo gang relied on the patronage of senior members and were rewarded in an *ad hoc* manner. Both applicants reported that they were not paid, but were promised "many things" and were generally "looked after".
- 693 On 29 September 1991, the Civic Association of Southern Transvaal general secretary, Mr Sam Ntuli [JB00389/01ERKWA] (31), was shot dead in Thokoza as he drove along Khumalo Street in Thokoza at approximately 11h00, according to the Human Rights Committee, bringing to sixty the number of activists killed by alleged 'hit squads' in the previous fifteen months.

694 Ntuli's father was one of the last people to see him alive. Just before Ntuli left home three men came into the house:

At that time, Sam walked out from the bedroom and immediately walked to his car. The last chap followed him. He did not even say goodbye. He just stood up and walked. Sam would not have taken notice of this extra man sitting there and he did not say goodbye. He just went straight to his car which was a Toyota Corolla parked outside next to the house in the yard. He reversed out and the last man who walked out (I was watching now through the window), that chap started pointing. He was pointing in a surreptitious manner because he was pointing down and he was not raising his hand. He was indicating to a man across the street. I could see that Sam had not noticed them but I was already worried. So Sam reversed and drove off in Mazibuko Street into Khumalo Street. I did not see where those chaps disappeared to and I saw nothing else. Later of course, I heard what happened. I was very suspicious about this and worried.

695 According to the police, the killers were driving a blue Toyota Cressida. A witness said that the killers' car followed Ntuli and tried to force it off the road. When Ntuli stopped, they fired twelve shots at him as they overtook his car.

696 Two men, Mr Thami Zimu and Mr Thulani Mlaba,⁶⁹ who are serving twenty years and life respectively at Diepkloof prison for murder and attempted murder, were allegedly involved in the killing of Khumalo's wife and in the murder of civic leader, Mr Sam Ntuli (see below). Both applied for amnesty.

697 According to Mlaba's allegations (untested at the time of reporting), the order to kill Ntuli came from the IFP leadership in Thokoza, including Ms Gertrude Mzizi, Mr Albert (Mafulela) Mlaba, Mr Obed Radebe and Mr Msomi (an *induna* at Mshayazafe hostel). Mafulela (Albert Mlaba) and Obed Radebe were tasked with the killing. Thulani was ordered to steal the cars, which would be used in the assassination. When he failed to deliver the cars on time, he was threatened with death. Mr Abraham Mzizi, Mr Lucky Khoza, Mr Sabelo, Mr Zweli Nicholas Chamane, Reverend Mbhekiseni and Mr Mzwakhe Khumalo were also identified as participants in the planning meetings. Firearms, including three AK-47s and three 9mm pistols, were provided by Obed Radebe and Msomi who distributed them amongst the group of assassins. Two stolen vehicles, a white Toyota Corolla and a white Toyota Hi-Lux van, provided by Thulani, were used, as well as Obed Radebe's personal vehicle, a Honda Ballade. After the killing, Obed Radebe returned alone and reported that Sam Ntuli was dead.

69 In his section 29 hearing, Mr Mbekhisini Khumalo denied knowing Mr Thulani Mlaba at all and stated that he knew Mr Thami Zimu by sight, but did not have a close association with him.

698 Mr Sam Ntuli's burial precipitated further violence. On 7 October, twenty people were killed and twenty-six injured before and after the funeral. However, the main violence appears to have occurred afterwards when about 12 000 people left the funeral. The carnage was apparently sparked by unidentified gunmen who opened fire on mourners.

THE COMMISSION FINDS THAT THE KHUMALO GANG, BASED IN THOKOZA, PLAYED A MAJOR ROLE IN THE VIOLENCE ON THE EAST RAND. THE COMMISSION FINDS THAT THE GANG WAS INTEGRATED IN THE ORGANISATIONAL HIERARCHY OF THE IFP AND EXECUTED PROJECTS UNDER ITS LEADERSHIP AND DIRECTION. THE COMMISSION FINDS THAT THE REVEREND MBHEKISINI KHUMALO, THE LEADER OF THE GANG, WAS LINKED TO NINE KILLINGS AND FIVE ATTEMPTED KILLINGS. THE COMMISSION FINDS THAT, BY JANUARY 1993, ELEVEN PEOPLE HAD DIED IN CONFLICT WITH THE GANG AND, ON 15 JANUARY 1993, A FURTHER NINE PEOPLE WERE KILLED. THE COMMISSION FINDS THAT THE KHUMALO GANG WAS LINKED TO ALL OF THESE KILLINGS.

AMNESTY APPLICANTS ALLEGE THAT THE KHUMALO GANG WAS RESPONSIBLE FOR THE KILLING OF SAM NTULI, THE GENERAL SECRETARY OF THE CIVIC ASSOCIATION OF THE SOUTHERN TRANSVAAL, AND OF VUSI TSHABALALA, DEPUTY SECRETARY OF THE THOKOZA CIVIC ASSOCIATION. THE COMMISSION NOTES THAT AMNESTY APPLICANTS HAVE IMPLICATED GERTRUDE MZIZI, ALBERT MLABA AKA MAFULELA, OBED RADEBE AND INDUNA MSOMI IN THE PLANNING AND CO-ORDINATION OF SAM NTULI'S DEATH. THE COMMISSION WAS NOT ABLE TO MAKE A FINDING AS THE AMNESTY APPLICATIONS IN THIS REGARD HAD NOT BEEN HEARD AT THE TIME OF REPORTING.

The Black Cats

699 In Wesselton and Ermelo in the Eastern Transvaal, a gang called the Black Cats was involved in a series of violent attacks on members of the newly unbanned ANC between 1990 and 1992. Over twenty people were killed during the course of this violence, including some members of the Black Cats who died during counter-attacks against the gang. SDU members from Ermelo applied for amnesty for the murder of Black Cat members.⁷⁰

700 The 1992 Goldstone enquiry into the Black Cat gang confirmed the involvement of Inkatha in its activities. The Commission heard evidence that the Black Cats, supported by certain community councillors, received military training from Inkatha at the Mkhuze camp in 1990. Trained gang members were then sent to Ermelo to assassinate people affiliated to the ANC in the area. One of the perpetrators, Mr Israel Hlongwane, stated that both white and black SAP personnel met with him to assist with resources and ensure that the murder of ANC members was covered up. He also said that the mayor and certain councillors supported him with monthly cash and groceries while he was in Ermelo to eliminate ANC members.

⁷⁰ Amnesty hearing pending at the time of reporting.

- 701 The gang launched a series of attacks on the ANC, backed by a handful of Caprivi trainees who routinely visited Wesselton as members of the KZP. They bombed the offices of a local human rights lawyer and participated in an attack on mourners at the funeral of a victim of one of their attacks. Black Cat gang members allegedly received backing from white police officers in Ermelo. The Goldstone Commission found that police officials in Wesselton were involved in the disappearance of a docket into the killing and injuring of ANC members at this funeral in August 1990.
- 702 The Commission heard evidence that a member of the KwaZulu Legislative Assembly, Mr Amos Mthungwa, had given a statement to Ermelo police shortly after the funeral shooting on 11 August 1990, admitting that Inkatha members had returned fire after shots had been fired at them from the ANC crowd. He added that two KwaZulu police Officers, Constable Zweli Dlamini and Warrant Officer Nhlanhla Khawula, were among those who had shot at the ANC crowd.
- 703 The Commission also heard evidence that one of the firearms belonging to the KZP men was ballistically tested and linked to the funeral shooting, but was later returned to the KZP. Warrant Officer Geldenhuys, who took over as an investigating officer in 1991, conceded that the manner in which the Ermelo police had handled the case could not have solved it. He admitted that, in the course of constructing a new docket for the investigation, he had concealed the relevant evidence.
- 704 Ms Busisiwe H Nkosi's [JB03771/01MPPIT] son, Lucky was killed on 24 July 1990. She told the Commission of the attacks the Black Cats gang had carried out two days earlier and of the attack that led to the death of her son. Lucky managed to get home after he was injured by gunfire. Ms Nkosi told the Truth and Reconciliation Commission that they were too afraid to take him to the Ermelo hospital in case he was detained. Eventually they decided to take him to the hospital in Bethal. He died on the way.
- 705 Ms Mawane Gertrude Mabuza [JB03500/01MPPIT] testified about the death of her daughter, nineteen-year-old Ms Queen Gladys Mabuza, on 9 December 1990. She was allegedly killed by members of the Black Cats gang. Ms Mabuza told the Commission that when she found the body of her daughter, an eye had been gouged out and the rest of the body was severely mutilated.
- 706 Mr Madoda L Mbokane [JB03759/01MPPIT] gave evidence about an attack by the Black Cats on his home in Wesselton, on 30 July 1991 including the shooting

to death of the mother of the man they were apparently looking for. The attackers threw a grenade as they left the house, injuring Mbokane.

- 707 Mr Philemon J Malinga [JB03768/01MPPIT] testified that his home was attacked by members of the Black Cat gang on 27 July 1991. His mother Ms Belesia Malinga was shot and hacked to death during the attack. According to Malinga, the police first tried to set fire to his house. The attackers then allegedly went to the home of Wesselton mayor, Napoleon Mkonza and returned with reinforcements. On their return, the door of Philemon's home was broken down and the attackers entered the room, destroying everything in sight and shooting randomly. Philemon hid in a toilet where he could hear his mother being hacked to death:

They passed the toilet where I was hiding and they entered into my mother's bedroom. They continued shooting, using the guns, the pangas... it was so painful because when I heard my mother screaming and crying, saying ... "why are [you] killing me?" They responded by saying, "Keep quiet. Are you still making a noise you bastard?" They were insulting my mother. I felt I should come out and do something but I ended up saying, "You dogs, what are you doing?" I heard someone saying, "there is someone inside the room" and the other one said, "no there is no one, we have finished all of them". They were talking and saying, "they are already dead they're just saying their last words. Let's go".

I listened to that and someone insisted that there was someone somewhere inside the room and I crept down. I managed to creep under a mattress and I could see them through the hole of the toilet's door.

- 708 Philemon Malinga alleged that the police came to fetch the attackers. He heard the sound of a Casspir and a voice asking in Afrikaans "Have you finished?"
- 709 Because of the alleged link between the police and the Black Cat gang, the police became the target of violent attacks. Scheepers and another constable, Nkondo, were together in the township when their car was surrounded by approximately fifty people. Nkondo fired into the crowd, injuring some people and managed to flee. However, Scheepers was left behind. By the time Nkondo returned with reinforcements, Scheepers was already dead, lying in the road. In the wake of Scheepers death, a number of young ANC supporters were rounded up by the police. Sixteen-year-old Mr Nonhlanhla B Bloose [JBP3753/01MPPIT] was among a group of young people taken into custody in June 1992 after a Constable Scheepers had been killed in the township a few days previously. Bloose told the

Commission that the police assaulted members of his family when they arrived at his home. In the early hours of the morning, Blose was released.

THE COMMISSION FINDS THAT THE BLACK CATS WAS A GANG OPERATING IN WESSELTON AND IN ERMELO. THE COMMISSION FINDS THAT THE GANG WAS SUPPORTED BY COMMUNITY COUNCILLORS AND RECEIVED MILITARY TRAINING FROM INKATHA IN A CAMP IN KWAZULU-NATAL. THE COMMISSION FINDS THAT THE GANG, TOGETHER WITH A NUMBER OF CAPRIVI TRAINEES, ATTACKED ANC MEMBERS AND ASSASSINATED THEM. THE COMMISSION FINDS THAT THE BLACK CATS WERE SUPPORTED BY MEMBERS OF THE SAP IN TERMS OF RESOURCES AND IN COVERING UP THEIR INVOLVEMENT IN ANC KILLINGS. MEMBERS OF THE BLACK CATS GANG HAVE APPLIED FOR AMNESTY FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THE BLACK CATS RESPONSIBLE FOR THE KILLING OF MORE THAN TWENTY ANC MEMBERS IN THE WESSELTON AND ERMELO AREAS.

THE COMMISSION FINDS THAT THE ANC SUPPORTED THE FORMATION OF SDUS IN THE TOWNSHIP AND THAT SDU MEMBERS WERE RESPONSIBLE FOR THE KILLING OF BLACK CAT MEMBERS. THE COMMISSION FINDS THAT THE WESSELTON COMMUNITY IS RESPONSIBLE FOR THE KILLING OF CONSTABLE SCHEEPERS IN JUNE 1992.

THE COMMISSION FINDS THE BLACK CATS, THE IFP, THE SAP AND THE SDUS RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS.

Inter-organisational conflicts

710 Violence flared between members of the IFP and the AZAPO in Bekkersdal, a traditional AZAPO stronghold, late in 1991. According to AZAPO, twenty-one of its members were killed and several others displaced since the “hostilities” began in 1991. Both parties blamed each other for the violence. After relative calm returned to the area during 1992, violence flared again in early 1993. As the conflict intensified during the last months of 1993, the protagonists broadened to include the ANC and the PAC.

711 The violence in the area was the result of a political battle for control, firstly between AZAPO and the ANC, and later between AZAPO and the IFP. The alliance between AZAPO and the IFP emerged when it appeared that IFP members could offer AZAPO access to weapons. However, as the violence escalated more and more AZAPO members were killed, allegedly by supporters of both the ANC and the IFP (See Ms Ntombizikhona Cynthia Martins [JB02069/03WR], Mr Samuel Ovar Lubisi [JB02067/03WR] and Ms Leah Jakoba [JB01939/03WR]).

THE COMMISSION FINDS THAT A CLIMATE OF POLITICAL INTOLERANCE DEVELOPED IN THE COMMUNITY OF BEKKERSDAL IN THE WEST RAND BETWEEN 1991 AND 1993. THE COMMISSION FINDS THAT THE PROTAGONISTS IN THE CONFLICT WERE THE IFP, THE ANC AND AZAPO.

THE COMMISSION FINDS THAT MORE THAN FORTY-SIX PEOPLE WERE KILLED IN THIS AREA BETWEEN 1991 AND 1993.

THE COMMISSION FINDS THAT ALL THREE ORGANISATIONS SHOULD TAKE RESPONSIBILITY FOR THE GROSS HUMAN RIGHTS VIOLATIONS THAT WERE COMMITTED IN THE AREA. THE COMMISSION FINDS THE IFP RESPONSIBLE FOR THE KILLING OF SELLO KASI, A SEVENTEEN-YEAR-OLD MEMBER OF AZAPO. THE COMMISSION FINDS THAT AZAPO WAS RESPONSIBLE FOR THE KILLING OF ROBERT HLOMUKA, SECRETARY OF THE IFP YOUTH BRIGADE. THE COMMISSION FINDS THAT THE SAP FAILED TO PROVIDE ADEQUATE PROTECTION TO THE COMMUNITY OF BEKKERSDAL. THE COMMISSION FINDS THAT THE SAP, THROUGH THE ISU, WAS AN ACTIVE ROLE-PLAYER IN THE POLITICAL INTOLERANCE THAT PREVAILED IN BEKKERSDAL BETWEEN 1991 AND 1993.

Intra-organisational conflicts

- 712 The ANC SDUs that emerged in townships on the Reef in 1991 were composed largely of politicised youth, sometimes armed with guns but often with home-made weapons (quashes) or other objects. In a number of townships on the East Rand, residents had agreed to pay R20 per household to SDUs in return for the protection of their neighbourhood. However, these 'donations' were extracted in an increasingly coercive fashion and the amount steadily escalated.
- 713 In addition, SDUs became increasingly embroiled in internal conflict and territorial disputes, leading, in the most extreme circumstances, to the mass execution of rival units. The SDUs also increasingly took on the role of self-appointed 'community police', often becoming violent moral arbiters in community disputes. In theory, SDUs were community-based neighbourhood patrols and permitted as such under the National Peace Accord. In practice, however, there was no satisfactory system of control and accountability. SDUs easily degenerated into bands of armed young men using their guns to control territory, women and resources. SDUs were infiltrated by numerous police informers and, in many instances, drifted into criminal practices. Towards the end of 1992, the ANC took steps to halt the extortion, car hijackings, rape, robbery and summary executions that had become associated with the SDUs. These steps were only partially effective.
- 714 The Commission received approximately 150 amnesty applications from SDU members on the East Rand, primarily from members of Thokoza and Phola Park units. Among these are Mr Michael Phama, a police informant who was involved in organising an attack by the Thokoza SDU that led to the death of at least sixteen Inkatha supporters. Amnesty applicants included a chief commander, sixteen sectional commanders, the entire membership of the 'Committee of Seven' from Lusaka Section A, and approximately ninety 'ordinary' members of the SDUs.

- 715 A submission to the Commission by the Thokoza branch of the ANC indicates that fourteen sections, including the Phola Park squatter camp, under the control of the central command structure in this township. However, it is clear that the level of political control exerted over SDUs, particularly at a local level, was uneven and a number operated with increasing independence and little political mandate. Attempts to regain control over increasingly recalcitrant SDUs often resulted in further violence.
- 716 Sectional heads of SDUs who applied to the Commission for amnesty acknowledged that they were not always successful in establishing their political authority and that sometimes decisions about the activities of SDUs were taken in a variety of forums and circumstances, outside the official SDU command structure. Local community pressure appears to have had a significant influence on decisions made by local SDUs. For example, the 'committee of seven' cite a 1993 mass meeting where there was a decision to adopt the slogan, 'a killer must be killed'. Members of the community would call on SDU members to act against alleged 'informers'. This may have meant holding a 'people's court' and/or organising an execution.
- 717 The ANC Thokoza branch submission to the Commission acknowledges responsibility for such 'excesses' and admits that SDUs initiated attacks against, rather than simply defended themselves from, the IFP and security forces. However, the submission does not acknowledge the extent to which coercive and violent practices by SDUs became pervasive, particularly as conflict intensified.

Khutsong

- 718 From 1989–91, there were at least seventeen extra-judicial executions in Khutsong, a small township outside Carletonville on the West Rand. The victims were all members of the Khutsong Youth Congress (KYC). The KYC split into two factions – the 'Zim-Zims' and the 'Gaddaffis', both active UDF/ANC supporters. The Commission received over sixty statements relating to this particular period in Khutsong's history.
- 719 Attacks and counter-attacks on the families and homes of Gadaffi and Zim-Zim members followed the split. During one incident, members of the Gadaffi group abducted and murdered an ANC marshal, Ms Khosi Maseko [JB03109/03WR], leaving her burnt body to be found. At her funeral her coffin was dug up and burnt. In response, Zim-Zim members attacked the home of Ms Mpumi Nomandla, a Gaddafi member. During this attack Nomandla's father, Mr John Nomandla [JB00448/03WR] was killed and his home burnt. Victims made statements to the police but perpetrators were not arrested.

720 In May 1991, local organisations, the ANC and the Independent Board of Inquiry brought the two groups together and, after heated discussion, the two factions signed a peace pact. It was at this meeting that a decision was made to approach senior police personnel to set up a special task force to investigate the violence in the area.

721 In some of the cases of assaults and killings that occurred during this period, the police allegedly colluded with one faction in the conflict in Khutsong. For example, according to the testimony of surviving victims, at least two police officers in uniform actively participated with the Zim-Zims in the murder of Mr Solomon Mlangeni [JB00402/03WR] and the wounding of two other youths whom they had abducted from a house in Khutsong on 20 November 1990. The youths were taken to a river bank outside the township where they were allegedly kicked, punched, beaten with sticks and iron bars, thrown into the water and shot at by their abductors and the policemen. One of the abducted youths managed to escape. Mr Sipho Mlangeni, who died as a result of the assaults, and the third youth, who was severely injured, were later found by family members on a rubbish dump.

722 In 1993, internal conflict emerged in Khutsong when branch executive members of the ANC unleashed a reign of terror on the residents of the area. Several of these cases were brought before the Commission. The violence began shortly after the ANC branch executive committee (BEC) elections in January 1993. BEC members allegedly assaulted three women and a number of students on the day of the election. They then reportedly held 'kangaroo court' sittings at what was termed the 'Freedom Tree'. At least eight people lost their lives in the ensuing conflict. Eighteen-year-old Mr Abel 'Ngame' Motswaesane was killed on 23 May 1993 after refusing to reveal the names of youths who had attended a meeting to protest against the activities of the BEC. He was hit on the head with a pickaxe and, despite being taken to hospital, never regained consciousness. One of the students who attended the protest meeting said that he had been taken to the 'Freedom Tree' and questioned by the BEC regarding the meeting:

I told them that the meeting was for the youth and not adults. I was then 'klapped' (slapped) and beaten with a knobkierrie. We were told that in future, if we have meetings we should invite them.

723 A number of other youths related similar tales. On the day of Motswaesane's funeral, mourners were attacked. A woman who recognised her attacker as a member of the BEC was hit in the stomach with an iron bar. Following this

incident, the ANC regional office intervened and the BEC was suspended. Several were criminally charged.

Public order policing

- 724 In addition to the failure of the security forces to intervene effectively in the internecine conflict that occurred during the 1990s, the police and army also continued, as in the 1980s, to be involved in the direct perpetration of gross human rights violations. Most significant perhaps was the continued use of lethal force to disperse gatherings as well as ongoing use of torture in detention. For the first time during this period, concrete evidence of torture emerged when electric shock equipment was recovered during raids on two police stations. In addition, two major massacres occurred in Sebokeng and Daveyton after police opened fire on public gatherings leading to approximately twenty-six deaths. Renewed opposition to black local authorities in rural and peri-urban towns elicited a violent police response and resulted in a number of people being killed in street clashes with police.
- 725 On 26 March 1990, police opened fire on a crowd of 50 000 people who were marching from Sebokeng to Vereeniging to present a list of grievances. A petition was presented to the police commander by the head of the Vaal Civic Association, Mr Bavumile Vilakazi. It is alleged that, as he was speaking to the crowd, the police opened fire without warning. Tear gas was also used. At least thirteen people died and more than 400 were injured. Many of the injured people were shot in the back. Police claimed to have acted in self-defence when people started throwing stones and bottles at them. Reporters testified that they did not see any stone throwing. Commanding officer W du Plooy testified that he did not give orders to fire, but added that five stones were thrown at the police and that the reaction of the police officers who began firing was therefore reasonable.
- 726 In protest at the shootings, the ANC interrupted talks with the government. After calls for a judicial inquiry, former president FW de Klerk appointed Justice Goldstone to head the investigation of the Sebokeng massacre. This was the origin of the Goldstone Commission of Inquiry regarding the Prevention of Public Violence and Intimidation. Goldstone recommended that the police officers involved in the Sebokeng massacre be prosecuted.⁷¹ In August 1993 in the Vereeniging Circuit Court, trial of nine policemen who faced six charges of murder, one of attempted murder and negligent use of firearms in connection with the shootings at Sebokeng in march 1990, was postponed indefinitely.⁷² The Commission has received seven

71 Violence in the Vaal, Dutch Observer Mission report, p.11;

72 Human Rights Commission, Monthly Repression Report, p.35.

statements about this massacre, referring to eight victims, one of whom was killed and the remainder injured.⁷³

ON 26 MARCH 1990, POLICE OPENED FIRE ON A CROWD OF 50 000 PEOPLE WHO WERE MARCHING FROM SEBOKENG TO VEREENIGING, KILLING THIRTEEN PEOPLE AND INJURING OVER FOUR HUNDRED. MANY OF THE INJURED PEOPLE WERE SHOT IN THE BACK, INDICATING THAT THEY WERE FLEEING WHEN POLICE OPENED FIRE. THE GOLDSTONE COMMISSION FOUND THAT THE GATHERING WAS PEACEFUL BEFORE THE POLICE INTERVENED AND THAT THE POLICE DID NOT GIVE AN ORDER TO DISPERSE BEFORE OPENING FIRE WITH LIVE AMMUNITION.

IN REVIEWING THE INFORMATION ON GROSS HUMAN RIGHTS COMMITTED AT SEBOKENG ON THE 26 MARCH 1990, THE COMMISSION FINDS THAT THE SAP AND COMMANDING OFFICER W DU PLOOY WERE DIRECTLY RESPONSIBLE FOR THE DEATHS AND INJURIES THAT OCCURRED.

THE COMMISSION FINDS THE FORMER STATE, THE MINISTER OF LAW AND ORDER AND THE COMMISSIONER OF POLICE ACCOUNTABLE FOR THE KILLINGS AND INJURIES OF PEOPLE ON 26 MARCH 1990 AT SEBOKENG.

727 On 14 March 1991, thirteen people were killed and twenty-nine injured when police opened fire on a group of approximately 200 residents holding an 'illegal' meeting in Daveyton. Township residents alleged that they had gathered because they feared an attack following an Inkatha rally in the township. Police stated that they opened fire after they were attacked by the group that hacked one policeman to death. The Commission received eight statements about the massacre, detailing one death and ten injuries. Two witnesses testified at the Commission's East Rand hearings. Both were held under police guard in hospital after they had been shot. They were later charged the murder of the white policeman, along with at least thirty other ANC supporters. They were subsequently acquitted.

728 Mr Samson Zolani Xakeka [JB05056/01ERKWA]⁷⁴ told the Commission that, as the group stood deciding what to do next, they were surrounded by police and told to disperse minutes before the police opened fire. Mr David Sam [JB00271/01ERKWA] testified that the police specifically gave an order to shoot to kill:

This white man who had been swearing at us got out of the Casspir from behind and took out a firearm and said: "Kill". Before we could even respond to the two men who had come with the message, we heard them say: "Shoot to kill".

729 As the police opened fire, the group began to flee but they were pursued. Mr Samson Zolani Xakeka was shot in the chest and lay unconscious for some

⁷³ See JB01641/03VT, JB05380/03VT, JB05031/03VT, JB04623/03VT, JB05224/03VT, KZN/TIS/039/BL and JB04929/03VT.

⁷⁴ Duduza, Benoni, Katlehong and Tokoza hearings.

time. The Commission heard that the police showed vicious disregard for the dead and injured. Mr Xakeka said:

I held my chest for quite a while, pressing it. And in the meantime these white policemen and also black policemen were swearing all over us, saying, "Die, you kaffirs; die, you dogs; yes, die..." What really disturbed me the way in which these people were being loaded into the van. They would be taken and thrown into the police van.

730 Some policemen allegedly committed further violence by driving over the head and thereby killing one of the injured victims in a Casspir. Xakeka alleges that he saw a policeman with a video camera put a firearm next to the bodies of one of the deceased and begin filming. Still pretending to be dead, Xakeka was taken along with the corpses of people killed during the massacre to a police station:

I was also taken and thrown amongst the deceased. And when I was thrown in, my hand came away from where I was holding my wound and blood started flowing and when I came to I put my hand back on my chest and I thought we were on our way to the mortuary. But thank God, we were on our way to the police station.

731 He witnessed the police involved in the killings being congratulated by their colleague.

732 Several months later, a judicial inquiry concluded that police had used excessive force in their handling of the ANC supporters during the clash in Daveyton. Rand Supreme Court judge, Mr Justice B O'Donovan, also ruled that a group of six residents who were part of the crowd had taken part in the attack on a policeman, Lance Sergeant Jan Petus van Wyk, were guilty of murder.

IN THE REVIEWING THE EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS COMMITTED IN DAVEYTON ON THE 14 MARCH 1991, THE COMMISSION FINDS THE SAP RESPONSIBLE FOR THE MASSACRE BY USING EXCESSIVE FORCE AND BY FAILING TO USE NON-LETHAL METHODS OF CROWD CONTROL. THE COMMISSION FINDS FURTHER THAT DAVEYTON RESIDENTS WERE RESPONSIBLE FOR THE DEATH OF A YOUNG POLICEMAN, MR HENNIE VAN WYK.

Protest against black local authorities

733 In urban areas, most black local councils had collapsed during the height of conflict in the mid 1980s. In rural and peri-urban areas, however, opposition had been less intense owing to an intensively conservative environment and many local councils remained intact. The opening up of the political process from the

1990s gave residents the opportunity to begin to form civic organisations and openly oppose the local authority system, as well as raise other issues of concern such as value added tax (VAT), high rent tariffs and so on. Conservative white town councils responded to these campaigns by cutting off water and electricity supplies to many black townships. Hundreds of thousands of residents were left without water. Sewage systems broke down and some townships were blacked out at night.

- 734 During 1990, there were a series of clashes between police and residents in the Northern Transvaal towns of Messina and Nancefield over protests against black local authorities and a campaign opposing VAT which was initiated by the recently formed Messina civic association.
- 735 On 10 March 1990, Mr Wilson Ndambale [JB04013/02NPLTM] was shot dead by police in Nancefield during a protest against black local authorities. His death led to the launch of a consumer boycott and a week-long stay away. During the course of the conflict, there were a number of arson attacks on the homes and vehicles of councillors.
- 736 On 4 August 1992, Ms Sarah Sekhwana, a mother of three small children, was shot and blinded by a member of the SAP in Messina during a protest march against the implementation of VAT. Ms Sekhwana was on her way to run an errand when she was caught up in the march. Her sister, Ms Annikie Sekhwana [JB04010/02NPLTM], testified that she was shot at point-blank range by a policeman sitting in a van. Sarah Sekhwana lost her sight in one eye as a result of the shooting. Annikie Sekhwana made a statement at the police station and contracted the services of a lawyer but the case was never taken any further. Ms Jeanet Ramakokovu [JB04006/02NPLTM] was also detained in the anti-VAT protests in Messina.

Detention and torture

- 737 Although the 1990s was not characterised by the mass detentions that took place in the 1980s, torture during detention continued to occur. This is reflected in the data collected by the Johannesburg regional office, which indicates that, although levels of torture decline substantially during the 1990s, it remained a major gross human rights violation.⁷⁵ During this period, however, the number of reported killings exceeded the number of reported torture violations. By far the majority of torture victims who identified themselves as members of a political organisation, were ANC members.⁷⁶ A larger proportion of torture victims during this period

⁷⁵ See Graph B3 in Johannesburg overview.

⁷⁶ See Graph D2c.5 in Johannesburg appendix.

came from the 25–36 group than was the case during period three where victims of torture were substantially dominated by the 13–24 age group.⁷⁷

- 738 In 1992, well-known pathologist Doctor Jonathan Gluckman stated that he believed the police to be responsible for ninety per cent of the deaths of 200 people whom he had examined after they died in detention. In 1993, torture equipment was found at the ISU base in Vosloorus on the East Rand and a special crime combating group, the Yankee Squad, was disbanded after numerous allegations of misconduct were made against the unit, including widespread use of torture and assault.
- 739 The July 1992 death in custody of Mr Simon Mthimkulu, an eighteen-year-old Sebokeng youth, provoked pathologist Dr Jonathan Gluckman to make public his concerns about the treatment of people in police custody. His previous appeals to former President de Klerk, senior cabinet ministers and the Commissioner of Police, had proved fruitless. The Human Rights Commission confirmed that, at the time that Gluckman made his allegations, an average of three people died every month while in police custody.⁷⁸
- 740 On 16 July 1993 the 'Yankee Squad', was disbanded and three of its members suspended pending further criminal investigation. The 'Yankee Squad' was a police unit set up in February 1992, purportedly as a special crime-combating group. It specialised in covert operations in the Vaal, in particular the tracing of illegal weapons. The disbanding of the squad followed intensive investigations by police reporting officer, Mr Jan Munnik, into numerous allegations of assault and torture against the squad. Furthermore, it was alleged that the unit was responsible for the death of ANC activist Mr Edgar Mohapi [JB00967/01GTSOW] who died in the custody of the unit.
- 741 In September 1993, the ANC won an order restraining members of the ISU from assaulting and torturing people at Nyoni farm, the ISU headquarters in Vosloorus. The following month, the Complaints Investigation Unit of the Peace Accord conducted a raid on the ISU base next to Natspruit hospital on the East Rand. A number of instruments of torture were allegedly found, including electric shock equipment and rubber tubing. East Rand residents arrested by the ISU had frequently reported electric shock treatment and suffocation with tyre tubes placed over their faces.

⁷⁷ See Graph D1c.5 in Johannesburg 1983–89.

⁷⁸ Peace Action Monthly Report, August 1992; Human Rights Commission, Human Rights Update, July 1992, p. 9.

- 742 A special police task force set up in July 1991 in Khutsong on the West Rand (as a result of escalating violence in the area between the Zim-Zim and Gadaffi gangs) led to the suspension of thirteen policemen and the closure of the Welverdiend Police Station dubbed the 'House of Horrors' by the media (due to the high number of cases of torture taking place at the station). Over one hundred cases were reported to the task team; only one resulted in a conviction.
- 743 The task team was set up and investigated over a hundred cases of torture and assault as well as seventeen cases of extra-judicial executions, two of which involved sixteen-year-old Mr Nixon Phiri [JB01068/03WR] and fifteen-year-old Mr Eugene Mbulawa [JB00462/03WR]. Both youths died after being detained by the SAP. The police claimed that Phiri died as a result of an epileptic fit. There was no history of him having this condition at the time of his detention. Two witnesses who were detained with him and who witnessed his assault died in 'unrest incidents' shortly after making statements to the Phiri family's attorneys.

THE COMMISSION FINDS THE SAP RESPONSIBLE FOR THE DEATH IN CUSTODY OF MR EUGENE MBULAWA AND MR NIXON PHIRI.

Conflict between SAP and MK/APLA members

- 744 Between July 1990 and August 1991, attacks on the police increased from 107 to 137.⁷⁹ The major perpetrators of these attacks were ANC and PAC guerrillas who had returned from exile, some of whom located themselves within local SDUs. Frequently, it was black policemen living in townships that were the most vulnerable and were targeted by SDU and MK members. The Commission's Amnesty Committee received applications from ANC and SDU members for attacks on policemen. ANC member, Mr Simon Khakha 'S'dumo' Ngubeni [AM3128/96], applied for amnesty for the killing of SAP member Peter Ransayile. Ngubeni says that he threw a hand grenade at the deceased. Mr Mosiuwa Isaiah Khotle [AM3443/96] applied for the killing of a policeman during a shoot-out on 22 March 1993. Mr Thabiso Samuel Ntho [AM7914/97] applied for throwing a hand grenade at the SAP in Sharpville on 24 January 1992.
- 745 Mr Abel Phele's [JB00828/03VT] son, Mr Frans Molefe Phele, a PAC member and returnee from exile appears to have been a victim of a drive-by shooting when he was shot dead, allegedly by police driving in a white city golf. According to Abel, the perpetrators, among them a policeman identified as Mohapi, are now standing trial in the Supreme Court. Phele testified that, since his return to the

⁷⁹ CASE

country, his son had been continually pursued by police. He took two of his son's friends who had witnessed the shooting to the police station to make statements. While there, one of them allegedly saw the car that had been involved in the drive-by shooting.

- 746 The conflict between the police and returned MK members led to a number of alleged shoot-outs with police, in the course of which MK members were frequently killed. In some instances, witnesses to such killings alleged that the MK members had been ambushed and executed and not, as was claimed, involved in shoot-outs with the police.

THE COMMISSION RECEIVED A NUMBER OF AMNESTY APPLICATIONS FROM ANC AND SDU MEMBERS FOR ATTACKS ON POLICE OFFICERS. THE COMMISSION FINDS THAT MEMBERS OF THE ANC WERE RESPONSIBLE FOR ATTACKS AND KILLINGS OF POLICE OFFICERS IN TOWNSHIPS, PARTICULARLY ON THE REEF IN THE PERIOD 1990 TO 1994.

THE COMMISSION FINDS THAT, DURING THE PERIOD 1990 TO 1994, THE FORMER STATE ITS ORGANS AND THE SAP AND SADF WERE RESPONSIBLE FOR EXTRA-JUDICIAL KILLINGS IN THE VAAL AREA.

The reincorporation of homelands

- 747 Political events in South Africa resulted in increasing pressure for the re-incorporation of the independent homelands and self governing states, resulting in a series of coups and attempted coups in the 1990s. In Ciskei, Brigadier Oupa Gqozo led a military coup against Mr Lennox Sebe on 4 March 1990. Venda followed suit on 5 April 1990, with Mr Gabriel Ramushwana ousting Mr Frank Ravele. In Transkei, Colonel Craig Duli failed to overthrow Major General Bantu Holomisa in November 1990. In Bophuthatswana, Mr Rocky Malebane-Metsing of the Progressive People's Party and some disaffected elements of Bophuthatswana Defence Force failed to overthrow Mr Lucas Mangope on 10 February 1988. Mangope continued to lay claim to independent status for Bophuthatswana and attempted to impose this through increasingly violent means.

Venda

- 748 During the 1990s, the conflict in Venda centred primarily on witchcraft and medicine murders, which had become increasingly politicised during the 1980s. During the 1990s, protests against witchcraft were closely linked to the rejection of the homeland government, which was believed to be responsible for or complicit in this practice. Protests against the homeland government lead to a military coup on April 1990 in which Chief Minister Ravele was ousted.

- 749 Between January and March 1990, about twenty people were reported to have died during anti-witchcraft unrest. People accused of being involved in medicine killings or being witches and wizards were hacked or burnt to death. After a rally in Venda capital, Thohayandou, celebrating the release of Nelson Mandela in February 1990, more than fifty houses were burnt down and hundreds of people had to flee their homes. Many of the victims were elderly.⁸⁰
- 750 The link between anti-homeland government protests and anti-witchcraft protests in Venda is reflected in the amnesty applications of a number of youths involved in the murder of alleged witches and wizards. The amnesty applicants specifically state that they believe their actions contributed to the downfall of the former Venda government, that medicine murders were associated with the homeland government, and that the practice of witchcraft by witches and wizards had to be routed out as it reflected backwardness and superstition. By eliminating such 'backward' practices, they believed that they were helping to ensure that Venda became a modern and democratic society.
- 751 The Commission received some statements from people who were attacked on suspicion of being witches and consequently suffered gross human rights violations.
- 752 Mr Tshililo Jackson Mulaudzi [JB01750/02NPVEN], a pensioner in his early seventies, was accused of being a wizard by 'comrades'. His house was burnt down during this period.⁸¹ Mr Thari William Masithi [JB01366/02NPVEN] was attacked by a group of youths, which accused him of practising witchcraft, turning people into zombies. His house was burnt down on 11 February 1990, and his mother Ms Nyamukamadi Masithi was trapped inside and burnt to death.⁸²
- 753 A number of people were killed or injured during clashes with the Venda police over the issue of witchcraft. Mr Asivhanga Rueben Mugivhela was shot dead by Venda police whilst he was amongst a group of men who went searching for an old man who had mysteriously disappeared.⁸³ Ms Joyce Bongwe [JB01970/02NPVEN] was also allegedly shot dead by the Venda police in March 1990. She had left home to attend a political meeting organised by the youth. Her body was found the next day with a bullet wound in her head.⁸⁴ Mr Lufuno Simon Mariba [JB01372/02NPVEN] was arrested and severely assaulted when Venda police

80 A de V Minnaar, D Offering & C Payze, *To live in fear: Witchburning and medicine murder in Venda*, Human Sciences Research Council, 1992.

81 See Mr Tshililo Jackson Mulaudzi [JB01750/02NPVEN].

82 See Mr Thari Williams Masithi [JB01366/02NPVEN].

83 See Ms Elelwani Violet Mugivhela [JB11378/02NPVEN].

84 See Ms Ndivhudzannyi Alvina Masia [JB01384/02NP], transcript, Venda Hearing, 3 October 1996, Mr Rembuluwani Mantsha [JB01970/02NP].

raided his village after young people tried to pursue a Mr Sinthumule whom they believed to be a wizard. Mariba alleges that he was not involved in this incident, but was taken into custody nevertheless. He later made a statement reiterating his lack of involvement in the attempt to attack Mr Sinthumule with the result that he was labelled a spy by members of the community.⁸⁵

754 When organisations such as the ANC were unbanned in 1990, they met with considerable hostility from the Venda homeland government. Detention and torture was used to control this new wave of political opposition.

755 Mr Mbiza Mbokota, an ANC activist who had recently returned to his village from Turfloop University, was detained and tortured in February 1992 in the wake of the burning of a policeman's house.

Gazankulu

756 In Gazankulu, dissatisfaction with the government of Professor Hudson Ntswanisi and his cabinet exploded into violence early in 1990. Police barracks and homes were attacked by youth in areas such as Kujwana village and in Nkowankowa. The house of Chief Minister Ntswanisi was damaged and his bottle store and garage were petrol-bombed. Several other houses belonging to police and government-linked people were attacked. The riot police shot and killed several young people. These events led to the formation and launch of youth congresses in areas such as Giyani, which were previously not politically organised. Stay aways, consumer and school boycotts were subsequently organised in Giyani, spreading to Kujwana, Lenyenye, Nkowankowa, Elim and Bonn.

757 In Gazankulu, reported gross violations arose from street protests against the homeland administration and from the attempts of newly unbanned organisations to set up in the homeland. On 21 February 1990, Mr Ludick Machinane was shot and killed in Nkowankowa by the Gazankulu police. He was a bystander while a group of protesters was threatening to destroy Retabe bottle store owned by the Chief Minister, Hudson Ntswanisi. On the same day, Ms Nakedi Maria Mugadi was shot dead by the Letaba police whilst attending a SANCO meeting at Nkowankowa stadium. During school boycotts and other mass action in June 1990, Mr Thomas Shingange [JB03383/02NPTZA] was shot and killed with an AK-47 in a street near Teba Mining at Nkowankowa. Mr Phaladi Emmanuel Malesa [JB03226/02NPTZA] was similarly severely assaulted by unknown SAP members who also disrupted an election rally at Namakgale stadium.

⁸⁵ See Mr Lufuno Simon Mariba [JB01372/02NP], transcript, Venda Hearing, 3 October 1996.

- 758 Nonhlanhla Maluleka [JB03431/02NPLTM], a four-month-old baby, was hit by a tear gas canister fired by SAP and Gazankulu police during a boycott of Gazankulu Government Transport at Akanani Shopping Centre in May 1990. Ms Xinyata Shilowa, the mother of the baby, was getting into a taxi when the tear gas was thrown at them. The baby died on the spot. The inquest found the police responsible.
- 759 Mr Bennet Maakana [JB03430/02NPTZA], who had helped establish ANC structures in Nkowankowa, was detained and placed in solitary confinement in February 1990. Mr Theron Mduwazi Mkwinka was arrested and detained for eight months at Gravelotte, after attending a meeting called by the Tzaneen Education Crisis Committee in June 1990. The Gazankulu police suspected him of being a 'terrorist' and he was tortured whilst imprisoned. Mr Mbiza Penstone Mbokota was detained and tortured by the Gazankulu police for allegedly participating in burning a house belonging to a policeman. Mr Moses Msisinyani Mabasa [JB01418/02NPTZA] was severely tortured for the same event in February 1992. Mr Elvis Sello Sekoati [JB03225/02NPTZA] was severely tortured by the Lebowa police for public violence in 1993. He was an ANC Youth League delegate sent to help set up the security and marshal Namakgale stadium, where Mr Ngoako Ramatlhodi was scheduled to speak in an election rally.

Bophuthatswana

- 760 In Bophuthatswana, workers, youth and community activists demanded Chief Minister Mangope's resignation and the reincorporation of Bophuthatswana into South Africa. The Bophuthatswana government reacted with defiance. Mangope asserted that "Bophuthatswana will be independent one hundred years from now". Major internal and external pressures, however, forced the Bophuthatswana administration to reconsider this position and, by the end of 1991, it began to engage in the negotiation process and participate in CODESA.
- 761 On 7 February 1990, the first protest march involving approximately 80 000 people was held in Garankuwa. The marchers, many carrying ANC flags, called for reincorporation and urged Mangope to resign and join "democratic forces" in creating a non-racial and unitary South Africa. Between seven and eleven people were injured when Bophuthatswana security forces fired tear gas and rubber bullets at the marchers. Conflict between protesters and security forces continued, resulting in deaths and injuries.
- 762 Violence reached a peak on 7 March when Bophuthatswana troops opened fire on protesters, killing eleven people and injuring 450. Residents of Garankuwa,

Mabopane, Soshanguve and Winterveld were marching to the Odi magistrate's court to present a petition demanding reincorporation into South Africa and the resignation of Chief Mangope 'within 100 hours'. The crowd numbered between 50 000 and 100 000 people. After the petition was presented, the crowd set fire to an army truck. Fifteen minutes later, Bophuthatswana troops fired at the crowd. Shooting with tear gas and rubber bullets is alleged to have continued for an hour.

- 763 One of the marchers, Mr Kgomotso Alfred Motaung [JB04176/03NW], was injured in the shooting. Mr Ezekiel Matsiela Matlou [JB04170/02PS] describes being run down by a police van on the same day:

There comes a police van with a high speed of about 160 km an hour. I was unable to run away because I was shivering of that speed my legs were unable to move, that van had injured 9 people and 3 were dead.

- 764 Despite the Mangope administration's attempts to curb opposition during the post- 1990 period, there was an upsurge in community organisation. The Bophuthatswana administration itself claimed that, in the period following the 1990 unbannings, one hundred action committees, civic associations and youth congresses were formed, all aligned to the ANC.

- 765 The launch of the National Union of Mineworkers (NUM) in the region led to considerable unrest and miners embarked on a series of strikes. In August 1991, Mr Itumeleng Isaac Mayoyo (JB00938/03NW) was arrested for his activities as a member of the organising committee of the NUM in the Bafokeng North Mine. He told the Commission:

Officer Shuffle then started beating me with a baton. On my fingers, toes and knees. I don't remember the other one who was helping him. My testicles were tied with an electric wire. An object was pushed into my anus. It was a piece of wood I was then charged with High Treason.

- 766 Mayoyo stated that, later, the Shaft General, Mr Drummond was attacked and injured by the workers. Although Mayoyo tried to stop the workers, he and Mr Jonas Kgositsele, another worker, were subsequently charged with the attempted murder of Mr Drummond. Kgositsele died after jumping out of the second floor window. He told the Commission:

Unfortunately Jonas Kgositsele jumped out of the second floor window and died. This is according to officer Ramogadi. He told me. I went through the

same sort of torture. Except being taken to meet the then Bophuthatswana President Lucas Mangope ... He also offered me to be his spy earning R20 000. I should stop working at the mine. If I don't accept the offer then I am gone ... I went to court finally for all these charges. All charges were dismissed.

- 767 The unrest lead to the deaths of nine people and the destruction of fifty-one huts by vigilantes allegedly hired by management at the Wildebeestfontein mine in 1991. Fourteen people died in further violence at the Impala mine in 1992. Mr Pitso Simon Maema [JB03549/03NWRUS] had to have both his legs amputated after he was injured in the shooting during a strike at the Impala Bafokeng Mine.
- 768 The reluctance of Bophuthatswana to introduce political reforms and adjust to the changed political context culminated in a strike by civil servants in January 1994. Within days of Mangope announcing that he would not participate in the country's first democratic elections in April 1994, Bophuthatswana's civil servants began striking. Events eventually led to the invasion of Bophuthatswana by AWB members. The incident is dealt with elsewhere in the Commission's report.

THE COMMISSION FINDS THAT MEMBERS OF THE UDF IN THE NORTHERN TRANSVAAL WERE RESPONSIBLE FOR BURNING HOMES AND KILLING OF A NUMBER OF INDIVIDUALS.

THE COMMISSION FINDS THAT MEMBERS OF THE VENDA POLICE FORCE WERE RESPONSIBLE FOR THE PROLONGED DETENTION AND TORTURE OF A NUMBER OF YOUNG PEOPLE BETWEEN 1990 AND 1994. MORE SPECIFICALLY, THE COMMISSION FINDS THAT MR MBIZA MBOKOTA, AN ANC ACTIVIST WAS SEVERELY TORTURED BY THE VENDA POLICE IN FEBRUARY 1992.

THE COMMISSION FINDS THAT THE GAZANKULU POLICE FORCE USED UNDUE FORCE IN CONTROLLING PROTESTS AGAINST THE ADMINISTRATION OF PROFESSOR HUDSON NTSWANISI. MANY PEOPLE WERE SHOT AND INJURED DURING STREET PROTESTS AND A NUMBER OF ACTIVISTS WERE DETAINED AND TORTURED. THE COMMISSION FINDS FURTHER THAT THE GAZANKULU POLICE FORCE WAS RESPONSIBLE FOR THE DETENTION AND TORTURE OF A NUMBER OF ANC ACTIVISTS IN THE AREA. THE COMMISSION FINDS THAT MR ELVIS SEKOATI WAS SEVERELY TORTURED IN 1993.

THE COMMISSION FINDS THAT, ON 7 MARCH, THE RESIDENTS OF GARANKUWA, MABOPANE, SOSHANGUVE AND WINTERVELD MARCHED TO THE ODI MAGISTRATES COURT TO PRESENT A PETITION DEMANDING THE RE-INCORPORATION OF BOPHUTHATSWANA INTO SOUTH AFRICA AND THE RESIGNATION OF CHIEF MANGOPE WITHIN 100 HOURS. THE CROWD NUMBERED BETWEEN 50 000 AND 100 000 PEOPLE. TROOPS OF THE BOPHUTHATSWANA DEFENCE FORCE FIRED ON THE CROWD, KILLING ELEVEN PEOPLE AND INJURING 450.

THE COMMISSION FINDS THE FORMER BOPHUTHATSWANA STATE, THE MINISTER OF POLICE, THE MINISTER OF DEFENCE AND MEMBERS OF THE BOPHUTHATSWANA DEFENCE FORCE RESPONSIBLE FOR THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS IN THE ODI AREA ON 7 MARCH IN THAT UNNECESSARY AND EXCESSIVE FORCE WAS USED, PROPER ORDERS TO DISPERSE WERE NOT GIVEN, ADEQUATE TIME TO DISPERSE WAS NOT GIVEN AND RELIANCE WAS

PLACED ON LIVE AMMUNITION AND LACK OF ALTERNATIVE METHODS OF CROWD DISPERSAL.

THE COMMISSION FINDS THAT THERE WAS AN INVASION OF BOPHUTHATSWANA BY MEMBERS OF THE AWB ON 11 MARCH 1994. (THIS INCIDENT IS DOCUMENTED ELSEWHERE IN THE REPORT.) IN BRIEF, THE COMMISSION FINDS THAT IN JANUARY 1994, CIVIL SERVANTS EMBARKED ON A STRIKE DEMANDING THAT BOPHUTHATSWANA GOVERNMENT INTRODUCE POLITICAL REFORMS AND ADJUST TO THE CHANGED POLITICAL CIRCUMSTANCES IN SOUTH AFRICA. PRESIDENT MANGOPE HAD TURNED TO THE VOLKSFRONT FOR ASSISTANCE IN MAINTAINING CONTROL OF HIS ADMINISTRATION. THE VOLKSFRONT HAD UNDERTAKEN TO INCORPORATE ITSELF UNDER THE LEADERSHIP OF THE BOPHUTHATSWANA DEFENCE FORCE BY 11 MARCH 1994. HOWEVER, MR EUGENE TERREBLANCHE, LEADER OF THE AWB MOBILISED A FORCE OF 600 AWB MEMBERS WHO ENTERED MAFIKENG IN BOPHUTHATSWANA AND PROCEEDED TO RANDOMLY ATTACK RESIDENTS OF MAFIKENG RESIDENTS.

THE COMMISSION FINDS MR EUGENE TERREBLANCHE AS LEADER OF THE AWB RESPONSIBLE FOR THE KILLINGS AND INJURIES RESULTING FROM THIS INVASION; AND MEMBERS OF THE AWB WHO PARTICIPATED IN THIS INVASION SIMILARLY RESPONSIBLE.

Right-wing violence

769 The right wing was involved in various forms of political protest during the 1990s. Much of this protest activity was extremely violent and led to a range of gross human rights violations. In 1990, following Mr F W de Klerk's speech unbanning the ANC and other political organisations, members of the Conservative Party (CP) threatened mass demonstrations and strike action by whites. The largest demonstration was held on 26 May 1990 when approximately 50 000 protesters gathered at the Voortrekker Monument in Pretoria and were urged to fight to restore what the government had 'unjustly given away'.

770 In the period after 2 February 1990, right-wing violence took on a much more organised and orchestrated form. Isolated racist attacks on individuals were quickly eclipsed by mass right-wing confrontations. Two thousand AWB and Boerestaat Party members marched to protest the unbanning of the ANC. In Klerksdorp, 5 000 AWB supporters marched in support of police action. Farmers blockaded the city of Pretoria in 1991. An NP meeting in Ventersdorp was violently disrupted in 1991 leading to the death of three people and the injury of more than fifty others. The World Trade Centre where negotiations were taking place was occupied by members of the right-wing in 1993. Members of the AWB invaded Bophuthatswana in support of the homeland administration in 1994, and launched a pre-election election bombing campaign immediately before the 1994 elections.

771 According to the HRC there were, in the second half of 1990, at least forty-five right-wing attacks country-wide, resulting in the deaths of twenty-six people and

the injury of 138. More than 33 per cent of these attacks took place in the PWV area, although the largest number of fatalities occurred in the Orange Free State and Natal.⁸⁶

- 772 The Western Transvaal, home to the headquarters of the AWB, was a centre of right-wing activity during the 1990s. The Commission received a number of statements regarding attacks carried out by the right-wing in this area. These included random assaults motivated primarily by racism as well as more co-ordinated attacks around issues such as land ownership or consumer boycotts.
- 773 Mr William Nxanxa [JB01533/03NW] was sitting in a parked vehicle alongside the road when he was assaulted by members of the AWB in the Western Transvaal town of Ottosdal in September 1990. He said that, after he was assaulted, his attackers told him that the road in which he had parked his taxi was "an AWB road". Nxanxa laid a charge and the case came to court but the four accused were discharged.
- 774 Ms Nkete Mangwele [JB01570/03NW] told the Commission that she was seriously assaulted during an attack on her home by "white people wearing soldiers camouflage". Mrs Mangwele could not identify her attackers but said that her home in Klerksdorp was not the only one that was attacked by these men.
- 775 Ms Helena Kroon De Kock [JB01563/03NW] testified before the Commission about the bombing of her non-racial school in Klerksdorp. She believed that the school had been bombed by "faceless individuals opposed to her idea that all children deserved a decent education." The De Kock family also received a number of death threats. The Amnesty Committee received an application for this particular incident. Mr Johan de Wet Strydom, an AWB member [AM5168/97], says in his application that he provided the explosives that were used in the bombings. Many of the right-wingers applying for amnesty for the spate of bombings before South Africa's first democratic elections were from the Western Transvaal and the West Rand, traditional right-wing areas of support.
- 776 Mr Simon Rabesi Phiri [JB01567/03NW] was sleeping in his car outside the shack where he lives in Goedgevoeden when the AWB members attacked. He identified Mr Eugene Terreblanche and Mr Piet 'Skiet' Rudolph⁸⁷ as participants in the attack. A card belonging to Rudolph was allegedly found ten metres from

86 Graeme Simpson, Steve Mokwena, Lauren Segal, *Political Violence in 1990: The year in Perspective*, p.14.

87 Piet 'Skiet' Rudolph founded the *Orde van die Boerevolk* (OB) in late 1989. Rudolph gained much publicity with the successful robbery of a large quantity of weapons from the headquarters of the SADF in Pretoria. Some of these weapons were subsequently used in a right-wing pre-election bombing campaign.

Phiri's home. Ironically, Phiri got to know Terreblanche when he worked at a petrol station in Ventersdorp where the headquarters of the AWB are located. According to Phiri, the doors of homes to be attacked were marked with crosses.

- 777 Ms Emily Siko [JB01566/03NW] and her five-year-old child were also attacked by AWB members. As they left, they apologised for attacking the 'wrong' house. Mr Hassian MS Haffajee [JB01396/03NW], a Muslim shopkeeper in the Western Transvaal town of Bloemhof, was the victim of a racist attack because of his support of a boycott of shops owned by white people. The boycott was organised by the local branch of the ANC to pressurise the town council to accede to its demands for racial integration in the town. The AWB operated as a vigilante group that tried to break the boycott and ensure that racial integration did not take place.
- 778 Members of right-wing organisations applied to the Commission for amnesty with respect to several incidents.
- a the 14 April 1994 explosions at Sannieshof in the Western Transvaal involving members of the Boere Weerstandsbeweging (BWB);
 - b an explosion at the offices of the IEC at Bloemfontein;
 - c a fire at the Nylstroom telephone exchange on 22 April 1994;
 - d an explosion at the Natref oil pipeline between Denysville and Viljoensdrif in the Northern Free State;
 - e an explosion on 24 April 1994 in the Johannesburg city centre, killing nine people, including ANC Johannesburg North secretary general, Ms Susan Keane [KZN/APH/035/DN] and injuring ninety-two people; (See Ms Patience Alphina Nsele [KZN/NN/380/DN], Ms Simangele Loveness Kheswa [JB03273/01GTSOW], Ms Selina Manetja Mfete [JB06064/01GTSOW] and Mr Sifiso Freeda Ngwenya [JB03324/03 GTSOW]);
 - f an explosion on 25 April 1994 at a taxi rank in central Germiston, killing ten people and injuring approximately a hundred (See Ms Sindiswa Mavis Phungula [JB03154/01ERKAT], Ms Hanyane Anna Mbata [JB03375/01 ERKAT] and Ms Wisani Hilda Maluleka [JB05811/01GTSOW]);
 - g an explosion at the Randfontein taxi rank, for which Mr Johannes Andries 'JJ' Venter [AM6477/97] applied for amnesty;
 - h an explosion on 27 April 1994 at Jan Smuts airport in Johannesburg (See Mr Mosalakae Percival Moshwetsi [JB04635/02PS].)

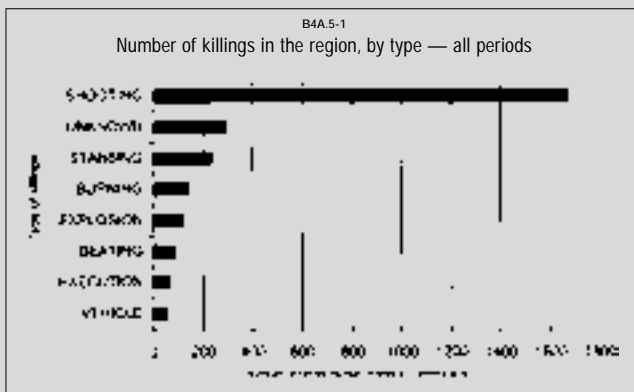
779 In a police swoop at the end of April, thirty-four right-wingers were arrested in connection with the wave of bomb blasts. All of these men were members of the AWB's elite *Ystergarde* (Iron Guard). They were charged with nineteen counts of murder⁸⁸. The Commission received amnesty applications from several people convicted for these acts: Mr Jacobus Petrus Nel [AM6469/97], Mr Abraham Christoffel Fourie [AM6478/97] and Mr Petrus Paulos Steyn [AM6479/97] are all currently serving twenty-one-year prison sentences. Mr Johan Wilhelm Du Plessis [AM6480/97] also applied for amnesty in respect of various pre-election bombings carried out by the AWB. He was one of the original AWB members arrested and charged but acquitted in the Rand Supreme Court.

⁸⁸ Independent Board of Enquiry, April 1994, pp.8-9.

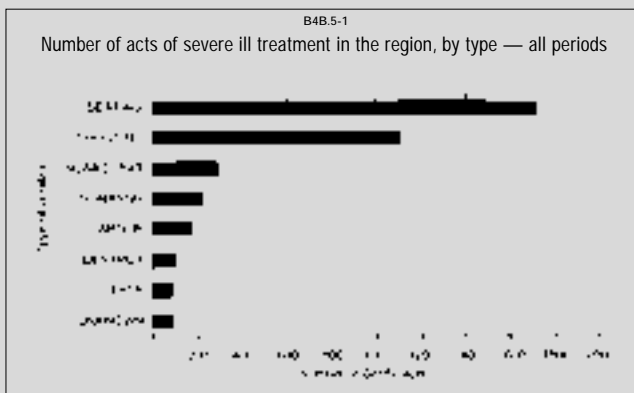
Statistics on Violations in the Transvaal

■ NATURE OF THE VIOLATIONS

1 The pattern of violations in the region covered by the Johannesburg office of the Commission is similar to the national picture. The different types of killings reported are shown here. ►



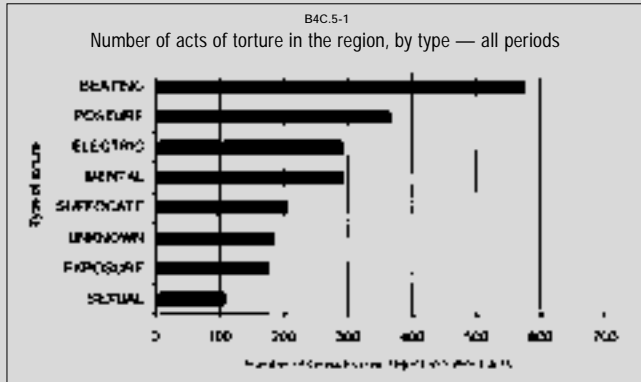
2 Most people died as a result of being shot, with 1 600 cases being reported, followed by large numbers of unspecified or unknown¹ causes of death. The third most common cause of death was stabbing.



3 As in most of the other regions, beating was the most common form of severe ill treatment, followed by shooting: ►

¹ The large number of unknown causes of death is very high, either because the deponent did not specify details, or because inquest documents or police reports were inadequate.

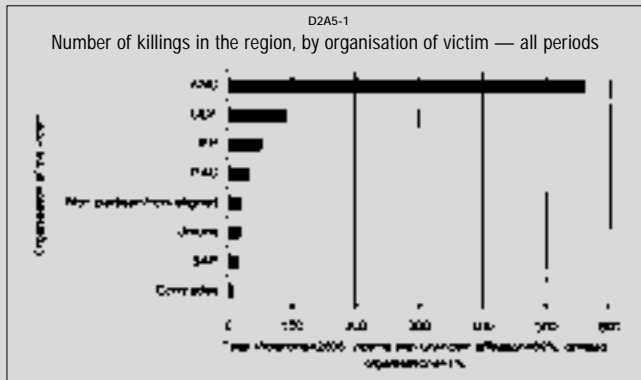
4 Over 1 600 cases of beating were reported. The proportion of shootings to beatings was relatively high in the region compared to the other areas. Beatings were also the most common type of torture: ►



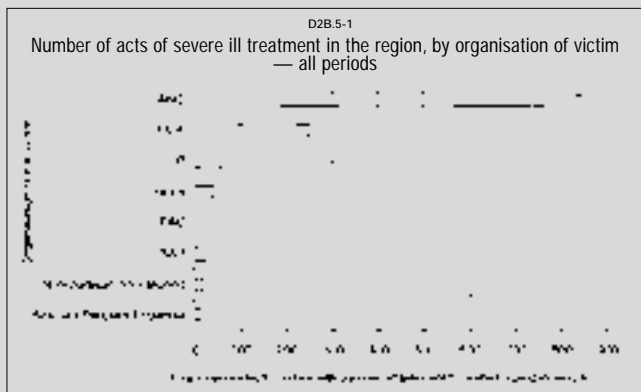
5 The second most common torture method reported in this area was by means of forced postures (differing from other regions), followed by electric shocks. Cases of suffocation were not as common.

Victim organisations

6 In the region covered by the Johannesburg office, the bulk of the victims of gross violations of human rights in the three categories of killing, severe ill treatment and torture belonged to the United Democratic Front (UDF) or the African National Congress (ANC). Almost all of the killings in the area were of members of predominantly black organisations: ►



7 ANC and UDF members account for most of the deaths. There are a few cases of South African Police (SAP) members being killed. The pattern is the same for severe ill treatment: ►



8 There are a few instances of police officers suffering severe ill treatment, but it was, overwhelmingly, members of black organisations who suffered severe ill treatment.

9 In keeping with the national pattern, members of the ANC, UDF and Pan Africanist Congress (PAC) suffered the most cases of torture.

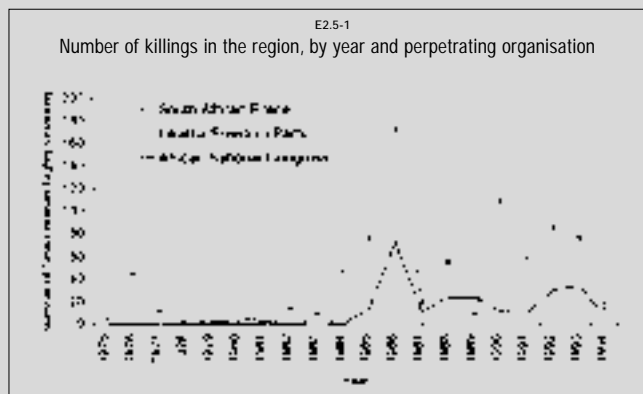


Perpetrator organisations

10 The figure shows the numbers of killings attributed to perpetrator organisations, listing the top eight: ►

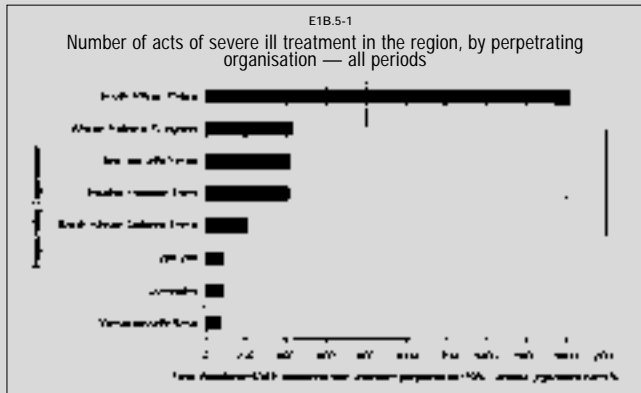


11 The number of killings allegedly committed by the SAP dominates the chart. The Inkatha Freedom Party (IFP) and the ANC are shown to have the second and third highest numbers of alleged violations. The pattern of killings by the top three organisations over time looks like this: ►

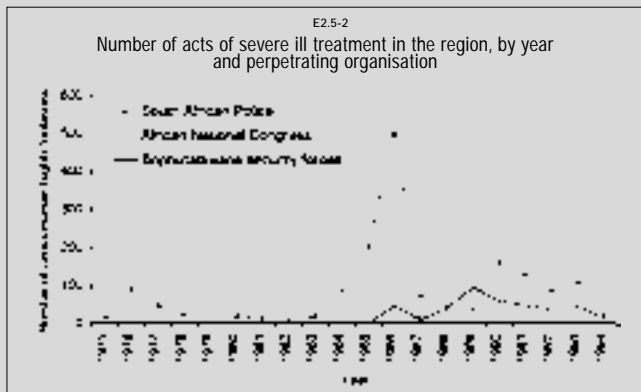


12 The figure shows that the killings allegedly committed by the SAP peak in 1976, then start increasing again in 1984, reaching a high in 1986. There is a drop in the late 1980s, then further peaks of killings attributed to the SAP in 1990 and 1992.

- 13 Killings attributed to the ANC² peak in 1986, then remain more or less constant at between twenty and forty cases per year until 1994.
- 14 Very few killings are attributed to the IFP until 1990, when there is a sudden increase. Killings allegedly committed by the IFP dominate the figure in the 1990s, with the steepest peak in 1993.
- 15 The pattern of severe ill treatment differs from that of killings with the third largest number of violations being attributed to the Bophuthatswana security forces: ▶



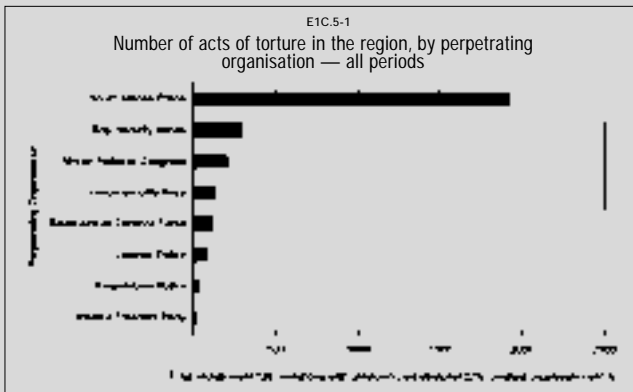
- 16 The greatest number of instances of severe ill treatment are attributed to the SAP, followed by the ANC, with the Bophuthatswana security forces and IFP showing a similar number. As is the case for killings, the pattern changes at different periods of history, and closely matches the pattern of killings for the top three organisations: ▶



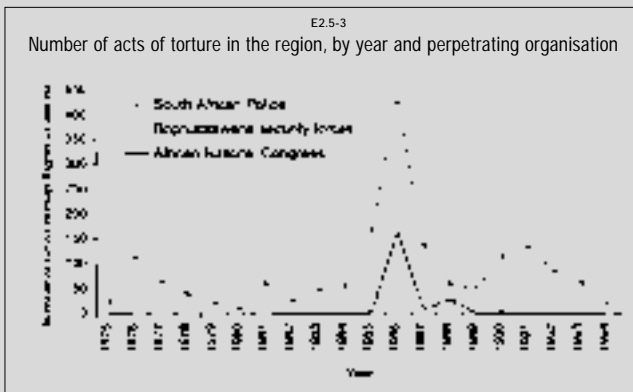
- 17 Severe ill treatment violations allegedly committed by the SAP reach a peak in 1976, followed by a great increase in 1985 and 1986, with a lull followed by another peak in 1990. Violence attributed to the ANC peaks in 1986, then drops to a low, constant rate for the rest of the period. Severe ill treatment attributed to the Bophuthatswana security forces shows a peak in 1989, a year earlier than the SAP peak.

² Note that the large number of allegations against the ANC during the 1980s were made at a time when the ANC was still banned. Thus this reflects partly activities by Umkhonto we Sizwe (MK), but is also due to a perceived continuity of interest between the so-called 'comrades', the UDF and the ANC.

18 The same three organisations feature in the pattern of torture attribution: ►



19 Again, it is overwhelmingly the police who allegedly tortured. Apart from the ANC and IFP, all the organisations in the top eight are state-controlled. As in the country as a whole, the chart showing alleged torture by the top three organisations against time indicates that it was at its worst during the states of emergency: ►



20 Most instances of torture were attributed to the SAP, with a large peak during the mid 1980s. There is a drop after the state of emergency, followed by an increase in 1990 and 1991. The instances of alleged ANC torture are clustered in 1986 and then tail off. The third organisation allegedly involved in torture, the Bophuthatswana security forces, peaks in 1989 and 1992.