



**REFERENCES TO THE WORDS:
“Apartheid” and “Education” in Apartheid References**

**Report of the Truth & Reconciliation Commission,
South Africa**

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Note on Word Frequency Query:

Minimum 4 letter words were chosen (rather than 3 letter word length)

4 letter words were preferred so that years (such as 2020, 2021, and so on) can also be found.

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The word references analysis was done by NVivo software.

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Researcher Notes

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Researcher Notes on the Truth and Reconciliation Commission Report Details:

- Pdf consists of 7 Volumes.
- Volume I, II, III, IV and V are published in 1998.
- Volume Six is published in 2003.
- Volume Seven is published in 2002.
- Volume One is pages between 1 and 512.
- Volume Two is pages between 513 and 1225.
- Volume Three is pages between 1226 and 1973.
- Volume Four is pages between 1974 and 2294.
- Volume Five is pages between 2295 and 2757.
- Volume Six is pages between 2758 and 3580.
- Volume Seven is pages between 3581 and 4554.
- Volume Seven is about the victims of Apartheid. The Commission dedicates this volume of the report to the victims of Apartheid.
- “The Truth and Reconciliation Commission Functional Structure” is found at Volume One Chapter 9.
- Foreword by Archbishop Desmond Tutu is in Volume One and Volume Six.

Word Frequency Query

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Name: References to Apartheid in South Africa Report

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This report has been constrained by a number of factors - not least by the extent of the Commission's mandate and a number of legal provisions contained in the Act. It was, at the same time, driven by a dual responsibility. It had to provide the space within which victims could share the story of their trauma with the nation; and it had to recognise the importance of the due process of law that ensures the rights of alleged perpetrators. Several court rulings emphasised the importance of the latter. Obviously, the Commission respected these judgements. They did, however, sometimes make our efforts to obtain information about the past more difficult. This, in its turn, caused us to err on the side of caution in making our findings. Despite these difficulties, however, we can still claim, without fear of being contradicted, that we have contributed more to uncovering the truth about the past than all the court cases in the history of apartheid.

8 There are a number

Reference 4 - 0.01% Coverage

become accountable for the future.

29 For all these reasons, our nation, through those who negotiated the transition from apartheid to democracy, chose the option of individual and not blanket amnesty. And we believe that this individual amnesty has demonstrated its value. One of the criteria to be satisfied before amnesty could be granted was full disclosure of the truth. Freedom was granted in exchange for truth. We have, through these means, been able to uncover much of what happened in the past. We know now what happened to Steve Biko, to the PEBCO Three, to the Cradock Four. We now know who ordered the Church Street bomb attack and who was responsible for the St James' Church massacre. We have been able to exhume the remains of about fifty activists who were abducted, killed and buried secretly.

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Reference 5 - 0.01% Coverage

enabled them to experience closure.

31 The lies and deception that were at the heart of apartheid - which were indeed its very essence - were frequently laid bare. We know now who bombed Khotso House. We can recall how Mr Adriaan Vlok, a former Minister of Law and Order, lied publicly and brazenly about this; how he unashamedly caused Shirley Gunn to be detained with her infant son as the one responsible for this act. It must be said to his credit that Mr Vlok apologised handsomely to Ms Gunn during his amnesty application.

32 Thus, we have trodden

Reference 6 - 0.01% Coverage

hence the importance of reparation.

37 The Commission has also been harshly criticised for being loaded with so-called 'struggle'-types, people who were pro-ANC, SACP or PAC. We want to say categorically we did not choose ourselves, nor did we put our own names forward. We were nominated in a process open to anyone - whatever their political affiliation or lack of it. We were interviewed in public sessions by a panel on which all the political parties were represented. Moreover, when the President made his choice from a short list, it was in consultation with his Cabinet of National Unity, which included the ANC, the IFP and the National Party. No one, as far as we know, objected publicly at the time to those who were so appointed. Indeed, many of us were chosen precisely because of our role in opposing apartheid - which is how we established our credibility and demonstrated our integrity. I am myself, even today, not a card-carrying member of any political party. I believe, on the other hand, that some of my colleagues may have been chosen precisely because of their party affiliation, to ensure broad representivity.

38 Many here and overseas

Reference 7 - 0.01% Coverage

so much hinged on it.

56 We have sought to carry out our work to the best of our ability, without bias. I cannot, however, be asked to be neutral about apartheid. It is an intrinsically evil system. But I am even-handed in that I will let an apartheid supporter tell me what he or she sincerely believed moved him or her, and what his or her insights and perspectives were; and I will take these seriously into account in making my finding. I do believe that there were those who supported apartheid

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Foreword by Chairperson PAGE 13

who genuinely believed that it offered the best solution to the complexities of a multiracial land with citizens at very different levels of economic, social and educational development. I do not doubt that many who supported apartheid believed that it was the best policy in the circumstances to preserve their identity, language and culture and those of other peoples as well. I do believe such people were not driven by malicious motives. Many believed God had given them a calling to help civilise benighted natives. I do not for a single moment question the sincerity of those who believed that they were defending their country and what they understood to be its Western Christian values against the atheistic Communist onslaught. No, I do not call their motives into question. I do, however, condemn the policy they applied.

Reference 9 - 0.01% Coverage

discredit it and its report.

61 This would be a shortsighted approach - what one might call the Esau option, seeking a short-term advantage at the cost of a longer-term but greater benefit. Thus, when the Commission declares apartheid a crime against humanity, its most ferocious critics will say: "What did we tell you; what did you expect from such a skewed Commission packed with 'struggle' types, hell bent on a witchhunt against Afrikaners and so obviously biased in favour of the ANC?"

62 Mercifully the international community, and not just the Communist bloc, has already declared apartheid to be a crime against humanity. For the international community, indeed, this is no longer a point of debate. The world Christian community has declared that the theological justification of apartheid is a heresy. Closer to home, the Nederduitse Gereformeerde Kerk has said that apartheid is a sin. Some of the most senior judges in our country - who could not by any reasonable person be described as demagogues or lackeys of the ANC - have called apartheid a gross violation of human rights. Thus, the Truth and Reconciliation Commission is a latecomer in this area. The world would indeed be surprised if the Commission had not found apartheid to be a crime against humanity.

63 This means that we cannot hope properly to understand the history of the period under review unless we give apartheid and racism their rightful place as the defining features of that period. People would be surprised if anyone wanting to describe or understand the post World War II period were to ignore Soviet Communism or not give it a central, indeed pivotal, place in the geopolitics of that period. We know that nations defined themselves in terms of their relationship to Communism. That is what determined the politics, economics and foreign policies of the different protagonists at the time. It is what determined the nature of the Cold War period. The attitude towards Communism defined who one's allies and enemies were, what sort of defence budget was necessary and which surrogate states to support. The threat was seen as so serious that the world's greatest Western democracy saw nothing wrong with supporting some of the world's worst dictatorships - for example, Pinochet's Chile, other Latin American military dictatorships and

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key role of Soviet Communism.

64 I want to suggest that apartheid and racism played a similar defining role in the history of the period under review. The vast majority, if not all, of the gross violations of human rights that were perpetrated in this period happened at the hands either of those who sought to defend the unjust apartheid and racist dispensation or those who sought to resist and ultimately overthrow that system.

65 This is not the same as saying that racism was introduced into South Africa by those who brought apartheid into being. Racism came to South Africa in 1652; it has been part of the warp and woof of South African society since then. It was not the supporters of apartheid who gave this country the 1913 Land Act which ensured that the indigenous people of South Africa would effectively become hewers of wood and drawers of water for those with superior gun power from overseas. 1948 merely saw the beginning of a refinement and intensifying of repression, injustice and exploitation. It was not the upholders of apartheid who introduced gross violations of human rights in this land. We would argue that what happened when 20 000 women and children died in the concentration camps during the Anglo-Boer War is a huge blot on

our copy book. Indeed, if the key concepts of confession, forgiveness and reconciliation are central to the message of this report, it would be wonderful if one day some representative of the British/English community said to the Afrikaners, "We wronged you grievously. Forgive us." And it would be wonderful too if someone representing the Afrikaner community responded, "Yes, we forgive you - if you will perhaps let us just tell our story, the story of our forebears and the pain that has sat for so long in the pit of our stomachs unacknowledged by you." As we have discovered, the telling has been an important part of the process of healing.

66 To lift up racism and apartheid is not to gloat over or to humiliate the Afrikaner or the white community. It is to try to speak the truth in love. It is to know the

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Foreword by Chairperson PAGE 17

70 We believe we have provided enough of the truth about our past for there to be a consensus about it. There is consensus that atrocious things were done on all sides. We know that the State used its considerable resources to wage a war against some of its citizens. We know that torture and deception and murder and death squads came to be the order of the day. We know that the liberation movements were not paragons of virtue and were often responsible for egging people on to behave in ways that were uncontrollable. We know that we may, in the present crime rate, be reaping the harvest of the campaigns to make the country ungovernable. We know that the immorality of apartheid has helped to create the climate where moral standards have fallen disastrously.

71 We should accept that

Reference 12 - 0.01% Coverage

tears falling on your hands.

89 We have been given a great privilege. It has been a costly privilege but one that we would not want to exchange for anything in the world. Some of us have already experienced something of a post traumatic stress and have become more and more aware of just how deeply wounded we have all been; how wounded and broken we all are. Apartheid has affected us at a very deep level, more than we ever suspected. We in the Commission have been a microcosm of our society, reflecting its alienation, suspicions and lack of trust in one another. Our earlier Commission meetings were very difficult and filled with tension. God has been good in helping us to grow closer together. Perhaps we are a sign of hope that, if people from often hostile backgrounds could grow closer together as we have done, then there is hope for South Africa, that we can become united. We have been called to be wounded healers.

90 I pay a warm

Reference 13 - 0.01% Coverage

and actions in historical context.

10 Mention has been made of the social-engineering dimension of the policy of apartheid. Again, it needs to be made clear that the National Party was not the first political party or group to have been accused of social engineering on a vast scale in this part of the world. The post-South African War administration of Alfred Milner was, for example, similarly accused concerning its Anglicisation schemes.

2 In his evidence to

Reference 14 - 0.01% Coverage

LIMITED FOCUS OF THE MANDATE

19 As noted in the Mandate chapter later in this volume, the Commission's governing Act limited its investigation to gross violations of human rights defined as the "killing, abduction, torture or severe ill-treatment" and the "attempt, conspiracy, incitement, instigation, command or procurement to commit" such acts. In essence, therefore, the Commission was restricted to examining only a fraction of the totality of human rights violations that emanated from the policy of apartheid - namely, those that resulted in physical or mental harm or death and were incurred in the course of the political conflicts of the mandate period.

20 The Commission's focus was

Reference 15 - 0.01% Coverage

that occurred outside South Africa.

22 Conceptually, the policy of apartheid was itself a human rights violation. The determination of an individual's civil and political rights by a factor - skin colour - over which he or she has no control, constitutes an abuse of those rights. Of course, such discrimination existed before 1948 and had its roots far back in South Africa's colonial past. Nevertheless, the apartheid state that was constructed after 1948 had dimensions that made it different from the discriminatory orders that preceded it.

23 Thus, although many of its laws built on or updated a de facto pattern of segregationist legislation (for example, an industrial colour bar and limited African property and voting rights), the apartheid system was of a qualitatively different type. No longer content to tolerate a de facto pattern of segregation in which 'grey' areas of social mixing remained - such as in urban residential patterns

VOLUME 1 CHAPTER 2 Historical

Reference 16 - 0.01% Coverage

far from democratic in substance.

24 Apartheid sought to maintain the status quo of white supremacy through the implementation of massive social change. It was thus an ideology, simultaneously of change and of non-change; or alternatively, perhaps, of reactionary change. To achieve its goals, Parliament:

a transformed the laissez-faire

Reference 17 - 0.01% Coverage

were: Population Registration Act 1950

26 This Act formed the very bedrock of the apartheid state in that it provided for the classification of every South African into one of four racial categories. To achieve this end, it came up with definitions of racial groupings which were truly bizarre:

A White person is one

Reference 18 - 0.01% Coverage

Freedom, Macdonald Purnell: Randburg, 1994.

7 John Dugard, 'The Legal Framework of Apartheid' in N. J. Rhoodie (ed.) The Legal Framework of Apartheid. Johannesburg: McGraw-Hill, 1972, p. 83. VOLUME 1 CHAPTER 2 Historical Context

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liberal, radically religious

Reference 19 - 0.01% Coverage

Extension of University Education Act

38 This perversely named law, far from extending opportunities for tertiary education, actually had the opposite effect by denying black students the right to attend their university of choice. It imposed apartheid on the tertiary sector, making it illegal for the existing largely (in the case of the Afrikaans campuses exclusively) white universities to admit black students except with ministerial permission. It resulted in the creation of separate ethnic colleges for Indians, coloureds and Zulu, Sotho and Xhosa-speaking Africans.

39 This Act, which was

Reference 20 - 0.01% Coverage

discussed later in this chapter.

40 These eight pieces of legislation laid the foundation of the new apartheid order in South Africa. However, other important pieces of legislation passed in the first decade of apartheid rule stripped coloured male voters of their common-roll franchise rights, further limited the rights of African workers to strike and bargain collectively and, by extending pass laws to African women, further restricted the rights of Africans to move from the reserves to the cities and to sell their labour to the highest bidder.⁸

The effects of apartheid legislation

41 Overall, what the National

Reference 21 - 0.01% Coverage

2 Historical Context PAGE 33

42 It was also a social engineering project of awesome dimensions through which, from about the mid-1950s and for the next thirty or so years, the inherited rural and urban social fabric of South Africa was torn asunder and recreated in the image of a series of racist utopias. In the process, as indicated earlier, millions of black people and a handful of mainly poor whites were shunted around like pawns on a chessboard. Forced to relocate to places that often existed only on the drawing boards of the architects of apartheid, entire communities were simply wiped out. These included urban suburbs and rural villages, traditional communities and homelands, schools, churches and above all people. Sometimes the demolition was total, as in Sophiatown; sometimes an isolated temple, mosque or church was left intact, as in District Six, South End and Cato Manor; sometimes simply the name remained, as in Diagonal Street.

43 Thus, it needs constantly

Reference 22 - 0.01% Coverage

of its millions of victims.

45 Thus, while only some 21 300 persons filed gross human rights violations petitions with the Commission, apartheid was a grim daily reality for every black South African. For at least 3.5 million black South Africans it meant collective expulsions, forced migration, bulldozing, gutting or seizure of homes, the mandatory carrying of passes, forced removals into rural ghettos and increased poverty and desperation. Dumped in the 'national states' without jobs, communities experienced powerlessness, vulnerability, fear and injustice.

VOLUME 1 CHAPTER 2 Historical

Reference 23 - 0.01% Coverage

2 Historical Context PAGE 34

46 Many of the killings and acts of torture documented in this report occurred precisely because of resistance to the day-to-day experience of life under apartheid. The sixty-nine people killed at Sharpsville were not armed Umkhonto weSizwe (MK) cadres or even human rights' activists. They were just ordinary men and women protesting against the hated dompas. Countless, nameless people had their rights trampled trying to save their homes from apartheid's bulldozers. Hundreds died doing no more than demanding a decent education or instruction in a language other than Afrikaans. One did not need to be a political activist to become a victim of apartheid; it was sufficient to be black, alive and seeking the basic necessities of life that whites took for granted and enjoyed by right.

■ THE LAW AND ETHNICITY

47

Reference 24 - 0.01% Coverage

right.

■ THE LAW AND ETHNICITY

47 The legislation of the early apartheid years and the implementation of those laws were countered by considerable political activity and campaigning in the 1950s. This took the form of non-violent resistance campaigns in the cities, such as the Defiance Campaign of 1952/53, the Congress of the People in 1955, the 1956 bus boycotts, the anti-pass laws campaigns in 1959 and 1960 and so on. There were also sporadic and scattered but sustained rural uprisings in Zeerust, Witzieshoek, Sekhukuneland, Marico, Harding and Pondoland, which involved some levels of violence.

48 In the context of

Reference 25 - 0.01% Coverage

2 Historical Context PAGE 41

74 What these analysts failed to acknowledge was that the law was a veneer. Twentieth century law in South Africa, to paraphrase Hannah Arendt, made crime legal. Mamdani made a similar point to the Commission when he described apartheid law as "crime which was institutionalised as the law".¹³

75 Thus, these laws arose

Reference 26 - 0.01% Coverage

than 'kick start' the process.

5 This chapter describes the specific contribution of the Commission to the bridge-building process in post-apartheid South Africa. It will provide a brief overview of the historical and legislative origins of the Commission and of the objectives and functions of the Commission as prescribed by the Act. It will also deal in some detail with the Commission's interpretation and implementation of its mandate. The difficult and often contested decisions taken by the Commission in this regard will be highlighted.

■ HISTORICAL AND LEGISLATIVE ORIGINS

6

Reference 27 - 0.01% Coverage

also by its own members.

8 In the meantime, the negotiations that would bring apartheid and political conflict to an end and herald the introduction of democracy in South Africa had begun. They took place within an international framework, which increasingly emphasised the importance of human rights and the need to deal with past human rights violations.

9 The negotiations process began

Reference 28 - 0.01% Coverage

required by the legislation.³

18 After the conclusion of the Record of Understanding, the focus shifted to the question of how a future democratic government would deal with amnesties for political offences and especially for the security forces. Two matters were settled relatively early. It was agreed, in the first place, that actions taken in terms of apartheid law would not merely for that reason be regarded as illegal and that there would be no Nuremberg-type trials for the many human rights violations legally committed in the course of implementing apartheid.

19 Furthermore, it was agreed

Reference 29 - 0.01% Coverage

58

■ TERMINOLOGY Victims or survivors

37 From the outset, the commissioners expressed some discomfort with the use of the word 'victim'. Although the term is commonly enough used when talking about those who suffered under apartheid, it may also be seen to imply a negativity or passivity. Victims are acted upon rather than acting, suffering rather than surviving. The term might therefore be seen as insulting to those who consider that they have survived apartheid or emerged victorious. Unlike the word 'victim', the word 'survivor' has a positive connotation, implying an ability to overcome adversity and even to be strengthened by it. This does not, of course, mean that many (if not all) survivors were not still experiencing the effects of the trauma they had suffered. It also does not mean that all survived. There were, indeed, many who did not survive and on whose behalf others approached the Commission.

38 However, when dealing with

Reference 30 - 0.01% Coverage

who would have been excluded.

44 Segregation policies and practices have their roots far back in South Africa's colonial past. Building on an inherited social practice, apartheid imposed a legal form of oppression with devastating effects on the majority of South Africans. The NP government came to power in 1948 and, over almost half a century, apartheid became the warp and weft of the experience of all who lived in South Africa, defining their privilege and their disadvantage, their poverty and wealth, their public and private lives and their very identity.

45 Under apartheid, millions of people were deprived of the most basic rights. Through a huge body of laws, black people were shunted out of areas reserved for whites; evicted from their homes; forced out of the cities into shanties, homelands and what Father Cosmas Desmond has called, 'dumping grounds', where there was neither water, nor shelter nor a living to be made.

VOLUME 1 CHAPTER 4 The

Reference 31 - 0.01% Coverage

dying of plain starvation.⁶

46 Apartheid redrew the map of South Africa. The wealth, the cities, the mines, parks and the best beaches became part of white South Africa. A meagre thirteen per cent of largely barren land was parcelled out in a series of homelands in which African people were forced to live, while the able-bodied were driven to seek a living as migrant labourers in the cities. And, as legislation formalised the divide between African, Indian, coloured and white, so the apartheid government sought, too, to divide African people on the basis of ethnicity.

47 'Separate development' was the magic formula. All over South Africa, public buildings and amenities were divided and sometimes even duplicated according to race group, retaining the best for the white group. African, Indian and coloured children were thrown out of city parks. Beaches and benches, trains and buses, and other public facilities and spaces were allocated according to the racial divisions of apartheid. Separate meant far from equal and often resulted in no facilities at all for those who were not white. Private sector space was also subjected to rules: banks, restaurants, shops, places of worship, bottle stores, hotels and cinemas were all segregated, often by legislation and often by self-imposed segregation.

48 Private life too was dominated by apartheid. Who you knew, whom you consorted with, whom you worked with and how you conducted your relationships all depended on remaining within your group. Law prohibited marriages and sexual relationships across the colour line. Even entertainment between races was severely restricted by curfews and a prohibition on serving drink to African people.

49 One of the most iniquitous acts of apartheid was the separation of educational facilities and the creation of the infamous system of Bantu education. Mission schools which had provided some schooling to African people were closed down and generation after generation of African children were subjected to teaching that was deeply inferior in quality to that of their white counterparts.

6 Dumping Grounds, Christian Institute

Reference 32 - 0.01% Coverage

4 The Mandate

PAGE 61

Prime Minister Hendrik Verwoerd, the 'architect' of apartheid, said:
The school must equip the

Reference 33 - 0.01% Coverage

other restrictions bounded their lives.

51 It is this systemic and all-pervading character of apartheid that provides the background for the present investigation. During the apartheid years, people did many evil things. Some of these are the gross violations of human rights with which this Commission had to deal. But it can never be forgotten that the system itself was evil, inhumane and degrading for the many millions who became its second and third class citizens. Amongst its many crimes, perhaps the greatest was its power to humiliate, to denigrate and to remove the selfconfidence, self-esteem and dignity of its millions of victims. Mtutuzeli Matshoba expressed it thus:
For neither am I a

Reference 34 - 0.01% Coverage

of my fellow man.⁸

52 In a submission to the Commission, Justice Pius Langa, currently the Deputy President of the Constitutional Court, wrote of his life under apartheid:
My first real encounter with

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4 The Mandate PAGE 62

stay with my parents in the township... In that first flush of youth, I had thought I could do anything, aspire to anything and that nothing could stop me. I was wrong. My dreams came up against the harsh apartheid realities. The insensitive, demeaning and often hostile environment it had created around me proved to have been crafted too well; it was designed to discourage those who, like me, sought to improve their circumstances and those of their communities...
The pass laws and influx

Reference 36 - 0.01% Coverage

forced removals and Bantu education.

55 While taking these submissions very seriously, the Commission resolved that its mandate was to give attention to human rights violations committed as specific acts, resulting in severe physical and/or mental injury, in the course of past political conflict. As such, the focus of its work was not on the effects of laws passed by the apartheid government, nor on general policies of that government or of other organisations, however morally offensive these may have been. This underlines the importance of understanding the Commission as but one of several instruments responsible for transformation and bridge-building in postapartheid South Africa.

56 The mandate of the

Reference 37 - 0.01% Coverage

and other kinds of deprivation.

59 Hence, the Commission fully recognised that large-scale human rights violations were committed through legislation designed to enforce apartheid, through security legislation designed to criminalise resistance to the state, and through similar legislation passed by governments in the homelands. Its task, however, was limited to examining those 'gross violations of human rights' as defined in the Act. This should not be taken to mean, however, that those 'gross violations of human rights' (killing, torture, abduction and severe ill treatment) were the only very serious human rights violations that occurred.

■ EVEN-HANDEDNESS

60 The Commission

Reference 38 - 0.01% Coverage

human suffering wherever it occurred.

61 This does not mean, however, that moral judgement was suspended or that the Commission made no distinction between violations committed by those defending apartheid and those committed to its eradication.

62 In this regard, it

Reference 39 - 0.01% Coverage

MEANS AND CRIMES AGAINST HUMANITY

64 In making judgements in respect of the above requirements, the Commission was guided by criteria derived from just war theory (which was referred to in several submissions made to the Commission by political parties), international human rights principles and the democratic values inherent in the South African Constitution. By using these criteria, the Commission was able to take clear positions on the evils of apartheid, while also evaluating the actions of those who opposed it.

65 The application of some

Reference 40 - 0.01% Coverage

soldier may not be harmed.

68 What implications did this have for the Commission? Can the acts of political violence by those who struggled against apartheid, on the one hand, and by the agents and defenders of the apartheid state, on the other, be morally equated?

Justice of war

69 As

Reference 41 - 0.01% Coverage

morally equated?

Justice of war

69 As far as the question of the justice of the South African conflicts was concerned, the Commission was faced with competing claims of just causes from various parties to the conflicts of the past. In seeking to address these, the Commission took into consideration factors such as the Cold War and the international and regional contexts. These were raised by the NP and the Freedom Front (FF) in many amnesty applications and in the submission by Mr Craig Williamson. The Commission accepted that many people had clearly believed that they were fighting against Communism and anarchy and not, in the first place, for apartheid.¹³

70 At the same time, these acts of war were also ultimately undertaken in defence of the ruling white minority and the apartheid state. In international law, this system of enforced racial separation and discrimination was itself found to be a crime against humanity (see the appendix to this chapter). Thus, those who fought against the system of apartheid were clearly fighting for a just cause, and those who sought to uphold and sustain apartheid cannot be morally equated with those who sought to remove and oppose it.

¹³ See also report on

Reference 42 - 0.01% Coverage

before resorting to armed resistance.

72 The immorality and illegality of apartheid was acknowledged by most of the political party submissions and thus does not reflect the bias of any one perspective. Indeed, in his appearance before the Commission in May 1997, former State President de Klerk himself described apartheid as a system that caused great suffering to millions of people. This recognition was reflected in numerous other important submissions to the Commission, including:

a five of the most senior judges, on behalf of the judiciary past and present, declared in a submission to the Commission that apartheid was, in itself, a gross violation of human rights;

b four former NP cabinet ministers, testifying in the Commission's hearing on the State Security Council, acknowledged that apartheid had no moral basis;

c the Western Cape regional synod of the Dutch Reformed Church, in conformity with the position adopted by most major religious institutions, declared that apartheid as a system of enforced racial discrimination was wrong and sinful, not only in its effects and operations, but also in its fundamental nature.

73 The recognition of apartheid as an oppressive and inhuman system of social engineering is a crucial point of departure for the promotion and protection of human rights and the advancement of reconciliation in South Africa. It is thus a great sign of hope to the Commission and to the future of the South African nation that, during the 1980s, the early 1990s and during the life of the Commission, increasing numbers of those who formulated and implemented apartheid have recognised not only the political unsustainability but also the immorality of this system.

VOLUME 1 CHAPTER 4 The

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Justice in war

74 The Commission's confirmation of the fact that the apartheid system was a crime against humanity does not mean that all acts carried out in order to destroy apartheid were necessarily legal, moral and acceptable. The Commission concurred with the international consensus that those who were fighting for a just cause were under an obligation to employ just means in the conduct of this fight.

75 As far as justice

Reference 44 - 0.01% Coverage

where the cause was just.

76 It is for this reason that the Commission considered the concept of crimes against humanity at both a systemic level and at the level of specific acts. Apartheid as a system was a crime against humanity, but it was also possible for acts carried out by any of the parties to the conflicts of the past to be classified as human rights violations.

State and non-state actors

Reference 45 - 0.01% Coverage

72

Armed conflict between combatants

91 The political conflicts of the past were not only of a 'civilian' nature. Several of the political groupings had an armed wing. The state used its armed forces to put down resistance and to engage in military actions in the southern African region. The Commission had particular difficulty in attempting to define and reach consensus on its mandate in this respect. Some argued that all killed and injured combatants should be included as victims of gross human rights violations. Others wanted to maintain a distinction between those defending the apartheid state and those seeking to bring it down. It was noted that members of the armed forces involved in these combat situations did not expect to be treated as victims of gross violations of human rights. This was illustrated in the submissions of political parties such as the NP and the ANC, which did not identify their members killed in combat as victims. In the end, the Commission decided to follow the guidelines provided by the body of norms and rules contained in international humanitarian law.

92 Armed conflicts between clearly

Reference 46 - 0.01% Coverage

treatment.

■ POLITICAL CONTEXT AND MOTIVATION

121 To implement its mandate, the Commission had, furthermore, to determine the 'political motive' of the acts of torture, abduction, killing and severe ill treatment which "emanated from the conflicts of the past" (section 1(1)(x), the Act). Given the complexity of the conflicts that occurred in the past and the fact that the enforcement of apartheid legislation affected every sphere of society, the political nature of specific acts was hard to define.

122 In interpreting this part

Reference 47 - 0.01% Coverage

Convictions for politically motivated acts

132 One of the most difficult decisions related to whether conviction and sentencing (often to unusually long periods of imprisonment) for 'public violence', or for offences defined in terms of other legislation specific either to the apartheid period or state of emergency regulations, could be considered gross

violations of human rights. Factors that had to be taken into consideration were whether such provisions would now be in contravention of the South African Constitution, whether the severity of the sentence was out of proportion to the offence and whether there had been abuses in relation to due process. It was clear that the Commission could not recreate a court situation and review a conviction. Nevertheless, the Commission decided that, in certain cases, people who had been convicted in such circumstances could be deemed to have suffered a gross violation of their human rights. Again, these were dealt with on a case-by-case basis. If there was clear and compelling new evidence, the matter might be referred to the authorities for a possible reopening of the trial. As with capital punishment, the Commission's task was not to make a 'perpetrator finding' in relation to the court which had passed the sentence, but to decide whether or not there had been a gross violation of human rights.

VOLUME 1 CHAPTER 4 The

Reference 48 - 0.01% Coverage

secure medical attention whenever required.

146 These norms governing the use of legitimate state power are particularly difficult to apply to the period of South African history prescribed by the Commission's mandate. The large majority of people inside and outside the country increasingly rejected the legitimacy of the state, and activists fighting against apartheid were defined as criminals through the enforcement of harsh, unjust and discriminatory laws.

147 However, individual police officers

Reference 49 - 0.01% Coverage

APPENDIX: A CRIME AGAINST HUMANITY²⁹

1 It has been stated that the Commission - as part of the international human rights community - affirms its judgement that apartheid, as a system of enforced racial discrimination and separation, was a crime against humanity. The recognition of apartheid as a crime against humanity remains a fundamental starting point for reconciliation in South Africa. At the same time, the Commission acknowledges that there are those who sincerely believed differently and those, too, who were blinded by their fear of a Communist 'total onslaught'.

2 This sharing of the international community's basic moral and legal position on apartheid should not be understood as a call for international criminal prosecution of those who formulated and implemented apartheid policies. Indeed, such a course would militate against the very principles on which this Commission was established.³⁰

3 It is important to note that the definition of what constitutes a crime against humanity has evolved considerably since it was first applied after World War II during the Nuremberg trials. There is still some debate about certain technical aspects of this definition. However, there is almost total unanimity within the international community that apartheid as a form of systematic racial discrimination constituted a crime against humanity. Given the confusion in public debates in South Africa surrounding the definition of 'crimes against humanity', it is important to state that a finding of a crime against humanity does not necessarily or automatically involve a finding of genocide. The latter involves conduct "with intent to destroy, in whole or in part, an ethnic or racial group" as required by Article 1 of the Genocide Convention of 1948.³¹

29 The information contained in this appendix has been enhanced through comments by John Dugard, Professor of International Law, University of the Witwatersrand. See also Memorandum of law in support of concluding that apartheid is a crime against humanity, submission to the Truth and Reconciliation Commission by Lowenstein International Human Rights Law Clinic of Yale Law School, Lawyers Committee

for Human Rights and Catherine Admay, Abdullahi An-Na'im, Philip Alston, M. Cherif Bassiouni, Thomas Buergenthal, William S. Dodge, John Dugard, Richard Falk, Gregory H. Fox, Thomas M. Franch, Claudio Grossman, David J. Harris, Cynthia Crawford Lichenstein, Elliot Milstein, Steven R. Ratner, Anne-Marie Slaughter, Ronald C. Slye, Henry Steiner, Ralph G. Steinhardt, Johan D. van der Vyver and Richard J. Wilson. 30 See chapter on Concepts and Principles. There was no call for trials by the international community during or after the peaceful transition from apartheid to democracy between 1990 and 1994. It was recognised that the National Party had become an active participant in this transition and that the South African situation was no longer a threat or a potential threat to international peace. At former State President De Klerk's second appearance before the Commission in May 1997, the Commission placed on record its recognition of the vital role Mr De Klerk had played in the dismantling of the apartheid system. See Dugard 1997:275-6. 'Retrospective Justice and the South African Model' in *Transitional Justice and the Rule of Law in New Democracies*, Ed by AJ McAdams, Notre Dame: University of Notre Dame Press. 31 See Dugard (1997) and submission by Professor Don Foster to the Commission, May 1997.

VOLUME 1 CHAPTER 4 The

Reference 50 - 0.01% Coverage

The Mandate: Appendix PAGE 94

4 As indicated earlier, the definition of crimes against humanity can be applied at two levels. The first level of application, namely to apartheid as a system, flows from the Commission's obligation to enquire into the causes, nature and extent of gross violations of human rights, including the antecedents and context of such violations (section 3(a)). The Commission has concluded that the nature of the conflicts in general and the causes of the violations which occurred in the course of these conflicts cannot be understood without examining the system of apartheid within which they took place.

5 The Commission was also

Reference 51 - 0.01% Coverage

of abuse" (section 4(a)).

Organisations, instruments and judicial decisions that declared apartheid a crime against humanity

The United Nations

6 The

Reference 52 - 0.01% Coverage

against humanity

The United Nations

6 The General Assembly on numerous occasions labelled apartheid a crime against humanity³².

7 In 1976, the United Nations Security Council unanimously stated that "apartheid is a crime against the conscience and dignity of mankind."³³

8 Subsequent Security Council resolutions

Reference 53 - 0.01% Coverage

with the 1976 resolution.³⁴

9 On 13 December 1984, the Security Council passed Resolution 556, which, in Paragraph 1, declared that apartheid is a crime against humanity³⁵.

International conventions and other instruments

Reference 54 - 0.01% Coverage

International conventions and other instruments

10 Article 1 of the International Convention on the Suppression and Punishment of the Crime of Apartheid adopted by the General Assembly in 1973 stated that apartheid was a crime against humanity.

32 GA Res. 2189; GA Res. 2202; GA Res. 39/72A; GA Res. 2074. 33 Para 3 of Security Council Resolution 392 (19 June 1976) and Security Council Resolution 473 (13 June 1980). 34 See Security Council Resolutions 418 (1977), 473 (1980) and 591 (1986). 35 The Security Council declared that apartheid is a crime against humanity on several other occasions: S.C Res. 282, Resolutions and Decisions of the Security Council, 25 UN SCOR at 12 (1970); S.C Res. 311, Resolutions and Decisions of the Security Council, 27 UN SCOR at 10 (1972); S.C Res. 392, Resolutions and Decisions of the Security Council, 31 UN SCOR at 11 (1976).

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Reference 55 - 0.01% Coverage

The Mandate: Appendix PAGE 95

11 The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity³⁶ stipulated that "inhuman acts resulting from the policy of apartheid are condemned as crimes against humanity".

12 The 1991 Draft Code of Crimes against the Peace and Security of Mankind³⁷ specifically lists apartheid,³⁸ together with other crimes such as genocide³⁹ and exceptionally serious war crimes,⁴⁰ as crimes against the peace and security of mankind.

13 Although the 1996 Draft Code of Crimes against the Peace and Security of Mankind⁴¹ no longer makes specific reference to apartheid as a separate crime, it does list a set of acts that specifically constitute crimes against humanity. Article 18(f) states:

A crime against humanity means

Reference 56 - 0.01% Coverage

states have a duty to:

...achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertak[e] to eliminate colonialism, neo-colonialism, apartheid [and] Zionism...

15 The international community is

Reference 57 - 0.01% Coverage

The Mandate: Appendix PAGE 96

committed in execution of the policy of apartheid. The proposed permanent international criminal court will not have retrospective jurisdiction, with the result that those who have committed crimes of apartheid will not fall within its jurisdiction.

The International Law Commission (ILC

Reference 58 - 0.01% Coverage

of 25 May 1993.⁴⁵

20 The judgement confirms the view in international law that apartheid is a crime against humanity: The customary status of the Nürnberg Charter, and thus the attribution of individual criminal responsibility for the commission of crimes against humanity, was expressly noted by the Secretary-General. Additional codifications of international law have also confirmed the customary law status of the prohibition of crimes against humanity, as well as two of its most egregious manifestations: genocide and apartheid.⁴⁶ Specific acts classified as crimes

Reference 59 - 0.01% Coverage

by the community of nations.

35 This supports the notion that the apartheid system in South Africa was a crime against humanity, in spite of the fact that it was perfectly legal within that country, because it contravened international law.

VOLUME 1 CHAPTER 4 The

Reference 60 - 0.01% Coverage

until the truth is disclosed.

We believe that only by fully acknowledging and understanding what took place in the professions under apartheid is it possible to achieve reconciliation in the health sector. Any apologies that are made without this understanding will fail to achieve meaningful progress in moving the health sector to a human rights culture.

And while the [Truth and

Reference 61 - 0.01% Coverage

Johannesburg hearing, 30 April 1996:

As a family what we would like to have, and I am sure many, many South Africans would like to have, is that their loved ones should never, ever be forgotten...in Ahmed's case a school in his name would be appropriate. But at the end of the day I believe that South Africans in future generations should never, ever forget those that were killed in the name of apartheid.

50 Many victims justifiably insisted

Reference 62 - 0.01% Coverage

prosecutions seem even gloomier when

13 See Michael Marrus, 'History and the Holocaust in the Courtroom', paper delivered at a conference, Searching for Memory and Justice: the Holocaust and Apartheid, Yale University, 8-10 February 1998. He identifies a range of factors inherent to the due process of law, concluding that criminal trials are "far less effective vehicles than many people think for registering a historical account" of past atrocities. He contends that: "Knowing what happened in the past demands an alternative method of enquiry".

VOLUME 1 CHAPTER 5 Concepts

Reference 63 - 0.01% Coverage

of Constitutional Court Judge O'Regan:

... Apartheid was a denial of a common humanity. Black people were refused respect and dignity and thereby the dignity of all South Africans was diminished. The new Constitution rejects this past and affirms the equal worth of all South Africans. Thus recognition and protection of human dignity is the touchstone of the new political order and is fundamental to the new Constitution .21

82 This was the background

Reference 64 - 0.01% Coverage

This responsibility lies with government.

93 The plight of those who, through the legacy of apartheid, need assistance in the form of social spending (for housing, education, health care and so on) must also be remembered. The provision of reparations to the (relatively) few victims of gross human rights violations who appeared before the Commission cannot be allowed to prejudice apartheid's many other victims. The need to provide reparations for the former cannot be allowed to constitute so great a drain on the national fiscus that insufficient resources remain for essential social upliftment and reconstruction programmes.

94 Beyond these considerations, it

Reference 65 - 0.01% Coverage

restorative justice.

■ RESPONSIBILITY AND RECONCILIATION

101 The emergence of a responsible society, committed to the affirmation of human rights (and, therefore, to addressing the consequences of past violations), presupposes the acceptance of individual responsibility by all those who supported the system of apartheid (or simply allowed it to continue to function) and those who did not oppose violations during the political conflicts of the past.

102 It is, therefore, not

Reference 66 - 0.01% Coverage

into personal and social responsibility.

104 At the practical level, the vexed issue of apartheid as a crime against humanity impinges perhaps more directly on moral than on legal culpability. A simple focus on the criminal culpability of isolated individuals responsible for apartheid can ignore the broader responsibilities presently under discussion. It is not enough merely to identify a few high-profile 'criminals' as those responsible for the atrocities of the past – and thus

give insufficient attention to a deeper analysis of the underlying nature, cause and extent of apartheid. The essential nature of a crime against humanity, suggests Professor Denys Schreiner, does not lie in the detail or nature of the actual deeds involved in a particular system that is judged to be a crime.²⁹ Rather, it relates to the political structures which result in sections of the society being seen as less than fully human. It condemns the identified group to suffering and violence as a matter of birth, over which the individual concerned has no influence, control or escape. It excludes a section of the population from the rights afforded to others. It denies that same group participation in the selection of government and in government itself. It facilitates the promotion of extra-legal actions by the dominant group further to suppress those judged to be the 'enemy' - whether Jews, slaves or blacks. Finally, it promotes moral decline within the dominant group and the loss of a sense of what is just and fair. Briefly stated, it involves systematic racial discrimination which, by definition, constitutes the basis of apartheid.

105 A pertinent question is the extent to which individual South Africans can be regarded as responsible for the premises and presuppositions which gave rise to apartheid. The kindest answer consists of a reminder that history suggests that most citizens are inclined to lemming-like behaviour - thoughtless submission rather than thoughtful accountability. This is a tendency that needs to be addressed in ensuring that the future is different from the past and serves as a reminder that the most penetrating enquiry into the past involves more than a witch-hunt. It involves, rather, laying a foundation against which the present and all future governments will be judged.

106 The need for political

Reference 67 - 0.01% Coverage

future with dedication and commitment.

107 One of the reasons for this failure of emphasis is the fact that the greater part of the Commission's focus has been on what could be regarded as the exceptional - on gross violations of human rights rather than the more mundane but nonetheless traumatising dimensions of apartheid life that affected every single black South African. The killers of Vlakplaas have horrified the nation. The stories of a chain of shallow graves across the country, containing the remains of abducted activists who were brutalised, tortured and ultimately killed, have left many South Africans deeply shocked. The media has understandably focused on these events - labelling Eugene de Kock, the Vlakplaas commander, 'Prime Evil'. The vast majority of victims who either made statements to the Commission or who appeared at public hearings of the Human Rights Violations Committee to tell their stories of suffering simply did not receive the same level of public attention. Indeed, victims of those violations of human rights that were not included in the Commission's mandate received no individual public attention at all.

108 This focus on the

Reference 68 - 0.01% Coverage

evil will never be repeated.

109 A second reason for the insufficient focus on moral responsibility beyond the narrow, direct responsibility of specific perpetrators of gross human rights violations was the widespread failure fully to grasp the significance of individual victims' testimony before the Commission. Each story of suffering provided a penetrating window into the past, thereby contributing to a more complete picture of gross violations of human rights in South Africa. The nation must use these stories to sharpen its moral conscience and to ensure that, never again, will it gradually atrophy to the point where personal responsibility is abdicated. The challenge is to develop public awareness, to keep the memories alive, not only of gross

violations of human rights, but of everyday life under apartheid. Only in this way can South Africans ensure that they do not again become complicit in the banality that leads, step by step, to the kinds of outrageous deeds that have left many 'good' South Africans feeling that they can never be expected, even indirectly,

VOLUME 1 CHAPTER 5 Concepts

Reference 69 - 0.01% Coverage

for past human rights violations.

111 In this process of bridge building, those who have benefited and are still benefiting from a range of unearned privileges under apartheid have a crucial role to play. Although this was not part of the Commission's mandate, it was recognised as a vital dimension of national reconciliation. This means that a great deal of attention must be given to an altered sense of responsibility; namely the duty or obligation of those who have benefited so much (through racially privileged education, unfair access to land, business opportunities and so on) to contribute to the present and future reconstruction of our society.³¹

30 Speech in National Assembly

Reference 70 - 0.01% Coverage

meet the deadline.

Population groups²⁶

13 The apartheid state was fundamentally based on racial and ethnic groupings and this is still one of most important explanatory variables in any sociological and historical analysis of contemporary South Africa. Moreover, the conflicts of the past affected ethnic groups in very different ways, as did the consequences of the violations. Therefore, statement-takers asked deponents to which population group they had been allocated in terms of apartheid terminology. The responses are listed below, together with the national breakdown, for comparison²⁷:

% STATEMENTS POPULATION GROUP African

Coloured

Reference 71 - 0.01% Coverage

all sections of the community.

26 The apartheid state classified people into one of four population groups, namely African, Coloured, Asian and White. Since the Commission's focus is on violations in the political context of apartheid, this terminology is retained. 27 There are 1 523 statements from deponents whose population group is unknown. Since it is likely that the cross-section of these deponents is the same as those whose population group is known, the results are not likely to be significantly affected. 28 Sidiropolous, E., et al, South Africa Survey 1995/1996, Race Relations.

VOLUME 1 CHAPTER 6 Methodology

Reference 72 - 0.01% Coverage

why the applicants wished to:

insist that wrongdoers who abused their authority and wrongfully murdered and maimed or tortured very much loved members of their families who had, in their view, been engaged in a noble struggle to confront the inhumanity of apartheid, should vigorously be prosecuted and effectively be punished for their callous and inhuman conduct in violation of the criminal law (para 16).

11 However, he argued that

Reference 73 - 0.01% Coverage

the disclosure of the truth.

14 The court held that the postamble permitted the granting of an amnesty for any civil liability to the state, entitling Parliament to adopt a wide concept of reparations. This would allow the state to decide on proper reparations for victims of past abuses, having regard to competing demands on the limited resources of the state. Further, Parliament was authorised to provide for individualised and nuanced reparations that took into account the claims of all victims, rather than preserving state liability for provable and unprescribed delictual claims only. In this regard, Judge Mahomed noted, the families of those whose fundamental human rights were invaded by torture and abuse were not the only victims who have endured "untold suffering and injustice in consequence of the crass inhumanity of apartheid which so many have had to endure for so long". Indeed:

Generations of children born and yet to be born will suffer the consequences of poverty, of malnutrition, of homelessness, of illiteracy and disempowerment generated and sustained by the institutions of apartheid and its manifest effects on the life and living for so many (para 43).

The election made by the

Reference 74 - 0.01% Coverage

application to the Commission

Background

117 The Commission conducted a public hearing into the Chemical and Biological Warfare programme (CBW) of the former apartheid government (8 and 12 June 1998). A number of witnesses involved in the CBW programme were subpoenaed to testify, amongst them a Dr Philip Mijburgh and Dr Wouter Basson, the project leader.

Application

118 During the course

Reference 75 - 0.01% Coverage

EIGHT The Destruction of Records

■ INTRODUCTION 1 The story of apartheid is, amongst other things, the story of the systematic elimination of thousands of voices that should have been part of the nation's memory. The elimination of memory took place through censorship, confiscation of materials, bannings, incarceration, assassination and a range of related actions. Any attempt to reconstruct the past must involve the recovery of this memory – much of it contained in countless documentary records. The tragedy is that the former government deliberately and systematically destroyed a huge body of state records and documentation in an attempt to remove incriminating evidence and thereby sanitise the history of oppressive rule. As this chapter will demonstrate, the urge to destroy gained momentum in the 1980s and widened into a co-ordinated endeavour,

sanctioned by the Cabinet and designed to deny the new democratic government access to the secrets of the former state.

■ CONTEXT OF THE ENQUIRY

2

Reference 76 - 0.01% Coverage

privatised' bodies and 'homeland' structures.

15 Homelands were responsible for the management of their own records, sometimes governed by their own archival legislation. While some state documentation originating in the homelands has been incorporated in the record systems of the post-apartheid state, the Commission could not reasonably undertake a systematic enquiry into record keeping or destruction of documents by the homelands.

16 There was one exception

Reference 77 - 0.01% Coverage

organisations opposed to the system.

17 It is, of course, true that the state destroyed many other non-public records in the course of its raids and bombings of the structures and premises of liberation movements both inside and outside the country. This, however, is a story that remains to be told elsewhere. Also of significance was the impact of apartheid on the record-keeping practices of anti-apartheid organisations, many of which were reluctant to commit certain kinds of information to paper. Many also destroyed records rather than allow them to fall into the hands of state operatives.

18 During the conceptualisation of

Reference 78 - 0.01% Coverage

LEGAL FRAMEWORK AND ITS MANIPULATION

Apartheid and official secrecy

24 Perhaps all governments are, to a greater or lesser extent, uncomfortable with the notion of transparency, preferring to operate beyond the glare of public scrutiny. In apartheid South Africa, government secrecy was a way of life. The fundamental guideline governing public access to state records was provided in section 9(6) of the 1962 Archives Act. This established that access was a privilege to be granted by bureaucrats, except where specific legislation recognised the right of access to specific categories of records. The number of record categories covered by such legislation was limited to, for instance, records older than thirty years in the custody of SAS and deceased estate files in the custody of Masters of the Supreme Court.

25 The discretionary power enjoyed

Reference 79 - 0.01% Coverage

files, all post-dating 1990

b Computer data tapes containing data on anti-apartheid organisations. It appears that these data were captured in the 1980s

c Individual case records in eight sub-categories: contraventions of emergency regulations; dockets; detainees under security legislation; surveillance of individuals (both anti-apartheid and right wing); surveillance of right wing organisations; security incidents (post-dating 1990); applications for indemnity; and returning exiles.

54 Inventories of these records

Reference 80 - 0.01% Coverage

1990 - 1994 was substantially sanitised.

62 It is clear that the main purpose of purging the records of the NIS was to deny a new government access to records documenting state action against the opponents of apartheid. Subsidiary aims, outlined in NIS top management elaborative outlines issued in 1992, included the protection of sources and the sanitisation of the image of both government and the NIS in a new political environment (see appendices B and C).

63 Crucial to a complete

Reference 81 - 0.01% Coverage

per cent of state records.

85 In this period, huge volumes of state records were destroyed with the authorisation of either the Archives Commission (until 1979) or SAS (under the signature of the Director of Archives). While there is evidence that SAS attempted to secure a degree of professional autonomy, it is highly improbable that apartheid imperatives did not mould selection decisions. Indeed, numerous instances of this can be cited: for instance, in 1968 Military Intelligence was given authorisation (SV-35) to destroy classified records on a 'read and destroy' basis; it took the post-February 1990 winds of change to stimulate a review of an earlier decision not to preserve even a sample of Group Areas Act case files; and, as is recounted earlier in this chapter, the Director of Archives colluded with NIS in 1992 in securing authorisation for the quick destruction of financial and related records.

86 Clearly, a comprehensive account

Reference 82 - 0.01% Coverage

between Windhoek and Pretoria.²⁷

93 By May 1994, a massive deletion of state documentary memory within the security establishment had been achieved. To what extent the systematic destruction was co-ordinated, and the question of whether or not it was sanctioned by Cabinet in its preliminary phase, is unclear. However, as recounted earlier, by 1993 Cabinet was both aware of the phenomenon and had authorised its expansion to involve all state offices. The motivation for this purging of official memory was clearly to prevent certain categories of record falling into the hands of the incoming government. The apartheid state was determined in this way to sanitise its image and protect its intelligence sources. It was also apparently intent on eliminating evidence of gross human rights violations. In this regard, the security establishment had most cause to destroy records.

26 Christopher Merrett, *A Culture*

Reference 83 - 0.01% Coverage

analysis.

The Commission finds that:

99 Before 1990, 'sensitive' records were routinely destroyed by state bodies, particularly those within the security establishment. This was based on an assumption that such records fell outside the ambit of the Archives Act, an assumption that was not tested by a state legal opinion until 1991. The assumption was sanctioned by NIS guidelines authorised by the head of state. The protection of state security was the stated objective of these destruction processes, but they went further in ensuring that certain aspects of the inner workings of the apartheid state remained hidden forever.

100 Accountability rests ultimately with

Reference 84 - 0.01% Coverage

Destruction of Records PAGE 234

101 The massive destruction that took place in the period 1990 - 1994 is a different matter. Here the intention, irrespective of legal considerations, was to deny a new government access to apartheid secrets through a systematic purging of official memory. Evidence assembled in this chapter demonstrates that, from at least 1993, this endeavour bore the explicit sanction of Cabinet. To this extent, Cabinet is culpable. However, a number of other parties must share culpability:

a Both the NIS and

Reference 85 - 0.01% Coverage

management must be held accountable.

104 The mass destruction of records outlined above has had a severe impact on South Africa's social memory. Swathes of official documentary memory, particularly around the inner workings of the apartheid state's security apparatus, have been obliterated.

105 Moreover, the apparent complete destruction of all records confiscated from individuals and organisations by the Security Branch of the SAP has removed from our heritage what may arguably have been the country's richest accumulation of records documenting the struggle against apartheid.

106 Clearly, the work of the Commission suffered as a result. Numerous investigations of gross human rights violations were hampered by the absence of documentation. Ultimately, of course, all South Africans have suffered the consequences - all are victims of the apartheid state's attempted imposition of a selective amnesia.

VOLUME 1 CHAPTER 8 The

Reference 86 - 0.01% Coverage

the Eastern Cape

Institutional hearings

15 Institutional hearings focused primarily on organisations as opposed to individuals within those organisations. These hearings examined: a the prison system b the media c the legal system d the role of business during apartheid e the health care sector f the faith communities

VOLUME 1 CHAPTER 10 Human

Reference 87 - 0.01% Coverage

the centre of national life.

Millions of South Africans have heard the truth about the apartheid years for the first time, some through daily newspapers but many more through television and, especially, radio.... Black South Africans, of course, knew what was happening in their own local communities, but they often did not know the detail of what was happening to others across the country. White South Africans, kept in ignorance by the SABC and some of their printed media, cannot now say they do not know what happened.

■ MEDIA LIAISON

6 Media liaison

Reference 88 - 0.01% Coverage

at any particular moment.

■ CONCLUSION

38 The extent of trauma experienced by victims of the policies of the former state is incalculable, reaching far beyond those who approached the Commission. This trauma is part of the legacy of apartheid and it will be many years before its effects are eradicated from society. The best that the Commission could provide was to attempt to cater for the immediate needs of victims and, where possible, to refer them for further help. However, because of the extreme paucity of mental health services in South Africa, the mental health of the many victims of apartheid – and indeed of all South Africans – will depend on the ability of the new government to work towards the provision of adequate services.

VOLUME 1 CHAPTER 11 Mental

Reference 89 - 0.01% Coverage

Contracted assignments included the following:

a The conflict between the African National Congress (ANC) and the United Democratic Front (UDF) in KwaZulu-Natal; apartheid as a crime against humanity; apartheid legislation; Bonteheuwel Military Wing; the Caprivi trainees (the Caprivi trainees, who were trained by the South African Defence Force

VOLUME 1 CHAPTER 11 Research

Reference 90 - 0.01% Coverage

loss of employment were avoided;

b the police, previously viewed as enforcers of the apartheid system, now became the protectors of victims, thus helping place the relationship between communities and the police on a better footing;

c witness protection officials were

Reference 91 - 0.01% Coverage

subject of an amnesty hearing).

c South East Cape (George) (17 - 19 June 1996). This hearing focused on the human rights violations committed by kitskonstabels and the torture of young teenage activists who had their testicles, penises or breasts slammed in drawers. The hearing also heard about human rights violations committed by perpetrators from political organisations fighting apartheid, such as the killing of a community councillor and the attack on a Plettenberg Bay teacher.

d Boland (Breëriviervallei, Worcester) (24

Reference 92 - 0.01% Coverage

capital of South Africa.

Population

5 KwaZulu-Natal has a population of just over eight million people. The Durban area has the largest population of Asians outside of the Indian sub-continent, many of whom came to South Africa as labourers to work on the sugar plantations during the last century. In terms of the categories created by apartheid legislation, 81 per cent of the population of the province is African, 9.6 per cent Asian, 6.2 per cent white and 3.2 per cent coloured.

6 The Free State is much more sparsely populated and, although a larger geographical area, the population is under three million people. Approximately 83 per cent of people living in the Free State are African, 12 per cent white, and 5 per cent coloured. Very few Asians live in the Free State because, historically, apartheid legislation forbade their settlement in the area.

Languages

7 Most of the

Reference 93 - 0.01% Coverage

Front (UDF) in the area.

h Hearing on assassinations, Durban (24 October 1996). This event focused on specific assassinations. Ms Daphne Mnguni spoke about the death of her brother Mr Msizi Dube, who had been an activist since the 1950s and was shot in 1983 on his way home from a meeting. Four men served prison sentences for his murder, and one received the death penalty. Fatima Meer and Harold Strachan told of attempts on their lives, allegedly by the Security Branch, and several members of the family of leading anti-apartheid intellectual Rick Turner gave testimony about his death. He was shot through a window of his house in the presence of his two young children.

i Hearing on women, Durban

Reference 94 - 0.01% Coverage

notice being given to them.

4 This legal action took its toll on the Commission's work, both in the region and nationally. Apartheid victims resented the fact that they could not mention the names of those they alleged were their persecutors without giving them warning. Some were further embittered by the fact that the legal challenges imposed incalculable expense on the taxpayer. Under the principle of vicarious liability, the new government continued to be financially responsible for the defence and litigation of those who served the previous government if the matter or criminal charge related to acts committed in the execution of their duties. The

Commission, however, was obliged to abide by the ruling of the courts and sought to uphold what were seen as the natural justice rights of alleged perpetrators.

■ IDENTITY AND EXTENT OF REGION

Reference 95 - 0.01% Coverage

and surrounding schools made submissions.

q Faith communities hearing (17 - 19 November 1997). The faith communities hearing was a national hearing, hosted by the region. Prominent faith community leaders spoke about their role during the apartheid era.

Reparation and rehabilitation

37 The

Reference 96 - 0.01% Coverage

447

Volume ONE Chapter THIRTEEN

Chronology of Apartheid Legislation

1 ■ INTRODUCTION

This chronology seeks

Reference 97 - 0.01% Coverage

of Apartheid Legislation

1 ■ INTRODUCTION

This chronology seeks to record all major apartheid legislation as a context within which gross human rights violations occurred, but is not exhaustive of all legislation passed in the period under consideration by the Truth and Reconciliation Commission (the Commission). Legislation of 'independent' and 'self-governing' homelands is given separately. The homelands chronology is not, however, as comprehensive as that on the legislation enacted by the South African Parliament. Much of the homelands legislation was similar to South African parliamentary legislation. In several instances it proved extremely difficult to trace and record all details of homelands legislation.

The chronology is divided into

Reference 98 - 0.01% Coverage

Reitz are also gratefully acknowledged.

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 448

■ PART I: SOUTH AFRICAN PARLIAMENT

Reference 99 - 0.01% Coverage

follows for ease of reference:

Basic apartheid laws (A): The most important legislation relating to segregation of race groups. The workplace (W):

Laws which determined racially based

Reference 100 - 0.01% Coverage

not race-based are excluded.

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 449

1856-1910 Masters and Servants

Reference 101 - 0.01% Coverage

Asians.) Commenced: 30 September 1927

Repealed by s 23 of Sexual Offences Act No 23 of 1957 VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 450

1927 Black (Native) Administration Act

Reference 102 - 0.01% Coverage

surname. Commenced: 1 February 1937

Repealed by s 33 of the Births and Deaths Registration Act No 51 of 1992 VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 451

1937 Industrial Conciliation Act No

Reference 103 - 0.01% Coverage

Act No 72 of 1985

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 452

1950 Immorality Amendment Act No

Reference 104 - 0.01% Coverage

urban areas (Dugard 1978: 87).

Repealed by s 11 of Industrial Conciliation Amendment Act No 95 of 1980 VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 453

1951 Prevention of Illegal Squatting

Reference 105 - 0.01% Coverage

Act No 4 of 1984

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 454

1952 Blacks (Abolition of Passes

Reference 106 - 0.01% Coverage

281). Commenced: 1 May 1954

Repealed by s 63 of the Labour Relations Amendment Act No 57 of 1981 VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 455

1954 Riotous Assemblies and Suppression

Reference 107 - 0.01% Coverage

invalid. Commenced: 2 March 1956

Repealed by the Republic of South Africa Constitution Act 32 of 1961 VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 456

1956 Mines and Works Act

Reference 108 - 0.01% Coverage

1985: CRIMINAL LAW AND PROCEDURE

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 457

1957 Group Areas Act No

Reference 109 - 0.01% Coverage

announcement of 21 October 1960.

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 458

1961

A state of emergency

Reference 110 - 0.01% Coverage

same day for a further

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 459

ninety-day period. The 'Sobukwe

Reference 111 - 0.01% Coverage

ss 319(3) and 384

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 460

1966 Group Areas Act No

Reference 112 - 0.01% Coverage

279). Commenced: 4 November 1966
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 461
1967 Environmental Planning Act No

Reference 113 - 0.01% Coverage

of 1993): ARMS AND AMMUNITION
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 462
1969 Public Service Amendment Act

Reference 114 - 0.01% Coverage

provinces. Commenced: 2 June 1972
Repealed by s 60 of the Abolition of Racially Based Land Measures Act No 108 of 1991 VOLUME 1 CHAPTER
13 Apartheid Legislation PAGE 463
1972 Security Intelligence and State

Reference 115 - 0.01% Coverage

1956): CRIMINAL LAW AND PROCEDURE
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 464
1974 Affected Organisations Act No

Reference 116 - 0.01% Coverage

proclaimed a self-governing territory
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 465
1977 Community Councils Act No

Reference 117 - 0.01% Coverage

was repealed (Bendix 1989: 305).
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 466
1980 Industrial Conciliation Amendment Act

Reference 118 - 0.01% Coverage

were held in solitary confinement.
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 467
• Section 29(2): The validity

Reference 119 - 0.01% Coverage

which applied to such communities.

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 468

Commenced: 1 April 1984, except

Reference 120 - 0.01% Coverage

press coverage of the emergency.

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 469

• The Minister of Law and

Reference 121 - 0.01% Coverage

Act. Commenced: 26 June 1986

Repealed by s 4 of the State of Emergency Act No 86 of 1995 VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 470

1986 Internal Security Amendment Act

Reference 122 - 0.01% Coverage

Act No 196 of 1993

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 471

1986 Black Communities Development Amendment

Reference 123 - 0.01% Coverage

and media regulations re-imposed.

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 472

1989 Disclosure of Foreign Funding

Reference 124 - 0.01% Coverage

IN FORCE: ALIEN AND CITIZEN

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 473

1991 Abolition of Racially Based

Reference 125 - 0.01% Coverage

communism (RRS 1991/92: 466).

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 474

1992 Corruption Act No 94

Reference 126 - 0.01% Coverage

1994. IN FORCE: CONSTITUTIONAL LAW
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 475
1993 Regulation of Gatherings Act

Reference 127 - 0.01% Coverage

FORCE: CRIMINAL LAW AND PROCEDURE
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 476
1995 Promotion of National Unity

Reference 128 - 0.01% Coverage

1995 IN FORCE: CONSTITUTIONAL LAW
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 477
■ PART II: HOMELANDS Introduction: Self

Reference 129 - 0.01% Coverage

customs union with South Africa.
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 478
Security Legislation of the Homelands

Reference 130 - 0.01% Coverage

g)). Commenced: 9 March 1979
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 479
1979 Internal Security Act No

Reference 131 - 0.01% Coverage

offence. Commenced: 17 April 1986
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 480
1987 Electoral Amendment Act No

Reference 132 - 0.01% Coverage

7). Commenced: 27 August 1982

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 481
1982
The Ciskei National Assembly

Reference 133 - 0.01% Coverage

explosives. Commenced: 7 February 1986
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 482
1985 National Security Second Amendment

Reference 134 - 0.01% Coverage

No 86 of 1995 [SA].
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 483
TRANSKEI
1960 Proclamation No 400

Reference 135 - 0.01% Coverage

Public Security Act No 30.
1964 Education Act No 2: Overrode South African apartheid schooling systems and provided for black schooling and subsidies. Commenced: 1 April 1965
1964 Transkei Authorities Act No

Reference 136 - 0.01% Coverage

Transkei. Commenced: 1 August 1975
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 484
1976 Bantu Administration Amendment Act

Reference 137 - 0.01% Coverage

conduct. Commenced: 28 October 1977
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 485
1977 Acquisition of Immovable Property

Reference 138 - 0.01% Coverage

emergency. Commenced: 6 June 1980
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 486
1980 Second Public Security Further

Reference 139 - 0.01% Coverage

No 72: Defined curfew regulations.
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 487
Commenced: 1 July 1986 1986

Reference 140 - 0.01% Coverage

raids. Commenced: 1 January 1991
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 488
1993 Application in Transkei of

Reference 141 - 0.01% Coverage

security. Commenced: 30 May 1980
1980 Preservation of Good Morals Act No 14: Dictated segregation similar to that required by South African
apartheid laws. Commenced: 15 August 1980
1982 Venda Advisory Council Act

Reference 142 - 0.01% Coverage

mechanisms. Commenced: 17 June 1983
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 489
1983 Publications Act No 15

Reference 143 - 0.01% Coverage

demonstrations. Commenced: 27 September 1991
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 490
1992 Council of National Unity

Reference 144 - 0.01% Coverage

4: Commenced: 6 February 1987
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 491
1987 Civil Protection Act No

Reference 145 - 0.01% Coverage

5: Commenced: 16 August 1991
VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 492

1992 Child Care Harmonisation Act

Reference 146 - 0.01% Coverage

19: Commenced: 10 January 1992

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 493

1992 Land Tenure Act No

Reference 147 - 0.01% Coverage

10: Commenced: 28 November 1980

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 494

1981 Act on the Code

Reference 148 - 0.01% Coverage

Act: Commenced: 21 October 1977

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 495

1978 Social Pensions Act No

Reference 149 - 0.01% Coverage

6: Commenced: 4 March 1988

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 496

■ SOURCES AND REFERENCES

'Human rights

Reference 150 - 0.01% Coverage

1984 to Race Relations Survey.

VOLUME 1 CHAPTER 13 Apartheid Legislation PAGE 497

Volume ONE Chapter THIRTEEN

Commissions

Reference 151 - 0.01% Coverage

Army (APLA) commander Brigadier Mofokeng:

The enemy of the liberation movement of South Africa and of its people was always the settler colonial regime of South Africa. Reduced to its simplest form, the apartheid regime meant white domination, not leadership, but control and supremacy ... The pillars of apartheid protecting white South Africa from the black danger, were the military and the process of arming of the entire white South African society. This

militarisation, therefore, of necessity made every white citizen a member of the security establishment.
[Transcript of Commission hearing on the armed forces]

22 Even where parties to

Reference 152 - 0.01% Coverage

of Zambians in the Caprivi.

71 In a report prepared in 1989 by the Southern African Research and Documentation Centre (SARDC) in Harare for the Commonwealth Committee of Foreign Ministers and published under the title Apartheid Terrorism: The Destabilisation Report, the point is made that Namibia, and particularly the SADF bases in the Caprivi, had been used from the mid-1960s as a "springboard for ... incursions into Zambia".

VOLUME 2 CHAPTER 1 National

Reference 153 - 0.01% Coverage

1 National Overview PAGE 31

130 During 1982–83 the government introduced new constitutional proposals which sought to incorporate Indian and coloured people as junior partners in political decision-making. In addition, two bills were introduced which proposed new measures to regulate the presence of Africans in cities. The Black Local Authorities Act of 1982 gave a range of new powers and responsibilities to the highly unpopular and frequently corrupt township governments. In order to protest and frustrate these new state initiatives, and also as an indicator of the schism within antiapartheid politics, anti-apartheid organisations launched two separate national formations in 1983. One was the United Democratic Front (UDF) – comprising over 500 decentralised, local and regional civic, youth, women's, political and religious anti-apartheid organisations, together with national student organisations and trade unions. The other was the smaller National Forum, a loose association of some 200 Black Consciousness-oriented organisations and small left-wing groups.

131 Although the UDF had

Reference 154 - 0.01% Coverage

with the ANC in exile.

132 From its establishment, the UDF vehemently challenged the government and its apartheid policies. As a driving force behind resistance politics in the 1980s, the UDF spearheaded a number of campaigns aimed at mobilising the broader population. While the UDF itself never adopted a strategy involving the use of violence, in the context of heightened mass resistance following 1984, such campaigns were increasingly associated with violence at a local level. Targets of such violence included community councillors, black policemen, those who broke boycotts and groups such as Inkatha.

133 There were a few

Reference 155 - 0.01% Coverage

1 National Overview PAGE 34

argue similarly that the ANC was behind the violence which prevailed, there are two important caveats to this interpretation. The first is that the ANC was responding to violence which had already erupted and was

spreading largely spontaneously around the country. The pamphlet released on 25 April 1985, calling on people to "Make apartheid unworkable! Make the country ungovernable!" was an attempt to keep up with the rising militancy in the townships. The second is that the ANC's Kabwe conference was called primarily in response to the dissatisfaction of its soldiers in the Angolan camps and the mutinies of 1984. In the event, the 'uprising' gave the Kabwe conference strategic focus, and the problems of the camps were not given much time.

144 The military operations of

Reference 156 - 0.01% Coverage

1990 PAGE 62

1960–1966

78 During this period, there was little organised resistance to South Africa's occupation and no armed struggle. Even so, the apartheid system was enforced with even more rigidity in South West Africa than in South Africa itself and the human rights of the people of South West Africa were constantly and systematically violated, in particular through the system of contract migrant labour. During the 1960s and 1970s, up to two-thirds of South West African workers were subjected to this form of labour control and coercion. Contract workers were required to leave their families in the 'homelands' and to sign contracts that rendered them powerless to choose their employer or to negotiate a wage. Those who resigned from their jobs or broke their contracts were liable to deportation back to the 'homeland'. This was a systematic violation of basic human rights which established a system of quasi-slavery. It also served to depress wages and prevent labour organisation. While modifications were made to the system after the 1971–72 contract workers' strike, the system remained in place until 1977.

1966–1971

79 The second

Reference 157 - 0.01% Coverage

1960 and 1990

PAGE 98

who at various times ran Williamson's European operation out of Brussels and London respectively. Recruited into that network were South African students studying abroad, a ranking Dutch police officer, some European journalists and a journalist working for the BBC World Service. Not only was the head of the Spanish anti-apartheid movement in the 1980s an apartheid agent, but the organisation was set up at Williamson's suggestion and funded by his section. As head of a European anti-apartheid national group, the Spanish head became part of the broader European anti-apartheid family, thereby allowing for the penetration of South African intelligence.

Zimbabwe was also extensively penetrated

Reference 158 - 0.01% Coverage

that flowed through it annually.

215 According to Dolinchev, in the 1970s and 1980s some 400 police, mostly retired officers, worked in the facility, amongst them Security Branch officers. Dolinchev claims that Tiro's package from the IUEF was "doctored" at this facility. That particular item of mail would have been a strategic choice as the IUEF, an

international anti-apartheid non-governmental organisation (NGO), worked closely with SASO and was channelling funds to the organisation. Tiro was in regular contact with the IUEF and a package would not have aroused suspicion.

216 In the case of

Reference 159 - 0.01% Coverage

AT THE TIME OF REPORTING.

291 In September 1987, an attempt was made in Harare on the life of Ms Connie Braam, the head of the Dutch Anti-Apartheid Movement. Checking into the Bronte Hotel after a conference, Ms Braam found two jackets hanging in a cupboard in her room.

292 Later that evening, Ms

Reference 160 - 0.01% Coverage

to the South African government;

c houses/residences occupied or used by opponents of apartheid.

466 The Commission has accumulated

Reference 161 - 0.01% Coverage

of South African state agents.

478 In addition, in July and August 1982, the South African Security Branch was responsible for burglaries of the ANC, PAC, and SWAPO offices in England, for which two agents – Mr Peter Casselton and Mr Edward Aspinall – were imprisoned and a diplomat attached to the London mission, Warrant Officer Joseph Klue, was expelled. The office of the Anti-Apartheid Movement (AAM) in London was also burgled on at least one occasion in the 1980s.

479 Casselton and Klue played

Reference 162 - 0.01% Coverage

the use of the bag.

482 The ANC office was empty at the time of the explosion; only the caretaker of the building was slightly injured. Both the AAM's former chair, Lord Hughes (in his appearance before the Commission) and its executive secretary, Mr Mike Terry (in a discussion with the Commission) raised the possibility that the operation may have been an assassination attempt on the life of the ANC president, Mr Oliver Tambo. They point to the fact that the operation coincided with a large international anti-apartheid demonstration in London that weekend. The gathering and Tambo's participation in it, they claim, had been widely publicised. They also point to the timing of the blast (09h00) and the fact that it was well known that Tambo tended to hold early morning meetings at the ANC office when in London.

483 After the operation, each

Reference 163 - 0.01% Coverage

between 1960 and 1990

■ INTRODUCTION

1 The security forces used both overt and clandestine methods to suppress resistance and counter armed actions by opponents of apartheid. Overt methods included bannings and banishment, detention without trial, judicial executions and public order policing. More clandestine and covert forms of control included torture, extra-judicial killings and support for surrogate forces.

■ BANNINGS AND BANISHMENT

2 Between

Reference 164 - 0.01% Coverage

and elsewhere in this report.

39 The creation of a specialised riot control function within South Africa's policing agencies was essentially a reaction to the disorder and political unrest arising from resistance to apartheid. Although the names and structures of the units tasked with this specialist function changed a number of times during the three decades under examination, and implementation devolved to various other policing agencies in homeland and self-governing territories, their roles remained the same – the enforcement of apartheid laws, the suppression of political protest and the prevention of 'unrest, intimidation and unrest-related crimes'.

40 In the 1970s, as resistance to apartheid grew, the police began to see the need for a specialised capacity to 'control unrest'. The SAP looked to international models and introduced new training methods and full-time riot control units.

3 Other cases of judicial

Reference 165 - 0.01% Coverage

force on crowds and gatherings

65 The SAP used riot control to enforce the restrictions on public assembly and association that were enshrined in the legislation of apartheid. The training and equipment of riot police and the deployment ratios of these police relative to the size of the crowds that they confronted were based on the assumption that crowds would be controlled and dispersed through the use of force.

66 Most victims of harsh

Reference 166 - 0.01% Coverage

officers told the Commission that:

6 'The Apparatus of State-Orchestrated Violence in Apartheid South Africa' Report prepared by the Civilian Support Component, Investigation Task Unit, February 1997.

VOLUME 2 CHAPTER 3 The

Reference 167 - 0.01% Coverage

say something". Van Vuuren said:

I agreed to it. He asked if he could sing Nkosi Sikelel' iAfrika ... He also claimed that the ANC would govern later, that apartheid would no longer be able to be maintained and that a democracy would be the end of the Boers. He also mentioned that the Security Police and Umkhonto weSizwe were the toys of the politicians. Mamasela had an ANC flag present which was with us then. He threw this over Maake while Sefola sang Nkosi Sikelel' iAfrika. We then shocked Makupe to death.

301 Sefolo himself was then

Reference 168 - 0.01% Coverage

leaders, especially those with charisma)".

453 The rhetoric did not always readily distinguish between persons engaged in military operations or acts of terrorism and those who opposed apartheid by lawful or peaceful means; nor did it provide a definition of 'terrorists'. Nowhere in any of the SSC documents is a clear and unambiguous definition provided for any of the terms elimineer (eliminate), neutraliseer (neutralise), fisiese vernietiging (physical destruction), uithaal (take out) or ander metodes as aanhouding (methods other than detention).

454 This led to a

Reference 169 - 0.01% Coverage

are located in the text.

IN REVIEWING THE ACTIVITIES OF THE AFRICAN NATIONAL CONGRESS (ANC) AND THE PAN AFRICANIST CONGRESS (PAC), THE COMMISSION ENDORSED THE POSITION IN INTERNATIONAL LAW THAT THE POLICY OF APARTHEID WAS A CRIME AGAINST HUMANITY AND THAT BOTH THE ANC AND PAC WERE INTERNATIONALLY RECOGNISED LIBERATION MOVEMENTS CONDUCTING LEGITIMATE STRUGGLES AGAINST THE FORMER SOUTH AFRICAN GOVERNMENT AND ITS POLICY OF APARTHEID.

NONETHELESS, THE COMMISSION DREW A

Reference 170 - 0.01% Coverage

Ismail told the Commission that:

There were large numbers of military personnel at the target at the time. We accepted that civilian casualties would result, but we felt that we had to strike at military personnel ... It was not callous. It was not a school like the apartheid forces attacked when they were attacking school children. They were military people there ... One regrets the loss of innocent lives of civilians, but ... we did not think it was terrorism. In fact, the ANC in all its statements lauded that operation...

18 Mr Johannes Mnisi's role

Reference 171 - 0.01% Coverage

1960 to 1990 PAGE 333

It was the apartheid regime itself which took steps towards obliterating the distinction between the civilian and military spheres from the time of its adoption of the 'total strategy' programme in 1977, and its later declaration of these areas as military zones.

41 In its second submission

Reference 172 - 0.01% Coverage

of the violence was undirected.

96 On 25 April 1985, the ANC national executive made a call: "Make apartheid unworkable! Make the country ungovernable!"⁴. The destruction of the Black Local Authorities and the pressure put on councillors to resign was seen as an integral part of the making the townships ungovernable. Internally, the campaign was fanned by UDF structures and was the forerunner of the campaign for the building of organs of people's power. In the process of its implementation, some people became victims of gross violations of human rights.

97 Interventions in undisciplined activities

Reference 173 - 0.01% Coverage

STRUCTURES IN THE HOMELANDS

Introduction

5 The homelands system lay at the heart of the National Party (NP) government's policy of territorial and political separation based on race. Long before the NP's election victory in 1948, legislation had been enacted to lay the groundwork for the development of the homelands. This included the 1913 and 1936 Land Acts. The Bantu Authorities Act was passed in the early 1950s, increasing the powers of traditional authorities in preparation for self-governance, and in 1959, the Promotion of Bantu Self-Government Act provided the legislative basis for the future homelands. Based on the notion that South Africa's indigenous population was composed of eight (later, ten) African national groups, the architects of apartheid proposed that each group be given the opportunity to advance to higher forms of selfgovernment until independence for each could eventually be realised.

6 From their creation, the homelands proved to be an emotional and highly charged issue. By and large, opinion on the subject was divided between those who generally supported the homelands project and those who opposed it. In the former group, NP politicians portrayed the homelands as a moral response to South Africa's 'multi-national' reality. Apartheid theorists believed that South Africa was a country containing a number of nations, each developed to a greater or lesser degree. Freedom, they posited, could be realised only by providing the opportunity for each of these nations to exist and develop along its own lines. To achieve this, the South African government initiated the programme of 'separate development'. Proponents of the policy envisioned the creation, under white tutelage, of a number of independent but mutually supportive African states. Theoretically, the homeland system was designed to realise this vision.

7 Support for the homelands

Reference 174 - 0.01% Coverage

work for change from within.

8 Arguments against the homeland system were based on different philosophical and political beliefs, although a number of common threads run through the various critiques. First, some observers outside of the NP believed that economic constraints would inhibit the potential for the full realisation of the homeland concept. Second, many South Africans rejected the apartheid notion that ethnic ties naturally separated the country's population into different nations. This school of thought regarded the homelands as an extension of the central government's policy of 'divide and rule'. Finally, more radical analyses concluded that the

homelands were being used as vast dumping grounds where labour superfluous to the (white) capitalist economy could be effectively contained and controlled.

9 Rural resistance to the

Reference 175 - 0.01% Coverage

the case of the Transkei.

24 Political developments quickly followed in a number of homelands. In 1971, selfgovernment was granted to Ciskei and Bophuthatswana; Lebowa, Gazankulu and Venda received self-government in 1973. Only Transkei, Bophuthatswana, Venda and Ciskei (the so-called TBVC states) ever went on to take independence. In 1972, the KwaZulu Legislative Assembly was established, followed by self-government in February 1977; KwaZulu consistently refused to opt for independence. At the end of this period, in 1975, Chief Mangosuthu Buthelezi revived Inkatha, then a cultural organisation. Buthelezi has been president of Inkatha ever since and went on to head the KwaZulu government throughout its existence. The remaining homelands became self-governing over the ensuing years. In this manner, the apartheid principle of territorial segregation was physically realised through the creation of separate, ethnically-based homelands.

Developments in security structures

25

Reference 176 - 0.01% Coverage

its programme of homeland development.

35 While the homeland governments reached the height of their political powers in this period, the economic weakness of the supposed national states belied their independence. Where the 'reserves' had traditionally served to support and reproduce labour for the urban capitalist economy, under apartheid the growing homeland population was increasingly supported by remittances from relatives working in distant industries. Central government subsidies and loans supported

VOLUME 2 CHAPTER 5 The

Reference 177 - 0.01% Coverage

in Port Elizabeth in 1981).

108 In addition to using the homelands for one-step-removed repression, during the apartheid years the South African military also experimented with ways of using the independent homeland security forces to break the arms embargo.

The Pondoland Revolt

109 The

Reference 178 - 0.01% Coverage

1960 to 1990 PAGE 455

apartheid for the region. While the South African government placed pressure on homeland leaders to opt for independence, Chief Buthelezi refused to accept independence. In the first few years after the revival of Inkatha, the ANC regarded Chief Buthelezi as an important ally inside the country. He had been a member

of the ANC Youth League and when he founded Inkatha, he was known to be an opponent of apartheid. The external mission of the organisation maintained contact with Chief Buthelezi and indeed encouraged their supporters back home to join Inkatha. While organisations in other homeland structures could easily be dismissed as puppets of Pretoria, at the time of its formation and for almost a decade afterwards, this was not said of Inkatha.

1979: The London meeting

207

Reference 179 - 0.01% Coverage

of the London 1979 meeting:

The campaign to render South Africa ungovernable was not directed against the apartheid state. KwaZulu and the IFP in particular have been the targets of ANC destabilisation policies since the 1979 conference failed to persuade the then Inkatha Cultural Liberation Movement to become a surrogate of the ANC.

210 Following the 1979 meeting, Chief Buthelezi faced growing hostility from an increasing number of Zulu-speaking people in Natal and the KwaZulu homeland for his rejection of the ANC's strategies and, in particular, for his decision to participate in the homeland system, to work through the tribal authorities, the KLA and the black urban councils. The two organisations' differing approaches to opposing apartheid laid the basis for the bitter and bloody political conflict

VOLUME 2 CHAPTER 5 The

Reference 180 - 0.01% Coverage

July 1982, Chief Buthelezi said:

We have the Emandleni-Matleng Camp girding the loins of youth with the resolve of their elders and with the wisdom of ages, to move into the communities and play a devastating role with apartheid's enemies...

VOLUME 2 CHAPTER 5 The

Reference 181 - 0.01% Coverage

the South African security forces

233 By 1985, Inkatha supporters found themselves increasingly under attack by virtue of the positions they held within local government and homeland structures. Threats of assassination against Chief Buthelezi in 1985 prompted the Inkatha leader to turn to the South African government, in particular to the SADF, for assistance to take on the ANC/UDF. Contact with the central government had of necessity to be secret given Chief Buthelezi's public stance towards the South African government. During the latter half of the 1980s, Inkatha began to draw increasingly upon the support of the South African government, and to rely more heavily on the South African and KwaZulu government's infrastructure and resources. In the process, its aggression turned away from the apartheid state and became directed at those who were advocating alternative structures and thus threatening its power-base.

234 The South African government

Reference 182 - 0.01% Coverage

■ KWANDEBELE KwaNdebele independence

289 In light of the unrest that eventually followed, it is ironic to note that Pretoria's homeland planners were initially loath to create a separate homeland for the Ndebele. In terms of the 1959 Promotion of Bantu Self-Government Act, the Ndebele were not recognised as a 'national unit' worthy of their own homeland. For many years, apartheid's ethnic strategists hoped that the Ndebele would simply assimilate into Bophuthatswana or Lebowa where a large number of Ndebeles already lived. In 1979, however, the South Ndebele territorial authority was granted legislative assembly status. Two years later KwaNdebele became self-governing. Although the South African government frequently justified its abrupt change in policy by referring to requests for recognition from Ndebele traditionalists, the real reasons lay in South Africa's changing political economy and emerging strategic concerns. The large number of Ndebeles forced off white-owned farms because of mechanisation and the sudden exodus of Ndebeles fleeing ethnic harassment in Bophuthatswana had created an acute demographic problem for Pretoria's planners. KwaNdebele's establishment was designed to control groups displaced by these processes.

290 By the early 1980s

Reference 183 - 0.01% Coverage

the Northern Sotho 'national unit'.

308 However, on the recommendations of the 1975 select committee for Bantu Affairs, the government considered incorporating Moutse into the soon to be established Ndebele homeland. Given Moutse's history and its ethnic composition, many analysts condemned the proposal as a violation of apartheid's ethnic ideal. Internal DCAD memoranda reveal that the department realised that their plans for Moutse represented a significant change of emphasis. Nevertheless, officials justified Moutse's incorporation based on a number of administrative, economic and developmental considerations. For its part, the 1975 select committee was motivated by a number of concerns. First, the incorporation of Moutse would have greatly expanded the area of the small KwaNdebele homeland. Second, the enlarged homeland would have remained a contiguous area, a goal frequently mentioned by apartheid planners but rarely achieved. Third, KwaNdebele's land area and population size would be boosted without the costs and negative publicity accompanying physical removals. Finally, given Moutse's combination of trust land and African freehold, the area's incorporation would boost KwaNdebele's size without the state having to purchase white farms or modify the amount of land occupied by Africans in terms of the limits set by the 1936 Land Act. In 1980, the central government excised Moutse from Lebowa, the first step towards acting on the select committee's recommendation.

309 Following Moutse's excision from

Reference 184 - 0.01% Coverage

President Samora Machel PAGE 494

- Dr Abdul Minty, former honorary secretary of the British Anti-Apartheid Movement and current deputy director general in the Department of Foreign Affairs;
- Mr JNJ van Rensburg, attorney

Reference 185 - 0.01% Coverage

The Helderberg Crash PAGE 505

12 The Commission believed that two Armscor employees from the company Somchem, which was producing rockets and missiles during the apartheid years, could provide important information. Armscor could not assist the Commission in locating either Dr JJ Dekker, who was the MD of Somchem, or Mr François Humphries, who was procurement officer at the time.

13 Interviews with SAA pilots

Reference 186 - 0.01% Coverage

AND BIOLOGICAL WARFARE PROGRAMME

■ INTRODUCTION

1 The Commission's hearings into South Africa's Chemical and Biological Warfare programme (the CBW programme, also known as Project Coast) during the 1980s and early 1990s, were held in Cape Town in June and July 1998. The hearings focused on the apparently offensive (as opposed to defensive) aspects of the programme. The image of white-coated scientists, professors, doctors, dentists, veterinarians, laboratories, universities and front companies, propping up apartheid with the support of an extensive international network, was a particularly cynical and chilling one. Here was evidence of science being subverted to cause disease and undermine the health of communities. Cholera, botulism, anthrax, chemical poisoning and the large-scale manufacture of drugs of abuse, allegedly for purposes of crowd control, were amongst the projects of the programme. Moreover, chemicals, poisons and lethal micro-organisms were produced for use against individuals, and 'applicators' (murder weapons) developed for their administration.

2 The CBW programme, which

Reference 187 - 0.01% Coverage

and had subsequently been dismantled.

6 After this briefing, the Research Department began to look at the background to the programme and its implications, relying on the information that was available. This included press clippings, a few intelligence reports and some information gathered by Mr Claus De Jonge who was asked to look at the programme in Europe. The Research Department then drew up a list of anti-apartheid activists who had been the target of poisonings or suspected poisonings (for example, the attempted assassination of the Reverend Frank Chikane in 1989). This led the Commission to conclude that toxins may have been used by the security forces in their war against the 'total onslaught', a conclusion later corroborated by former operatives of the SADF.

VOLUME 2 CHAPTER 6 Special

Reference 188 - 0.01% Coverage

unresolved. International links and support

31 Documents in the Commission's possession indicate that Dr Basson travelled extensively to collect information during the initial phase of the CBW programme. He visited Taiwan where he was shown their CBW facilities and provided with significant information, and also attended a conference at San Antonio in the United States in the early 1980s. Documents indicate that, during the apartheid years, members of the SADF visited Israel and West Germany to share information about CBW matters and there was clearly a link with Belgian nationals and companies. Other documents reveal links between the surgeon general and

Americans who were part of the United States CBW programme, and demonstrate their willingness to assist the South Africans.

32 Dr Basson and other

Reference 189 - 0.01% Coverage

into Secret State Funding

■ INTRODUCTION

1 The use of secret funding to promote the policies of the former state and to fund operations directed against the opponents of apartheid came to the attention of the Commission shortly after its inception. A copy of the reports of the Advisory Committee on Special Secret Projects, chaired by Professor Ellison Kahn, as well as the report of the Secret Services Evaluation Committee, chaired by Mr Amie Venter, were received from the President's office on 16 October 1996.

2 Former President FW de

Reference 190 - 0.01% Coverage

Mandela's attitude towards the Commission

108 Madikizela-Mandela chose not to submit a statement to the Commission detailing the human rights violations she suffered at the hands of the apartheid government and its security forces. She indicated during her first in camera hearing in September 1997 that she had intended to do this, but had changed her mind as a result of the treatment she received at the hands of the Commission. She was particularly upset that she had learnt of her pending subpoena through the media, and was disconcerted that she had been subpoenaed and not invited to appear before the Commission. She considered this a hostile and unnecessary action. In this regard, the Commission handled the matter badly and must apologise to Ms Madikizela-Mandela. The Commission itself recognises the enormous contribution that she made to the liberation struggle. For over two decades she suffered anguish in her separation from her husband, as well as persecution, banishment, imprisonment, torture and harassment at the hands of the former government.

109 During the public hearings

Reference 191 - 0.01% Coverage

INCORPORATION

Historical and Political Overview

138 The effects of the watershed in South African politics following the February 1990 unbannings was also felt in the homelands. Throughout the years of CODESA I and II, as well as the multi-party talks at the World Trade Centre, homeland leaders and their political parties manoeuvred between the dominant players in the negotiations, including the ANC, the NP and various white conservative groupings. Driven by their own agendas, homeland governments took – and when necessary changed – sides in an attempt to position themselves in a post-apartheid

VOLUME 2 CHAPTER 7 Political

Reference 192 - 0.01% Coverage

generals in former MI structures.

312 Both Derby-Lewis and Walus had strong ties with Mr Koos Vermeulen, leader and founder of both the World Preservatist Movement (WPB) and the World Apartheid Movement (WAB). Both were and are suspected to have been South

VOLUME 2 CHAPTER 7 Political

Reference 193 - 0.01% Coverage

Johannesburg. No one was injured.

357 In October 1990, a parcel bomb was delivered to a computer company in Durban, which did work for trade unions and anti-apartheid organisations. Several employees were ANC members and it was a venue for ANC meetings. Mr Nicolas James Elvin 'Nic' Cruise [KZN/KM/644/DN] was killed opening the parcel and three other workers were injured. The police detained six right-wingers in connection with a taxi rank bombing and the killing of Cruise, including three British citizens,.

VOLUME 2 CHAPTER 7 Political

Reference 194 - 0.01% Coverage

be engaged in a war.

503 Whether or not forces were fomenting conflict or violence in communities and among groups, one of the enduring legacies of the previous years was a high degree of political intolerance on all sides. While the creation of divisions had been central to the experience of colonial rule, the entire policy of apartheid was predicated on the maintenance of ethnic and other divisions. The policy of contra-mobilisation during the 1980s intensified this ethnic, generational, interand intra-organisational conflict. Thus, for example, the deepening of divisions between Inkatha and the UDF had been central to state policy from the mid-1980s. The experience of violent struggle during the 1980s and conditions of near siege in many communities during the emergency years had left a deep suspicion of those seen to be allies of state. These conditions resulted in many situations in open conflict, and at times became self-generating. In such situations, infiltration by the security forces made structures particularly vulnerable to those pursuing double agendas or acting as agents provocateurs. The examples of Mr Sifiso Nkabinde and Mr Michael Phama dealt with above are powerful examples.

504 On all sides of

Reference 195 - 0.01% Coverage

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.

VOLUME 3 CHAPTER 1 Appendix

Reference 196 - 0.01% Coverage

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.

1975

Operation K, a Security

Reference 197 - 0.01% Coverage

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

VOLUME 3 CHAPTER 1 Appendix

Reference 198 - 0.01% Coverage

Appendix: National Chronology PAGE 18

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

Reference 199 - 0.01% Coverage

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

Reference 200 - 0.01% Coverage

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

Reference 201 - 0.01% Coverage

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,

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Reference 202 - 0.01% Coverage

Profile: Eastern Cape PAGE 54

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

Reference 203 - 0.01% Coverage

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.

Reference 204 - 0.01% Coverage

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,

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Reference 205 - 0.01% Coverage

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

Reference 206 - 0.01% Coverage

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

Reference 207 - 0.01% Coverage

Natal and KwaZulu PAGE 165

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

Reference 208 - 0.01% Coverage

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

Reference 209 - 0.01% Coverage

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

Reference 210 - 0.01% Coverage

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

Reference 211 - 0.01% Coverage

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

Reference 212 - 0.01% Coverage

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

Reference 213 - 0.01% Coverage

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

Reference 214 - 0.01% Coverage

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.

VOLUME 3 CHAPTER 3 Regional

Reference 215 - 0.01% Coverage

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.

VOLUME 3 CHAPTER 3 Regional

Reference 216 - 0.01% Coverage

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

Reference 217 - 0.01% Coverage

Natal and KwaZulu PAGE 281

of the political struggle waged by the ANC against the apartheid regime that existed at the time".

The Killing of Chief Mhlabunzima

Reference 218 - 0.01% Coverage

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 VOLUME 3 CHAPTER 4

Reference 219 - 0.01% Coverage

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

Reference 220 - 0.01% Coverage

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 VOLUME 3 CHAPTER 4

Reference 221 - 0.01% Coverage

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

Reference 222 - 0.01% Coverage

338

■ 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

Reference 223 - 0.01% Coverage

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

Reference 224 - 0.01% Coverage

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

Reference 225 - 0.01% Coverage

346

■ 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

Reference 226 - 0.01% Coverage

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

Reference 227 - 0.01% Coverage

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

Reference 228 - 0.01% Coverage

Orange Free State PAGE 362

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

Reference 229 - 0.01% Coverage

the farm 'Stormberg' at Verkeerdevelei.

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

Reference 230 - 0.01% Coverage

rest of the country:

a

a distinct formulation of apartheid policy declaring the Cape a 'coloured labour preference area';

b VOLUME 3 CHAPTER 5

Reference 231 - 0.01% Coverage

in out-of-court settlements.

27 The Schlebush 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

Reference 232 - 0.01% Coverage

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.

VOLUME 3 CHAPTER 5 Regional

Reference 233 - 0.01% Coverage

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.

VOLUME 3 CHAPTER 5 Regional

Reference 234 - 0.01% Coverage

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

Reference 235 - 0.01% Coverage

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 threepronged 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

Reference 236 - 0.01% Coverage

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

Reference 237 - 0.01% Coverage

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

Reference 238 - 0.01% Coverage

PAGE 485

■ 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

Reference 239 - 0.01% Coverage

Profile: Western Cape PAGE 519

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

Reference 240 - 0.01% Coverage

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

Reference 241 - 0.01% Coverage

Profile: Transvaal PAGE 532

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 largescale 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.

FIGURE B2B.5-2

Percentage

Reference 242 - 0.01% Coverage

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

Reference 243 - 0.01% Coverage

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

Reference 244 - 0.01% Coverage

Regional Profile: Transvaal PAGE 555

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

Reference 245 - 0.01% Coverage

from their parents and teachers:

The people that were involved then were not the people of 1960, they were not the people of Sharpville, 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.

VOLUME 3 CHAPTER 6 Regional

Reference 246 - 0.01% Coverage

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

Reference 247 - 0.01% Coverage

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 boobytrapped 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

Reference 248 - 0.01% Coverage

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

Reference 249 - 0.01% Coverage

willynilly 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

Reference 250 - 0.01% Coverage

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

Reference 251 - 0.01% Coverage

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

Reference 252 - 0.01% Coverage

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

Reference 253 - 0.01% Coverage

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

Reference 254 - 0.01% Coverage

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

Reference 255 - 0.01% Coverage

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

Reference 256 - 0.01% Coverage

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

Reference 257 - 0.01% Coverage

many of their fellow citizens.

2 It is an old question: one that is asked of any country that undertakes acts so foul that the world openly condemns it. It is a question that has been answered in different ways, for such is the nature of historical debate. However, what is clear is that apartheid could only have happened if large numbers of enfranchised, relatively privileged South Africans either condoned or simply allowed it to continue.

3 How did so many

Reference 258 - 0.01% Coverage

system, a kind of hell?

4 One of the things one needs to remember is that the greater majority of South Africans knew only one system of government (although the foundation for apartheid was, as mentioned elsewhere, laid much earlier). This means that those who were born, went to school, took jobs and raised families knew only one society – the apartheid society. To those who reaped its benefits, it was an

VOLUME 4 CHAPTER 1 Foreword

Reference 259 - 0.01% Coverage

know and believe?

■ INSTITUTIONAL HEARINGS

6 It was in search for the beginning of an answer to these questions that the Commission decided to host a number of hearings on the role of some of the influential sectors of the apartheid society. Clearly, there were time restraints, requiring the Commission to limit its focus. A number of institutions were identified: the media, business, prisons, the faith community, the legal system and the health sector. All these sectors had, over the years, come under attack for what was seen by some as their complicity with the apartheid system. What the Commission sought to find out was how these institutions saw themselves and how, brought together with those who had opposed them, a part of the enigma of the South African evil could be unravelled.

7 It was considered extremely

Reference 260 - 0.01% Coverage

found themselves obliged to defend.

12 The chapter on children and youth describes the devastating effects of apartheid on young people in South Africa. It also pays tribute to the extraordinary heroism of generations of young people who risked their education, their safety and often their lives for a better society. Many of them today are greatly the poorer for their sacrifice. Many others did not live beyond their teens and became victims of the system against which they struggled.

13 The chapter on women

Reference 261 - 0.01% Coverage

in which women experience violations.

14 The following chapters do no more than summarise the events that took place at the hearings. The full transcripts are to be found in the National Archives. However, beyond the documents, the Commission hopes that the legacy of these hearings will be to stimulate further debate, further discussion and further exploration of the difficult and complex issues that underpinned apartheid.

VOLUME 4 CHAPTER 1 Foreword

Reference 262 - 0.01% Coverage

Business and Labour Afrikaanse Handelsinstituut
Anglo American Corporation of South Africa Ltd Anti-Apartheid Movement
Armaments Corporation of South Africa

Reference 263 - 0.01% Coverage

M
Nampak Limited Narrandes, C
National African Federated Chamber of Commerce and Industry National Association of Automobile
Manufacturers of South Africa National Business Initiative for Growth, Development & Democracy National
Campaign on the Apartheid Debt National Small Business Council Old Mutual Padayachi, N Phaswana, F
Rakgahla and Associates Reichenberg and

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J J W Amnesty International
Anonymous - Afrikaans letter from a mother re: conscript Anonymous - re: Conscripts Anti-Apartheid
Movement
Association of Law Societies of

Reference 265 - 0.01% Coverage

Hearing: Business and Labour

■ INTRODUCTION

1 At the heart of the business and labour hearings lay the complex power relations of apartheid, the legacy of which continues to afflict the post-apartheid society. These include the consequences of job reservation, influx control, wages, unequal access to resources, migrant labour and the hostel system. Adjacent to these historic developments were industrial unrest, strikes and the struggle for the right to organise trade unions.

2 The hearings illuminated the widely divergent perspectives of different sectors of the economy. Sharp differences emerged over the role business played or failed to play in the apartheid years. Questions were raised as to whether business had been involved in the violation of human rights, how business related to the state and whether or not business benefited from apartheid. In the process, the very premise of business as a homogeneous entity was questioned.

3 Differences also emerged between

Reference 266 - 0.01% Coverage

Africa.

■ CULPABILITY, COLLABORATION AND INVOLVEMENT

6 From amongst the various different perceptions of the relationship between business and apartheid, two dominant positions emerged at the hearing. One view, which sees apartheid as part of a system of racial-

capitalism, held that apartheid was beneficial for (white) business because it was an integral part of a system premised on the exploitation of black workers and the destruction of black entrepreneurial activity. According to this argument, business as a whole benefited from the system, although some sections of the business community (most notably Afrikaner capital, the mining houses and the armaments industry) benefited more than others did. This position is most clearly articulated in submissions by the African National Congress (ANC), the South African Communist Party (SACP), the Congress of South African Trade Unions (COSATU), Professor Sampie Terreblanche of the University of Stellenbosch and the Black Management Forum (BMF).

7 The other position, argued mainly by business, claims that apartheid raised the costs of doing business, eroded South Africa's skill base and undermined longterm productivity and growth. In this view, the impact of apartheid was to harm the economy. This argument was most clearly discernible in submissions from:
a business organisations such as

Reference 267 - 0.01% Coverage

Business and Labour PAGE 19

8 These opposing arguments mirror a long-standing debate over the relationship between apartheid and capitalism.¹ What was of relevance to the task facing the Commission was that these contrasting accounts imply different notions of accountability. If, for example, one assumes that apartheid placed obstacles in the path of profitability, then business as a whole is cast more as a victim of the system than as a partner or collaborator. According to this construct, the essential question to be asked of business is why it did not do more to hasten the demise of apartheid - both through pressure on the state and through progressive actions at company or community levels. In other words, why did business not protest more loudly? Why did it not support the demands of black workers for wage increases and resist migratory labour practices?

9 Alternatively, the analysis of the ANC, COSATU and the SACP seems to imply that the involvement of business in the racial capitalism system of apartheid was such, and the benefits so great, that it would not have been in its interest to take issue with apartheid.

10 These questions are typically answered in two ways. The predominant approach is to point to instances where business objected to apartheid policies and in other ways promoted political change, and to highlight its contributions through social responsibility investments, its support for the Urban Foundation, the Small Business Development Corporation and various non-governmental organisations. The other approach is to point out that, by creating jobs and generating wealth, business improved living standards and created the conditions for successful political transition.

11 In addressing the question

Reference 268 - 0.01% Coverage

was echoed in other submissions.

1 See Posel, D. (1983). 'Rethinking the Race-Class Debate in South African Historiography', in *Social Dynamics*, vol. 9, no.1; Saunders, C. (1988); *The Making of the South African Past: Major Historians on Race and Class*. David Philip, Cape Town; and Nattrass, N. (1991). 'Controversies about Capitalism and Apartheid in South Africa: An Economic Perspective', in *Journal of Southern African Studies*, vol.17, no.4 for an overview of this debate.

Reference 269 - 0.01% Coverage

Business and Labour PAGE 20

13 As far as the business community was concerned, its purpose in participating in the Commission was to promote understanding of the role of business under apartheid and to explore areas where businesses failed to press for change – both at a political and at an organisational level. Failure to act quickly or adequately on the political front was regarded as an error of omission. Failure to adjust employment practices was likewise regarded as regrettable, but not amounting to a gross human rights violation.

14 Tongaat-Hulett expresses it

Reference 270 - 0.01% Coverage

at a socio-political level.

16 In brief, the white business perspective sees apartheid as a set of politically inspired, economically irrational policies that were imposed on (and undermined) the economy. Those critical of business during the period under review by the Commission, on the other hand, emphasise the inherent link between apartheid and capitalism – refusing to allow for any sharp analytical distinction between the economic and political spheres. As the ANC puts it:

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Reference 271 - 0.01% Coverage

Business and Labour PAGE 21

Apartheid was more than a programme of one political party. It was a system of racial minority rule that was both rooted in and sustained by white minority socioeconomic privilege at the expense of the historically oppressed black majority. Apartheid was associated with a highly unequal distribution of income, wealth and opportunity that largely corresponded to the racial structure of society.

It is our contention that the historically privileged business community as a whole must accept and acknowledge that its current position in the economy, its wealth, power and access to high income and status positions are the product, in part at least, of discrimination and oppression directed against the black majority. While some of the important business organisations and groups opposed some of the laws introduced by successive apartheid governments, a number of core discriminatory laws were both actively sought and tolerated by business.

Historically privileged business as a whole must, therefore, accept a degree of co-responsibility for its role in sustaining the apartheid system of discrimination and oppression over many years.

17 The COSATU submission went

Reference 272 - 0.01% Coverage

The COSATU submission went further:

We remain of the view that apartheid, with its form of institutionalised racism, masked its real content and substance – the perpetuation of a super-exploitative cheap labour system. We all know that the primary victims of this system were the black working class and the primary beneficiaries the white ruling elite.

18 The SACP draws out

Reference 273 - 0.01% Coverage

the majority of our people.

In presenting the apartheid political economy as an integrated and coherent system of racial capitalism, the struggle against capitalist oppression is twinned with that for democratisation. Resisting the growth of black trade unionism, and calling in the police during strikes, is thus seen as evidence of collaboration with the apartheid system against democratisation.

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rights occurred as a consequence.

Given the major role played by the independent black trade union movement in fighting apartheid, the struggle for trade union rights and democracy were often indistinguishable. The overlap was not exact, while finding coherence to the extent that both the refusal to recognise trade unions on the grounds of race and the denial of franchise both constitute human rights violations. The struggle for trade union rights, for better working conditions and for democracy, in turn, led to a host of specific gross human rights violations that are the direct concern of the Commission.

It was certainly the perception of most black workers that big business was in bed with the government. The role that business, either directly or indirectly, played in shaping apartheid policies, collaborating with agents of the state and benefiting from the system, implies a level of moral culpability which simply cannot be ignored.

20 Evidence of different levels

Reference 275 - 0.01% Coverage

The COSATU submission argues that:

Indeed, the historical record does not support business claims of noncollaboration. A vast body of evidence points to a central role for business interests in the elaboration, adoption, implementation and modification of apartheid policies throughout its dismal history. The South African Police and Defence Force were armed and equipped by big business. Apartheid's jails were constructed by big business, as were the buildings housing the vast apartheid bureaucracy. Apartheid's labour laws, pass laws, forced removals and cheap labour system were all to the advantage of the business community.

22 Major Craig Williamson (a former security police spy) expressed a similar understanding of collaboration by pointing to systemic links between the economy, civil society and apartheid:

Our weapons, ammunition, uniforms, vehicles

Reference 276 - 0.01% Coverage

majorities.²

First order involvement

23 To the extent that business played a central role in helping to design and implement apartheid policies, it must be held accountable. This applies particularly to the mining industry which, for this reason, is dealt with in some detail below. Direct involvement with the state in the formulation of oppressive policies or

practices that resulted in low labour costs (or otherwise boosted profits) can be described as first-order involvement. This is clearly of a different moral order to simply benefiting from such policies. Businesses that were involved in this way must be held responsible and accountable for the suffering that resulted. Furthermore, to the extent that subsequent capital accumulation was boosted beyond that which would have occurred in the absence of such policies, the moral basis of such wealth must be questioned – a matter that is dealt with in the recommendations.

24 Other forms of involvement

Reference 277 - 0.01% Coverage

Business and Labour PAGE 24

25 One could adopt a stance that argues that any business operating in South Africa was tainted by apartheid, and that the intentions of individual businesses are irrelevant to the argument. The Apartheid Debt Co-ordinating Committee makes such a case with regard to loans:

A large number of inter-bank loans, for instance, had no direct connection with apartheid. Yet, the foreign exchange given for a seemingly innocuous purpose – ranging from the development of ESKOM [Electricity Supply Commission] to the financing of a domestic home – was recycled as part of apartheid's sanctionsbusting strategy. Similarly, some foreign loans were used for purposes of international trade and, in this respect, were no different from those regularly found throughout the world. Yet, even the seemingly most pristine of these trade loans were tainted by apartheid. The simple fact of trade with South Africa inescapably meant helping to sustain and reproduce the structures, practices and lifestyles normalised by apartheid. No loan could avoid this institutional contamination.

Second order involvement

26 However

Reference 278 - 0.01% Coverage

investigations of white-collar crime.

29 COSAB acknowledged that being a bank "inevitably" meant doing business with a variety of bodies that were an integral part of the apartheid system. All financial institutions were required to hold government and parastatal securities.

It would have been as

Reference 279 - 0.01% Coverage

doing business with government agencies.

30 So, banks were "knowingly or unknowingly" involved in providing banking services and lending to the apartheid government and its agencies. They were similarly involved in the movement of funds from overseas donors to organisations resisting apartheid.

31 The fact, however, that

Reference 280 - 0.01% Coverage

rights violations.

Third order involvement

32 Finally, one can categorise third-order involvement as ordinary business activities that benefited indirectly by virtue of operating within the racially structured context of an apartheid society. Condemning such businesses suggests that all who prospered under apartheid have something to answer for, in that they took advantage of a situation which depressed the earnings of black South Africans, whilst boosting their own. Taken to its logical conclusion, this argument would need to extend also to those businesses that bankrolled opposition parties and funded resistance movements against apartheid. Clearly not all businesses can be tarred with the same brush.

33 The issue of third-order involvement does, however, highlight the fact that the current distribution of wealth (which is substantially concentrated in white hands) is a product of business activity that took place under an apartheid system that favoured whites. This acts as a counterbalance to statements by business that apartheid harmed them, a reminder that white business accumulated (sometimes vast amounts of) wealth in spite of this alleged harm. It also raises the question

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addressed later in this chapter.

34 Some of the business submissions grappled with the issue of third-order involvement by asking themselves whether, by merely doing business under apartheid, they were in some sense supporting the system. The Textile Federation, for example, pointed to its only direct link with the state, namely through government clothing contracts. Old Mutual noted that, by paying taxes and investing in government stock, it might possibly have contributed in some very indirect way.

35 COSAB, while expressing regret for acts of omission and commission committed by its members that contributed to the damage caused by apartheid, pointed to an intimate involvement by the banking industry in the structures of apartheid:

By the very nature of their business, banks were involved in every aspect of commerce during the apartheid years. Without them, government and the economy would have come to a standstill. But it would have been an 'all or nothing' decision. There could have been no halfway position. Either you are in the business of banking, or you are not. It does not lie in the mouth of a bank to say that it will accept the instruction of its client to pay one person but not another.

36 Against the above analysis, this chapter (which deals exclusively with the private sector) explores some of the moral issues raised in submissions on the role of business under apartheid.

A note on the role

Reference 282 - 0.01% Coverage

the role of parastatal organisations

37 Information was also provided to the Commission on the role of economic institutions such as the South African Reserve Bank (SARB) and parastatal bodies such as the Land Bank, the Development Bank of Southern Africa (DBSA), and the Electricity Supply Commission (ESKOM). This sheds light on how these institutions shaped the environment within which private business decisions were made (ESKOM, the SARB) and functioned as a financial arm of apartheid (Land Bank and the DBSA).

38 ESKOM, which supplies some of the world's cheapest electricity, explained how the electricity supply reflected the peculiarities of apartheid:

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Reference 283 - 0.01% Coverage

land distribution and farming opportunities.

40 The DBSA made a similar argument, pointing to the way in which its operations (particularly in the homelands) were "immediately framed within an apartheid political context". The DBSA submission noted, however, that it experienced ongoing tension between its development role and the political context within which it operated. It nevertheless accepted that it was "an integral part of the system and part and parcel of the apartheid gross violation of human rights."

41 The Commission was gratified to learn of the transformation that had occurred in these organisations (most notably the Land Bank and the DBSA), paving the way for a constructive role in post-apartheid development. As these institutions are not part of the private business sector, they are discussed no further in this report.³

The agricultural sector

42 It

Reference 284 - 0.01% Coverage

report.³

The agricultural sector

42 It was particularly regrettable that representatives of commercial agriculture did not participate in the hearing, despite an invitation to do so. Commercial agriculture has always been a fundamental component of business in South Africa and it is necessary to consider, if only briefly, its links with apartheid.

43 Like mining, agriculture has

Reference 285 - 0.01% Coverage

Business and Labour PAGE 28

South Africans were prohibited from owning land in most areas of the country. Although it is certainly true that white farmers represented a spectrum of political views, it seems safe to conclude that this legislative prohibition retained the strong support of the majority of farmers throughout the apartheid years.

44 This means that, at

Reference 286 - 0.01% Coverage

families living on the farms.

46 Similarly, it is evident that the state's policy of forcibly resettling into the impoverished homelands hundreds of thousands of black South Africans no longer needed on the increasingly mechanised, commercial farms was done, if not at the explicit request of the agricultural sector, certainly with its implicit support. Indeed, the nature of the precise link between commercial agriculture, the apartheid state and the infamous policies of resettlement as they were experienced by millions of South Africans during the 1960s, 1970s and 1980s is one that requires recognition and acknowledgement.⁵ Likewise, many farmers took advantage of the farm prison system, which provided them with free labour and resulted in many human rights abuses.⁶

47 Another critical area requiring

Reference 287 - 0.01% Coverage

Business and Labour PAGE 29

■ COSTS AND BENEFITS OF APARTHEID

48 To understand the relationship between business and apartheid, it is helpful to explore the ways in which apartheid policies aided or hindered business, and to outline the role that business played in influencing apartheid legislation.

49 Business was not a monolithic block and it can be argued that no single relationship existed between business and apartheid. It is, however, also true that overwhelming economic power resided in a few major business groupings with huge bargaining power vis-à-vis the state. This power could have been more aggressively used to promote reform. The state, on the other hand, actively repressed black business, favoured Afrikaner capital (through access to contracts, licences, subsidies and so on), while apartheid labour policies benefited industries dependent on lowcost labour (mining and agriculture).

50 It could also be argued that apartheid was in some ways harmful to businesses with greater skill requirements. Most of the submissions pointed out that statebusiness relationships differed between economic sectors, according to size of firm and along language and ethnic lines. It is necessary, therefore, to adopt a differentiated approach, at least as regards the early apartheid period.

Afrikaner business

51 The English

Reference 288 - 0.01% Coverage

the wine and spirits industries:

English-speaking business leaders often felt marginalised under apartheid, having little or no influence over government policy ... In a real sense, such businesses were also victims of the system.

53 The life insurer SANLAM

Reference 289 - 0.01% Coverage

fund to contribute to empowerment.

54 Professor Sampie Terreblanche agreed that the NP favoured Afrikaans business, for example through fishing quotas, mining and liquor concessions, government contracts and "all kinds of inside information". In later years, however, this policy of Afrikaner favouritism was replaced with a policy of patronage towards those businesses that co-operated in the military industrial complex. In return for support, former State President PW Botha granted reforms proposed by the Wiehahn and Riekert Commissions, which allowed for significant changes to apartheid labour law and influx control. Terreblanche argues, however, that Mr Botha's intention at all times "was to entrench and perpetuate white control".

55 The ANC submission identified the "spectacular economic growth" of Afrikaner controlled companies like SANLAM and Volkskas, which were "especially favoured by the apartheid regime". SANLAM's assets rose from R30 million in 1948 to R3.1 billion in 1981, while companies over which it exercised effective control had assets worth R19.3 billion. The submission noted that Rembrandt (together with SANLAM and Volkskas) "were key players in the Afrikaner Broederbond" and "close confidants and advisers of political leaders of the apartheid state".

56 The AHI was far more self-critical than other representative business organisations. It admitted that it had “committed major mistakes” in its support for separate development, its lack of moral and economic objections to apartheid, its insensitivity to issues involving human rights and its acceptance of the absence of a proper labour relations law. It accepted moral responsibility for this. It noted, however that:

Without in any way detracting from the AHI’s willingness to accept responsibility for such pronouncements [in support of separate development], it must be noted that support for separate development was part and parcel of the majority of the white community’s thinking at the time. The white Afrikaans churches, newspapers, cultural organisations and the wider community broadly subscribed to the notion that the separate development of South African population groups was seen as the best guarantee for overall justice and peace in the country. The AHI was part of that collective thinking. There were those who supported separate development because of the ‘separateness’, i.e. apartheid, in its crudest form. Others supported it for the promise of develop-

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of the economy.

Black business

58 As outlined in the submission by the National African Federated Chambers of Commerce (NAFCOC), the apartheid state systematically undermined the black business sector. This was done by means of discriminatory legislation, the application of the Group Areas Act, the allocation of licences and in other ways.

59 Such actions not only stifled the black business sector, but also provided the space for white business to take advantage of the opportunities denied to black business. The Group Areas Act prevented black businesses from operating in white areas and vice versa. Those black business people who obtained business licenses in designated areas (for petrol stations, liquor outlets and so on) benefited in the limited sense that competitive pressures were artificially reduced by apartheid. While this provided a measure of protection for these (few) entrepreneurs, such protection was not always forthcoming. According to a submission from Indian-owned Avalon Cinemas, although they were prevented from operating in white areas, white-owned Ster Kinekor succeeded in its bid to operate in Indian Areas.

60 According to the submission by the Islamic Chamber of Commerce and Industry, there were also members of the black business community who “collaborated” with the apartheid regime, were involved in sanctions-busting and, “together with corrupt politicians in the Tricameral government were engaged in procuring business contracts land, houses etc. for their own benefit to the exclusion of those rightfully deserving of these assets”.

61 Despite such cases, it is clear that the overall impact of apartheid was to undermine black business systematically and perniciously. Furthermore, by limiting the development of black managerial expertise, the acquisition of business skills by black managers was prejudiced (see BMF submission).

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Reference 291 - 0.01% Coverage

system and its associated hardships.

64 It is regrettable that the Chamber of Mines made no mention in its submission of the active role they played in constructing and managing the migrant labour system.⁸ Although the foundations of this system were laid before the 1960s, the Chamber had a significant formative impact on the apartheid political

economy during the period under review by the Commission. There is plenty of evidence to show that, directly due to the monopsonistic power of the Chamber of Mines (which was set up with this purpose explicitly in mind), black wages on the mines were lower – at least until the mid-1970s – than they would almost certainly otherwise have been. Similarly, the opposition of the Chamber of Mines to the unionisation of black mine workers effectively prevented the growth of trade unions for black

7 See for example, Johnstone, R. (1976). *Class Race and Gold*. Routledge, London; Wilson, F. (1972). *Labour in the South African Gold Mines*. Cambridge University Press, Cambridge; and Lipton, M. (1986). *Capitalism and Apartheid: 1910-86*. Wildwood House, Aldershot. 8 The Chamber of Mines merely observes that the system of labour migration “originated in a set of laws and practices in the late 19th and early 20th centuries”, and makes no mention of the role played by the mining industry in influencing such laws and practices.

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significantly to the reconciliation process.

65 The image of gold mining magnates accumulating vast wealth at the expense of African mine workers, whose wages stagnated in real terms until the 1970s, is a stain on the mining industry and one it needs to recognise. For most of the twentieth century, the greatest point of contact between African workers and business occurred on the mines. The shameful history of subhuman compound conditions, brutal suppression of striking workers, racist practices and meagre wages is central to understanding the origins and nature of apartheid. The failure of the Chamber of Mines to address this squarely and to grapple with its moral implications is regrettable and not constructive.

66 The submission by the

Reference 293 - 0.01% Coverage

they were in 1970.¹⁰

68 It is important to recognise that, while the migrant labour system benefited the mining industry, this was not the case with regard to legislation protecting white labour. Government reaction to the 1922 ‘Rand Revolt’ and the mining industry’s support of the colour bar shows very clearly that the industry was opposed to any form of industrial action designed to raise labour costs – whether by white or black workers. The apartheid state created an environment in which white worker power was

9 The Anglo-American Corporation points out that they were allowed to provide married accommodation for 3 per cent of their African labour force, but failed to provide even this. They regard this as one of the “missed opportunities” and “acknowledge, with regret, that we did not sufficiently progress these and many other opportunities to oppose apartheid and hasten its demise”. 10 See Nattrass, J. (1988). *The South African Economy: Its Growth and Change* (Second edition). Oxford University Press, Cape Town, table 7.2, page 139.

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suppress black labour with impunity.

69 This leads to the important point that apartheid had both costs and benefits for the mining industry. The relationship between the mining industry and various white minority governments was both complex and

contradictory. On the one hand, the migrant labour system worked to the decided advantage of the mining industry. But, on the other, the protection of white labour significantly increased both wage and non-wage labour costs in mining. The many representations by mining magnates to government on the costs of job reservation bear testimony to this major apartheid-related thorn in the side of the industry.

70 Finally, it is necessary

Reference 295 - 0.01% Coverage

ANC articulated it as follows:

This was no reluctant decision imposed on them by coercive apartheid legislation. Many businesses, including subsidiaries of leading corporations, became willing collaborators in the creation of the apartheid war machine, which was responsible for many deaths and violations of human rights both inside and outside the borders of our country. It was, moreover, an extremely profitable decision.

74 According to the Centre

Reference 296 - 0.01% Coverage

the Centre for Conflict Resolution:

[by providing] the material means for the maintenance and defence of apartheid elements within the business community are guilty of directly and indirectly perpetuating the political conflict and associated human rights abuses which characterised South Africa between March 1960 and May 1994.

75 As noted above, the armaments industry falls into the category of second-order involvement with the apartheid regime. The moral case against the armaments industry is essentially that business willingly (and for profit) involved itself in manufacturing products that it knew would be used to facilitate human rights abuses domestically and abroad.

12 COSATU points out that

Reference 297 - 0.01% Coverage

Business and Labour PAGE 36

76 The only submission by business that attempts to justify participation in the arms industry came from the Armaments Corporation of South Africa (Armcor). Armcor noted that, in carrying out its function to obtain armaments, it was "carrying out a function which is normal in all governments except that the policies of this [apartheid] government were abnormal". The submission continues:

We do not deny that

Reference 298 - 0.01% Coverage

recommendations chapter.

Other (white) business

81 The relationship between apartheid and business in other sectors was complex and at times contradictory. Many businesses benefited from the tariff protection,

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Reference 299 - 0.01% Coverage

particularly until the early 1970s.

82 Industry was, however, divided over black trade union rights and wage determination. While many recognised that a higher level of African wages would boost consumer demand, no individual firm had any direct incentive to pay substantially more than the going wage for relatively unskilled (or skilled labour). To the extent that apartheid policies exercised downward pressure on African wages, all firms benefited, at least in so far as minimising costs was concerned. Some paid meagre wages in order to stay in business, as paying higher wages than the competition could threaten their existence. For others, depressed African wages simply boosted profits to very high levels.

83 Many foreign-owned companies probably fell into the latter category. The fact that they were able to improve wages and working conditions appreciably after being embarrassed by international campaigns to adopt the Sullivan Code (see the submission by the Anti-Apartheid Movement) suggests that they had previously enjoyed substantially high profits at the expense of poorly-paid African labour.

84 Some businesses went beyond accepting the benefits of being able to pay low African wages. Indeed, their use of the repressive machinery of the state to suppress striking workers puts them in another category altogether. Firms that informed on trade union officials to the security police and called in the police to disperse striking workers clearly have a great deal to answer for. Those which took advantage of apartheid norms and practices to humiliate their workers with racism (see the submission by the BMF) and to engage in unfair labour practices also need to recognise that they were part of the problem of apartheid - and not simply subject to its laws. While some submissions from business (such as that of Tongaat-Hulett) acknowledged this role, most did not.

85 Several businesses argued, on the other hand, that apartheid policies also imposed substantial costs on firms. Chief amongst these were:

a job reservation for white

Reference 300 - 0.01% Coverage

occupational mobility of African workers.

87 Business organisations argued that they made representations and protested to government about the impact of apartheid on business (see submissions by SEIFSA, SACOB and the Johannesburg Chamber of Commerce and Industry). These protests tended, however, to relate to specific policies (such as the colour bar, Bantu education and the Physical Planning Act) rather than broader political concerns. In other words, they protested against aspects that disadvantaged business. Before the 1980s, most criticisms were voiced at times of skilled labour shortages. Major business organisations also protested during incidents of social and political unrest, most notably after the Sharpsville massacre (1960), the Durban strikes (1973) and the Soweto uprising (1976).

88 But, as the submission

Reference 301 - 0.01% Coverage

Business and Labour

89 Some sectors of the business community supported social and political apartheid but objected to some of the economic policies. In its frank submission to the Commission, the AHI described its growing realisation of the costs of apartheid:

As the costs for business escalated from the 1970s onwards, the AHI gradually added its voice to the (predominantly English) business organisations which had been protesting against apartheid education and labour policies for some time.¹⁶ By the end of the long post-war boom, most sections of urban business were united in their calls for an urbanised African labour force with better access to skills and jobs.

Opposition by organised business to labour controls, although inspired by the desire for a more stable, settled and productive workforce was profoundly political in that it challenged one of the pillars of apartheid - i.e. the idea that black workers were merely temporary sojourners in white cities. Frustrated by the lack of government action, Harry Oppenheimer and Anton Rupert (representing English and Afrikaner capital respectively) established the Urban Foundation in 1976 to push for reform in the areas of influx control, housing, black land ownership etc. This initiative was supported by a wide range of corporations and business organisations. The achievements of the Urban Foundation are documented in various business submissions.¹⁷

Pressure from business to re

Reference 302 - 0.01% Coverage

investigate shared industry restructuring objectives.

93 The ANC submission recognised that "business's attitude towards trade unions representing black workers evolved over time", but it sought to record that during much of the apartheid period, business by and large worked in co-operation with the state to undermine and crush trade unions.

At decisive moments in the

Reference 303 - 0.01% Coverage

in relation to trade unions.

96 Old Mutual's submission on the costs and benefits of apartheid was illustrative. On the negative side, the submission pointed to the lowering of economic growth (which constrained the market for life insurance), the Bantu education system which limited the pool of quality employees and the existence of exchange controls which limited their expansion overseas. Old Mutual offered only two possible 'positives': their acquisition of assets from Colonial Mutual of Australia when it disinvested in 1987 and the "marketing opportunities" created by the expansion of the homeland bureaucracies. On this latter score, however, Old Mutual reserved judgement as to whether this would have resulted in a net gain or loss compared to some other (non-apartheid) scenario.

97 Again, not all businesses profited equally from apartheid. It is, however, difficult not to conclude that, between 1910 and 1994, government and business (despite periodic differences and conflicts between them) co-operated in the building of an economy that benefited whites. On the one hand, they promoted and maintained the structures of white power, privilege and wealth and, on the other, the structures of black (mainly African) deprivation, discrimination, exploitation and poverty. To

18 From the early 1970s

Reference 304 - 0.01% Coverage

African Chamber of Business (SACOB) noted, however, that such issues had been discussed by the white business sector: "there are records of meetings at which a persistent case was made against the violation of human rights and the deleterious impact of apartheid laws."

106 As mentioned earlier, Old

Reference 305 - 0.01% Coverage

and investing in government stock."

107 By contrast, the Development Bank of Southern Africa (DBSA) accepted that, in supporting apartheid through providing development loans to homelands and by advising officials on policy, "the Bank was an integral part of the system and part and parcel of the apartheid gross violation of human rights".

108 The Anti-Apartheid Movement (AAM) Archives Committee stated that, in the areas of wages, job discrimination, security and union recognition, international firms "were little different from their South African counterparts ... Investors in the system automatically develop a vested interest ... Subsidiaries were involved in disputes with non-racial unions in which they did not hesitate to invoke the law and call in the police."

109 Professor Sampie Terreblanche suggested

Reference 306 - 0.01% Coverage

of all South Africans".²¹

111 Statistics provided by Whiteford and McGrath²² illustrate the effects of apartheid on income. From 1975 to 1991, the average growth rate declined, as did the per capita income of all population groups (except Asians) in the poorer sections of the population. The income of the poorer 60 per cent of both Africans and whites dropped by more than 35 per cent.

Year Bottom 40% Next 20

Reference 307 - 0.01% Coverage

situation.

■ BUSINESS IN THE 1980s

113 The 1980s was a period of reform and repression. Limited liberalisation occurred on both the political and economic fronts. Such efforts were, however, far from satisfactory and failed to stem the tide of rising protest from trade unions and anti-apartheid organisations.

21 Francis Wilson, Graduation Address

Reference 308 - 0.01% Coverage

the rest of the decade.

117 Business's changing attitude to apartheid cannot be ascribed solely to the economic crisis. Apart from the debt crisis and the decline in exports and investment, the fall of the Berlin Wall and the moderation of ANC economic policy after 1990 probably contributed to changing business attitudes.

118 Many business organisations were

Reference 309 - 0.01% Coverage

business participation in defence contracts.

126 Hundreds and probably thousands of South African private sector companies made the decision to collaborate actively with the government's war machine. This was no reluctant decision imposed on them by coercive apartheid legislation. Many businesses, including subsidiaries of leading corporations, became willing collaborators in the creation of this war machine, which was responsible for many deaths and violations of human rights, both inside and outside the borders of our country. In addition, a variety of businesses collaborated with the state in the national security management system. Business representatives, for example, joined the government's JMCs or their advisory structures, participated in defence

24 A more detailed argument

Reference 310 - 0.01% Coverage

African government's Strategic Oil Fund.

130 The AAM Archives Committee noted that manufacturers argued that they were involved in constructive engagement with apartheid and raising the living standards of employees. However, "the banks had no such fig leaf. They lent directly to the apartheid government so that it could repress South African citizens, wage war against liberation movements and invade its neighbours." The inability of the government to raise much money from overseas financial markets after 1985 "was undoubtedly one of the factors behind its decision to try to reach a political settlement".

Sanctions

131 The failure of

Reference 311 - 0.01% Coverage

reach a political settlement".

Sanctions

131 The failure of multinational corporations to make submissions at the hearing was greatly regretted in view of their prominent role in South Africa's economic development under apartheid. It was left to the AAM Archives Committee to explain the role of foreign firms in South Africa.

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Reference 312 - 0.01% Coverage

Business and Labour PAGE 50

132 The AAM Archives Committee reported that the pattern of international investment in South Africa changed between 1960 and 1994. In the early 1960s, the involvement of the international business community was mainly through indirect investment, through trading in stocks and shares. By the late 1960s, however, direct investment by multinational corporations began to grow, bringing technological expertise into the country and giving multinational corporations a stake in maintaining the apartheid system. By 1971,

over 500 British firms had South African subsidiaries. This gave international businesses a direct interest in maintaining the status quo.

133 The costs of maintaining apartheid began to mount, however, and from the late 1970s, the government and parastatal organisations began turning to the international banks for help. The AAM Archives Committee said that, after 1984, resistance grew and the costs of apartheid increased, resulting in a fall in the rand and a steep rise in inflation. It was not until then that it became less profitable for international investors to invest in South Africa: "Only then did firms begin to scale down."

134 Following international efforts to impose formal sanctions, overseas investors developed a new tactic of forming partnerships with South African parastatal organisations. "They reduced their profile, but relinquished any pretence of autonomy and served the economic priorities of the apartheid state." At the same time, companies were "bribed" by the government to start businesses in 'border' areas where they were offered tax breaks, Industrial Development Corporation loans and special rates for water, power and travel.

135 Nonetheless, in 1986/87

Reference 313 - 0.01% Coverage

Africa in the first place.

136 Foreign investment prevented governments from taking any real action against apartheid. The AAM Archives Committee concluded that:

The speed with which the apartheid edifice crumbled is the final proof of the way in which international business sustained apartheid.

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In broader perspective

137 Several business submissions (most notably that of the AHI) suggested that they could have done more to fight apartheid. Mike Rosholt agreed, but pointed out in his submission that "to claim this today is to apply the perfect vision of hindsight, a privilege not available to one at the actual time".

138 SACOB presents the argument

Reference 315 - 0.01% Coverage

presents the argument as follows:

With the benefit of hindsight, it may be said that the enormity of the apartheid system required stronger responses from business on certain key issues ... In the ongoing debate about 'gradualism' versus the 'all or nothing approach' to get rid of apartheid, the stance of these organisations was to push the gradualism arguments to the maximum.

139 According to Professor Charles

Reference 316 - 0.01% Coverage

expedient adapters to move forward.

140 Implicit in any evaluation of the role of business under apartheid is an underlying conception of what the role of business should be in society. Two distinct points of view emerged.

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Reference 317 - 0.01% Coverage

economic growth on social transformation:

Life is not a morality play. There are very few people who give up everything for their beliefs and ideas. Business in South Africa accommodated itself to the apartheid system. In doing so it provided jobs for millions of people, created infrastructure, unleashed democratising pressures (unintentionally) and sustained a base of economic activity that now provides a platform for economic growth in a democracy.

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Reference 318 - 0.01% Coverage

Business and Labour PAGE 53

146 The former argument condemns all business people for having engaged in business under apartheid. The Bernstein argument, on the other hand, applauds them for such engagement (what others have identified as a close symbiosis between white business people and white politicians). Issues of realistic choice, differential power and responsibility (which are important when making ethical judgements) are downplayed in both arguments.

147 Business (not least for

Reference 319 - 0.01% Coverage

These important initiatives deserve support.

150 Other submissions suggested measures that are more radical. For example, the Apartheid Debt Co-ordinating Committee argued for the cancellation of all apartheid debt. In 1994, the apartheid debt stood at some R250 billion. Interest on the debt amounted to some R30 billion a year. According to a submission by the Apartheid Debt Co-ordinating Committee²⁵:

The total government debt currently

Reference 320 - 0.01% Coverage

largest item after education. In

25 Submission of the Apartheid Debt Co-ordinating Committee, 17 October 1997. VOLUME 4 CHAPTER 2 Institutional Hearing: Business and Labour

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comparison, vital social

Reference 321 - 0.01% Coverage

per cent is foreign debt.

151 In its argument for the cancellation of the debt, the Apartheid Debt Co-ordinating Committee continues:

There exists the doctrine of

Reference 322 - 0.01% Coverage

debt incurred by fallen dictatorships ...

For apartheid's creditors, agreeing to the cancellation of their part of the apartheid debt would give them the opportunity to enter the process of truth and reconciliation. The cancellation of their loans would represent a recognition of their complicity with apartheid and a willingness to contribute to the reparations needed to rebuild this country.

152 Leaving aside the debate as to the morality of payment or non-payment, it has been suggested that cancellation of the debt could have certain adverse consequences for economic growth. Advocates for continued payment confirm the point made by the Apartheid Debt Co-ordinating Committee that a significant part of government debt is owned by domestic financial and commercial institutions. Cancelling it, they say, would erode their asset base, harm shareholders, pensioners (in cases where debt is owned by pension funds) and possibly employees. To the extent that such debt cancellation would undermine the level of confidence in government stock, it would also result in higher borrowing costs on new debt issues – or even an inability to market any debt domestically or abroad. This would severely constrain any subsequent attempts at redistribution on the part of the state. A very careful analysis of the costs and benefits of this proposal is, therefore, required.

153 However, given the crippling

Reference 323 - 0.01% Coverage

deliver services to their citizens.

154 Professor Sampie Terreblanche has proposed a wealth tax as a means of redressing an important legacy of apartheid - South Africa's highly unequal distribution of wealth. He gives seven reasons which, to his mind, support this proposal:

a Africans were deprived of

Reference 324 - 0.01% Coverage

from building a united society.

155 Professor Terreblanche argues that a wealth tax would contribute to reconciliation, social stability and economic growth, while providing a basis for restitution for those who have been impoverished through apartheid.

156 Mr Bob Tucker, executive

Reference 325 - 0.01% Coverage

HEARINGS

The Commission finds that:

161 Business was central to the economy that sustained the South African state during the apartheid years. Certain businesses, especially the mining industry, were involved in helping to design and implement apartheid policies. Other businesses benefited from co-operating with the security structures of the former state. Most businesses benefited from operating in a racially structured context.

162 Businesses were reluctant to

Reference 326 - 0.01% Coverage

safety concerns of its employees.

166 Business failed in the hearings to take responsibility for its involvement in state security initiatives specifically designed to sustain apartheid rule. This included involvement in the National Security Management System. Several businesses, in turn, benefited directly from their involvement in the complex web that constituted the military industry.

167 The white agricultural industry

Reference 327 - 0.01% Coverage

Hearing: The Faith Community

■ INTRODUCTION

1 Some of the major Christian churches gave their blessing to the system of apartheid, and many of its early proponents prided themselves in being Christians. Indeed, the system of apartheid was regarded as stemming from the mission of the church. Other churches gave the apartheid state tacit support, regarding it as a guarantor of Christian civilisation. They were the beneficiaries of apartheid, enjoying special privileges denied to other faith communities.

2 Religious communities also suffered under apartheid, their activities were disrupted, their leaders persecuted, their land taken away. Churches, mosques, synagogues and temples – often divided amongst themselves – spawned many of apartheid's strongest foes, motivated by values and norms coming from their particular faith traditions. They were driven by what has been called the 'dangerous memory' of resistance and the quest for freedom, often suppressed but never obliterated from their respective faiths.

3 As involved and implicated as they were in the past, South Africa's religious communities also represented important sites of transformation. Different interests, perspectives and world views are represented - often within the same faith tradition. Likewise local churches and similar communities contained victims, beneficiaries and perpetrators of apartheid. Reconciliation within such communities could have a leavening effect for the whole society. From them should flow a source of renewal extending to the entire South African society.

4 These factors served to

Reference 328 - 0.01% Coverage

its membership of the SACC.

15 The Afrikaans Reformed Churches were widely identified with Afrikaner nationalism and held to be complicit in apartheid. The largest of the group is the Nederduitse Gereformeerde Kerk (Dutch Reformed Church). The others include the Nederduitsch Hervormde Kerk, the Gereformeerde Kerke and the Afrikaanse Protestantse Kerk. Of these, only the Dutch Reformed Church made representations to the Commission. Located within the Dutch Reformed Church's 'family' are three mission churches: the Nederduitse

Gereformeerde Sendingkerk (Coloured), the Nederduitse Gereformeerde Kerk in Afrika (black) and the Indian Reformed Church. In 1994, the Nederduitse Gereformeerde Sendingkerk and Nederduitse Gereformeerde Kerk in Afrika amalgamated as the Uniting Reformed Church of Southern Africa (Uniting Reformed Church). Negotiations for inclusion of the white Dutch Reformed Church and the Indian Reformed Church were ongoing at the time of the hearings.

16 Like the Afrikaans Reformed

Reference 329 - 0.01% Coverage

the Seventh Day Adventist church.

20 Many of the communities mentioned above are members of the SACC, including more conservative evangelical and charismatic churches, such as the Salvation Army and the International Federation of Christian Churches (which joined some five years before the Commission hearings). The Catholics joined in 1994, on the same day the Dutch Reformed Church became an observer member. Before the fall of apartheid, the SACC drew its members mainly from the Englishspeaking churches. Increasingly, as it was marginalised by the state and seen to identify with resistance movements (causing considerable tension with its older constituents), its membership became increasingly black.

Islam

21 Islam traces its

Reference 330 - 0.01% Coverage

Faith Community PAGE 63

Judaism

23 The Jewish community in South Africa descends from immigrants of Anglo-German and Lithuanian origins who arrived at various stages during the nineteenth century. The SA Jewish Board of Deputies (formed in 1912) and the SA Zionist Federation (1898) are its two main representative bodies. Originally, members of the Jewish faith in South Africa looked to the Chief Rabbi of Britain for spiritual leadership. Eventually, in 1933, synagogues in the Transvaal federated under a chief rabbi. In 1986, Cape and Transvaal groupings that had remained fairly independent up until then amalgamated. While members of the Jewish community made their greatest contributions to South African human rights as individuals, some organisations also played a role. During the last years of apartheid, Jews for Justice and Jews for Social Justice were important voices of protest. The Gesher Movement, formed in Johannesburg in 1996, aims "to serve as a Jewish lobby speaking with one independent voice, 'to enlighten' the Jewish community in the new South Africa, and to combat Jewish racism."¹

Hinduism

24 Seventy percent of

Reference 331 - 0.01% Coverage

COMMUNITIES AS AGENTS OF OPPRESSION

29 In most cases, faith communities claimed to cut across divisions of race, gender, class and ethnicity. As such, they would seem by their very existence to have been in opposition to the policies of the apartheid state and, in pursuing their own norms and values, to have constituted a direct challenge to apartheid

policies. However, contrary to their own deepest principles, many faith communities mirrored apartheid society, giving the lie to their profession of a loyalty that transcended social divisions.

30 While the submissions of many faith communities focused on their acts of commission and omission, some reflected an ethos where racism was tolerated. Faith communities often helped reinforce the idea that South Africa was a relatively normal society suffering from a few racial problems. Challenges to the consciences of whites were rare. Against this background, the faith communities acknowledged that, either through acts of commission, of legitimisation or of omission, they often, in addition to all else they did, also provided de facto support for apartheid. They either deliberately supported apartheid policies, participated (or advocated

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Reference 332 - 0.01% Coverage

of state policies and agents

31 The submissions revealed ways in which individual members of churches - even members of those churches that were outspoken against government policies - co-operated with the regime or the Security Branch. Nico Smith, a former dominee who was himself outspoken against apartheid, quoted from Goldhagen²: "many of these willing executioners ... were members of our congregations." Many state operatives claimed to have found positive support in Dutch Reformed Church teaching and received the church's "blessing [for] their weapons of terror".³ Responding to this, the Dutch Reformed Church confessed to having "misled" its members by presenting "apartheid as a biblical instruction". From the outset, the Dutch Reformed Church provided theological and biblical sanction for apartheid, even though some of its theologians questioned this justification. It was only in 1986 that the Dutch Reformed Church's sanction of apartheid began to be officially questioned.

32 The complicity of the Dutch Reformed Church in the policy of apartheid went beyond simple approval and legitimisation. The church actively promoted apartheid, not least because it served the Afrikaner interests with which it identified. The Dutch Reformed Church admitted that it "often tended to put the interests of its people above the interests of other people." It gave no examples of times or events when it did not put the interests of the Afrikaner community above those of others.

33 While only the Dutch Reformed Church spoke of giving official sanction to apartheid laws, other faith communities admitted to actions and practices that amounted to acquiescence to them. The Presbyterian Church confessed to giving "qualified support" to government in the 1960s. For example, it defended Bantustan policies in 1965 and the right of the state to suppress "unlawful subversion".

² Goldhagen, Daniel Jonah, Hitler's

Reference 333 - 0.01% Coverage

war related stress and anxiety.

35 Whatever the motivation of the individual chaplains, their participation served to reinforce the acceptance of the apartheid cause in the minds of church members, and often 'justified' the demonisation of their opponents. Here again, leadership came from the Dutch Reformed Church. Dominee Neels du Plooy, a former SADF chaplain, testified at an earlier hearing⁵ that those who objected to service in the Defence Forces were described as "unbelievers". Those who served, on the other hand, were given a New Testament with a special message from South Africa's then President, PW Botha, telling them that the Bible was their "most important weapon". This message was later removed, at the request of chaplains from the English-speaking churches.

36 Du Plooy said that

Reference 334 - 0.01% Coverage

and activists within community ranks.

41 Even the most apparently benign activity was construed as subversive. Ponti Venter spoke at the hearing of the efforts of the Potchefstroom supporters of the National Initiative of Reconciliation to supply study space for black matriculants during the 1980s. Local churches, under the watchful eye of the Security Forces, labelled the initiative "communist-inspired," and no church in town would grant it support. The communications of members of Potchefstroom University (a prominent 'Christian National' institution) who raised their voices to question apartheid were monitored. Farid Esack spoke of the way Muslim leadership marginalised dissident voices during the struggle years. This was also the case in the Hindu community.

Internalising racism

42 Despite their

Reference 335 - 0.01% Coverage

of society.

Propagating 'state theology'

45 The term 'state theology' is derived from The Kairos Document and refers to the theology that gave legitimacy to the apartheid state. The effects of state theology were to "bless injustice, canonise the will of the powerful and reduce the poor to passivity, obedience and apathy."⁹ Few churches did not allow a distinction between black and white members at Sunday worship.

7 The Methodist Church and

Reference 336 - 0.01% Coverage

The Faith Community PAGE 69

46 The most obvious example of a faith community propagating state theology was the Dutch Reformed Church, although it never (even in its submission to the Commission) confessed to actually 'bowing down' to the monster that apartheid disclosed itself to be. Right wing Christian groups¹⁰ also promulgated state theology and acted as arms of the state, infiltrating especially evangelical and Pentecostal denominations. This became particularly evident in investigations into the information scandal of the late 1970s, when it was disclosed that government was funding groups such as the Christian League – the forerunner of the Gospel Defence League.

47 Evangelical churches were often used by government agencies to 'neutralise dissent'. Moss Nthla referred to government-sponsored youth camps which targeted township children for evangelism. "I used to be involved in the struggle," he recalled one young man saying, "and now I've received Jesus Christ as my Lord and Saviour, and I'm no longer involved". The Apostolic Faith Mission confessed to preaching that opposition to apartheid was "communist-inspired and aimed at the downfall of Christianity." Other churches admitted to propagating state theology indirectly by promoting the idea that it was in the interest of 'Christian civilisation' to support the state's 'total onslaught' strategy. Claiming to speak for "eleven million evangelical Pentecostals", Assemblies of God leaders often travelled around the world denouncing the activities of anti-apartheid Christians.¹¹

The military chaplaincy: a window

Reference 337 - 0.01% Coverage

who served in the military.

50 This institution also helps bring into focus several of the issues already discussed which aim to identify the role of Christian churches in the abuses of the past. Many local congregation members either themselves served in the defence forces or had family members or friends who did. As such, they felt that their churches owed them pastoral care, regardless of the church's position on the war or attitude towards apartheid.

51 At the same time, at official, denominational levels, the chaplaincy was often an embarrassment - especially to those who claimed to be against apartheid oppression.¹² The SACC proposed an 'independent' chaplaincy service, with chaplains wearing distinctive uniforms and not receiving a salary from the state. Some churches threatened to instruct their ministers not to wear military uniforms. Some responded by supplying chaplains to the liberation movements as well. Others incurred the wrath of their members by withdrawing their chaplains altogether. Many churches, however, saw the defence forces as servants of God and the chaplaincy as an important and legitimate support. Without doubt, the Dutch Reformed Church supplied the largest number of chaplains (some 74 per cent) to the SADF. The English speaking churches provided a further 16 per cent.¹³

52 The military chaplaincy gave

Reference 338 - 0.01% Coverage

been instituted by God. ¹⁴

Our silence was in fact sin and our failure to act decisively against all forms of apartheid made us party to an inhuman political ideology.¹⁵

54 This is not to

Reference 339 - 0.01% Coverage

to be defending white privilege.

57 In general, however, apart from the intentions of individuals within it, the chaplaincy was a tool in the hands of the military, and thus an important cog in the apartheid machine. The degree of involvement of the chaplaincy in the defence forces is a good illustration of the importance that the apartheid state attached to religion and its power to command allegiance. It illustrates, too, the complexity and interconnectedness of the social, political and cultural web in South Africa.

14 Sundberg submission. 15 Rustenburg

Reference 340 - 0.01% Coverage

Acts of omission Avoiding responsibility

58 The idea of 'responsibility' differs amongst groups. While some communities (especially, though not only, English-speaking churches) saw themselves as consciences of the nation¹⁶, others defined their responsibilities primarily to their own members. Communities generally expressed the view that it had been their moral responsibility to speak out against injustice, making their silence under apartheid especially regrettable. Offering a variety of reasons, including complicity with white business interests, poor or

inadequate theology or some other reason, faith communities and their leadership confessed to silence in the face of apartheid wrongs. In its submission, the Roman Catholic Church said that this was perhaps its greatest sin. The Salvation Army too, despite its heritage of "standing up and being counted", noted its lack of courage. Even the Uniting Reformed Church, which in the 1980s was an important player in opposing the theological justification of apartheid, confessed to taking too long to make a stand, particularly against the migrant labour system. Such a failure indicated "silent approval" of state actions.

59 Farid Esack accused the Muslim leadership of failing to speak out strongly against apartheid and especially of remaining silent after the death in detention of Imam Abdullah Haron in 1969, despite the injuries found on his body.

60 The Hindu Maha Sabha said that Hindu religious leaders failed their communities by failing to protest against apartheid. This created the impression that Hindus were part of the system. The community also failed in that it did not remove those "irresponsible" leaders, as it should have done.

Lacking courage

61 Communities as

Reference 341 - 0.01% Coverage

to translate resolutions into action

62 In their submissions, faith communities commonly confessed not only to a failure to speak, but also to a failure to act. Many communities that were opposed to apartheid in principle found it difficult to translate strong resolutions into practical action. In the nature of institutional politics, resolutions were watered down by the time they were actually passed.¹⁸ More than logistic problems, such failures represented "a blatant omission and silent approval of the conditions and main cause of human rights violations."¹⁹

Failure to support members who were involved in anti-apartheid activities

63 Faith communities did not necessarily support the activities of their activist members or even leaders. ELCSA confessed to not encouraging its clergy to speak out against atrocities and failing to support those who did. The Church of the Province apologised to Archbishop Tutu for its failure to support his call for economic sanctions against the former regime. The Baptist Convention accused the Baptist Union of having a number of activist members, including some detained on Robben Island, but refusing to acknowledge them. Farid Esack accused Muslim leaders of denying space and legitimacy to Muslims engaged in anti-apartheid activities.

64 Opposition to apartheid by members of faith communities tended to take the form of individual opposition by people who, often despite the institutions to which they belonged, remained faithful to what they saw as the true spirit of their religion. These included, during the period under review, people such as Trevor Huddleston, Beyers Naudé, Ben Marais, Cosmos Desmond, David Russell, Sheena Duncan, Frank Chikane, Sister Benedicta Ncube, Smangalis Mkhathshwa, Molvi Cachalia, Abdullah Haron, Hassan Solomon, Farid Esack, Ebrahim Rasool, Ela Gandhi, Franz Auerbach and others. Some rose to leadership positions in their respective churches, notably the Reverend Seth Mokotimi, Archbishop Dennis Hurley, Archbishop Desmond Tutu and Dr Allan Boesak.

65 Similarly, institutions that were engaged in anti-apartheid activities and had the apparent verbal support of faith communities were effectively unsupported. In 1975,

¹⁸ See for instance the

Reference 342 - 0.01% Coverage

COMMUNITIES AS VICTIMS OF OPPRESSION

66 Black, coloured and Indian members of faith communities suffered under apartheid legislation. Forced removals had a powerful effect on faith communities. The effects were also more direct, where faith communities were attacked for what they stood for — as alternative centres of loyalty or (in the eyes of the state) disloyalty.²⁰

Direct attacks by the state

Reference 343 - 0.01% Coverage

Africa's borders was hindered.²²

20 Despite Farid Esack's claim at the hearings that Muslims suffered not as Muslims, but as coloured or Indian people, it is clear from other submissions that the state did target faith communities, trying to win their loyalties and marginalise those of their members who opposed the state. These communities existed in a state of siege, as they were conscious of their vulnerability to apartheid legislation. 21 Loss of life was narrowly averted when the fire was put out before it reached the explosives placed by the perpetrators. 22 Archbishop T. W. Ntongana was barred from attending funerals of activists.

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Nokuphila Hospital in Alexandra township.

23 The loss of a Mosque is, the MJC explained at the hearings, especially significant within the Muslim community. More than a building, it is a sacred site and must never be abandoned. Group Areas legislation was a direct attack on this principle, assuming that the sacrality of such spaces was transferable to wherever the state decided to resettle the community. 24 In addition to losing land and space, the churches were sometimes forced to relocate a distance away from where their members lived. 25 For a discussion on the impact of the Bantu Education Act, see Charles Villa-Vicencio, *Trapped in Apartheid* (Cape Town and Mary-Knoll: David Philip & Orbis Books, 1988), page 95f. 26 The United Methodist Church claimed to have lost properties under the Holomisa regime in the late 1980s. 27 The Church of Scotland originally donated the land.

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Reference 345 - 0.01% Coverage

of religious values and laws

73 Despite the many different religious allegiances of its subjects, the apartheid state saw itself as the guardian of 'Christian civilisation' in southern Africa. From the time of the arrival of the colonists in the seventeenth century, other faith communities were barely tolerated. Using education as its weapon, the apartheid state perpetuated this. Christian National Education was imposed on non-Christian faith communities – a fact highlighted in Muslim and Hindu submissions. The expression of certain religious values in education was repressed and other alien values were imposed. This was true even in the case of such Christian communities as the amaNazareth where taboos concerning shaving were not honoured in schools and children were forced to remove their hair, causing ritual defilement.

74 Related to the repression

Reference 346 - 0.01% Coverage

77

Manipulation by state propaganda

76 The apartheid state targeted faith communities in other ways. Evangelical groups such as the Church of England said it was subjected to state propaganda, especially in relation to the struggle against Communism. Such propaganda played on white fears and distorted the meaning of the Bible which the church saw as authoritative. It was thus "misled into accepting a social, economic and political system that was cruel and oppressive" and "failed to adequately understand the suffering of [its] many black members who were victims of apartheid."³⁰ It might be an over-statement to link such 'victimisation' with the more direct and violent attacks by the state on anti-apartheid leaders. However, the fears of white church members made them vulnerable to propaganda, leading them into sins of omission. Archbishop Desmond Tutu, the Chairperson of the Commission said:

I would want and I'm

Reference 347 - 0.01% Coverage

Victimisation by other faith communities

77 Churches willingly engaged in fomenting division in society and were paralysed by propaganda. The demonisation and dehumanisation of other faith communities were prevalent, especially in conservative and right wing Christian groups. In 1986, at the same synod where its policy of uncritical support for apartheid was beginning to be challenged, the Dutch Reformed Church proclaimed Islam a "false religion".³¹ The victimisation of African Traditional Religion by Christians was highlighted in the submission of Nokuzola Mndende: Africans were forced to become Christians, as a baptismal certificate was a common form of identification.

78 As Farid Esack observed at the hearings, the past was only partly about apartheid, security laws and so on: "It was also about Christian triumphalism." All non-Christian faith communities were victimised by an aggressively 'Christian' state, and die Islamse gevaar took its place alongside the other enemies of the state. 30 The impossibility of remaining politically neutral in apartheid South Africa was underlined for the Church of England in South Africa when its Kenilworth congregation was attacked by Azanian People's Liberation Army (APLA) cadres in July 1993. These cadres later told the Commission's amnesty committee that they were motivated by the fact that the churches were responsible for taking land away from the African people. 31 Martin Prozesky, 'The Challenge of Other Religions for Christianity in South Africa', *Journal of Theology for Southern Africa* 74 (March 1991), page 39.

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The Faith Community PAGE 78

79 There were other kinds of victimisation of one faith community by another – even within Christian churches. The submissions indicate that this took a number of forms, from denominational splits to the appropriation of buildings declared off-limits to black people under Group Areas legislation.³² Fault lines developed in churches on questions of commitment to the struggle, and conservative 'splinters' proliferated.³³ While these newer institutions often claimed 'theological' reasons for their existence as alternatives to mainline groups, many served the state as 'shadow' institutions and denominations set up to oppose those who were against apartheid policies. The Evangelical Fellowship of Congregational

Churches, a breakaway from the United Congregational Church, was set up in the wake of the debate over that church's membership of the World Council of Churches. It was linked to churches funded by the state and exposed in the 1979 information scandal.³⁴

A special note on gender

Reference 349 - 0.01% Coverage

COMMUNITIES AS OPPONENTS OF OPPRESSION

81 As in other institutional hearings (most notably the business hearings), what may be regarded as 'opposition' to apartheid was highly contested. Furthermore, the changing nature of apartheid repression meant that what was seen as opposition at one time could be seen as legitimisation at another. Faith communities across the board spoke of opposing apartheid, although the language and practices through which they expressed this opposition differed widely. For the Zion Christian Church, instilling pride in black people and teaching them to stand up straight in their own institutions, was a strong repudiation of the treatment of its members in 'white' society. The

32 See the submission of

Reference 350 - 0.01% Coverage

Petitions, letters and private appeals

84 Many churches and faith communities petitioned the government openly or privately on a wide range of issues. They were joined, towards the end of the apartheid era, by the more conservative churches (such as the Church of England in South Africa) which were less comfortable with direct opposition.³⁵ The Dutch Reformed Church, which remained tied to state structures, also met privately with state officials to "express its doubts" about state policies and their application. The Dutch Reformed Church admitted, however, that such meetings rarely called into question the policies themselves, but asked only that they be "applied with compassion and humanity." Positioning itself as "politically neutral", the leadership of the Baha'i Faith nonetheless also met with officials in private to present its philosophy of inclusivity.

35 In both their submissions

Reference 351 - 0.01% Coverage

occur.

Official statements and resolutions

86 The submissions spoke of numerous statements on apartheid that were issued by faith communities during the mandate period. Some of these demonstrate the variety of ways in which faith communities presented their opposition. The gradual radicalisation of statements – especially after 1976 – is also significant.³⁶

87 Of the Protestant churches, the United Congregational Church, the Presbyterian Church and the SACC made special mention of the 'Cottesloe Statement' and Conference (1960), set up in the wake of the Sharpsville tragedy. The statement "opposed apartheid in worship", but also "in prohibition of mixed marriages, migrant labour, low wages, job reservation and permanent exclusion of 'non-white people' from government." The fact that this statement - despite its paternalism in comparison with later documents - went beyond strictly 'church' matters in the eyes of the state is significant. Previously churches had only been able to unite against apartheid when their own congregations were directly affected, as with

opposition to the 1957 Church Clause. The 'Cottesloe Statement' also featured in the Dutch Reformed Church's 'Journey' document as "an important stop". Not only did it result in the marginalisation of some of its representatives (including Beyers Naudé); it caused "a deep rift between the Dutch Reformed Churches and many other recognised Protestant churches in the country."³⁷ More than this, it set a precedent for state interference, not simply in the affairs of the Dutch Reformed Church (with which it already enjoyed a special relationship), but in those of the ecumenical churches.

88 The SACC submission stated that 'The Message to the People of South Africa' (1968) directly attacked the theological foundations of nationalism, saying that a Christian's "first loyalty" must be given to Christ, rather than to "a subsection of mankind". Christian groups began to engage in intensive social analysis in the early 1970s. The Study Project on Christianity in Apartheid Society (SPRO-CAS) was launched after the 'Message'. SPRO-CAS set up several commissions, covering educational, legal, economic, social and religious areas. Later the Special Programme

36 Interestingly it seems that the more evangelical communities (especially the Baptist Union, Rosebank Union Church and Hatfield Christian Church), while claiming to have "made many submissions" to the government opposing apartheid, were vague and did not mention particular instances. Parts of their documentation lack concreteness. ³⁷ Naudé would go on to establish the Christian Institute, originally to agitate for change in the Dutch Reformed Church.

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to implement the report's recommendations.

89 Throughout the 1970s, the Council of Churches published materials expressing its opposition to apartheid and envisioning a post-apartheid society. In its submission, it highlighted the 'Resolution on Conscientious Objection' (1974) which, amongst other things, questioned the appointment of military chaplains to the SADF, and the 'Resolution on Non Co-operation' which urged Christians to withdraw from state structures. Two statements issued in the turbulent 1980s were notable. The first was the 'Call for Prayer to End Unjust Rule' which mobilised Christian symbolic resources against the 'Christian' state. The second was the 'Lusaka Statement' of 1987, which urged the churches to support the efforts of liberation movements, and occasioned "fierce opposition" from SACC members.³⁸ Theology was a battleground, and the term 'heresy' was used not only against those who contested classical dogma and its interpretation, but also against those who contested the meaning of such dogma in practice. The influence of Dr Allan Boesak, then President of the World Alliance of Reformed Churches (WARC), in promoting the adoption of the resolution declaring apartheid a heresy by the WARC in 1982, and subsequently by the World Council of Churches (WCC) and many of its member churches, was of far-reaching significance in the struggle against apartheid.³⁹

90 The 'Kairos Document', another

Reference 353 - 0.01% Coverage

officials. The production of the

38 See Charles Villa-Vicencio, *Trapped in Apartheid*, page 158f. Also pages 115, 144, 222. 39 See Jules de Gonsky and Charles Villa-Vicencio (Eds) *Apartheid is a Heresy* (Cape Town: David Philip, 1983). 40 See David J. Bosch, Adrio Konig and Willem Nicol, Eds. *Perspektief Op die Ope Brief* (Cape Town, Pretoria & Johannesburg: Human & Rousseau, 1982).

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'Koinonia Declaration' in 1977 – a statement which opposed apartheid and its Christian justification – by scholars from the smaller Afrikaans-speaking Gereformeerde Kerke was significant. While the Gereformeerde Kerk declined to make a submission to the Commission, two of its members did so, drawing on the legacy of this statement.⁴¹

92 At a denominational level, discrimination in general and the policy of apartheid in particular was rejected as "intrinsically evil" by the Catholic Church in 1960 and as heresy by the United Congregational Church in 1982.⁴² In 1986, the Presbyterian Church and the United Congregational Church passed resolutions making rejection of apartheid a matter of status confessionis [a situation demanding a new confession of faith], claiming in essence that the church in South Africa stood in the same relation to apartheid as did the German church to Nazism during the 1930s. In 1982, the Uniting Reformed Church, which admitted to a heritage of failing to pronounce strongly on apartheid, produced the 'Belhar Confession', the first church confession to be produced on South African soil.

93 The international dimension to church confessions was notable, and was characterised by conferences and statements by 'linked' churches in other countries. However, not all overseas structures were heeded by their South African counterparts. The Salvation Army in South Africa remained silent about apartheid crimes even after the condemnation of apartheid by its General, Eva Burrows, in London in 1986. The Seventh Day Adventist Church also confessed that their position on apartheid was "out of step" with its overseas body.

94 Theological resistance was not, of course, limited to the Christian churches. Shortly after the 'Cottesloe Statement' was issued, the 'Call of Islam Declaration' (1961) was issued by the Cape Town MYM together with the MJC, the Claremont Muslim Youth Association, the Cape Vigilance Association, the Young Men's Muslim Association and a number of individuals and leaders. This was a declaration that apartheid was contrary to Islam and condemned Group Areas, pass and job reservation legislation. A 1964 national conference called by the MJC protested about the impact of the Group Areas Act on mosque life and passed a series of resolutions urging that, under no circumstances, should mosques be abandoned. In the 1980s, the involvement of many prominent Islamic leaders and members in anti-apartheid structures intensified. Muslim leaders participated in the UDF 'Don't Vote' campaign, arguing that a vote for

41 See 'Die Koinonia Verklaring', Pamphlet (Potchefstroom & Germiston, 1977). 42 According to the MJC submission, the declaration of apartheid as a heresy in terms of Islamic theology dates from the Call of Islam Declaration in 1961.

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The Faith Community PAGE 83

the Tricameral Parliament was haraam (prohibited). Language particular to Islam was used to intensify Muslim involvement in opposing apartheid.⁴³ Achmat Cassiem established the pro-PAC Qibla Mass Movement and Farid Esack and Ebrahim Rasool established the pro-African National Congress (ANC) Call of Islam. The MYM was also significant during this period.

95 In addition to passing resolutions against the violent policies of the state, statements made by faith communities during the 1980s expressed general concern about the violence sweeping the country. Sometimes this required recognition of the tension between the faith community's solidarity with the

liberation movements and its concern about the violence with which apartheid was often opposed (as in the United Congregational Church submission). "Whilst the United Congregational Church was concerned about the loss of innocent civilian life in guerrilla attacks," it wrote, "it never allied itself with the hysterical reaction against 'terrorism' that the apartheid government orchestrated". Communities differed on the degree to which anti-apartheid violence was 'justifiable' (not simply 'understandable'). The Uniting Reformed Church stated that "the ambiguous nature of the decision with regard to justified actions against apartheid was often left to the conscience of members."

96 While it has been

Reference 356 - 0.01% Coverage

Africa.

Withdrawing from state structures

98 Another way that faith communities - and here in this ostensibly 'Christian' land we must speak of churches - expressed opposition to apartheid was by withdrawing from state structures in which they were complicit, particularly the military.

43 Gerrie Lubbe cited in

Reference 357 - 0.01% Coverage

and did so only 'unofficially'.

44 Seventh Day Adventists faced a dilemma here, as their conservative doctrine of church-state relations also held loyalty to the state in high esteem. Some resolved the dilemma by serving in the medical corps. Others became objectors and suffered for it. Whether they were doing this to oppose apartheid, or to oppose war on principle is an important question which the church, according to its submission, only started to address after the evil of apartheid became apparent. 45 The Presbyterian Church mentioned especially Peter Moll and Richard Steele. See also the submission by the Reverend Douglas Torr. 46 Mentioned in the United Reforming Church submission as "religious objectors" were the Reverends D Potgieter, B Nel, N Theron, C Krause and Brother B de Lange.

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Civil disobedience and passive resistance

101 Another way in which faith communities expressed opposition to the policies of apartheid was through deliberate disobedience of state laws. From 1981, for example, the Presbyterian Church embarked on a campaign of defying laws on mixed marriages, group areas and quoting banned persons and publications. This followed the work of the Reverend Rob Robertson at a local level, whose multi-racial and multi-class congregations in East London and Johannesburg represented "the first move to take actual steps to reverse the segregating effects of apartheid on congregations and to set an example to the nation".⁴⁷

102 Other local congregations deliberately

Reference 359 - 0.01% Coverage

where untruth reigns supreme.⁵⁰

106 As the 1980s wore on and the political climate became more intense, several church denominations came to realise that their loyalty commanded them to take a stand either for the liberation movements or for the state. There was contact between faith communities and liberation movements in exile throughout the 1980s, and the United Congregational Church assembly met with ANC leaders in Gaborone in 1987. In 1988, a number of Afrikaner academics from the University of Stellenbosch travelled north "in search of Africa", and while they were not permitted to meet officially with the exiled ANC, there was contact at an informal level. This dispelled some of the state-sponsored propaganda about the ANC, and helped foster debate in one of the bastions of Afrikaner nationalism.⁵¹ The World Conference on Religion and Peace also met with leaders in Zambia in 1988 to discuss religion in a post apartheid South Africa.

107 The Catholic church mobilised

Reference 360 - 0.01% Coverage

reached every corner of society.

52 The MYM noted that most Muslim countries cut their ties to South Africa during the apartheid years. Ironically, this created difficulties for South African Muslims. Those on pilgrimage suffered tremendous hardship, financial and personal loss and humiliation when undertaking their trip to Mecca. 53 Ironically, it was the Church of the Province Archbishop of Cape Town who was one of the most vocal proponents of sanctions. 54 The Assembly adopted a resolution supporting "immediate and comprehensive sanctions" in 1986. 55 Cecil Mzingisi Ngcokovane, 'Economic Sanctions: The Only Remaining Non-Violent Means to Dismantle Apartheid', *Journal of Theology for Southern Africa* 62 (March 1988), 53-61; Mark Orkin, *Disinvestment: the struggle and the future* (Johannesburg: Ravan Press, 1986).

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112 The policies of the apartheid state created turmoil not only in South Africa, but spilling over into other countries as well, as people were uprooted and removed from their homes and members of resistance movements were forced to leave the country. This created a refugee problem. The United Congregational Church's regional identity allowed it to express special concern for refugees both in South Africa and in neighbouring states.

113 South African faith communities

Reference 362 - 0.01% Coverage

COMMUNITIES AND SOUTH AFRICA'S TRANSITION

114 The story of faith communities and their members who were involved in opposition to apartheid does not end with the unbanning of the liberation movements. As the 1980s drew to a close, some organisations began looking toward the future and preparing people for democracy. One example of the many that illustrate the way in which the transition was anticipated is Diakonia, an ecumenical group in the Durban area, which published 'The Good Society: Bible Studies on Christianity and Democracy'⁵⁶ - anticipating voter education programmes in the run up to the 1994 elections.

115 Faith communities were engaged

Reference 363 - 0.01% Coverage

government on a denominational level.

118 The period from 1984 to 1994 was one of rich co-operation across the boundaries of the faith tradition around common opposition to apartheid. Religious institutions have benefited across the board as the new state has made a concerted effort to ensure that all religious groups are represented in any activity initiated by the state.

58 One positive thing about the ecumenical activity of the early 1990s was the involvement of a wider spread of leaders, including evangelical and charismatic leaders who were not involved in progressive moments in the 1980s. Perhaps this ecumenical contact prepared them for 'owning up' to the guilt of their communities at the hearings. Certainly, it was a bridge to their statements at the hearings where they committed themselves to active involvement in the transformation of the country beyond apartheid. 59 Details on the above and further examples may be found in Peter Walshe, *Prophetic Christianity and the Liberation Movement in South Africa* (Pietermaritzburg: Cluster Publications, 1995), 145-53.

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HEARINGS

The Commission finds that:

119 Christianity, as the dominant religion in South Africa, promoted the ideology of apartheid in a range of different ways. These included the overt promotion of biblical and theological teaching in support of apartheid, as was the case in the white Afrikaans Reformed Churches. Certain other denominations, historically established on racial lines, have for various reasons failed to unite – often because of residual or overt forms of racism. Most churches, the dominant English-speaking churches among them, practised ecclesial apartheid by appointing ministers to congregations based on race and the payment of unequal stipends. Religious communities in general, as a rule, failed adequately to support dissident ministers, priests, imams, rabbis and lay persons who found themselves in confrontation with the state. Many religious institutions also failed to provide economic support to those who were most severely affected by apartheid. The Commission acknowledges, at the same time, that some within the religious communities boldly resisted apartheid and paid a heavy price for doing so. It was further noted with appreciation, that all the religious groups who appeared before the Commission acknowledged their complicity with apartheid.

120 Chaplains, provided by the

Reference 365 - 0.01% Coverage

actions of the armed forces.

121 The failure by religious communities to give adequate expression to the ethical teaching of their respective traditions, all of which stand in direct contradiction to apartheid, contributed to a climate within which apartheid was able to survive. Religious communities need to accept moral and religious culpability for their failure as institutions to resist the impact of apartheid on the nation with sufficient rigour. The failure of the churches in this regard contributed not only to the survival of apartheid but also to the perpetuation of the myth, prevalent in certain circles, that apartheid was both a moral and Christian initiative in a hostile and ungodly world.

Reference 366 - 0.01% Coverage

that favoured liberty and equity.

10 Any attempt by the judiciary too obviously to circumvent the unjust effects of apartheid measures would, it was argued, have led inevitably (at best) to further legislative steps to reverse such decisions or (at worst) to the overt subversion of the formal independence of the courts and the 'packing of the Bench'.

11 While there were examples

Reference 367 - 0.01% Coverage

for a future South Africa.

13 It was argued that any fair and accurate investigation into, and weighing up of, past judicial and lawyerly conduct would have to involve an effective 're-trial' of the issues in their appropriate context – a complex, time-consuming, expensive and ultimately senseless undertaking. In any event, this could lead only to the blaming of individuals or groups of lawyers, which was not part of the Commission's agenda. It would also prove unhealthy for the development of a coherent and respected post-apartheid jurisprudence.

14 It would have been

Reference 368 - 0.01% Coverage

in Parliament.

The counter argument

18 Naturally, submissions from bodies such as the BLA, LHR, the LRC and NADEL took issue with these propositions at almost every turn. For them, lawyers and the courts under apartheid, with very few and notable exceptions, had co-operated in servicing and enforcing a diabolically unjust political order. They argued that it made no sense to invoke a defence of parliamentary sovereignty. The validity of such a defence depended on at least a substantial degree of democracy in the political order, as well as a basic respect for the rule of law as a direct or necessary adjunct to legislative omnicompetence. Neither prerequisite was present to any significant degree in South Africa. Judicial independence was a myth that had been exploded in the daily experience, particularly in the magistrates', but also in the superior courts. Moreover, several meticulous empirical studies since the mid-1970s had demonstrated a judicial partiality towards the legislature and executive. The practising and teaching legal profession, it was stated, had willingly acquiesced in apartheid's subversion of whatever sense of justice may have hitherto been part of the common law and the legal system. Those practitioners and academics who dared challenge the political and/or legal order were not only not supported by their colleagues but were, more often than not, ostracised by them.

19 As a result, it

Reference 369 - 0.01% Coverage

justice in South Africa.

■ ASSUMPTIONS

21 In reaching its findings, the Commission assumed the validity of certain principles and concepts, although aware that almost every one of them is a matter for extensive debate, and that such debates are not easily resolved. One must also acknowledge the benefit of hindsight, but the Commission feels sure that this factor has not made a material difference either to the assumptions or conclusions. It is not expected that the views expressed will be uncontroversial, for this is the nature of the exercise and the issues being reviewed. Nonetheless, in the starkness of the apartheid-context and in the light of the debates on such issues which took place in legal circles and the popular media throughout this period³, few lawyers and certainly no judges could claim to have been unaware that the role of law and lawyers under apartheid was at least open to question if not criticism.

22 The following appear to

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might have been extremely narrow.

2 See, for example, David Dyzenhaus, *Judging the Judges and Ourselves: Truth, Reconciliation and the Apartheid Legal Order*, Oxford: Richard Hart Publishing (forthcoming). 3 Examples of such debates include the judicial record on security and race issues, highlighted by Mathews, Dugard, Forsyth, Dyzenhaus and Ellman, amongst others; the 'Should judges resign/Wacks-Dugard debate' of the mid 1980s; the reports of the Rabie and Hoexter Commissions of the early 1980s, and the necessity for a bill of rights in the late 1980s. Before this even, was the controversy over the 'coloured vote' case of the 1950s and the 'packing' of the Appellate Division by the NP government, and the politics of the judiciary before 1950, discussed by Corder.

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in his submission stated that:

The overriding point is thus that all lawyers and judges, whatever their personal beliefs and the extent of their participation, were complicit in apartheid... but this does not conclude the moral debate about the role of lawyers; nor does it mean that there were no degrees of complicity or moral turpitude in the legal enforcement of apartheid.

30 Law and justice are

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Legal Community

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■ FINDINGS

31 The hearing and written submissions to the Commission touched on all the above matters and many more. In setting out the findings below, the Commission merely accentuates those issues that seem to be relatively generally acknowledged in legal circles today, in a post-apartheid context. The absence of findings on other matters is not intended to signify their irrelevance, but is rather a reflection of the magnitude of the task that a comprehensive response would entail. As was stated in the invitation to participate in this process, it bears repetition that the findings that follow do not imply the ascription of guilt to any one lawyer or group of lawyers. The purpose of this exercise is rather to draw on the lessons of the past so that

the legal process can be transformed in the future, the more surely to attempt to avoid the tragic injustice of apartheid-at-law.

The Commission finds that:

32

Reference 373 - 0.01% Coverage

law.

The Commission finds that:

32 Part of the reason for the longevity of apartheid was the superficial adherence to 'rule by law' by the National Party (NP), whose leaders craved the aura of legitimacy that 'the law' bestowed on their harsh injustice. Significantly, this state of affairs was not achieved in the early stages of NP rule. It began after the coloured vote crisis in the mid-1950s, when the restructuring of judicial personnel and the Appellate Division took effect, and the white electorate lent its support to the constitutional fraud resorted to by the government to circumvent the entrenched clauses of the South Africa Act. It was manifestly abandoned when emergency executive decree became the chosen medium of government towards the end of formal apartheid – from the mid-1980s – when a climate of 'state lawlessness' prevailed and the pretence of adherence to the rule of law was abandoned by the Botha regime.

33 In the intervening thirty years, however, the courts and the organised legal profession generally and subconsciously or unwittingly connived in the legislative and executive pursuit of injustice, as was pointed out by a few at the time and acknowledged by so many at the hearing. Perhaps the most common form of subservience can be captured in the maxim *qui tacet consentire* (silence gives consent). There were, nevertheless, many parts of the profession that actively contributed to the entrenchment and defence of apartheid through the courts. The Pretoria Bar, for example, refused to admit black members and only passed an apology for its racism in October 1997.

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loss of lucrative commercial clients.

e Advocates who were willing to appear for the government in civil actions where some of the basic building blocks of apartheid, such as racial classification or influx control or group areas, were being attacked as the unreasonable and invalid exercise of executive discretion.

f Law teachers who chose

Reference 375 - 0.01% Coverage

personal betrayal he experienced".

k

The organised profession took no effective initiatives to make the administration of justice more accessible to those who could not afford it, not at least until apartheid's days were numbered. Their complacency in the face of the challenges thrown up by government injustice internally, and their defensiveness in international forums when foreign lawyers' organisations dared criticise, are matters of public record.

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35 The Commission believes that this was the position during the apartheid years. Many of those who appeared at the hearings and who made submissions acknowledge this to have been the case, although several qualified such admissions.

36 Yet, for all that this was the overwhelming pattern of the law and lawyers' conduct under apartheid, there were always a few lawyers (including judges, teachers and students) who were prepared to break with the norm. These lawyers used every opportunity to speak out publicly and within the profession against the adoption and execution of rules of law that sanctioned arbitrary official conduct and injustice. They explored the limits of their forensic skills in defending those on trial for offences in terms of such legislation, or in arguing for the invalidity of vague or unreasonable administrative action. They worked ceaselessly to prepare the cases of those targeted by the state, often in trying conditions and for little material reward. They advised and educated those in the community most vulnerable to official excesses, such as the rural poor and workers, through advice offices and religious bodies. They challenged their students to confront the relationship between law and justice and to translate their ideals into practice. They forswore the comforts of commercial practice for the sake of the upliftment of those excluded from all forms of power. They exercised their judicial discretion in favour of justice and liberty wherever proper and possible.

37 These actions demanded courage, strength, perseverance and clarity of purpose. There were not many in each generation who chose this lonely path, but there were sufficient of them and they were influential enough to be part of the reason why the ideal of a constitutional democracy as the favoured form of government for a future South Africa continued to burn brightly throughout the darkness of the apartheid era. Had their number been greater, had they not been so harassed and isolated by both government and the profession, the moral bankruptcy of apartheid would have been more quickly and starkly exposed for the evil that it was.

38 In a sense, those both inside the country and abroad who might have been embarrassed by the gross racism and exploitation of apartheid could seek some comfort in the semblance of an independent legal system. This 'justification' would not have been possible had even a strong minority of the legal profession united to strip the emperor of his clothes.

39 In the light of

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it relate to justice?'

40 The Commission does not intend to enter the lists in this regard, but simply states its conclusion as briefly as possible. While the Commission does believe that substantive resistance to the injustice of apartheid by a significant number of lawyers would have undermined its effectiveness and betrayed its reliance on brute force — even if only through a prosecutorial authority reluctant to act and a judiciary uncomfortable with its complicity in injustice — in the light of the reality that those who chose to resist were relatively so few, the Commission finds that the alleviation of suffering achieved by such lawyers substantially outweighed the admitted harm done by their participation in the system.

41 Much was made, particularly

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43 It could be argued that the die was cast immediately after Union by a judiciary which acquiesced in segregationist policies, so that by 1948 (and certainly 1960), the courts were locked into the overwhelmingly passive mindset that characterised their judgements in the face of brutal injustices of apartheid. While this may be partially true, the horrific extremes to which Parliament and the executive went to implement apartheid should surely have provided the basis for judges and practitioners, had they wished to do so, to resist such encroachments on basic rights and fairness, using the skills and knowledge which they manifestly possessed and arguing from common-law principles. And if such a concerted stand had moved the government formally to curtail the jurisdiction of the courts, then perhaps the degeneracy of its policies would have been laid bare earlier and more devastatingly.

44 Again, those judges who

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such markedly different constitutional circumstances.

b Furthermore, it should be quite obvious that the notion of a body such as the Truth and Reconciliation Commission, mandated to call on all South Africans to account for their conduct during apartheid's worst excesses, is a unique event which would be unlikely to create some kind of precedent. If this was to be taken seriously as an argument, then the Judicial Services Commission provided for in the interim and final Constitutions ought also to be impeachable, for the reason that it has general powers to oversee the administration of justice and call wayward judges to account.⁶ It is also quite clear that it was precisely

⁶ See ss 177 and

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South African nation it serves.

48 The Commission deplores and regrets the almost complete failure of the magistracy to respond to the Commission's invitation, the more so considering the previous lack of formal independence of magistrates and their dismal record as servants of the apartheid state in the past. They and the country lost an opportunity to examine their role in the transition from oppression to democracy.

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illustrate this clearly.

District surgeons

11 Of all the health professionals in South Africa, district surgeons working under the apartheid government probably had one of the most difficult jobs in terms of upholding medical standards and human rights. On the one hand, they were under a statutory obligation to provide medical care for prisoners and detainees, to record information on the mental and physical health of inmates and to ensure that proper health conditions existed in terms of basic sanitation, food and general health care. On the other hand, there was (and perhaps still is) great pressure on them to support the police and prison authorities for 'national security' reasons.

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care from district surgeons.⁴

15 These circumstances were aggravated by the fact that most district surgeons were white, while the majority of the detainees were black. Because white and black people had for years been separated by apartheid policies, there was a strained relationship and a lack of mutual trust and understanding between doctor and patient.

16 Many district surgeons also

Reference 383 - 0.01% Coverage

the health care system today.

26 It is important to note that racial discrimination and the lack of appropriate health care provision predated the National Party (NP) and formal apartheid. Indeed, the effective rejection of the recommendations of the Gluckman Commission took place before the NP was voted into power. However, during its first decade in power, the NP made no significant changes in the provision of public health care, except to reduce expenditure on public health on which mainly black people were dependent: expenditure was, for example, reduced by 8 per cent for the period 1950-55.¹³ Hence, by 1960, the health care of black South Africans had been prejudiced by years of unequal allocation of resources – based on the assumption that ‘natives’ required less sophisticated health care than whites and a complete lack of coherence in or centralisation of health policy development.

9 Pillay, *The Politics of*

Reference 384 - 0.01% Coverage

The Health Sector PAGE 118

27 The 1960s saw the replacement of apartheid rhetoric with concrete apartheid programmes aimed at enforcing racially separate development and the establishment of the homelands. Homeland health services were appalling. This is not always apparent from government-supplied health indicators, as homeland health figures were usually excluded from the statistics.¹⁴ In fact, official statistics often gave the impression that the health situation was improving in South Africa. However, both in the homelands and in the Republic, segregated health care services seriously compromised the health of disadvantaged communities.

■ STATE HEALTH ORGANISATIONS The Department

Reference 385 - 0.01% Coverage

to 140 other patients.¹⁶

14 American Association for the Advancement of Science, *Apartheid Medicine*, pp 44-45. 15 The Department of Health was called various names during the period under review but will be referred to throughout this chapter simply as the Department of Health. 16 Interview by Sheila Roquette with Professor Green-Thompson, former head of department for Obstetrics and Gynaecology at King Edward VIII Hospital, on 16 April 1997.

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Reference 386 - 0.01% Coverage

the life of the patient.

31 Between 1960 and 1994, the Department of Health failed to use its resources to provide the best possible public health service. Probably the greatest problem in the health sector was the maldistribution of resources. Because of apartheid restrictions on where people could live and work, it was very easy for the Department to ensure that the distribution of resources favoured white people. By far the largest proportion of government funds was spent on the white population, despite the endemic poverty and socio-economic deprivation of the majority black population. In 1985, for example, annual per capita health expenditure according to race was R451 for white people, R249 for Indian people, R245 for coloured people and R115 for African people (see Figure 1). Since black hospitals were regularly overcrowded and white hospitals underutilised, the funding should have been redistributed to provide better overall care. The silence of the Department about the effects of socio-economic conditions on the general health of the population was deafening.

Figure 1 PER CAPITA HEALTH

Reference 387 - 0.01% Coverage

the ideology of the state.

35 The Department did little to prevent police from obtaining medical records from hospitals or clinics without the consent of patients. The police used these files to identify 'anti-apartheid protesters', which made many people afraid to go to a government hospital to receive care, as they feared arrest. The Department did not take issue with inhumane practices, such as handcuffing or shackling patients to beds. The South African Medical Services

Reference 388 - 0.01% Coverage

occurred frequently.³¹

■ MEDICAL SCHOOLS

58 Medical schools played a significant role in perpetuating human rights abuses. Black people were systematically prevented from obtaining training in the health sciences and, even where this was allowed or provided for, received an inferior quality of education to that of white students. Medical schools failed to teach ethics and human rights. Professors in medical schools held dual appointments with both the state and the medical schools, leaving them vulnerable as health professionals with dual obligations. Finally, with a few exceptions, medical faculties did not speak out about the unethical nature of apartheid medicine and its adverse effects on training and patient care.

Admission for training in the

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The Health Sector PAGE 131

and, in turn, for many aspiring medical students living outside Natal (as it was then) to attend medical school. UND was far from their homes and many did not have the financial resources to pay accommodation and travel expenses and academic fees. A small number were, however, able to attend white universities if

they could convince the Education Ministry that extenuating circumstances prevented them from attending UND. The number of black medical students increased from the early 1980s, after the Medical University of Southern Africa (MEDUNSA) was established. This was part of the apartheid plan to keep blacks (especially Africans) out of white universities, while at the same time ensuring a supply of black doctors to care for the black population.

62 The lost opportunities that

Reference 390 - 0.01% Coverage

to participate in political activities.

70 Although many of the racist practices in the hospitals breached international medical ethical codes of conduct, medical faculties were subjected to triple loyalties: to their patients, to their students and to their employers (the state and the university). Criticism of the failure of health science faculties to act against apartheid medical practices must also be tempered by the acknowledgement that universities in general relied on the government for a large part of their funding and were not completely independent. Failure to conform made institutions vulnerable to funding cuts.

Complicity of the medical schools

Reference 391 - 0.01% Coverage

Complicity of the medical schools

71 While some medical schools did start to speak out against the inequities of apartheid medicine, especially in the latter part of the period under review, they were generally complicit in committing human rights abuses by helping to create and perpetuate the racist environment in which health professionals were trained. Greater efforts should have been made by the lecturers and administrators to provide equal educational opportunities for all students. The medical schools could have challenged more vociferously the issue of segregated facilities, hospital rules concerning the treatment of patients, the lack of promotion of black doctors and the unequal resource allocation to black and white teaching hospitals. In addition, they could have encouraged their students to question the validity of the system and taught them how to maintain their integrity as doctors by upholding international ethical standards for the profession. Finally, they could have been more vocal in encouraging the professional organisations to take a stand against apartheid medicine and the injustices within the profession that stemmed from the maldistribution of resources.

■ THE ROLE OF THE NURSING

Reference 392 - 0.01% Coverage

knew they were not qualified.

76 The way in which nurses were perceived to collude with apartheid policies and, during unrest situations, to co-operate with police (even though this perception was not always accurate) undoubtedly had a negative impact on the delivery of health care by nurses to communities.

This touches individual lives and

Reference 393 - 0.01% Coverage

Involvement in human rights abuses

80 While it was extremely difficult to find any hard evidence of overt involvement in gross human rights violations by psychologists, the profession was undoubtedly involved in human rights abuses through acts of omission. It also displayed a general apathy in relation to issues such as the effects on mental health of endemic violence, detention, solitary confinement and torture. In addition, until very recently, the profession failed to draw attention to the incontrovertible link between apartheid and mental health or to comment on the destructive effect of apartheid policies on the mental health of those they oppressed. According to one submission:

All citizens have had their human dignity denied and degraded through the experiences of living through the apartheid years. Our humanity and common sensibilities have been stunted.

It is evident that the predecessor of the South African Federation for Mental Health at the national level was supportive of the apartheid policies of the government and did little or nothing to oppose other human rights violations in the field of mental health. It even reprimanded committee members or staff who did so.

81 Various submissions reported that

Reference 394 - 0.01% Coverage

testimony, Dr Barry Kistnasamy noted:

The social consequences of apartheid were so gross, so thoroughly destructive and so widely acknowledged and abhorred by the international community that there could be no avoiding the intrusion into the professional lives of the medical men and women of this country.

98 It was surely the

Reference 395 - 0.01% Coverage

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104 The SAMDC, in contrast, displayed no hesitation in taking action against another of its members who was guilty - not of negligence in treating patients, but of resisting the apartheid regime. Dr Aubrey Mokhoape was a doctor convicted of terrorism in 1974. During his interrogation, he was put into solitary confinement, beaten and tortured. The Council did nothing to protest about this treatment and proceeded to use the criminal offence ('terrorism') as the basis for launching proceedings against him as a medical professional. It eventually dropped its charges against the doctor, but the case demonstrates that the SAMDC could take swift action when it deemed it appropriate.⁴³

105 Another significant problem raised

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actively supported the apartheid government and members that actively opposed it. Rather than focusing on the activities of individuals, the document examined MASA's role as an association. It said, in this regard: The Association in general was

Reference 397 - 0.01% Coverage

the death of Steve Biko;
b the devastating effects of apartheid on health and human rights, and
c the failure of existing

Reference 398 - 0.01% Coverage

gross violations of human rights.

We are aware that Council was all the time morally bound to adhere to a strict professional approach to matters of nursing, without allowing itself to be used as a tool of the apartheid machinery.

We appreciate that Council could

Reference 399 - 0.01% Coverage

members of the disadvantaged communities.

121 These admissions on the part of the SANC make it unsurprising that nurses failed to respond more vigorously to the human rights abuses with which they were confronted. Where leadership failed to lead on issues of human rights and, at times, was seen to sanction and support apartheid policies and practices, those in subordinate positions would have needed unusual courage to protest, particularly when threatened, as was Ms Betty Ncanywa, with loss of employment.

Mental health organisations in South

Reference 400 - 0.01% Coverage

thirty years, the SPSA said:

That the SPSA had to be prodded into adopting a more distinct role, that of lobbying the government for equal and adequate facilities for all the country's mentally ill, regardless of race, is evident ... Much of the Society's concern with respect to apartheid was generated in response to external pressures and reports since 1977.

126 In other words, the

Reference 401 - 0.01% Coverage

managed to influence policy significantly.

The Board of the SA National Council for Mental Health was, therefore, at least until the early 1980s, heavily influenced by two power groups not representative of civil society, namely government psychiatrists who sought to protect government mental health services from criticism and reform, and the Afrikaner Broederbond, which oversaw the implementation and maintenance of a Christian National Philosophy, which is today recognised as being a euphemism for apartheid.

In 1966, the Department of

Reference 402 - 0.01% Coverage

SAFMH submission reflected on this:

The Board members and staff of the SAFMH acknowledge that the Board of the National Council for Mental Health was guilty of activities contrary to the promotion of good mental health, by actively and tacitly supporting the apartheid policies of the previous government and failing to support those within its ranks who protested against apartheid atrocities and human rights violations in the field of mental health. They are also conscious of many acts

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of omission during the apartheid era and that, instead of campaigning actively against the mental illness of apartheid, they remained silent ... They express their sincere regret for the Federation's action in this respect ... They will in future strive towards the social welfare of all South Africa's people, with special recognition of those who have been previously disadvantaged.

■ RESISTANCE TO ABUSES

132 The

Reference 404 - 0.01% Coverage

previously disadvantaged.

■ RESISTANCE TO ABUSES

132 The Commission acknowledged that it was difficult for health professionals, particularly those with dual loyalties, to fight against the systemic human rights abuses that apartheid so deeply entrenched in the health sector. There were, however, many instances where people protested quietly or vociferously, and a few who put their careers and lives at risk in protest against violations of human rights. Many of the people who protested about the conditions under which health services were delivered or did not co-operate with state authorities were victimised in various ways. Some were fired from their jobs; others ruined their chances of promotion; some faced personal violence.⁴⁶

133 Many unknown and nameless

Reference 405 - 0.01% Coverage

The Health Sector

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Apartheid was a process of dehumanisation. It reduced the majority of our people to objects or physical entities. Imperceptibly, medicine also became dehumanised. The focus was on the disease and not the person, their family and community. South Africa is politically free; however, our people need to be healed spiritually, mentally and physically if we are to create the type of society and country that we all desire. Doctors, medical schools and their teaching staff, and medical students can become important instruments for this change. The most important step in this process is to re-humanise medicine... In short, change is not merely desirable, it is essential. The narrow outlook of the past can no longer be justified.

PROFESSOR B. MAHARAJ

■ FINDINGS ARISING

Reference 406 - 0.01% Coverage

attention, amongst others things, to:

- a the effects of the socio-economic consequences of apartheid on the health of black South Africans;
- b the fact that segregated

Reference 407 - 0.01% Coverage

gross human rights violations occurred?

2 These were the questions asked when the possibility of a special hearing on the media was first raised. They needed to be considered along with the more obvious point that, because of the media's role in providing 'instant history', a review of its performance under apartheid might help the Commission in providing the "complete picture" of the political conflicts of the time required by the Act.

3 The announcement of the

Reference 408 - 0.01% Coverage

for presentation to the Commission.

4 The central point made in these submissions was the suggestion that the media, particularly those media that directly supported government policy, had provided a "cloud of cover" under which gross human rights violations were possible. More bluntly, the media during apartheid were seen to have "made what happened to Biko acceptable". This gave some direction to the proposed hearings, raising questions such as how and in what circumstances such a "cloud of cover" was created; what its implications were, especially for the journalists who worked in the different media, and what lessons could be drawn for the future.

5 Initial discussions quickly and

Reference 409 - 0.01% Coverage

Hearings: The Media PAGE 165

6 Public presentations of several submissions were made at the Commission's offices. These generated more interest in the hearing and stimulated further submissions. At the same time, special interviews were arranged with some of the state operatives mentioned in the submissions to discuss their role under apartheid.

7 It was soon clear

Reference 410 - 0.01% Coverage

worked the system.

The hearings

8 The media hearings took place on the 15-17 September 1997 at the offices of the SABC, Johannesburg. The venue was chosen as a strong symbol of state control of media in the apartheid era. Significantly, the facilities were made available, free of charge, by the SABC.

■ LEGAL AND ETHICAL BACKGROUND

Reference 411 - 0.01% Coverage

a tool of the government.

17 For example, content analysis by Professor John van Zyl over a period of sixteen years revealed a distinct bias at the SABC. According to his analysis, news bulletins maintained and cultivated a mindset amongst white viewers that apartheid was natural and inevitable. SABC programming, he found, was instrumental in cultivating a “war psychosis”, which in turn created an environment in which human rights abuses could take place.

18 Another witness at the

Reference 412 - 0.01% Coverage

then translated into black languages.

25 The most telling confirmation of the SABC’s role under apartheid came from an unexpected source. State agent Craig Williamson told the hearing that a “special relationship” existed between the SABC and the intelligence community’s units for STRATCOM. The state, he said, was at a disadvantage because it did not own or control any credible print media. It counteracted this by its use of radio and television. Williamson also pointed out that the SABC was used at the time of the cross-border raids to present the attacks in a positive light.

Broederbond influence and control at

Reference 413 - 0.01% Coverage

in this way.

Radio Freedom

33 By the late 1970s, information and propaganda had become indispensable for both the proponents and the opponents of apartheid. The South African government had its security apparatus — and the SABC. The African National Congress (ANC) had Radio Freedom.

34 Broadcasting from five ‘friendly’ countries in Africa, Radio Freedom operated from March 1973 to December 1990, using information to “mobilise and arouse” the people into active participation in the struggle against apartheid, within and outside the borders of South Africa.

35 For the banned and

Reference 414 - 0.01% Coverage

Radio Angola, 4 April 1990.)

38 Undoubtedly, the ANC’s media offensive assisted in the war against apartheid and may have contributed to a climate of violence. But it is difficult to conclude that the broadcasts alone were directly responsible for the large number of incidents of gross human rights violations recorded in the SADF document, particularly as nobody was forced to tune in and listen to Radio Freedom.

■ THE PRINT MEDIA The English

Reference 415 - 0.01% Coverage

control over both newspaper groups.

40 During the period under review, the publishing houses reflected the broader apartheid structures. Ownership was exclusively white. The term 'opposition press', used to describe the English-language press, was a misnomer. Within this then bi-polar world, there was only one viewpoint propounded in the mainstream press and that was a capitalist perspective. Independent, black, liberal, socialist and Communist publications were either banned or folded under commercial pressure, while the so-called mainstream press prospered and grew.

41 In later years, 'township

Reference 416 - 0.01% Coverage

black people wanted to read.

42 This focus on very specific black-white issues tended to dominate the hearings. Surprisingly, most of the testimony – and most of the discussion about the print media – centred on the role of the so-called 'liberal' or 'opposition' English-language papers, their stance vis-à-vis apartheid, and conditions for black journalists working on those papers. Other issues tended to take second place to the expressions of anger and frustration felt by black journalists. Although these feelings were previously known, the extent of the anger felt and the pain endured had not, before this hearing, been clearly expressed. Nor had they been properly understood by whites in the media, who showed considerable insensitivity in their inability to empathise with their black colleagues.

43 Despite the criticisms of the English mainstream press under apartheid, many came to its defence. Former SAUJ president Pat Sidley said that, although a great disservice was done by a number of individuals and a couple of institutions, there were many – fellow journalists and a few editors – who did a great deal to open up thought-processes in the public mind. There are a number of examples of this. One well-known incident was when Tony Heard, then editor of the Cape Times, published an interview with Oliver Tambo on 4 November 1985. Quoting banned persons was illegal in terms of the Internal Security Act (of 1982 as amended). Heard reported that SAAN eventually offered him a severance agreement and, when he refused it, he was fired on August 1987.¹

44 Jon Qwelane, the most severe critic of the mainstream media, acknowledged that it was the English-language newspapers whose journalists demonstrated "periodic flashes of courage and brilliance" by exposing the gross injustices perpetrated by the system of apartheid. He cited examples such as reporting on the inhumane conditions in South Africa's prisons, the Information ('Info') scandal, the unmasking of the Civil Co-operation Bureau (CCB) and the exposure of Vlakplaas.

45 Cyril Ramaphosa, chairperson of TML and previously a unionist and anti-apartheid leader, agreed that English newspapers in the main played a courageous role, imparting information when the government was trying to restrict it. He also paid tribute to specific journalists who focussed on the struggles of ordinary people.

¹ Tony Heard, The Cape

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Hearings: The Media

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46 SAUJ president Sam Sole said his organisation believed that there had been serious shortcomings in the mainstream English press regarding their coverage of apartheid and the forces opposing it. Many of these shortcomings were the result of institutional weaknesses rather than personal culpability. He said that media institutions were, both then and now, weakened by fragmentation, especially along racial lines.

47 In its submission, TML argued that it had challenged the versions of "lying officials" on events such as the Soweto uprisings, the death of Steve Biko, Boipatong, the 'Gugulethu Seven' and the 'Uitenhage massacre'. It claimed that its papers had refused to cower before NP bullying and had pioneered investigative reporting in South Africa. The papers had also provided a platform from which courageous and ingenious journalists could chip away at the edifice of apartheid.

48 Journalist and editor Moegsien

Reference 418 - 0.01% Coverage

because of lack of training.

h There were allegations that the apartheid mindset and hypocrisy continue to the present day.

i Hypocrisy of management: editorials decried apartheid, while practising it against black staff with regard to facilities and salaries.

51 An interesting addendum to

Reference 419 - 0.01% Coverage

history of Nasionale Pers (Naspers).

56 Rather oddly in the context, the book repeatedly confirms that the various newspapers in the group were always pro-NP government institutions. The opening paragraph states candidly that the NP victory in 1948 meant that the company became a pro-government institution. The history concedes that Die Burger, for instance, promoted Verwoerd's ideals of bantustans from an early stage and that, after Sharpsville, the same newspaper advised that all positive aspects be speeded up. Occasionally, doubts about apartheid do surface but, in the main, the book reflects a total lack of concern for the company's support of the racist system.

57 Archbishop Tutu, opening the

Reference 420 - 0.01% Coverage

case by default. He asked:

Is silence from that quarter to be construed as consent, conceding that it was a sycophantic handmaiden of the apartheid government?

58 The dissatisfaction of some

Reference 421 - 0.01% Coverage

Hearings: The Media PAGE 177

that the Afrikaans press had been an integral part of the structure that had kept apartheid in place, particularly in the way Afrikaans papers had lent their support to the NP during elections. The submissions maintained that, although the papers may not have been directly involved in violations, they should accept

moral responsibility for what happened because they had helped support the system in which gross human rights violations occurred.

59 They said that “many Afrikaans journalists were deaf and blind to the political aspirations and sufferings of black fellow South Africans” and did not inform their readers about the injustices of apartheid. When knowledge about gross human rights violations became public, the journalists felt they had too readily accepted the denials and disingenuous explanations of the NP. Those who made submissions also sought forgiveness for their lack of action and committed themselves to ensuring that history would not repeat itself.

60 Professor Ari de Beer echoed the general tone of these submissions. He said he had felt compelled to approach the Commission because of the revelations at earlier Commission hearings, particularly those of Vlakplaas. Professor de Beer felt that he and many other “God-fearing” Afrikaners could not accept personal responsibility for specific gross human rights violations. Nevertheless, he did feel that there should be an acceptance of individual and collective responsibility for those violations committed under the ideological veil of apartheid, in the name of the Christian religion and Afrikanerdom. He expressed regret for keeping quiet about apartheid when he knew he should have actively protested against it. He challenged those who claimed that the Afrikaans press had nothing to answer for.

61 Former editor of the

Reference 422 - 0.01% Coverage

relations officers of the SADF.

84 Addison believes the mass media performed as propagandists for the army and government through, amongst other things, the defence agreement between the Minister of Defence and the NPU. The combination of law and agreement pulled the media in line with the government’s ‘total strategy’ of security action and propaganda to defend apartheid. This doctrine was well publicised and no editor

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Reference 423 - 0.01% Coverage

Hearings: The Media PAGE 182

was unaware of its implications. By colluding with the system of censorship, the media helped support apartheid.

85 Jolyon Nuttall, a previous

Reference 424 - 0.01% Coverage

The Media PAGE 185

■ CONCLUSION

100 The myriad of apartheid laws which controlled the media workplace may explain some of the racism black journalists experienced in the newsrooms of the major publishing houses. It would seem, however, that discrimination went way beyond what was required by apartheid legislation. Individual testimony to the Commission confirmed this, validating the allegations made by black journalists.

101 Evidence presented to the

Reference 425 - 0.01% Coverage

Project noted in its submission:

The English press, whilst predominantly positioning itself independently from the government, and significantly opposing the government in certain instances, continued to report within the political, social, and economic discourse defined by the apartheid state. The state legitimised itself within that discourse, and by not challenging its centrality or providing significant oppositional utterances to it, the English press wittingly or unwittingly validated the apartheid state.

102 Thus, even though some of the media may have opposed the government, the social and political system created by apartheid was sanctioned by the media. The media analysed society from inside that system and did not provide alternative perspectives and discourses from the outside.

103 As predicted by the chairperson of the Commission at the start of the media hearing, the absence of the Afrikaans press led to its being condemned as an extension and willing propaganda organ of apartheid.

104 By not reporting honestly

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their employers from the hearing.)

105 At the SABC, a blatantly pro-government and apartheid institution, it did not come as a surprise that black people were treated so appallingly. Here management

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Reference 427 - 0.01% Coverage

then they should do so.

110 Two initial questions were asked before the media hearing began. Could the media under apartheid be held responsible for the perpetration of gross human rights

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succumbing to pressure from government.

115 The Afrikaans media (at least until the last few months of PW Botha's tenure as State President) chose to provide direct support for apartheid and the activities of the security forces — many of which led directly to gross human rights violations.

116 The employment practices of

Reference 429 - 0.01% Coverage

rights violations involving black people.

120 With the notable exception of certain individuals, the mainstream newspapers and the SABC failed to report adequately on gross human rights violations. In so doing, they helped sustain and prolong the existence of apartheid.

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Reference 430 - 0.01% Coverage

complained about the English press.

2 Cas Greyling, NP MP for Carletonville, was the most vociferous agitator against the press throughout his time in Parliament, making repeated calls for legislation to control journalists. In 1959, he is reported as saying that not only was it right to silence ANC leaders such as Albert Luthuli and Oliver Tambo, but that most of the newspapermen sending reports overseas should also be banned. He said they were guilty of sabotaging the government's policy of apartheid. This is typical of the regular remarks made by him and other members of the NP government.

3 In 1951, DH Ollemans

Reference 431 - 0.01% Coverage

own revised code of conduct.

17 On 19 October, the government declared eighteen anti-apartheid organisations unlawful and more than fifty black leaders – mainly from the Black Consciousness Movement – were arrested. A large number of black journalists were also arrested. The UBJ was banned.

18 In November, a NPU

Reference 432 - 0.01% Coverage

SEVEN

Institutional Hearing: Prisons

■ INTRODUCTION

1 As an institution of the state, prisons – together with the police, the judiciary and the security apparatus – were an integral part of the chain of oppression of those who resisted apartheid.

2 Numerous statements to the Commission provided extensive evidence of gross human rights violations suffered by prisoners, either in detention or serving prison sentences. This testimony supported the considerable body of published accounts that shed light on the particular role played by prisons in the period under review. It also highlighted the irony that many of the leaders of our new democracy spent long years in prison because of their opposition to apartheid.

3 In a significant way

Reference 433 - 0.01% Coverage

window.

■ PREPARATION FOR THE HEARING

4 Choice of venue was important in providing a symbolic focus for the hearings. The first and obvious choice was Robben Island, but unfortunately this proved impossible because of logistic problems and cost factors. It was decided that the Johannesburg Fort was an equally appropriate symbol of political resistance. Its former inmates included Mahatma Gandhi and President Mandela and, as the notorious 'Number Four' prison, it played a significant part in the lives of many apartheid detainees and prisoners, male and female. The hearing was held in the courtyard of the Fort, in a marquee erected alongside the former isolation block.

5 The two-day hearing

Reference 434 - 0.01% Coverage

Hearings: Prisons PAGE 199

Focus

6 Preparatory discussions led to a decision to distinguish between common law criminals and political prisoners. Political prisoners were particularly disadvantaged by the apartheid system: their imprisonment was retributive and punitive, making no pretence of rehabilitation. Because the focus of the Promotion of National Unity and Reconciliation Act (the Act) was on the political conflicts of the past, it was decided that the hearing should concentrate on the experiences of political prisoners.

7 It was also decided

Reference 435 - 0.01% Coverage

law prisoners in the hearings.

9 Pass law offenders were sent to prison, not because they were criminals, but because they did not meet the administrative requirements of a racist, apartheid law. The result was that a large number of people were sent to prison for offences that would not have qualified as criminal anywhere else in the world. Moreover, the treatment of pass law offenders could well be interpreted as a human rights violation, especially considering the nature of prison life at the time. Prisoners of all races experienced over-crowding and harsh conditions, but conditions were particularly brutal for black prisoners. In addition, gangs dominated the non-political sections of prisons. There was thus a strong probability that offenders, especially young and first-time offenders, would be drawn into gangsterism. Prisons thus became a base for the criminalisation of a significant part of at least two generations of young South Africans.

10 However, it was decided

Reference 436 - 0.01% Coverage

early as March 1983 explained²:

There can be little doubt that the security police regard their ability to torture detainees with total impunity as the cornerstone of the detention system. It put the detainee at complete mercy for the purpose of extracting information, statements and confessions, often regardless of whether true or not, in order to secure a successful prosecution and neutralisation of yet another opponent of the apartheid system. Sometimes torture is used on detainees before they have even been asked their first question in order to soften them up. Other times, torture is used late in the interrogation process when the detainee is being stubborn and difficult.

14 As many as 20

Reference 437 - 0.01% Coverage

during the years under review.

■ THE HEARING The link between prisons and apartheid

22 From the early 1960s, with the introduction of detention without trial under the various versions of the General Law Amendment Act, prisons became an essential part of the apartheid system of control. The incarceration of political opponents became "a significant permanent feature" and by 1976, legislated power effectively meant the "criminalisation of most forms of opposition to the apartheid state". Prisons, therefore, became a "major weapon against political dissent" and the threat of being imprisoned became an essential part of apartheid's 'armoury'⁶.

⁶ See Buntman, Dr Fran

Reference 438 - 0.01% Coverage

Allen Cook, wrote in 1974:

The appalling fact of apartheid is that a society has been created whereby, for the blacks, the conditions of ordinary life are comparable to those of imprisonment, in terms of conditions normally held to constitute imprisonment: forcible separation from families, controlled living in security institutions behind barbed wire, and supervision by persons with wide powers to command and punish.⁷

24 The irony is that, towards the end of the period under review, having been in prison for political reasons became a badge of distinction, most obviously symbolised in the figure of Nelson Mandela. This might explain why so few former political prisoners, who include a large number of current government and political leaders, approached the Commission to give testimony about their experiences. Indeed, when it was suggested to some of these leaders that they should testify at the prisons hearing, they declined — either because they regarded their sufferings in prison as a necessary contribution to the struggle against apartheid or because they felt that their experiences were insignificant when compared to those of others.

Racial segregation

25 For most

Reference 439 - 0.01% Coverage

but it did.

Capital punishment

The primary purpose of this submission is to ensure that the Truth and Reconciliation Commission places on record the fact that the use of the death penalty in South Africa constituted a gross human rights violation ... It would be academic to ask whether or not the death penalty was associated with 'conflicts of the past'. It was but one of the methods used by those with power to oppress those without. 1 154 people were executed in South Africa in the ten-year period 1976-1985. The state apparatus that arrested, interrogated, tried, imprisoned and executed 1 154 people for capital crimes in South Africa was the same apparatus that maintained, often by brutal force, the apartheid system.⁹

47 As the department that implemented the death penalty, the prisons department formed an integral part of the apartheid system. Testimony at the hearing emphasised that capital punishment was used as an important weapon against opponents of apartheid. More particularly, the audience at the second day of the hearing listened in horror as witnesses told of experiences on death row, providing what one commentator described as the "most damning indictment of capital punishment ever heard in this country".

⁴⁸ Paula McBride told of

Reference 440 - 0.01% Coverage

is necessary at all levels.

65 The evidence presented by former inmates of the prisons, whether sentenced or in detention, left a clear picture of the role of prisons under apartheid. Imprisonment (and the threat of imprisonment) became an important link in the chain of control, from security forces to police to prison. The Prisons Department was a willing partner in the state's efforts to 'neutralise' and 'eliminate' opposition. The prison gallows became the final instrument of official disapproval.

■ FINDINGS ARISING OUT OF PRISONS

Reference 441 - 0.01% Coverage

HEARINGS The Commission finds that:

66 The Department of Prisons co-operated with the former state in the use of imprisonment or the threat of imprisonment in the chain of control and oppression of opponents of apartheid.

67 It was the policy

Reference 442 - 0.01% Coverage

women to intimidation and harassment.

72 The Department of Prisons co-operated with other structures of the state in the use of capital punishment to eliminate the opponents of apartheid, as well as those found to be guilty of other offences that the state deemed to be worthy of the death sentence.

73 The overt paramilitary basis

Reference 443 - 0.01% Coverage

hang our heads in shame.

This issue, like so many in our apartheid past, divided our nation. We want to know as much as possible about the truth from all perspectives so that we, as a Commission, can suggest ways in which a divided and traumatised nation may be healed and make recommendations on how to ensure that the mistakes of the past (made on all sides) are never repeated.

1 See Appendix 3 for

Reference 444 - 0.01% Coverage

ECC Declaration read as follows:

The Declaration is headed towards a just peace in our land, a Declaration to end conscription. We live in an unjust society where basic human rights are denied to the majority of the people. We live in an unequal society where the land and wealth are owned by the minority. We live in a society in a state of civil war, where brother is called on to fight brother. We call for an end to conscription. Young men are conscripted to maintain the illegal occupation of Namibia and to wage unjust war against foreign countries. Young men are conscripted to assist in the implementation and defence of apartheid policies. Young men who refuse to serve are faced with the choice of a life of exile or a possible six years in prison. We call for an end to conscription. We believe that the financial costs of the war increase the poverty of our country and that money should be used rather in the interests of peace. We believe that the

Reference 445 - 0.01% Coverage

28 Mr Peter Moll said:

I became a conscientious objector in July 1976 at a conference held by the Students Christian Association on the University of Natal, Pietermaritzburg Campus. It was pointed out by Michael Cassidy of Africa Enterprise that the guerrillas of the ANC and SWAPO were young men like myself who wanted justice and an end to apartheid; thus the SADF was not fighting a foreign aggressor but was engaged in a civil war. The message struck home. I decided that it was no longer possible for me to go to military camps or to prepare for action in Namibia.

My motive was based upon

Reference 446 - 0.01% Coverage

29 Dr Ivan Toms said:

I started this clinic in Crossroads from nothing. We built it with builder's rubble ... and some of my friends from the End Conscription Campaign started to help us. There, experientially, one saw what apartheid was all about. So my resistance to apartheid and to the army was not something from a book or from some intellectual view of life; it was experiential.

Perhaps just to raise one

Reference 447 - 0.01% Coverage

Special Hearing: Conscription PAGE 242

While many of the conscripts referred to here do not differentiate their anger to the old or the new regime, some focused intensely on their sense of being abandoned by their old leaders. The old society did not provide for any process of reintegration and failed to acknowledge their sacrifice. The new society condemns them as perpetrators, as defenders of apartheid.

55 In response to Mr

Reference 448 - 0.01% Coverage

far outside of its borders.

I could argue that I am guilty of nothing because I only acted on orders handed down to me in terms of the law of the country. I prefer not to do so but rather, without sounding sentimental or trite, to tender my sincere personal apologies to all fellow South Africans who have suffered directly or indirectly from the actions of the SADF during the years of apartheid.

Looking back on the sad

Reference 449 - 0.01% Coverage

Special Hearing: Conscription PAGE 245

60 Compulsory military conscription required many young white males in South Africa to face the reality of apartheid, bringing them face to face with the knowledge that a war was being fought. Some were socially conditioned to accept conscription as a national duty. Some saw no other option. Some saw options but were afraid of the consequences of refusing. Some were shocked and traumatised by what they experienced and began to question the world view they had always accepted. A few believed that, for a variety of very different reasons, it was their moral responsibility to refuse to serve in the military.

61 Often a change of attitude or a refusal to serve threw individuals, families, friends and even entire communities into crisis, triggering self-analysis and moral debate. Although the resistance against apartheid has always involved a small number of white people, conscription put young white men directly in touch with the moral costs and human consequences of maintaining it by military means.

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Reference 450 - 0.01% Coverage

Hearing: Children and Youth

■ INTRODUCTION

1 In light of the direct impact of the policies of the former state on young people and the active role they played in opposing apartheid, the Commission decided to hold hearings on the experiences of children and youth. Many of those who testified before the Commission were eighteen years old or younger when the gross violations of human rights occurred.¹ However, it was considered important that those who were under eighteen years of age during the life of the Commission be given the opportunity to testify. Indeed, before these special hearings, few children under the age of eighteen had approached the Commission to tell their stories.

2 The idea of special

Reference 451 - 0.01% Coverage

to gross human rights violations

3 The hearings provided an opportunity to focus on the impact of apartheid on children and youth. Over the years, children and young people were victims of and witnesses to of many of the most appalling gross human rights violations in South Africa's history. The effects of exposure to ongoing political violence may have had serious effects on the development of many of these children.² It was, therefore, considered imperative that the trauma inflicted on children and young people be heard and shared within the framework of the healing ethos of the Commission. Recognition of the inhumanity of apartheid was seen as a crucial step towards establishing a human rights framework for children and young

1 The Commission felt that

Reference 452 - 0.01% Coverage

South Africa's new democratic institutions.

4 The report does not, however, claim to be representative of all children and youth. Given the Commission's focus on gross human rights violations, those who gave evidence at the hearings on children and youth spoke mainly of the suffering of young people. Few chose to speak of, or to report on, the heroic role of young people in the struggle against apartheid. Many saw themselves not as victims, but as soldiers or freedom fighters and, for this reason, chose not to appear before the Commission at all. Others, fearing

reprisals from family or community, remained silent. Sometimes close family members were unaware of or strongly opposed to the political activities of young people. This accounts for any apparent contradictions between the perceptions of mothers and other family members who gave testimony and those of the many young people who excluded themselves from the hearings.

5 These stories are not, consequently, captured in what follows. No concerted attempt was made by the Commission to encourage those young people who did attend the hearings to speak of themselves as heroes who had sacrificed their education, their safety and often their long term opportunities through their active resistance to apartheid.

A culture of human rights

Reference 453 - 0.01% Coverage

area covered by that office.

9 Throughout the country, school children participated in the hearings and listened to the evidence presented. At the KwaZulu-Natal/Free State hearing, school children from a number of schools presented a play and other schools performed songs. A dramatic presentation by school children of the Soweto uprising was a highlight of the hearing hosted by the Johannesburg office, moving members of the audience to tears. This hearing was opened by Ms Graça Machel, chairperson of the UNICEF Study on the Impact of Armed Conflict on Children, who brought an important international perspective on this issue. In the Eastern Cape, musical presentations by school choirs assisted in the process of reconciliation while, in Cape Town, three high school students read a submission by Pamela Reynolds and Andrew Dawes on the impact of apartheid on children.

Creativity and flexibility

10 The

Reference 454 - 0.01% Coverage

on children.

Creativity and flexibility

10 The special hearings on children and youth were more flexible than other hearings of the Commission, in that they allowed participants to reflect on or critically analyse the root causes of apartheid and its effects on children. Most parties providing testimony supplied written submissions ahead of the hearing and were asked to summarise their submissions orally and answer questions posed by the panel. The hearings also allowed for the participation of children in ways other than by testifying; this included finding creative ways to access and share the children's experience. Before the KwaZulu-Natal/Free State hearing, for example, children spent a day telling their stories and making drawings that reflected their experiences. These were shared at the hearings the following day.³

3 It was felt that

Reference 455 - 0.01% Coverage

EXPERIENCE OF CHILDREN AND YOUTH

11 The South African social fabric was shaped by apartheid laws and structures that exposed the majority of South Africa's children to oppression, exploitation, deprivation and humiliation. Apartheid was accompanied by both subtle and overt acts of physical and structural violence. Structural violations included

gross inequalities in educational resources along with massive poverty, unemployment, homelessness, widespread crime and family breakdown. The combination of these problems produced a recipe for unprecedented social dislocation, resulting in both repression and resistance.⁴ This contributed to a situation that made possible the gross human rights violations of the past.

12 Many white children, on the other hand, were raised in an environment which condoned racial prejudice and fear of the 'other', while demanding unquestioning submission to the authority of family and state. The structural and legislated segregation of apartheid ensured that young white people were isolated and separated from their peers in other race groups – in their homes, schools, communities and every other aspect of their lives.

13 Most of South Africa's

Reference 456 - 0.01% Coverage

we inherited from our homes.

15 These conditions led to the recognition by many of South Africa's children that they were being denied opportunities to take up their rightful place as South African citizens. According to testimony at the Athlone hearing, children had to make choices about whether to avoid, participate in or lead the resistance. Many of South Africa's children did not stand passively by, but actively disputed the legitimacy of the state. In doing so, they contributed to the dismantling of apartheid.

16 Very early on, the

Reference 457 - 0.01% Coverage

nation, we have done it.

18 The role of children and youth was crucial in opposing the apartheid system. However, in the process, they were drawn into an arena that exposed them to three particular kinds of violence: state oppression, counter-violence and interand intra-community violence.

State oppression and counter mobilisation

Reference 458 - 0.01% Coverage

State oppression and counter mobilisation

19 The role of youth in resisting apartheid dates back to the formation of the militant African National Congress (ANC) Youth League in 1943. The militancy of the youth provided the impetus for the Defiance Campaign of 1952 and the drafting of the Freedom Charter in 1955. In the 1960s, students were amongst those who rose up

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Reference 459 - 0.01% Coverage

Children and Youth PAGE 256

The destabilisation strategy was cold-blooded, calculated, deliberate ... it was about a collusion between various elements who had an interest in maintaining the status quo or at least retaining the power which they had from the apartheid system.

29 Vigilantes were recruited from

Reference 460 - 0.01% Coverage

view, justified by vigilante attacks.

6 Submission by the South African Human Rights Commission, 'Human Rights Violations by the Apartheid State against Children and Youth', 12 June 1997.

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Reference 461 - 0.01% Coverage

the Democratic Party (DP) Youth:

Classified white under the apartheid regime, I and my peers, enjoyed privileges because of the colour of our skin. We were born with and we were brought up with racist prejudices ... we enjoyed the benefits of apartheid.

41 Mr Reynolds attributed the

Reference 462 - 0.01% Coverage

Again, according to Mr Reynolds:

In the 1980s, I and my contemporaries - my peers - were at the mercy of a system designed to socialise and condition us into the ranks of perpetrators of apartheid. We were told the army would turn us into men. It was the white man's circumcision school.

45 Some white youth who

Reference 463 - 0.01% Coverage

sentenced to six years' imprisonment.

46 Some white youth joined the struggle against apartheid through membership of and participation in resistance organisations such as the End Conscription Campaign (ECC)⁹, student movements, such as the National Union of South African Students (NUSAS) or by joining political organisations. Like other activists, they became targets of state violence.

■ EVIDENCE AND EMERGING THEMES

47

Reference 464 - 0.01% Coverage

border raids into neighbouring countries.

■ CONSEQUENCES OF APARTHEID AND GROSS HUMAN RIGHTS VIOLATIONS

The impact of apartheid on children and youth

84 South African children were exposed to countless horrors and suffered considerable trauma because of apartheid. Their role and involvement in the resistance struggle placed them on the firing line. The Commission's documentation shows that children and youth were the dominant victims in all categories of

gross human rights violations described in the Act. For almost every adult that was violated, probably two or more children or young people suffered. Children and young people were killed, tortured, maimed, detained, interrogated, abducted, harassed, displaced as well as being witnesses to these abuses.

85 Children growing up in extremely violent situations are frequently deprived of the structural support that allows for their meaningful experience of social and cultural life; the fabric of their societies and institutions is affected. For many South African children, family and friendship support networks were shattered by the policies of apartheid. Family life was often damaged, making it difficult for parents to take care of their children and to be emotionally available to listen to them.¹⁷ Many children became alienated from their parents and the trust, faith and communication that should have existed between the generations was sorely tried.

86 When considering the experiences of children under apartheid, it is important to remember that the Act provided for victims of defined gross human rights violations to testify and make statements to the Commission. This chapter therefore concerns the statements and testimonies of deponents who were defined as victims in terms of the legislation. This focus on victims is not, however, intended to diminish the active role of children and youth. Children were agents of social change and

17 Presentation by Ann McKay

Reference 465 - 0.01% Coverage

Children and Youth

PAGE 270

harnessed vast amounts of energy, courage and resilience during the apartheid era. For many young people, active engagement in political activity resulted in the acquisition of skills such as analysis, mobilisation and strategising, as well as the ability to draw strength from friends and comrades in times of hardship. Many of today's leaders come from a politically active history and have displayed a remarkable capacity for forgiveness and reconciliation.

87 The majority of people

Reference 466 - 0.01% Coverage

or disability.

Disruptions to education

104 The quest by the oppressed majority for a proper education has been a theme that has dominated South African resistance. According to Professor Mzamane: "The deprivation of one's opportunity to develop one's mind must surely rank as one of the most evil conceptions of apartheid." Children and youth, although they valued education and acknowledged the difficulties of advancing their careers without certificates, were prepared to sacrifice their education by joining liberation movements and participating in mass mobilisation under the slogan of 'liberation before education'.

105 Mr Maxlesi described the effects of apartheid education on the youth: VOLUME 4 CHAPTER 9 Special Hearing on Children and Youth PAGE 275

The unjust education system resulted

Reference 467 - 0.01% Coverage

and very high crime rates.

2 In 1984, the Bonteheuwel Inter-Schools Congress (BISCO) was formed to co-ordinate the activities of the various student representative councils (SRCs) which were rallying around issues of inequalities in apartheid schooling and the repression of legitimate political protest. BISCO became the target of security force repression and, in October 1985, along with 101 other organisations, was prohibited from organising or holding any gatherings. A number of BISCO leaders, including Ashley Kriel and Gary Holtzman, were detained and subsequently went into hiding.

3 It was in this

Reference 468 - 0.01% Coverage

referred to in paragraph (a).

18 The CALS submission argued that the definition of 'severe ill treatment' should be interpreted to include apartheid abuses such as forced removals, pass law arrests, alienation of land and breaking up of families. This approach finds support in the declaration to the Commission by five top judges at the legal systems hearing that apartheid was in and of itself a gross violation of human rights.³

19 The Commission's relative neglect of the effects of the 'ordinary' workings of apartheid has a gender bias, as well as a racial one. A large number of statistics can be produced to substantiate the fact that women were subject to more restrictions and suffered more in economic terms than did men during the apartheid years. The most direct measure of disadvantage is poverty, and there is a clear link between the distribution of poverty and apartheid policies. Black women, in particular, are disadvantaged, and black women living in former homeland areas remain the most disadvantaged of all. It is also true that this type of abuse affected a far larger number of people, and usually with much longer term consequences, than the types of violations on which the Commission was mandated to focus its attention.

20 The suffering caused by

Reference 469 - 0.01% Coverage

proclaimed areas of Johannesburg.⁴

3 This issue is discussed in full in The Mandate in Volume One of this report. Also appended to that chapter is a discussion of apartheid as a crime against humanity. 4 Goldblatt and Meintjes (1996), page 24.

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Reference 470 - 0.01% Coverage

Beth Goldblatt writes that they:

reflect the reality that women were less of a direct threat to the apartheid state and were thus less often the victims of murder, abduction and torture. This was due to the nature of the society which was, and is, structured along traditional patriarchal lines. Men were expected to engage with the state in active struggle while women were denied 'active citizenship' because of their location within the private sphere.⁶

26 To the extent that

Reference 471 - 0.01% Coverage

on Women PAGE 294

■ SILENCES

36 A primary aim of the Commission was to end the silences around the atrocities under apartheid. A primary aim of civil society's intervention around gender was to end the silences around the gendered nature of those atrocities.

37 One of the silences

Reference 472 - 0.01% Coverage

gross violation of human rights'

48 This definition limited the attention of the Commission to events which emanated from the conflicts of the past, rather than from the policies of apartheid. There had been an expectation that the Commission would investigate many of the human rights violations which were caused, for example, by the denial of freedom of movement through the pass laws, by forced removals of people from their land, by the denial of the franchise to citizens, by the treatment of farm workers and other labour disputes, and by discrimination in such areas as education and work opportunities. Many organisations lobbied the Commission to insist that these issues should form part of its investigations. Commission members, too, felt that these were important areas that could not be ignored. Nevertheless, they could not be interpreted as falling directly within the Commission's mandate.

49 The Commission recognised that

Reference 473 - 0.01% Coverage

the Amnesty Committee PAGE 111

The immunity from criminal or civil proceedings that results from the granting of amnesty was one of the main reasons or grounds for opposition raised by direct victims of politically-motivated acts or their next of kin. One of the early legal challenges to the Commission was an attack upon the constitutionality of the amnesty provisions by the Azanian Peoples Organisations (AZAPO) and some prominent families who had suffered human rights violations at the hands of the security forces under apartheid. The Constitutional Court eventually decided this matter against the applicants, upholding the constitutionality of amnesty. This case is more fully discussed in the chapter on Legal Challenges in Volume One.

17 Most South Africans have

Reference 474 - 0.01% Coverage

RIGHTS VIOLATIONS ON PEOPLE'S LIVES

1 The apartheid system was maintained through repressive means, depriving the majority of South Africans of the most basic human rights, including civil, political, social and economic rights. Its legacy is a society in which vast numbers of people suffer from pervasive poverty and lack of opportunities. Moreover, those who were directly engaged in the armed conflict (whether on the side of the state or of the liberation movements) suffered particular kinds of consequences.

2 The consequences of repression

Reference 475 - 0.01% Coverage

the community and the nation.

3 When considering the consequences of gross human rights violations on people's lives, it is hard to differentiate between the consequences of overt physical and psychological abuses and the overall effects of apartheid itself. This makes it difficult to make causal links or to assume that violations are the result of a particular experience of hardship. In many instances, however, violations undoubtedly played the most significant role as, for example, when a breadwinner was killed or when the violation caused physical disabilities, affecting individual and family incomes.

4 It must also be

Reference 476 - 0.01% Coverage

member or close associate.³

13 Perpetrators of human rights violations used numerous tactics of repression, with both physical and psychological consequences. These found their expression in the killing, abduction, severe ill treatment and torture of activists, families and communities. Psychological damage caused by detention was not merely a byproduct of torture by state agents. It was deliberate and aimed at discouraging further active opposition to apartheid. Jacklyn Cock says:

2 'The Mental Health Consequences

Reference 477 - 0.01% Coverage

on the 12 September 1989.

74 As a core structure in society, the family should be protected and supported by the state. Apartheid generated a crisis in South African family life. Group areas legislation and forced removals have both been linked to disruptions in healthy family functioning, and the migrant labour system also deprived people of family life. Children were denied fatherly guidance and support during their formative years and the fact that women were obliged to take on domestic work meant that children were denied the care of their mothers. In trying to deal with these problems, extended family networks came into play.

75 The pressure on families

Reference 478 - 0.01% Coverage

the needs for these children.

79 The social pressures caused by apartheid and the repression associated with it have resulted in changes to the family structure in South Africa. Some families have been unable to withstand the pressure, whilst others have harnessed support and nurture from extended family networks to ensure their survival.

Invasion of homes

80 The

Reference 479 - 0.01% Coverage

family endured before Leon's death:

He was definitely regarded as an enemy to the apartheid regime. My late parents' house was frequently visited and on some occasions searched by the East London Security Branch policemen.

84 After Leon's exile, "the

Reference 480 - 0.01% Coverage

or studies.

Separation of families

92 Arrests, detentions, abductions, restrictions and exile of family members affected the cohesion of families, with negative effects on family relationships. Ms Nozizwe Madlala-Routledge's political activism began in the 1970s when she became an organiser and chairperson of the Natal Organisation of Women. At the Durban hearing, she told the Commission that: "like many women who joined the struggle against apartheid, I was harassed by the police and detained a number of times." She described the disruptions this caused to her family and the impact on her children:

21 Audrey Coleman of the

Reference 481 - 0.01% Coverage

my matric.

Inter-family conflicts

96 Conflicts that arose because of the apartheid system led to tension within some families, sometimes spilling over into violence. At the Pietermaritzburg hearing (19 November 1996), Father Timothy Smith told the Commission that Mr David Ntombela, a feared induna (headman) in the Pietermaritzburg area, is alleged to have killed his own brother in full view of members of the community.

97 Ms Ndamase described how she left home to go to Durban in search of a job and joined the forces against apartheid. When she returned home in 1991 with the intention of launching a branch of the South African Communist Party (SACP) in her village, she was arrested. She described the consequences at the Lusikisiki hearing:

My children are uneducated; I

Reference 482 - 0.01% Coverage

political situation at that time.

100 Intergenerational conflicts also occurred in white families involved in defending the apartheid status quo. Mr John Deegan, a South African Police (SAP) Security Branch conscript and later a member of Koevoet, described his attempts to communicate his traumatic experiences to his more conservative father:

Although I tried to tell

Reference 483 - 0.01% Coverage

doing on the other side.

107 Thus, in many families, even where activism did not generate outright conflict, a shroud of secrecy often affected intergenerational relationships. In some families, political activism was seen as operating in a sphere outside of family life. This was sometimes linked with parents' feelings of helplessness about the public realm of politics. This lack of communication was aggravated by disruptions to family life, caused by

the absence of parents who worked as migrant labourers, domestic workers, or because group areas legislation and other apartheid laws prevented them from living with their families.

VOLUME 5 CHAPTER 4 Consequences

Reference 484 - 0.01% Coverage

OF HUMAN RIGHTS ON COMMUNITIES

135 Apartheid's racial and ethnic-based social engineering resulted in both the construction and destruction of communities. Legislation such as the Group Areas Act, the Land Act and influx control laws were all attempts to define and regulate communities. Apartheid created communities that were racially, linguistically and ethnically determined. Resources for the development of these state-defined communities were differentially allocated resulting in the deprivation, particularly, of African communities. These racial categories were adopted by communities themselves, resulting in generally understood divisions between white, African, Indian and coloured groups.

136 Clearly, differences of various

Reference 485 - 0.01% Coverage

in black communities.

Black communities

138 In 1960, the year that marks the starting point of the Commission's mandate, the state embarked on the rigid enforcement of apartheid legislation, in particular the Group Areas Act. It was an era characterised by mass forced removals and the

26 Interview with Marius Van

Reference 486 - 0.01% Coverage

most neglected in South Africa.

167 Rural areas were subject to the rigid enforcement of apartheid legislation. For example, in Oudtshoorn, from 1961 until the early 1970s, the Group Areas Act resulted in the removal of thousands of coloured and African people from the town. In 1966, a new township called Bongoletu was proclaimed. This allowed for the destruction of Klippias Eiland and the removal of Africans to the new area. As Oudtshoorn fell within the 'coloured labour preference' policy area, African people were allowed only limited access to Oudtshoorn. Apartheid was enforced through measures such as forcing the residents of Bridgeton, a neighbouring coloured township, to obtain permits to visit relatives and friends in Bongoletu.

168 In rural communities, racism

Reference 487 - 0.01% Coverage

the illegitimacy of Molokele's appointment.

176 Thus, the system of apartheid and the accompanying construction of ethnically defined homelands resulted not only in resistance, but also in the polarisation of

VOLUME 5 CHAPTER 4 Consequences

Reference 488 - 0.01% Coverage

heart of communities.

■ WHITE COMMUNITIES

181 Apartheid policies resulted in the division of South African communities along racial lines. At a post hearing workshop of the Commission, Mr Tjol Lategan said:

Politics beset every fibre of

Reference 489 - 0.01% Coverage

of Human Rights PAGE 166

182 Through apartheid, the white community retained political and economic power. The unequal distribution of resources meant that white communities benefited through well-served suburbs, accessible education, access to government and other employment opportunities and countless other advantages. Whilst only a minority of white people engaged in the direct perpetration of violence, many gross human rights violations were committed in order to retain these benefits.

183 The mobilisation of members

Reference 490 - 0.01% Coverage

were most likely to emigrate.

190 The absence of white South Africans at the Commission hearings has been disappointing. If true reconciliation is to take place, white communities will have to take responsibility and acknowledge their role as beneficiaries of apartheid. The consequences of this lack of participation are likely to perpetuate the polarisation of South African communities and further obstruct processes of reconciliation.

■ CONCLUSION

191 This chapter has

Reference 491 - 0.01% Coverage

of Human Rights PAGE 168

of the ripple effects on families and communities of the system of apartheid and the oppressive manner in which it was implemented.

192 People came to the

Reference 492 - 0.01% Coverage

Reparation and Rehabilitation Policy

■ INTRODUCTION

1 During the period under review, the majority of South Africans were denied their fundamental rights, including the right to vote and the right to access to appropriate education, adequate housing, accessible health care and proper sanitation. Those who opposed apartheid were subjected to various forms of repression. Many organisations and individuals in opposition to the former state were banned and banished,

protest marches were dispersed, freedom of speech was curtailed, and thousands were detained and imprisoned. This gave rise to tremendous frustration and anger amongst the disenfranchised. Soon, each act of repression by the state gave rise to a reciprocal act of resistance. The South African conflict spiralled out of control, resulting in horrific acts of violence and human rights abuses on all sides of the conflict. No section of society escaped these acts and abuses.

■ WHY REPARATION?

2 Victims of

Reference 493 - 0.01% Coverage

Rehabilitation Policy PAGE 192

Education

107 The standard of black education was appalling and this aspect of the legacy of apartheid is likely to be with us for a long time to come. Education is ripe for reform and the possibilities for its transformation are exciting. However, one of the effects of the past is that it has resulted in a strong culture of often pointless conflict around education matters. The desire to learn in a disciplined environment no longer seems to prevail.

Assistance for continuation of studies

Reference 494 - 0.01% Coverage

in its eloquence and sincerity:

I am now more convinced than ever that apartheid was a terrible mistake that blighted our land. South Africans did not listen to the laughing and the crying of each other. I am sorry that I had been so hard of hearing for so long.

10 While some members of

Reference 495 - 0.01% Coverage

absent in the generals' submission.

14 The first submission by the SADF was so insubstantial that the Commission asked for a second, more comprehensive, submission. This too, however, reflected the enormous – perhaps unbridgeable – chasm between the perspectives of those who wielded power in the apartheid era and those who suffered at their hands. Nowhere was this more clearly illustrated than in the opening remarks of General Viljoen's submission on behalf of the SADF at the Commission's armed forces hearing:

The former SADF was politically

Reference 496 - 0.01% Coverage

Findings and Conclusions PAGE 201

30 Similarly, few magistrates responded to the Commission's invitation. The Commission found this stance deplorable given the previous lack of formal independence of magistrates and their dismal record as servants of the apartheid state. Both they and the country lost an opportunity to examine their role in the transition from oppression to democracy.

Amnesty applications
31 Given the

Reference 497 - 0.01% Coverage

form of submission – amnesty applications.

32 In reviewing its efforts to uncover the deeper truth behind the violations of the apartheid era, the Commission frankly acknowledges that much of its success is due to the fact that large numbers of security police members grasped at the possibility of amnesty in exchange for full disclosure. The Commission is not, however, so naïve as to believe that it was this alone that persuaded them to ‘blow the whistle’ on their past actions. The fact is that they would have preferred the cloak of silence. The ironic truth is that what brought them to the Commission was the fullness of the disclosures made by an individual often painted as the archvillain of the apartheid era – Mr Eugene de Kock. Whatever his motives, the Commission acknowledges that it was largely he who broke the code of silence.

33 It is unfortunate, in

Reference 498 - 0.01% Coverage

and misdeeds of the past.

56 The Commission should, for example, have investigated those who administered black municipal and local government structures of the apartheid period. Similarly, educational institutions (in particular universities) and state-funded research bodies such as the Council for Scientific and Industrial Research, the Human Sciences Research Council and the Medical Research Council should have been subjected to the same scrutiny as the business, legal and other sectors.

Its failure to deal with

Reference 499 - 0.01% Coverage

Findings and Conclusions PAGE 207

as being victims of gross violations of human rights. This left little time for proactive investigations into unsolved apartheid-era violations.

60 The Investigation Unit (IU

Reference 500 - 0.01% Coverage

guided by three broad principles:

71 In the first place, as argued in the chapter on The Mandate, the Commission followed the internationally accepted position that apartheid was a crime against humanity. Accordingly, it upheld and endorsed the liberation movements’ argument that they were engaged in a just war. Further, the Commission was also guided by international humanitarian law, and specifically the Geneva Conventions, in its evaluation of the concept of a ‘just war’. Just war does not legitimate the perpetration of gross violations of human rights in pursuit of a just end. Hence the Commission believes that violations committed in the course of a just war should be subjected to the same rigorous scrutiny as violations committed by

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Reference 501 - 0.01% Coverage

Findings and Conclusions PAGE 210

the former state. The Commission's position in this regard is clearly articulated in the chapter on The Mandate. A just cause does not exempt an organisation from pursuing its goals through just means. Moreover, the evidence shows that the perpetration of gross violations of human rights by non-state actors often took place in circumstances where they were acting in opposition to the official state ideology and the policy of apartheid. In this sense, it was the state that generated violent political conflict in the mandate period – either through its own direct action or by eliciting reactions to its policies and strategies.

72 Secondly, the Commission is

Reference 502 - 0.01% Coverage

detention), 'onkonvensionele metodes' (unconventional methods).

90 This rhetoric made no distinction between persons engaged in military operations or acts of terrorism and those who opposed apartheid by lawful or peaceful means. The word 'terrorist' was used constantly, but never defined. Nor was a distinction drawn between activists and those who only supported or associated with them. All were lumped together as one target – a single category of persons to be killed. Whether one carried a gun, or only shared a bed or offered food and shelter to the combatant, seems to have been a matter of indifference to the total strategists. In the opinion of the Commission, the kind of rhetoric employed by politicians and SSC functionaries was reckless, inflammatory and an incitement to unlawful acts.

91 This led to a

Reference 503 - 0.01% Coverage

be engaged in unlawful activities.

98 There was extensive coverage of the deaths of prominent anti-apartheid activists in both the international and local media and, in many instances, strong suspicion was directed at the security forces. Despite this, there was a consistent failure to devote sufficient attention to this information or to heed the protests of persons drawing attention to abuses by the security forces. This is summed up in the words of a former Minister of Law and Order, Mr Leon Wessels, to the effect that 'we did not wish to know'.

99 It is on these

Reference 504 - 0.01% Coverage

during the period 1960–94:

THE COMMISSION ENDORSES THE POSITION IN INTERNATIONAL LAW THAT APARTHEID AS A FORM OF SYSTEMATIC RACIAL DISCRIMINATION AND SEPARATION CONSTITUTED A CRIME AGAINST HUMANITY. WITHIN THIS CONTEXT, THE COMMISSION FINDS THAT:

- THE STATE – IN THE FORM

Reference 505 - 0.01% Coverage

FROM 1974, IN SOUTHERN AFRICA.

- IN THE APPLICATION OF THE POLICY OF APARTHEID, THE STATE IN THE COMMISSION'S MANDATE PERIOD WAS INCREASINGLY AUTHORITARIAN IN NATURE AND INTOLERANT OF DISSENT. THIS WAS MANIFESTED, INTER ALIA, IN A HOST OF LEGISLATIVE MEASURES WHICH SEVERELY ABRIDGED THE PRINCIPLES OF THE RULE OF LAW AND LIMITED THE RIGHT OF THE PEOPLE OF SOUTH AFRICA TO FREE POLITICAL ACTIVITY.
- THE DEVELOPMENT OF AN AUTHORITARIAN

Reference 506 - 0.01% Coverage

CONDUCT INTEGRAL TO THEIR PROFESSIONS.

- IN THE APPLICATION OF THE POLICY OF APARTHEID, THE STATE IN THE PERIOD 1960–90 SOUGHT TO PROTECT THE POWER AND PRIVILEGE OF A RACIAL MINORITY. RACISM THEREFORE CONSTITUTED THE MOTIVATING CORE OF THE SOUTH AFRICAN POLITICAL ORDER, AN ATTITUDE LARGELY ENDORSED BY THE INVESTMENT AND OTHER POLICIES OF SOUTH AFRICA'S MAJOR TRADING PARTNERS IN THIS PERIOD. A CONSEQUENCE OF THIS RACISM WAS THAT WHITE CITIZENS IN GENERAL ADOPTED A DEHUMANISING POSITION TOWARDS BLACK CITIZENS, TO THE POINT WHERE THE RULING ORDER OF THE STATE CEASED TO REGARD THEM AS FELLOW CITIZENS AND LARGELY LABELLED THEM AS 'THE ENEMY'. THIS CREATED A CLIMATE IN WHICH GROSS ATROCITIES COMMITTED AGAINST THEM WERE SEEN AS LEGITIMATE.

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Reference 507 - 0.01% Coverage

documents by the former state

105 Reference has already been made to the extensive destruction of documents by the former state (see Volume One). The following is a summary of the Commission's finding with regard to this issue: THE FORMER GOVERNMENT DELIBERATELY AND SYSTEMATICALLY DESTROYED STATE DOCUMENTATION OVER A NUMBER OF YEARS. THIS PROCESS BEGAN IN 1978, WHEN CLASSIFIED RECORDS WERE ROUTINELY DESTROYED, SUPPOSEDLY IN ORDER TO SAFEGUARD STATE SECURITY. BY THE 1990S THE PROCESS OF DESTRUCTION OF RECORDS AND DOCUMENTS HAD BECOME A CO-ORDINATED ENDEAVOUR, SANCTIONED BY THE CABINET, WITH THE AIM OF DENYING A NEW GOVERNMENT ACCESS TO INCRIMINATING EVIDENCE AND SANITISING THE HISTORY OF THE APARTHEID ERA.

THE DESTRUCTION PROCESS TOOK PLACE

Reference 508 - 0.01% Coverage

Findings and Conclusions PAGE 226

THE MASS DESTRUCTION OF RECORDS OUTLINED ABOVE HAS HAD A SEVERE IMPACT ON SOUTH AFRICA'S SOCIAL MEMORY. VAST AMOUNTS OF OFFICIAL DOCUMENTATION, PARTICULARLY AROUND THE INNER WORKINGS OF THE STATE'S SECURITY APPARATUS, HAVE BEEN OBLITERATED. MOREOVER, THE APPARENT COMPLETE DESTRUCTION OF ALL RECORDS CONFISCATED FROM INDIVIDUALS AND ORGANISATIONS BY THE SECURITY BRANCH OF THE SAP HAS REMOVED FROM SOUTH AFRICA'S HERITAGE A VALUABLE DOCUMENTATION OF EXTRA-PARLIAMENTARY OPPOSITION TO APARTHEID.

THE WORK OF THE COMMISSION

Reference 509 - 0.01% Coverage

OF THE STATE

The homelands

106 As has been stated above, the state was not acting alone in its strategies involving gross human rights violations. It had the active and passive support of numerous other elements in society. One of these was the white electorate which returned the National Party to power in one election after another. Others were the institutional creations of the apartheid system and the political parties that operated largely within these creations. The homeland or bantustan system gave rise to a set of semi-autonomous security and law-enforcement structures and such political groupings as the Inkatha Freedom Party.

107 So-called independent and

Reference 510 - 0.01% Coverage

PRIVILEGES OF THE WHITE MINORITY.

THE ADMINISTRATIONS AND GOVERNMENTS THAT PRESIDED OVER THE VARIOUS HOMELANDS WERE, ACCORDINGLY, A CORNERSTONE OF THE STATE'S POLICY OF APARTHEID IN THAT THEY PURPORTED TO GRANT FULL POLITICAL, SOCIAL AND ECONOMIC RIGHTS TO BLACK CULTURAL AND LINGUISTIC GROUPINGS, BUT ONLY WITHIN DEFINED LIMITED GEOGRAPHIC AND ETHNICALLY EXCLUSIVE ENCLAVES. ECONOMICALLY, THEY REMAINED NON-VIABLE, WHICH LEFT THEM LITTLE CHOICE BUT TO COLLABORATE WITH THE SOUTH AFRICAN STATE ON SECURITY AND RELATED MATTERS, AND FUNCTION AS EXTENSIONS OF THAT STATE AND AS INSTRUMENTS OF ITS SECURITY FORCES. THIS DOES NOT, HOWEVER, EXONERATE THEM OR THEIR LEADERS FROM RESPONSIBILITY FOR THE GROSS VIOLATION OF HUMAN RIGHTS PERPETRATED IN THE HOMELANDS.

HOMELAND GOVERNMENTS IMPLEMENTED SYSTEMS OF

Reference 511 - 0.01% Coverage

latter 1980s through to 1994.

120 The description of the KwaZulu government and the IFP as state allies derives largely from the covert collaboration of senior Inkatha/IFP office-bearers with senior members of the SAP Security Branch and SADF Military Intelligence. This factor distinguished the IFP from other homeland-based perpetrators, particularly in the 1990s. At a time when it portrayed itself nationally and abroad as a liberation movement, the IFP, through the intervention of its senior members, was receiving direct financial and logistical assistance from the highest echelons of the apartheid state's security apparatus. Evidence before the Commission indicates that Inkatha's opposition to the South African government's policies had changed to covert collaboration by the latter half of the 1980s, and the two had united against a common enemy, the UDF/ANC and their affiliates.

121 The formal finding of

Reference 512 - 0.01% Coverage

Findings and Conclusions PAGE 238

131 In reviewing the activities of the ANC and PAC, the Commission endorsed the position in international law that the policy of apartheid was a crime against humanity and that both the ANC and PAC were internationally recognised liberation movements conducting legitimate struggles against the former South African government and its policy of apartheid.

132 Nonetheless, as indicated previously

Reference 513 - 0.01% Coverage

to the Pan Africanist Congress

The enemy of the liberation movement of South Africa and of its people was always the settler colonial regime of South Africa. Reduced to its simplest form, the apartheid regime meant white domination, not leadership, but control and supremacy. The pillars of apartheid protecting white South Africa from the black danger, were the military and the process of arming of the entire white South African society. This militarisation, therefore, of necessity made every white citizen a member of the security establishment. (Brigadier Mofokeng, armed forces hearing)

139 Within the context of the international position on apartheid and the recognition of the PAC as a liberation movement, the Commission makes the following findings:

Violations committed by POQO in

Reference 514 - 0.01% Coverage

rights occurring throughout the society.

153 The Commission also notes that within these sectors, there were pockets of individuals, sometimes organised into formal structures, that did indeed resist apartheid and other injustices, and sometimes paid dearly for their stance. Many of these structures were isolated by the mainstream bodies and were frequently cast as 'fringe' elements. There were not many who chose this path. Had their number been greater, and had they not been so harassed and isolated by both government and the professions, the moral bankruptcy of apartheid would have been more quickly and starkly exposed. To their credit, most representatives of the various civil society sectors who appeared before the Commission acknowledged their omissions and failures and apologised for them.

154 The following are the

Reference 515 - 0.01% Coverage

Findings and Conclusions PAGE 250

PROFESSIONAL MEDICAL BODIES AND ASSOCIATED STRUCTURES FAILED TO FULFIL THEIR PROFESSIONAL DUTY AND STATED AIM OF PROTECTING THE HEALTH OF PATIENTS, BY NEGLECTING TO DRAW ATTENTION, AMONGST OTHER THINGS, TO THE EFFECTS OF THE SOCIOECONOMIC CONSEQUENCES OF APARTHEID ON THE HEALTH OF BLACK SOUTH AFRICANS.

SEGREGATED HEALTH CARE AND UNEQUAL

Reference 516 - 0.01% Coverage

CONFRONT THIS PROBLEM.

Faith communities

THE COMMISSION FINDS THAT CHRISTIANITY, AS THE DOMINANT RELIGION IN SOUTH AFRICA, PROMOTED THE IDEOLOGY OF APARTHEID IN A RANGE OF DIFFERENT WAYS THAT INCLUDED BIBLICAL AND THEOLOGICAL TEACHING IN SUPPORT OF APARTHEID; ECCLESIASTICAL APARTHEID BY APPOINTING MINISTERS TO CONGREGATIONS BASED ON RACE, AND THE PAYMENT OF UNEQUAL STIPENDS; A FAILURE TO SUPPORT DISSIDENT CLERGY WHO FOUND THEMSELVES IN CONFRONTATION WITH THE STATE; AND A FAILURE TO PROVIDE ECONOMIC SUPPORT TO THOSE MOST SEVERELY AFFECTED BY APARTHEID.

THE FAILURE OF RELIGIOUS COMMUNITIES TO GIVE ADEQUATE EXPRESSION TO THE ETHICAL TEACHING OF THEIR RESPECTIVE TRADITIONS, ALL OF WHICH STAND IN DIRECT CONTRADICTION TO APARTHEID, CONTRIBUTED TO A CLIMATE WITHIN WHICH APARTHEID WAS ABLE TO SURVIVE. THE FAILURE OF THE CHURCHES IN THIS REGARD CONTRIBUTED TO THE PERPETUATION OF THE MYTH, PREVALENT IN CERTAIN CIRCLES, THAT APARTHEID WAS BOTH A MORAL AND CHRISTIAN INITIATIVE IN A HOSTILE AND UNGODLY WORLD.

VOLUME 5 CHAPTER 6 Findings

Reference 517 - 0.01% Coverage

THIS REGARD.

The business sector

156 Business was central to the economy that sustained the South African state during the apartheid years. Certain businesses, especially the mining industry, were involved in helping to design and implement apartheid policies; the white agriculture industry benefited from its privileged access to land. Other businesses benefited from co-operating with the security structures of the former state. Most businesses benefited from operating in a racially structured context. THE COMMISSION FINDS THAT:

THE DENIAL OF TRADE UNION

Reference 518 - 0.01% Coverage

GROSS VIOLATIONS OF HUMAN RIGHTS.

THE BUSINESS SECTOR FAILED, IN THE HEARINGS, TO TAKE RESPONSIBILITY FOR ITS INVOLVEMENT IN STATE SECURITY INITIATIVES, INCLUDING THOSE ASSOCIATED WITH THE NATIONAL SECURITY MANAGEMENT SYSTEM, SPECIFICALLY DESIGNED TO SUSTAIN APARTHEID RULE. SEVERAL BUSINESSES, IN TURN, BENEFITED DIRECTLY FROM THEIR INVOLVEMENT IN THE COMPLEX WEB THAT CONSTITUTED THE MILITARY INDUSTRY.

The media

157 State restrictions

Reference 519 - 0.01% Coverage

violations.

THE COMMISSION FINDS THAT:

THE MANAGEMENT OF THE MAINSTREAM ENGLISH LANGUAGE MEDIA OFTEN ADOPTED A POLICY OF APPEASEMENT TOWARDS THE STATE, ENSURING A LARGE MEASURE OF SELF-CENSORSHIP. THE ROLE OF

THE NEWSPAPER PRESS UNION – NOT LEAST CONCERNING SECURITY MEASURES – REFLECTS A WILLINGNESS BY THE MAINSTREAM MEDIA NOT TO DEAL WITH MATTERS THAT EXPOSED THE ACTIVITIES OF THE SECURITY FORCES. THE AFRIKAANS MEDIA, WITH RARE EXCEPTIONS, CHOSE TO PROVIDE DIRECT SUPPORT FOR APARTHEID AND THE ACTIVITIES OF THE SECURITY FORCES, MANY OF WHICH LED DIRECTLY TO GROSS VIOLATIONS OF HUMAN RIGHTS.

THE RACISM THAT PERVADED MOST

Reference 520 - 0.01% Coverage

THE MEDIA INDUSTRY. The judiciary

158 The longevity of apartheid was in part due to the superficial adherence to the 'rule by law' by the National Party, whose leaders sought and relied on the aura of legitimacy which 'the law' bestowed on unjust apartheid rule. During the period 1960 to 1990, the judiciary and the magistracy and the organised legal profession collaborated, largely by omission, silence and inaction, in the legislative and executive pursuit of injustice. Furthermore there are examples where they and the legal profession actively contributed to the entrenchment and defence of apartheid through the courts. Examples of such acts include:

a Adherence to race-based

Reference 521 - 0.01% Coverage

injuries and deaths in detention.

c Failure to take effective measures to make justice accessible to those who could not afford it and those who were involved in anti-apartheid activities, for fear

VOLUME 5 CHAPTER 6 Findings

Reference 522 - 0.01% Coverage

Findings and Conclusions PAGE 253

of social ostracism or loss of lucrative commercial clients. This is contrasted by the willingness of advocates and attorneys to appear for the government in civil actions where some of the basic building blocks of apartheid, such as racial classification or influx control or group areas, were being attacked as the unreasonable and invalid exercise of executive discretion. Similarly, organised professional bodies were frequently obsequious in their attitudes to government policies, striking off and hounding those of their members who fell foul of the political system, or who chose to confront it.

d The participation of judges

Reference 523 - 0.01% Coverage

OF ITS POLICIES MORE DEVASTATINGLY.

THE COMMISSION FINDS THAT BOTH THE JUDICIARY AND THE MAGISTRACY AS WELL AS THE ORGANISED LEGAL PROFESSION WERE LOCKED INTO AN OVERWHELMINGLY PASSIVE MINDSET WHICH CHARACTERISED THE JUDGEMENTS OF THE BENCH IN THE FACE OF INJUSTICES OF APARTHEID, AND THE REACTION OF THE PROFESSIONS TO SUCH INJUSTICES.

■ FURTHER FINDINGS Children and youth

Reference 524 - 0.01% Coverage

SOUTH AFRICA AND SOUTHERN AFRICA.

THE POLICY OF APARTHEID RESULTED IN THE DELIVERY OF INFERIOR, INADEQUATE EDUCATION TO BLACK CHILDREN AND DEPRIVED THEM OF THE RIGHT TO DEVELOP IN MIND AND BODY. THIS DEPRIVATION CONSTITUTES A VIOLATION OF HUMAN RIGHTS.

THE BANNING BY THE GOVERNMENT

Reference 525 - 0.01% Coverage

TO SERVE IN THE SADF.

THROUGH THE POLICY OF CONSCRIPTION, THE STATE AND THE SADF USED YOUNG MEN TO ASSIST, IMPLEMENT AND DEFEND THE POLICY OF APARTHEID, TO MAINTAIN THE ILLEGAL OCCUPATION OF NAMIBIA AND TO WAGE WAR AGAINST NEIGHBOURING COUNTRIES.

THE STATE'S VILIFICATION OF CONSCRIPTS

Reference 526 - 0.01% Coverage

RIGHTS COULD TAKE PLACE.

■ CONCLUSION

162 The findings outlined above, to a greater or lesser extent, touch all the major role-players who were party to the conflict that enveloped South Africa during its mandate period. No major role-player emerges unscathed although, as already stated, a distinction must be made between those who fought for and those who fought against apartheid. There are many who will reject these findings and argue that they fail to understand the complexities and historical realities of the time, and of the motives and perspectives of those who perpetrated gross violations of human rights. In this regard it needs to be firmly stated that, while the Commission has attempted to convey some of these complexities and has grappled with the motives and perspectives of perpetrators in other sections of this report, it is not the Commission's task to write the history of this country. Rather, it is the Commission's function to expose the violations of all parties in an attempt to lay the basis for a culture in which human rights are respected and not violated.

163 It should also be

Reference 527 - 0.01% Coverage

perpetrators – at times as both.

165 The primary task of the Commission was to address the moral, political and legal consequences of the apartheid years. The socio-economic implications are left to other structures – the Land Commission, the Gender Commission, the Youth Commission and a range of reform processes in education, social welfare, health care, housing and job creation. Ultimately, however, because the work of the Commission includes reconciliation, it needs to unleash a process that contributes to economic developments that redress past wrongs as a basis for promoting lasting reconciliation. This requires all those who benefited from apartheid, not only those whom the Act defines as perpetrators, to commit themselves to the reconciliation process.

VOLUME 5 CHAPTER 6 Findings

Reference 528 - 0.01% Coverage

a possibility of civilian casualties.

Where there were civilian casualties these were never at any stage intended to be targets, but were rather caught in the crossfire. To the extent that there were civilian casualties, I express my deep regret to those who experienced pain and suffering. The apartheid state left us no choice but to take up arms.

13 These rational and calculated

Reference 529 - 0.01% Coverage

on grounds of numerous murders:

4 E de Kock, A long night's damage: working for the apartheid state. Saxonwold: Contra Press, 1998, p. 227.

VOLUME 5 CHAPTER 7 Causes, Motives and Perspectives of Perpetrators

PAGE 264

Mr Wills: Now

Reference 530 - 0.01% Coverage

the part of youthful activists.

In this context, many activists interpreted statements by the UDF and its allies making reference to the breaking down of apartheid to mean that this should be done by means of violence.

VOLUME 5 CHAPTER 7 Causes

Reference 531 - 0.01% Coverage

things get out of hand.

History has subsequently shown that, as far as the policy of apartheid was concerned, they were deeply mistaken.

None of these unconventional projects

Reference 532 - 0.01% Coverage

Perspectives of Perpetrators PAGE 274

The primary cancer ... will always be the apartheid oppression, but the secondary infection has touched many of apartheid's opponents and eroded their knowledge of good and evil.

57 The phenomenon whereby the

Reference 533 - 0.01% Coverage

atmosphere.

Contexts of political motives

66 What were the political motives? While apartheid, rooted in colonialism, may be the primary context for the struggle, two other, wider, contexts combined to produce the particularly volatile mix in South Africa.

The cold war context

67

Reference 534 - 0.01% Coverage

in making the country ungovernable.

70 While both the ANC and the PAC made it clear in their political submissions that their primary motives were in response to the apartheid regime, it is also clear in their joint campaign and their alliance with others in the front-line states, together with their involvement in organisations such as the Non-Aligned Movement and the Organisation for African Unity, that the local struggle was part of the wider anti-colonial movement in Africa. The PAC submission stated:

When the Organisation of African

Reference 535 - 0.01% Coverage

our compatriots in South Africa.

The apartheid context

75 The third and most direct political context was the NP policy of apartheid, long rooted in colonialism and segregation, but increasingly from 1948 – and particularly after the banning of the PAC and the ANC in 1960 – involving a direct struggle between oppressed and oppressor: an armed conflict which gradually intensified over the subsequent years. Here of course the political perspectives differed widely. For the PAC the conflict was:

A national liberation struggle against

Reference 536 - 0.01% Coverage

rightful owners – the African majority.

76 For the ANC, apartheid was, quite starkly: "a crime against humanity".

77 By contrast, for supporters

Reference 537 - 0.01% Coverage

submission puts a different argument:

Apartheid oppression and repression was therefore not an aberration of a wellintentioned undertaking that went horribly wrong. Neither was it, as we were told later, an attempt to stave off the 'evil of communism'. Its ideological underpinnings and the programmes set in motion constituted a deliberate and systematic mission of a ruling clique that saw itself the champion of a 'super-race'. In order to maintain and reproduce a political and social order which is premised upon large-scale denial of human rights, far reaching and vicious criminal, security and penal codes were necessary ... the system increasingly relied upon intimidation, coercion and violence to curb and eliminate the opposition that apartheid inevitably engendered.

83 Racism, as a central ideological ingredient at the core of the political struggle, was unfortunately underplayed in the NP submission. Racism as an ideology, a means of domination and oppression, provided

the central grounds for the systematic exclusion, segregation and denigration of the black majority. Racism is a systematic ideological doctrine which creates the 'other' as essentially different. In South Africa this was the rhetorical basis for apartheid and 'separate development': blacks required development, but at their own, slower and different pace, since (as the argument went) they were essentially different from the more civilised, developed people of European origins. Not only politicians but also leading academics, scientists, theologians and churches such as the Dutch Reformed Church (DRC) provided constant fuel to bolster such ideological positions. Racism, it hardly bears reminding, also served to distance and to dehumanise the black 'other', a process which opened the way for violence. In the practice of torture, for instance, black people were more severely brutalised in the main than white people.

84 These three political frameworks, the cold war, anti-colonialism and the racist and oppressive apartheid regime, ideologically fuelled by Christian-Nationalism and increasing militarism, provided the arguments and justifications, the passions and the furies for the eventual commission of dreadful deeds. If political frameworks provide the fuel for atrocities, they must also form the focus of primary attention for future prevention. Political contexts do not, however, provide the full set of explanations.

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from reports to the Commission:

I'd say that Apartheid turned me from being a human being into a white man, and so for me the motivation of joining the struggle against Apartheid was to seek to recover my own humanity I'd been robbed of by Apartheid ... under Apartheid I found it impossible to be a neighbour to a person of a different colour ... I was locked into the relationship of oppressors and oppressed. (Father Michael Lapsley, victim of a parcel bomb.)

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Reference 539 - 0.01% Coverage

the murder of Amy Biehl.)

... the Lord wished separate peoples to maintain their separateness (Apartheid) ... respect for the principles of Apartheid had God's blessing. (DRC's submission to the Commission.)

109 While racial and ethnic identities (which also promoted division among black people) were made particularly salient as a systematic part of apartheid and ChristianNational ideology, these were not the only pertinent identities. Religious identities, for instance, became intertwined with the military defence of apartheid:

Through the idea of the

Reference 540 - 0.01% Coverage

normal morality does not apply.

123 Although the top political structures of the apartheid government repeatedly denied giving orders, as in the words of former Minister Vlok, "I never gained the impression anybody proposed an instruction or issued an instruction with such a sinister objective", it is also quite clear that in the minds of operatives such as Colonel Eugene de Kock, they were acting under orders. There seems to be ample evidence of such orders in De Kock's recent book. It is also clear from De Kock's account that all these factors implicated in

crimes of obedience – that is, authorisation, routinisation, and dehumanisation – systematically became part of the security force culture.

Language and ideology

124 It

Reference 541 - 0.01% Coverage

Perspectives of Perpetrators

PAGE 294

125 Apartheid discourse constructed socialised categories, enshrined in the language of laws, which forged differences and distance between groups. As the spiral of conflict escalated and the ANC and PAC turned to armed struggle in the 1960s, so the language of the apartheid security apparatus broadened. From the late 1970s onwards, the language of 'total onslaught and total strategy' enmeshed people increasingly in a discourse of militarism, side-taking and construction of 'enemies'. From the side of the liberation movements, the apartheid regime was similarly constructed as the 'enemy'. A spiral of discourses increasingly dehumanised the 'other', creating the conditions for violence.

126 Language calls people up

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Perspectives of Perpetrators PAGE 296

respect, the ideologies of racism, patriarchy, religions, capitalism, apartheid and militarism all intertwined to 'manufacture' people capable of violence. Ideologies in these sorts of combinations provide the means and grounds for people to act violently and yet, ironically, believe they are acting in terms of worthy, noble and morally righteous principles. Thus some Afrikaner nationalists could claim a 'just war' not against black people, but against Communism. There are examples of such rhetoric above. On the other side, with greater legitimacy, the liberation movements could justify violence as a means to a greater end, 'freedom and democracy'. Although that has indeed been the result, the language and slogans deployed could nonetheless justify atrocities of various forms.

132 In this sense, the

Reference 543 - 0.01% Coverage

important avenue for future research.

Secrecy and silence 138 Secrecy was particularly characteristic of apartheid rule. The massive curtailment
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it worked in those days.

142 How to describe the motives of torturers? From testimony to the Commission it is clear that most, deeply informed by the ideologies and discourses of apartheid, total onslaught rhetoric, and the masculine and militarised culture of the Security Branch, believed that they were doing their duty. Clearly they perceived themselves as authorised from above. Such people were praised, promoted and received awards

for such activities (Eugene de Kock was, for instance, repeatedly decorated). Compliance with the norms of police culture constituted additional binding practices. Egotism and pride in doing the task added positive emotions. Only a minority would have been 'true believers' and only a minority would have learned to become sadists – experiencing joy out of hurting; more would have enjoyed the sense of power in such situations. It was not a job done unwillingly.

143 The perspective of torturers

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Perpetrators PAGE 300

Crowd violence

144 This constituted a very different situation. In the majority of cases of 'necklace' murders, for instance, victims were members of the same community. Events were fast-paced, apparently emotionally charged and relatively spontaneous. No legal apparatus, bureaucracy and hierarchical authorisation was involved. Perpetrators were, in the main, young men, aligned to liberation movements and linked to youth organisations, bearing the social identities of 'comrades'. Targets of attack were repeatedly people seen as linked to the apartheid system (councillors or their families, police, sell-outs) and invariably rumoured to be, or identified – whether justifiably or not – as impimpis (informers).

145 The dominant explanation of such atrocities is that of the 'crazed mob'; of people who are out of control, irrational, over-emotional; in the formal nomenclature of psychology, in a state of deindividuation. Violence is apparently due to a loss, a lack, a reduction or regression to more 'primitive' forms of behaviour. There is however an alternative picture of crowds: the sequence of action was far more patterned, directed and limited than usually depicted. Crowd violence was invariably preceded by a series of violent incidents, mostly at the hands of security forces and often leading to the deaths of community members. Crowd violence was directed only at particular targets: people believed to be impimpis, or places symbolic of apartheid oppression – beer halls, local council buildings, police vehicles. It was not simply random violence.

146 A better explanation comes from social identity theory. While there certainly is a switch that makes people see, think and act in a manner quite different from that of an isolated individual, it is a shift from personal to social identity rather than from individual rationality to a loss of identity or control. Crowd violence is an instance of inter-group action in which particular, local identities (for example, 'comrades' versus 'sell-outs') become salient. People act violently not because they are out of their minds, but because they are acting in terms of a social frame of reference. Emotions ran high because the struggle against apartheid was seen in strongly emotional terms of taking sides against the 'enemy' or against the 'system' of oppression. Lives, quite literally, were on the line. Within such situations, perpetrators became bound and 'sucked in' by the sequences and meanings of the particular events, but it is the salience of local identities, on different sides, that structure the situation. Again it is not psychological dysfunctions that account for the actions. Social explanations are both more plausible and more coherent. Implications are that with changed circumstances, perpetrators are not likely to commit such offences again.

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Reference 546 - 0.01% Coverage

AND DISPOSSESSED IN SOUTH AFRICA.

FURTHER, THE COMMISSION RECOMMENDS THAT A SCHEME BE PUT INTO PLACE TO ENABLE THOSE WHO BENEFITED FROM APARTHEID POLICIES TO CONTRIBUTE TOWARDS THE ALLEVIATION OF POVERTY. IN SUBMISSIONS MADE TO THE COMMISSION, A WEALTH TAX WAS PROPOSED. THE COMMISSION DOES

NOT, HOWEVER, SEEK TO PRESCRIBE ONE OR OTHER STRATEGY, BUT RECOMMENDS THAT URGENT CONSIDERATION BE GIVEN BY GOVERNMENT TO HARNESSING ALL AVAILABLE RESOURCES IN THE WAR AGAINST POVERTY.

RECOGNISING THAT RACISM UNDERLIES MANY

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AVAILABLE TO THE LANDLESS POOR.

WHERE RELIGIOUS COMMUNITIES HAVE ACQUIRED LAND AS A RESULT OF APARTHEID LEGISLATION, THIS LAND BE RETURNED TO ITS RIGHTFUL OWNERS.

RELIGIOUS COMMUNITIES CONSIDER CREATING A

Reference 548 - 0.01% Coverage

COULD TO BE GIVEN TO:

- THE ROLE OF WHITES AS THE BENEFICIARIES OF APARTHEID, WITH REGARD TO RECONSTRUCTION AND RECONCILIATION;
- THE EMPOWERMENT OF BLACK PEOPLE

Reference 549 - 0.01% Coverage

play in this regard.

Restitution

39 The Commission recommends that: CONSIDERATION BE GIVEN TO THE MOST APPROPRIATE WAYS IN WHICH TO PROVIDE RESTITUTION FOR THOSE WHO HAVE SUFFERED FROM THE EFFECTS OF APARTHEID DISCRIMINATION, FOR EXAMPLE AS A RESULT OF RACISM, GENDER DISCRIMINATION, JOB RESERVATION, GROUP AREAS LEGISLATION, THE EFFECTS OF THE MIGRANT LABOUR SYSTEM, INFERIOR WAGES AND INADEQUATE OR NON-EXISTENT SOCIAL BENEFITS.

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WELL AS RECONSTRUCTION AND DEVELOPMENT.

THE MINISTER OF FINANCE INVESTIGATE THE VIABILITY OF THE SASRIA FUND (CONTRIBUTED TO BY BUSINESS AS A SAFEGUARD AGAINST MATERIAL LOSS DURING THE LATTER PART OF THE APARTHEID YEARS) BEING USED AS A POSSIBLE SOURCE OF FUNDS FOR REPARATION, RECONSTRUCTION AND DEVELOPMENT.

Land

40 The Commission recommends

Reference 551 - 0.01% Coverage

41 The Commission recommends that:

A "BUSINESS RECONCILIATION FUND" BE ESTABLISHED. THE TRUSTEES OF THIS FUND WOULD BE REQUIRED TO GENERATE RESOURCES TO BE USED, ON A TARGETED BASIS, TO INITIATE, SUPPLEMENT OR COMPLEMENT OTHER DEVELOPMENT OPTIONS. BASED ON CRITERIA RELATED TO SPECIFIC EPISODES OF PAST SUFFERING OR THE PARTICULARLY HARMFUL EFFECTS OF APARTHEID, THE FUND COULD PROVIDE NON-REPAYABLE GRANTS, LOANS AND/OR GUARANTEES TO BUSINESS-RELATED FUNDING FOR BLACK SMALL ENTREPRENEURS IN NEED OF EITHER SPECIFIC TRAINING SKILLS OR CAPITAL FOR THE LAUNCHING OF A BUSINESS. THE FUND SHOULD NOT SEEK TO REPLACE OR COMPETE WITH EXISTING SCHEMES OF A SIMILAR NATURE,

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IN THE EMPLOYMENT EQUITY ACT.

Other socio-economic legacies of apartheid

44 Limitations imposed by the

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ARCHIVES AND THE APPROPRIATE MINISTRIES.

THE SECURITY ESTABLISHMENT MAKE EVERY ATTEMPT TO LOCATE AND RETRIEVE DOCUMENTS REMOVED WITHOUT AUTHORISATION BY OPERATIVES OF APARTHEID SECURITY STRUCTURES.

THE NATIONAL ARCHIVES BE ENABLED

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Foreign Affairs.

■ THE LIBERATION MOVEMENTS

109 The Commission notes that, while the liberation movements were motivated by a just cause in the struggle against apartheid, they nevertheless committed gross violations of human rights both inside and outside of the country.

110 The Commission notes further

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AND APPRECIATION OF THEIR SOLIDARITY.

Prosecutions for apartheid as a crime against humanity

114 The definition of apartheid as a crime against humanity has given rise to a concern that persons who are seen to have been responsible for apartheid policies and practices might become liable to international prosecutions. The Commission believes that international recognition should be given to the fact that the Promotion of National Unity and Reconciliation Act, and the processes of this Commission itself, have sought to deal appropriately with the matter of responsibility for such policies.

■ CONCLUSION

115 This chapter concludes

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rebuilding of relationships was initiated.

4 This chapter underlines the vital importance of the multi-layered healing of human relationships in post-apartheid South Africa: relationships of individuals with

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themselves; relationships between victims; relationships between survivors and perpetrators; relationships within families, between neighbours and within and between communities; relationships within different institutions, between different generations, between racial and ethnic groups, between workers and management and, above all, between the beneficiaries of apartheid and those who have been disadvantaged by it. After a visit to Rwanda, Archbishop Tutu said: We must break the spiral of reprisal and counter-reprisal... I said to them in Kigali "unless you move beyond justice in the form of a tribunal, there is no hope for Rwanda". Confession, forgiveness and reconciliation in the lives of nations are not just airy-fairy religious and spiritual things, nebulous and unrealistic. They are the stuff of practical politics.

■ TOWARDS THE RESTORATION OF HUMAN

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23 July 1997, he said:

The [Commission] has deeply affected my life in a short space of time that has elapsed since I first came to their offices here in Cape Town and told my story to one of the investigators. It has begun a healing process in all sorts of relationships in my family and has enabled me to begin on my own road to inner healing. Having gone to the [Commission] with my story, it is almost as if it is all right to talk about it now. Slowly things are changing. As if I've been freed from a prison in which I have been for eighteen years. It is also as if my family has been freed. My brother, who worked for Armscor [manufacturing military equipment for the apartheid state] for five or six years in the 1980s, is all of a sudden much softer, more human and more able to talk to me ... It is almost as if the silence is ending, as if we are waking up from a long bad nightmare.

13 Storytelling activities, inspired by

Reference 559 - 0.01% Coverage

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14 In June 1997, at the workshop that followed the human rights violation hearing in Sebokeng, Mr Duma Khumalo, representing Khulumani, expressed his appreciation of the Commission's contribution: We, as the Khulumani Support Group, the group that is mainly composed of victims based in the Vaal Triangle, would like to thank the Centre for Study of Violence for having considered the people of Vaal and, in that sense, having helped us to form this group that is existing today with a membership of more than 200 victims. I should say the Khulumani Support Group is very much aware of the objective of the [Commission], which is to promote healing, reconciliation and rehabilitation. We needed to consider the fear that was within the people in the Vaal Triangle of coming forward to tell of their experiences concerning the events and the

incidents of the apartheid era. The [Commission] helped many of our people to break the shells of their griefs and fear that they had lived with in the past many years. It's the intervention of the [Commission] that brought about the dignity of the people that was lost during the political era in our country. People had no one to listen to their griefs or pay attention to some of those griefs until the establishment of [Commission] came into being. Then many of the victims came forward and started, for the first time, to talk about their past griefs... [edited]

15 The diversity of individual

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that you can salute them.

23 Mr Richard Steele, a conscientious objector during the apartheid era, confirmed the healing power of decriminalisation at the special hearing on compulsory military service in Cape Town:

On the 25th of February 1980, I was sentenced by a military court in Pretoria to twelve months in military prison for refusing to be conscripted into the SADF. Although that day was scary because I knew that by nightfall I would be in prison, it was also one of the most powerful days in my life. On that day, I publicly and practically said 'no' to the whole system of apartheid and military conscription, both of which were anathema to my principles.

I can say that today

Reference 561 - 0.01% Coverage

based on truth and reconciliation.

24 Thus on many occasions, the Commission was able to help restore the dignity of victims and their loved ones by respectfully acknowledging their contribution to the struggle against apartheid. Archbishop Tutu's response to testimony by family members of the 'Cradock Four' at the East London hearing provides an example of this:

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the St James Church massacre:

Coming from the apartheid era at my age, forty-three, I was never a supporter – an active supporter – of apartheid. But it's something that you grew up with, and things changed quite fast in the last couple of years. All of a sudden you start hearing from the blacks how they've been ill-treated, exploited, all kinds of words, and all of a sudden you start seeing the bad side of it, and I think the media ran away with it. I think the media, from the one extreme, they went to the other extreme where we were hearing this on a constant basis. At first, it was an eye-opener to hear of it then, after a while, my feeling was, gee! when are they going to stop moaning? We're just hearing the same type of thing all the time. It's just sort of the names [that] change, but it's the same thing all the time and was it really that bad? You know, coming from a background where everything was fine for all these years, now all of a sudden the picture [is] changing, that the police were the 'baddies'.

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Reference 563 - 0.01% Coverage

Commission, Ms de Ridder said⁵:

Central to most of these testimonies [by ex-conscripts] is the notion that the present has destroyed the foundations of 'meaning' these conscripts adopted to cope with their traumatic experiences. It is easier to cope with having killed someone you believe to be the sub-human agent of forces that wish to destroy everything you hold dear than it is to cope with having killed a normal man, woman or child that history happened to cast as 'your enemy'. This crisis is greatly intensified when it is revealed to you that the person you have killed is a 'hero' or 'freedom fighter' or 'innocent civilian' – which the South African transformation correctly described him or her to have been. Most of these conscripts have, up until now, silently considered themselves victims (of neglect and manipulation) but are now publicly portrayed as perpetrators (of apartheid military objectives or even of gross human rights violations)... The Truth Commission has helped break the silence of past suffering, atrocities and abuses. In so doing, it has both released some traumatised ex-conscripts from the prison of silence and trapped them in the role of perpetrators of apartheid. For some, the contradictions of their experience might prove intolerable; for others, the process of revealing the truth about the past might allow them to confront and deal with their experiences.

⁵ See also report on

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evidence came as a shock.

28 The testimony of Ms Beatrice Sethwale on the death of her son, a black police officer, also drew attention to the difficult challenge of reconciliation within black communities: between those who fought against the apartheid system and those who were seen as 'collaborators' because they participated in state structures (black councillors) or helped to enforce the apartheid system (black police, 'kitskonstabels' 6). At the human rights violation hearing in Upington, Ms Sethwale said: On the 13th November 1985, it was a Wednesday morning. My son was driven out of the house by a crowd of people who were stoning the house. We were in the house, 405 Philani Street. He was driven out of the house, and shortly afterwards, he was killed and burnt. Briefly, what I would like to say is that the effect of my son's death has been great. I have been scarred by my son's death. Shortly afterwards, I had to remove my children from Upington, and I had to enrol them at schools elsewhere. In 1986 December, I went back to my home, and I tried to pick up the pieces of my life again. Thereafter, I had to hear from the people in the Paballelo community that I had shopped my son to the police, that I had betrayed him to the police and that I had been paid for doing so – that I had been paid for my child's murder.

I went through a great

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said she had done, she had not done. She was innocent. Maybe they will realise later on that they were making a mistake. That is when Maki decided to stay at home and not hide... We knew that Maki was an innocent victim, and today it has come to the surface. Mamasela [former security police agent/askari⁷] has also spoken that he was involved in giving the youths hand grenades. Now it has surfaced that Maki also took part, and she was also politically active. I also spoke to some of the survivors of the hand grenade, and they told me that they never, ever had Maki in their meetings, and Maki did not know of their plans on that particular day. There was absolutely nothing that she knew, and they were also surprised as to why Maki

was killed. Now, this is a very painful situation because there were a lot of rumours flowing around, they branded us a family of informers... We were hearing rumours that informers have a lot of money, but Maki did not have any. There is quite a number of rumours as well as lies that were disseminated with regard to my sister. They said that the Government had bought us the coffin. We collected our own money in order to conduct the funeral. The Government did not help us in any way... after Maki's funeral there were also rumours that were circulating that they had killed the wrong person... Chairperson: Puleng Moloko and the family, we would like you to note that the death of Maki was a national shame. South Africa was looked upon internationally, more especially those who were fighting against apartheid, as beasts, as carnivores and that the family managed to stand by Maki even at a time when everybody was saying, away with that family. We salute you... Maki and the family have emerged, after all these disclosures, as heroes. I would say this hearing and this hall have witnessed, who have witnessed this testimony, are witnesses of how noble Maki was, and I will, without shame, request this house to stand and observe a moment of silence. Can we all rise. Thank you.

Exhumation and reburial

30 Victims

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41 Mr Nundlal Rabilall gave testimony on the death of his brother, Krish, who died in Mozambique in the 1981 Matola cross-border raid. At the East London human rights violations hearing, he said: This had a traumatic effect on the entire family. I will briefly relate the effect it had on me, because it symbolises what – the same kind of effect it had on other members of the family. I became bitter towards white people, and the fact that the majority of them voted for the National Party election after election. I could never understand how they could sleep with an easy conscience at night, knowing that black children were dying in the homelands, when black people were given the most menial jobs, and that the Government they voted for used every conceivable kind of dirty trick and brutality to suppress the legitimate resistance of black people against the oppression of apartheid. In short, I became anti-white, and this attitude was reinforced by an incident I also had when I was travelling in a train to Durban. I had accidentally walked into a white compartment, and the white conductor came and swore at me, called me a 'coolie', and told me as soon as the train stops at the next station I must get into the next coach, which I had to do.

I taught at an all-Indian school and had no white friends. I became ecstatic whenever a black boxer knocked a white boxer down, or when the South African rugby team lost its rebel tour matches. This anti-white obsession grew, and I would dream about burning down white businesses and farms, but it was sheer fear that prevented me from doing these things. I then began to fantasise and, while this may seem laughable, I sincerely prayed to God to make me invisible for just one day so that I could do the things I dreamed of, and when God did not comply, I reduced the time to one hour, and in that one hour I was determined to go to Parliament and shoot every one cabinet minister. As time passed, however, I realised that this would negate everything that my brother stood for, his ideal of a non-racial, non-sexist, democratic South Africa. I grew to realise that hate is a boomerang that circles back and hurts you. The turning point came when I read in Martin Luther King's book called Strength to Love – now, I cannot remember the exact words used in the book, but it goes something like this: "Hate for hate multiplies hate. Darkness cannot destroy darkness, only light can do that. Hate cannot destroy hate, only love can do that." I also started reading books on Mahatma Gandhi... So, I changed my philosophy of life. I realised that I could not hate white people. It dawned on me that most white people were to a large extent by-products of apartheid, just as much as the freedom fighters were. I learned also that

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there were many white people who sincerely hated the obnoxious system of apartheid, and that some of them had lost their lives fighting it. I admired people like Rick Turner, Neil Aggett, Joe Slovo and Beyers Naudé. I also realised that I wasn't being true to my religion if I hated somebody. Knowing the power of vengeful thoughts, Mahatma Gandhi had said, "Fight without malice". This meant a great deal to me. We have the right to fight injustice without hating the personalities or circumstances involved and, to taste the sweetness of life, one must have the power to forget the past.

42 Mr Johan (Hennie) Smit

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one, or where we find them coming to a mass funeral saying that these white people were on strike, and we shot them or killed them. Even today, they still do that, they fight for their rights but they are not teargassed or killed. Things like that we can find out that there was this apartheid system working within the black community. We were taken as dogs, baboons and all such things. These dogs and baboons which work for them, which bath their children, cook for their children, however, they are still content to kill them.

■ APOLOGIES AND ACKNOWLEDGEMENTS

49 The

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to listen to your pain.

55 A spokesperson for the Stellenbosch Presbytery of the Dutch Reformed Church made the following statement at the human rights violations hearing in Paarl: [We] are not doing this presentation on behalf of the Dutch Reformed Church – only the Synod has this right to do this. But what we are doing here this afternoon is the deepest conviction of the Presbytery of Stellenbosch ... In looking back, we realise that there have been times in the history of Stellenbosch when we as a Presbytery (and also as separate congregations) either failed wholesale or made only the most timid of efforts to fulfil the prophetic responsibility the Lord has given us. We think especially of the past forty years during which the official policy of apartheid radically impaired the human dignity of people all around us and resulted in gross violations of human rights. Within the borders of our Presbytery, there were those who actively developed and defended the ideological framework by which these violations and actions were justified. At times, standpoints and decisions taken within this Presbytery itself functioned within this ideological framework.

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There were voices among our own ranks and within our church that condemned apartheid and sought to call our church to its senses and who witnessed against injustice within society. However, the testimony and the protest of many of these people were, time and again, suppressed or ignored, also from within our own ranks. Others were maligned and some were even personally wronged... Various factors contributed to this lack of a strong, unified witness from within our Presbytery. The nationalist ideology deeply influenced the way in which local Christians thought and read the Bible. This made us insensitive to the injustice and suffering inflicted by the policy of apartheid on those living around us. Other factors which aggravated the situation were the privileged position occupied by most members of our church and the fact that apartheid increasingly isolated people from each other's lives and experiences. As a result of the growing ecumenical isolation and the lack of meaningful church unity, we became deaf to the protest and the cries for help by many of our brothers and sisters in faith. Many church members and church ministers therefore often uncritically accepted that, because many of them were also members of our church, political leaders could be trusted to do what is right. This further reinforced the widespread belief that apartheid or separate development was truly in the best interest of all groups in the country. Misinformation and a lack of exposure to other people's suffering are other factors that contributed to this omission. We cannot and do not want to deny that behind such factors there often was a large measure of selfishness and an unwillingness to listen sincerely to God's word and to fellow Christians. The result has been that we in Stellenbosch did not speak out enough against injustice in our society: did not speak out enough against racist attitudes among our church members; did not speak out enough against the violation of people's rights and human dignity. During the Soweto riots of 1976 and the countrywide unrest that followed, general decisions were taken concerning the situation in the country, but very little protest was made against the gross violations of people's rights taking place at that time.

When forced removals were carried out in our town, when people were forced to leave their historic neighbourhoods and had to resettle elsewhere, little or no protest was voiced by the Presbytery. These removals constituted a violation of human rights, which invariably went hand in hand with severe personal trauma, financial loss and social disruption. Tragically, as a result of the great separation brought about in South Africa by apartheid, we of the Presbytery often were not even aware of this suffering.

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Over many years, people of our town [were] shut out from important decisionmaking positions simply because of the colour of their skin. More decisions were made about them than with them. Also in the church and amongst individual Christians there was often insensitivity to how grievously people's human dignity was violated in these and many other ways... Eventually we did begin to see the error of our ways. And this is why the Lord brought us to these insights. That is why, in a formal resolution adopted in 1985, the Presbytery confessed our guilt for our actions during the apartheid era. Now that the work of the Truth and Reconciliation Commission is confronting us once again with the pain and grief endured by fellow citizens and fellow believers under the previous political dispensation, we feel the need to confess our guilt once again before God and before people. We feel the need to make this confession specifically at this session of the Truth and Reconciliation Commission, because it is here that people from our own vicinity are sharing the pain and grief that they have to live through. We confess that we kept silent at times when we should have spoken out clearly in testimony. We confess that although we did at times try to protest against the unjust treatment of people, we often did so only with great timidity and circumspection. We did at times comment critically, but we often in doing so were not prepared to speak out against the system itself. What is more, we often gave way to the opposition we encountered. At the very times when we should

have continued to speak out clearly for the truth and against injustice, we grew tired and gave up protesting. Today we confess these things anew before the many people of Stellenbosch and vicinity who suffered injustice because of that. We confess these things before the youth and the children of our own church and our own congregations who feel that through our actions we have failed them...

56 At the faith communities

Reference 572 - 0.01% Coverage

Province of Southern Africa (CPSA):

[T]he CPSA acknowledges that there were occasions when, through the silence of its leadership or its parishes, or their actions in acquiescing with apartheid laws, where they believed it to be in the interest of the church, deep wrong was done to those who bore the brunt of the onslaught of apartheid. What aided and abetted this kind of moral lethargy and acquiescence was the fact that, in many respects, our church had developed, over many years, its own pattern of racial inequality and discrimination. It was all too easy to pass

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resolutions or make lofty pronouncements condemning apartheid. It was all too easy to point a morally superior finger at Afrikaner nationalist prejudice and pride. English pride and prejudice was no less real and it was never very far below the surface of our high sounding moral pronouncements. The Anglican Lord Milner must be as problematic to Afrikaner Christians as DF Malan, the dominee, is to us. In a strange way, I think many white Anglicans in the CPSA owe an apology to the Afrikaner community for their attitude of moral superiority. I became aware of this need when, as Bishop of Pretoria from 1976 to 1981, I got to know such fine Afrikaner Christians as David Bosch and Piet Meiring. Perhaps, Chairperson, I could ask Professor Piet Meiring in his capacity as a member of the [Commission] kindly to receive this expression of apology from a Bishop of 'die Engelse kerk' [the 'English' (Anglican) Church]. (Applause.) But our chief expression of apology must be to our own black membership, and I am using the word 'black' inclusively. Here we are speaking of the overwhelming majority of the CPSA, both in Southern Africa as a whole and in South Africa particularly. Interestingly, our black membership increased significantly in the early apartheid years, especially on the reef where the witness against the new ideology was strong. Ours is primarily a black church; it has been and still is in many ways, a suffering church. Suffering at the hands of the church itself. Chairperson, our so-called white parishes, like white businesses (and I am thinking of last week's [Commission] hearings), have unquestionably benefited from apartheid and its political predecessors. In their church facilities, including housing and transport for their priests, they have been bastions of relative privilege. So-called black parishes by contrast, like black businesses, have been decidedly disadvantaged in these respects. Within the black Anglican community, there has been a further disparity in that, very often, as in the secular apartheid scenario, the African church has been worse off than the coloured, and the coloured church worse off than the Indian.

57 At the health sector

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the record straight in public.

59 At the business sector hearing in Johannesburg, the following was said: Afrikaanse Handelsinstituut (Afrikaans Chamber of Commerce) (AHI): What cannot be denied ... is that apartheid disadvantaged black business. Many whites owned land and they accumulated capital by realising profits on the selling of this land. Until fairly recently, blacks were denied that opportunity and, in this way, one of the most important ways of building capital was denied them.

Even though the Land Act

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worst mistakes the AHI made.

Then we look at the lack of critical evaluation of policies – another major mistake that was committed and that was one of omissions. No moral and economic objections to apartheid were lodged for many years. At the time, there was sufficient appreciation for the hardship and suffering caused by the policy. Whether those hardships were shacks being demolished in the wet and cold of the Cape winter, or of people being shot whilst protesting or the consequences of bombs which killed civilians in Church Street in Pretoria as part of the struggle against apartheid – all of which was seen on our TV screens – the AHI could not have escaped the impact of these policies. [Point] 5.3 [of the submission] deals with insensitivity into issues involving human rights, although there were frequent references at AHI conferences to the importance of good labour relations, training, proper wages and productivity. There was for many years an acceptance of the absence of a proper labour relations law that makes provision for workers' rights for all and of the lack of training and other discriminatory measures. This is also regrettable. There was

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Mr Roelf Meyer: Chairperson, I would like to thank the Commissioner again also for raising this issue, and I think, may I first of all say I think you have made an appeal to us – but not only to us, the three of us who are here, not only to our Party – I think you have made an appeal to the whole of South Africa, to all political parties, but also civil society in general, the community out there, everybody in South Africa... I can say, yes, we are in various ways within the National Party attending to this question and related questions. What I would like to suggest is that we have a responsibility to come back to the Commission on this very question... But I think, Madam Commissioner, if I may say, you have raised with us an issue which is probably the most important one in the final instance of the work of the Commission. Because if we can't find an answer to the very question that you have put, then the work of the Commission, with all respect, is not going to be in the long term worth anything. May I say that I don't think it's only those that have suffered directly, but there are many, many South Africans, thousands of South Africans who have also indirectly suffered through apartheid, that we have to consider within the whole spectrum of what we want to do in the future. So it's not only a question of the specific terms of reference of the Commission – namely how to address human rights violations of the nature that has been described in your terms of reference – but it is, in the final instance, we as politicians, as political parties, that have to give direction as to how we are going to rectify the wrongs that flowed from apartheid in a very general sense. Dr Ramashala: Chairperson, may I ask Mr Meyer and his team that, as you prepare that submission, you consider the following comment from the communities, particularly the greater black communities, and I want to quote: "They get amnesty. They

get the golden handshake, (meaning rewards). They get retirement pensions worth millions. And we get nothing. And on television they smirk or they smile to boot."

As you address that submission

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three positions in this regard.

First, they say they are shocked by the revelations of the [Commission]. Had they only known about the atrocities at the time, they would surely have objected. This is a self-serving myth. It is patently dishonest to claim today that any of us were unaware of apartheid; unaware of forced removals and pass laws; unaware of deaths in detention or unaware of the killing of children in our streets. The second response from the white community is that, well we knew what was happening, and we did everything in our power to object. This is also a myth. The truth of the matter is that a tiny minority of whites voiced any opposition and then mostly in conditions of relative safety and comfort. An even smaller minority of whites participated directly in the campaigns, in the daily struggle of the black community. The third position comes from whites who say, let bygones be bygones. Rehashing the past will only perpetuate divisions and inhibit reconciliation. Let us concentrate instead, they say, on building a new future. In my view, this position adds insult to injury. It's a monumental deceit. Whatever the individual talents and efforts of whites, our lives of privilege today are the product of a grand historical act of theft. We stole the land, the labour, the dignity and, in countless instances, the lives of the black people of our country. The majority of blacks still live with the consequences, and the majority of whites still enjoy the fruits of our acts of violence. The past is present. It is present in our suburbs and in our townships. It's present in our individual and national psyche. White domination may have been eliminated in the political arena but it still prevails at an economic level and in forums like universities and the media which have a powerful impact on the ideas and the debates of broader society.

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Church in the Western Cape:

Along with our church, we also began to work actively towards reconciliation involving seeking forgiveness for the evil of apartheid and making financial restitution. To cut a long story short, we are at present extensively involved in Khayelitsha in the Western Cape. We have planted a non-racial church. The white folk that are part of this church have committed themselves to racial reconciliation in a practical way, not just in theory. We are involved in two pre-schools and are seeking to launch projects to empower the community. We are also involved in a housing project in Tambo Square, Tambo Village and have seen the hand of God really moving in terms of bringing together white and black and healing the divisions and enmity of the past. I did not feel I needed to apply for amnesty for I personally did not kill anyone. I do feel, however, that I was part of the overall strategy of destabilisation during the apartheid years; and it was because of that, that I've come forward with this account. And I've also made the information available because I have been very disappointed to see the lack of courage that has been shown by many in the defence force in terms of owning up to deeds like this in the past. I really feel that as a South African and as a Christian pastor that there's a tremendous hope for this nation if individuals can find the grace to speak the truth and be agents of reconciliation as we face the future together.

105 He went on to

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Secondly, for decades, millions of Africans were paid exploitative wages, in all sectors of the economy but mainly in gold mining and agriculture. The fact that the Africans were politically powerless and economically unorganised might make them easy prey for super-exploitation [in favour of] the white workers. Thirdly, a great variety of discriminative legislation not only deprived Africans of the opportunity to acquire skills, but also compelled and humiliated them to do really unskilled work at very low wages. While discriminatory measures were often to the disadvantage of business, they were very much to the advantage of white employees. Fourthly, perhaps the greatest disadvantage which the prevailing power structures had for Africans is that these structures deprived them of opportunities to accumulate human capital, the most important form of capital in the twentieth century. For the first three quarters of the century, social spending, on education, pensions etcetera, on Africans, was per capita more or less ten to eight times smaller than on whites. In 1970, the per capita spending on white education was twenty times higher than the per capita spending on Africans. Fifthly, the fact that a legal right to own property and to conduct a business was strongly restricted in the case of Africans also deprived them of the opportunity to accumulate property and to develop entrepreneurial and professional capabilities. The position of whites was again the complete opposite. They enjoyed property rights, they deprived Africans of their land, they had access to capital and the opportunity to develop business organisations, entrepreneurial capabilities, and etcetera. Sixthly, the liberation struggle and the resistance against it had a devastating effect on the poorer 60 per cent of the African population. Their income, already very low in 1975, decreased by more or less 35 per cent from 1975 until 1991. The fact that the poorer 40 to 50 per cent of the total population, more or less eighty million people, cannot satisfy their basic human needs on a regular basis, makes it so much more urgently necessary to do at least something meaningful to improve the quality of their poverty. Seventhly, it was not only individuals that have been impoverished and destroyed by the racist system, but also African societies, while it also prevented the South African people from becoming a society. We can put forward a strong argument, that the depravation, the repression and the injustices inherited in the racist system not only impoverished the African population but also brutalised large numbers of Africans. After decades of apartheid and the struggle against it, South African society is a very disrupted and divided society; not only along racial and ethnic lines but also because of seemingly irreconcilable values and attitudes.

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Democracy, reconciliation and nation-building remain threatened so long as patriarchy in all its forms and all the forms of patriarchy, Chairperson, are violent forms of patriarchy. They are actually a violation of human rights. We cannot limit human rights to what is in the Act. Gender inequality and gender injustice is a violation of human rights. It does not necessarily mean that we must have the hearings, but it means we must have the process of eradicating that. As we today look back in our gruesome past, we must realise that our present and future remain in jeopardy, despite the good work of the [Commission], if the violence against women and children is allowed to continue. The South African society needs to be mobilised in the same manner that it was mobilised against apartheid. In the same manner that we won that war against apartheid. Why are we not mobilising and engage in that war against violence against women and children? Why is the nation continuing as if nothing is happening? Why are these massacres allowed to happen? Why is this genocide? Why are we allowing it? Why is it being made a role of women? It is not the role of Government alone. It is the role of this society, because if we do not do that, one year, two years down the

line, we will have to have that Truth and Reconciliation Commission once again for us to come back and retell the stories that we suffered under democracy, Chairperson. Within our own homes, the domestic violence in our own homes, the violence in our streets, the violence in the work place, the violence that's permeating all of our society. Most of the time what is being highlighted, are the hijackings. I am not undermining this. I am not undermining the deaths. Look at the wall down Wits.¹⁴ That wall! Look at the faces! Ninety-nine per cent – I went there and looked and registered – 99 per cent are faces of men; where are the women who have been killed? Where are the women who have been raped? Where are the women who are getting battered in their own families? They are not in that wall. Why are they not in that wall? Is that your work, Chairperson, as we build reconciliation? Because I get angry when I pass that wall. I get angry that the women's own suffering is not being recognised by this country. I get angry because the [Commission] is silent about that. Because it is happening now. It is not happening in the days of apartheid, it is happening now.

125 This is an extract

Reference 581 - 0.01% Coverage

with, often for many years.

The messages projected by the Commission and the support it was given by religious leaders and local politicians brought about some change in the way people viewed the idea of reconciliation. Many declared themselves committed to a process of reconciliation – contrasting this to their previous feelings of hatred and the desire for vengeance, the main response to their victimisation. For some, the main reason behind this change in attitude was the election of a new government. For others, it was simply the passage of time. Some victims, however, attribute their change of heart to the work of the Commission. While some victims still find the idea of reconciliation, and especially forgiveness, insulting, it appears that for most the Commission has contributed to a greater commitment to the process of reconciliation. It has also created the space to pursue reconciliation. It is seen as a forum that provides a platform for storytelling, for revealing the truth, for holding the perpetrator accountable, for reparations, remorse and forgiveness. These are steps in a process that people now understand and accept as legitimate. They are steps that involve an exchange between victim and perpetrator, between individual and state. People have developed a fairly clear idea of what would constitute a fair exchange for them as individuals, involving both give and take. Most of the conflict of the past was between community residents (particularly activist youth) and the security forces (police who were locally based, security police based in the regional head quarters, and the SADF). The mistrust between the community and the police has been changing, thanks in large part to the police-community forum that has been operating for a number of years. Many of the police who were seen as responsible for past abuses no longer work or live in Duduza and a new police station was built in the township. Nobody was aware of any amnesty applications that may have been submitted by members of the security forces in the area. There are also no pending court cases. It appears that few further details of the police atrocities in the community will be uncovered by the Commission. The dynamics of the apartheid era conflicts had many spin-offs. The conflict environment led to a range of other associated divisions and intra-community dynamics. There were divisions arising from suspicions regarding police informers, collaborators and internal power struggles among ANC supporters.

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INITIATIVES AS THE COMMISSION CLOSED

In the faith community: the CPSA in KwaZulu-Natal Attempts are now being made to rectify these long-standing inequities within the life of our church. Black advancement into leadership roles has been significant, but still, within our church structures, we are significantly dependant on white skill and expertise which can easily look and feel like white power blocking the aspirations of black people. A transformation process is underway, spearheaded by a recently created black Anglican forum. This will promote and facilitate an adjustment process for the CPSA, as it moves into the new millennium, seeming to provide a new authenticity for our life together as a church, setting us free to be more truly African in the broadest sense, to engage in our mission and ministry in a more authentic incarnational way. Chairperson, this is one of the ways in which our denomination sees its commitment to the future of this country and this sub-continent. To be a transformed church under God, serving a transformed society. Central to that task will be our desire to contribute to a continuing process of healing and costly, not cheap, reconciliation. I speak as a church leader now in a province which has seen well over 15 000 politically motivated killings in a decade of traumatic transition. The healing of the resultant wounds, let alone the other wounds, which are the legacy of apartheid, will engage the faith communities and others for a long time to come. One of the things which the KwaZulu-Natal Leaders Group is planning for 1998, is a series of pastoral

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in these last few weeks.

A great deal of hard work though, and creative thinking will undoubtedly be needed if members of the faculty are to be reconciled with one another. The privileged members of the faculty, who were not the victims of apartheid in the teaching hospital settings, must listen to the accounts of their black colleagues and former students. They must be reminded of the many ways in which they wittingly or unwittingly collaborated with the system. They must be prepared to experience and share some of the pain and hurts which their colleagues of colour experienced because of an accident of birth. In such a process, we believe we will all undergo changes and experience healing, and only

16 Bishop Michael Nuttall, faith

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an Internal Reconciliation Commission (IRC).

138 The objectives of the IRC are: a To record the history of racial discrimination in the faculty; b To record the history of resistance to apartheid by members of the faculty; c To allow those who were discriminated against to tell their stories.

139 To achieve these objectives

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summarising the findings and recommendations.

140 The announcement by the Dean, Professor Max Price, expresses the hope that "this process and the ensuing report will lead to a public acknowledgement by the Faculty of its record of discrimination and collusion with apartheid and also its opposition to racist government policies, and will begin the reconciliation process within the Faculty and the alumni. It will feed into the Faculty's Equal Opportunities

Programme which aims to redress past inequalities. And, it will also lead to recommendations for undergraduate teaching – to promote a human rights culture in health science graduates”.

In the business sector:

141

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as follows to Dorbyl's initiative:

The principle that only a complete and truthful disclosure of past human rights abuses can guarantee lasting reconciliation is now well established. So too is the belief that the obligation to come clean on the past extends beyond our political institutions. To that extent, business, academic and religious institutions also have a responsibility to ensure they disclose the extent of their role in sustaining apartheid. Dorbyl has taken a commendable lead in this regard. Its readiness to investigate and expose its past will go a long way towards repairing relations with workers. It will also help workers reassess their views about management and Dorbyl's claimed commitment to the new political order. Other enterprises must emulate Dorbyl's example. That will make a valuable contribution to the broader effort under way to construct a durable social partnership.

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not even like each other.

4 I was born towards the end of the Second World War, while my father was interned, "in detention without trial". I was born into the Afrikaner Volk and the National Party. I shared its history and its myths. Choice was not an option. During the interview by the panel that put forward the names of potential members to the President, I stated that I supported apartheid under Verwoerd as a moral option that I believed would lead away from domination and discrimination. It took me more than a decade to shed my (ideological) milk teeth, recognise inconsistencies in policy and cut my more permanent (political) teeth. I shifted from Volk to nation. Yet, when I entered politics, although my aim was nation, I entered the fold of the Volk. Only on looking back do I recognise elements of broader democratic choice. My politics expressed itself through the limited opportunities within the National Party. Only towards the mid-eighties, and then only through friends in struggle politics, did I begin to sense that a covert security 'policy' militated

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report.

■ THE ROLE OF RELIGION

16 The danger of applying religious frames to phenomena in general should not be underestimated. I may as well comment briefly here on the use (or abuse) of religion in justifying apartheid thinking. The writings of Dr AP Treurnicht (then a man of the cloth) on the moral justification of apartheid, basing his whole argument on an exegesis of scriptures, are but an example. I learnt my politics in church, and much more of my religion in politics. And without going into any detail, I take a dim view of some clergy who, in their submissions on behalf of their institutions, confess their mistake of having trusted their political leaders too

much or too unconditionally. It may well be said by some politicians, and with more credibility, that they uncritically accepted their religious leaders' (political) teachings of God's will.

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and the evil of another.

18 Problems will never be solved at the level at which they are created. This is my main reservation about the structure of the report. The Act is far more advanced in terms of conflict resolution than is the frame of the report. The Act has as its focus gross human rights violations. The Act does not put apartheid on trial. It accepts that apartheid has been convicted by the negotiations at Kempton Park and executed by the adoption of our new Constitution. The Act charges the Commission to deal with gross human rights violations, with crimes both under apartheid law and present law. The Act does not ask us to deal with or expound on morality or ethics.

19 The Commission chose to

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such finding has been made.

20 Apartheid had again to be found a crime against humanity. The judgement of a just struggle against an evil system had to be restated. There is no argument with this perspective from within the specific moral ethical frame. But the rhetoric does not take us beyond an endorsement of this one perspective on the conflicts of the past. It does not allow us to move beyond the level of dogma, of the absolute, to a level of politics, of the acceptance of politics with its different views and perspectives operating in civil society under and with acceptance of the processes set down by the Constitution.

21 There is no real

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as actors in the conflict.

30 The religious conversion model of confession, repentance and forgiveness is by the very dogma of religion at the level of the very personal, of the individual as against his or her God or offended neighbour. There is no short cut. Yet with regard to the crime of apartheid (and its evils), there was much rhetoric about how whites or Afrikaners should acknowledge the violations, accept the responsibility,

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Commissioner Wynand Malan PAGE 444

■ APARTHEID FROM YET ANOTHER ANGLE

40 The structure of apartheid policy as it emerged in the political system of our country is discussed elsewhere in the report. It originated and developed as a result of different influences over at least a century. Some examples are quoted in the report. I highlight and add a few to widen the context and understanding:

a The unchecked reign, for

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specifically, the 'poor white' question;

e The development of the legal structures of apartheid from 1948 to the late 1950s coinciding with the last days of colonialism and the civil rights struggle in the United States;

f The launch by Dr

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democratic forces continued and escalated.

■ APARTHEID'S SHIFT TO SECURITY RULE

41 Security legislation, initially adopted

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this was to be achieved.

43 The 1980s were marked by the dismantling of the structures of apartheid built during the 1950s. Whether this was a result of reform or collapse, or a combination of the two factors, is a matter of opinion.

44 The Tricameral Parliament, with

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are several reasons for this.

49 In my opinion, the first reason is that, against the backdrop of apartheid as a crime against humanity, the dominant perception within the Commission, at least sub-consciously, was of a criminal state.

50 Secondly, there was clearly

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past only to institutional structures.

■ APARTHEID AS A CRIME AGAINST HUMANITY

57 There is little room for debate that apartheid has been found by instruments of the international community to be a crime against humanity. The report, in its appendix to the chapter on The Mandate in Volume One, adequately addresses this issue. However, it needs to be further contextualised.

58 I have already alluded to the fact that apartheid policy from 1948 to 1960 was applied alongside the practices of colonialism. Measured by the contemporary yardstick of international human rights, it always was a crime against humanity. Slavery is a crime against humanity. Yet Paul, in his letters to the Ephesians and Colossians, is uncritical of the institution and discusses the duties of slaves and their masters. Given a different international balance of power, colonialism too might have been found a crime against humanity. Yet apartheid was first declared a crime against humanity by the United Nations General Assembly in 1973 – and not unanimously so. Moral imperatives are phenomena of their times and locations.

59 The Commission does not make any major contribution by again finding apartheid to be a crime against humanity. No doubt, it contributes to the needs and agendas
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of debate within the Commission.

61 The permanent International Criminal Court has recently been established. Within its jurisdiction is the trying of crimes against humanity. There are efforts to have apartheid and apartheid crimes tried at this forum. The Commission is not prepared to recommend that the court's powers be limited with respect to prosecution of apartheid as a crime against humanity and to past apartheid crimes.

62 In terms of conventions on apartheid as a crime against humanity, those who were functionaries of the system, politicians and bureaucrats alike, are considered criminals. Our government has already publicly taken a position against conferring such jurisdiction on the Court. The Commission would not take a position.

63 All gross human rights violations as defined in the Act constituted crimes under the laws that operated during the apartheid years, and as such may well be tried locally. Further, international law does not provide for the granting of amnesty for a crime against humanity. If international law were to be applied, the Commission might as well never have been established. I do not have to elaborate on consequences.

64 It is stated in the report that apartheid cannot be likened to genocide. By association, though, comparison continues. The question should seriously be asked whether an investigation of apartheid under international law would have any present or future legal or political value. While genocide remains a potential threat in many societies, apartheid as a system is dead and buried forever.

65 There is a certain wisdom in politics; so too in international politics. No tribunal was ever set up to try apartheid or apartheid crimes. It is unlikely that the international community will now override local political positions. The folly of doing so needs to be placed on record. It was a major disappointment to me that the Commission, primarily because of resistance of some Commissioners, would not support this proposal. At the time of writing this contribution, it has come to

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on theory and secondary sources.

73 I mention this aspect because I fear that the ensuing public debate will do very little to change structures of thinking, of the very value systems that caused the conflict. It is important to identify communities, operating social systems and geographies if society itself is to have a better understanding and awareness of underlying causes of conflict, which may have nothing to do with apartheid. Apartheid is no longer a threat. It will never be fashionable again. It will not rise from the dead. It was the content of an ideological mindset. Different ideologies, or even different rigidly enforced dogmas, may create similar threats to unity and reconciliation, to peace and stability, to survival itself. Small things may trigger major conflicts. They may well give rise to apparently unlikely and very violent alliances. "Value systems of a feather stick together." Our immediate past bears testimony to this adapted adage.

■ HUMAN RIGHTS CULTURE

74 Because

Reference 600 - 0.01% Coverage

fear, favour, bias or prejudice.

4 We have some difficulty in responding effectively to the Minority Position of Commissioner Malan, in that it purports to deal with the Commission's report in general terms without raising concrete cases or joining issue with specific portions of the report. It is drafted in subjective terms and apparently from the perspective of an erstwhile member of the parliamentary caucus of the then ruling National Party at the height of apartheid. This emphasis, and the personal historical and political account set out by Commissioner Malan, is most unfortunate and even inappropriate in the context of the Commission's statutory framework.

5 Although we agree with

Reference 601 - 0.01% Coverage

and contact with the Commission.

15 On the other hand, some of the aspects raised in the Minority Position are helpful and constructive and ought, in our view, to have been included in the body of the report. We can refer by way of example to the various influences listed under the heading "Apartheid from yet another angle" and to the recommendations concerning the analysis of data and research.

16 In conclusion, we wish

Reference 602 - 0.01% Coverage

Mandela on 29 October 1996.

It is something of a pity that, by and large, the white community failed to take advantage of the Truth and Reconciliation process. They were badly let down by their leadership. Many of them carry a burden of a guilt which would have been assuaged had they actively embraced the opportunities offered by the Commission; those who do not consciously acknowledge any sense of guilt are in a sense worse off than those who do. Apart from the hurt that it causes to those who suffered, the denial by so many white South Africans even that they benefited from apartheid is a crippling, self-inflicted blow to their capacity to enjoy and appropriate the fruits of change. But mercifully there have been glorious exceptions. All of us South Africans must know that reconciliation is a long haul and depends not on a commission for its achievement but on all of us making our contribution. It is a national project after all is said and done.

We have been privileged to

Reference 603 - 0.01% Coverage

latter to advance their positions.

20. The Committee accepted the following finding of the Ralushai Commission of Inquiry: Apartheid politics turned traditional leaders into politicians representing a system which was not popular with many people, because they were seen as upholders of that system. For this reason, traditional leaders became the target of the now politicised youth.^{2 6}

21. It further accepted the

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A G E 4 0

22. It was also clear from the evidence heard by the Committee that, in Venda p a r t i c u l a r l y, the liberation forces used cases of witchcraft and ritual killings to politicise communities. This strategy was facilitated by the fact that local communities were dissatisfied with the manner in which the apartheid authorities had handled such cases. For example, the failure of the authorities to act against people who were believed to be witches resulted in a belief that the g o v e r n m e n t was the protector of witches. In Venda, where traditional leaders with relatively poor education were politically empowered and were associated with some of the most heinous abuses, the situation was ripe for political conflict.

23. In some cases, where

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1995 (the Act).^{4 7}

6. The ANC's submissions were largely critical of the Commission's competence, integrity and bona fides in respect of the findings on the ANC. The ANC was especially concerned in view of the fact that the struggle for liberation against the unjust system of apartheid was in itself morally and legally justifiable in terms of international law.

7.

It is necessary to

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the period 1990 to 1994.

2 . That on 14 May 1997, Mr FW de Klerk testified before the Truth and Reconciliation Commission in his capacity as head of the former apartheid g o v e r n m e n t and as a leader of the National Party.

3 . The Commission finds that

Reference 607 - 0.01% Coverage

to the courts is limited.

44. T h e r e f o r e, because the South African amnesty process deprives victims of access to the courts, its international legitimacy depends on the provision of adequate reparations to the victims of gross violations of human rights. Making good the injuries to victims of gross violations of human rights where their ability to seek reparation has been taken away from them is thus an inescapable moral obligation on the part of the post-apartheid democratic state.

45. In short, amnesty coupled

Reference 608 - 0.01% Coverage

the course of political conflict.

61. Some of the arguments politicians have raised in response to calls to implement the recommendations of the Commission's RRC have caused concern. They make the point that the majority of victims were

political activists who, in one way or another, made a conscious decision to engage in a political struggle against apartheid. The argument is often expressed thus: 'we were not in the struggle for money'. While the Commission understands the grounds upon which this statement is made, in terms of international human rights law on reparations and rehabilitation even political activists who decided to become involved in the struggle against apartheid should be compensated if they became casualties of the conflict.

V O L U M

Reference 609 - 0.01% Coverage

the Business Sector

■ INTRODUCTION 1.

Information received from the business and labour hearings indicated that: 'Business was central to the economy that sustained the South African state during the apartheid years'.^{6 9} The Truth and Reconciliation Commission (the

Commission) noted that the degree

Reference 610 - 0.01% Coverage

basic democratic rights.^{7 0}

2. While numerous submissions by business to the Commission argued that apartheid harmed business, sometimes resulting in reduced profits and distortions and restrictions on the labour market, the Commission noted further that such business opposition to apartheid as there was came very late in the day and was weak and indecisive.

3. The final position and finding of the Commission was that business generally benefited financially and materially from apartheid policies. Some examples illustrating this finding emanate from points made during submissions: a White-owned large-scale agricultural, farming and agri-business enterprises benefited from the colonial-era restrictions on black land ownership that were maintained during apartheid, and the extremely low wages such enterprises were able to pay to the landless.

b Those enterprises involved in extracting and exploiting the mineral wealth of the country benefited from the provision of a relatively cheap migratory labour force, which was brought into being by land expropriation, forced removals, apartheid pass laws and influx controls.

c Those businesses with an

Reference 611 - 0.01% Coverage

labour on the coal mines.

e The arms industry benefited substantially from the military requirements of the apartheid regime, which resulted from its internal repression and external destabilisation.

f Those banks and financial

Reference 612 - 0.01% Coverage

from all the above conditions.

g Those banks and financial institutions that lent directly to the apartheid regime during the 1980s benefited from the relatively high interest rates they were able to charge as a consequence of the difficulty Pretoria encountered in borrowing during the imposition of sanctions internationally.

h White residents generally benefited

Reference 613 - 0.01% Coverage

be employed in the home.

4. Noting that the 'huge and widening gap between the rich and poor is a disturbing legacy of the past' and given this historic benefit enjoyed by business, the Commission made specific recommendations regarding the responsibility of business in the area of restitution 'to those who have suffered from the effects of apartheid discrimination'.^{7 1}

5.

Implicit in this and

Reference 614 - 0.01% Coverage

apartheid discrimination'.^{7 1}

5.

Implicit in this and other recommendations relating to business was the notion of the involvement of business in a wider project of reparation, relating not simply to those identified as victims by the Commission, but to all those South Africans whose normal development was impaired by the system of apartheid. The desirability of such involvement was reinforced by the socio-economic reality of South Africa. Although South Africa is a middle-income economy, about half of South Africa's population lives in poverty. Half of the African population is homeless or lives in informal accommodation, such as shacks. More than half of Africans aged twenty or more have no secondary education, compared to 2 per cent of whites. As many as 42 per cent of Africans are unemployed or have given up

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COMMITTEE AND THE BUSINESS TRUST

8. At a consultative forum between business and the Commission, business leadership referred to the Business Trust as the vehicle through which business, in agreement with government, would honour its responsibility to the victims of apartheid. Some trustees of the Business Trust expressed great concern that there seemed to be no real relationship between the objectives of the Trust and the recommendations of the Commission. Another trustee seemed concerned that, on the whole, the majority of organised business was not committed, or had not shown serious commitment, to the Trust.

9. The Business Trust, established

Reference 616 - 0.01% Coverage

during the 1980s.^{7 2}

Reference 617 - 0.01% Coverage

for the poorest black consumers;

c A claim for reparations lodged against the lenders who profited illegitimately from lending to apartheid institutions during the sanctions period.

14. The Commission reiterates its finding that business benefited substantially during the apartheid era either through commission or omission and has, at the

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Reference 618 - 0.01% Coverage

GE143

very least, a moral obligation to assist in the reconstruction and development of post-apartheid South Africa through active reparative measures. While individual businesses may well have contributed to individual projects falling under the general rubric of restitution or reparation, it is the Commission's view that business, possibly through the Business Trust, needs to commit itself to a far more focused programme of reparation.

SWISS BANKS AND OTHER LENDERS

Reference 619 - 0.01% Coverage

committed on a wide scale.

16. This section examines the role of Swiss banks in South Africa during the apartheid era and the case for making a significant reparation claim against these banks.

17. The major Swiss banks were important partners of Pretoria during apartheid. Both Credit Suisse and the predecessor of UBS opened offices in South Africa within a few years of apartheid being institutionalised in 1948, and played a central role in marketing South African gold. They also invested in apartheid-era infrastructure in South Africa and in the homelands.

18. After the Sharpeville massacre in 1960, the chairman of the largest Swiss bank, UBS, was asked: 'Is apartheid necessary or desirable?' His response was: 'Not really necessary, but definitely desirable.'

19. In 1968, the Swiss

Reference 620 - 0.01% Coverage

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20. After the 1976 Soweto uprising, the United Nations (UN) condemned apartheid as a crime against humanity and expelled South Africa. This was the time of the gold boom. In 1980, the gold price reached an all-time high of US\$850 an ounce, filling Pretoria's coffers. Soon afterwards, the gold price fell dramatically, the economy plunged into crisis and the apartheid government was forced to look for financial help from around the world. In 1984, President PW Botha visited Switzerland. In that year, his government

took seven international loans, four of which were arranged by the Swiss banks. After the British, the Swiss banks were the most important lenders to the apartheid government at this time.

21. During the debt crisis of 1985, the Swiss banks played an especially important role. After Chase Manhattan, an American bank, cut back its lending facility, there was crisis in Pretoria. In a sudden loss of confidence, banks refused to lend money to South Africa and the government was unable to pay its debts. With pressure from the masses and internationally, there seemed no way to save apartheid. Swiss banks came to the rescue. Mr Fritz Leutwiler, former President of the Swiss National Bank, negotiated with the world's banks on behalf of South Africa and secured an agreement to give South Africa a two-year break from paying its debts and 15 years to make the repayments. Despite international pressure, he refused to use the deal to force Pretoria to dismantle apartheid. Mr Leutwiler gave the South African regime a breathing space during one of its most violent and repressive periods – the late 1980s. While many countries were imposing sanctions against apartheid gold and the United States (US) had banned the direct import of gold bars, the Swiss banks continued to import over half the gold produced in South Africa.

22. South Africa was discussed

Reference 621 - 0.01% Coverage

ATIONS

23. The case for reparations from the banks is based on three arguments: a As Pretoria's key partner in the international gold trade, Swiss banks benefited over several decades from the exploitation of the black mineworkers, whose human rights were violated by (amongst other apartheid policies) the pass laws, the migrant labour system and suppression of trade union activity.

b The banks ignored the

Reference 622 - 0.01% Coverage

the gold trade and lending.

c The banks played an instrumental role in prolonging apartheid from the time of the debt crisis in 1985 onwards.

24. It can be argued

Reference 623 - 0.01% Coverage

moral.

25. Hence a contract that is contrary to the community's sense of justice is not capable of being enforced in a court of law. A significant date in this regard is 18 July 1976, the date on which the UN Apartheid Convention came into effect. Article 1 of the Convention reads:

1. The States Parties to the present Convention declare that apartheid is a crime against humanity and that inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination, as defined in article II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

2. The States Parties to the present Convention declare criminal those organizations, institutions and individuals committing the crime of apartheid.

26. According to this, any credit institution or private money-lending corporation that financed the apartheid state ought to be targeted as a profiteer of an immoral and illegal system. It is also possible to argue that banks that gave

VOLUME

Reference 624 - 0.01% Coverage

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financial support to the apartheid state were accomplices to a criminal government that consistently violated international law.

27. Arguments also exist based on the doctrine of 'odious debt'. The principle is that debts incurred for illegitimate purposes by illegitimate parties are unenforceable. Debts incurred in the furtherance of apartheid would fall under the principle. The fact that the General Assembly of the UN did not recognise the apartheid government's delegation as the legitimate representatives of the state of South Africa from 1965 onwards lends even more credibility to the argument. There are several precedents for the doctrine, including a 1923 arbitration case between the Costa Rican government and the Royal Bank of Canada. In this case, the US repudiated a debt incurred by Cuba and owed to Spain in its peace treaty after the US had taken sovereign control of Cuba at the end of the Spanish–American war. Similarly, the Soviet government repudiated the debts incurred by the Tsar in the previous Russian regime. An article in a professional journal written by lawyers at the First National Bank of Chicago in 1982 warns lenders of the potential risks of making loans that infringe the doctrine.

28. Swiss banks are not the only lenders whose support for and enrichment under apartheid may provide grounds for reparations. British, German, French and North American banks are amongst those that financed Pretoria during the 1970s and 1980s. In addition, in 1976 and 1977 the IMF granted South Africa balance of payment loans totalling US\$464 million, which helped to cover the increased expenses needed for the South African Defence Force (SADF) and were used to fuel the apartheid machine. More research is required on these matters.

THE CASE OF THE PA

Reference 625 - 0.01% Coverage

AS TATALS

29. The parastatal sector sheds further light on the role and responsibility of business in the apartheid era, particularly in view of the way the apartheid government used the parastatals to further its own objectives. Eskom is used here as an example without prejudice. In using this example, we need to acknowledge the many changes Eskom has made in the last decade in relation to the racial identity of its employees and the pioneering role it has played among South African industrial giants in investing in building infrastructure in poor black neighbourhoods. This does not, of course, dilute the critique of its apartheid-era practices and its deep collusion with the political and economic structures of apartheid.

VOLUME

Reference 626 - 0.01% Coverage

GE147

30. Between 1950 and 1980, international financial institutions and foreign private banks granted loans to Eskom amounting to at least US\$7.5 billion. British banks contributed 26 per cent, banks in France almost 24 per cent, West Germany about 17 per cent and Switzerland more than 12 per cent. Substantial amounts were also granted by the World Bank, public export credit agencies and parastatal banks. Loans to public sector corporations and business enterprises were the economic lifelines of the apartheid economy. This point is reinforced by correspondence between Swiss banks and the Finance Ministry in Pretoria: foreign banks would grant loans to Eskom only on condition that central government signed a declaration of guarantee or a warrant to the creditor banks.

31. During the sanctions years

Reference 627 - 0.01% Coverage

paid for by the taxpayer.

32. As a parastatal within the apartheid system, Eskom produced extremely cheap energy

Reference 628 - 0.01% Coverage

and administer its bank accounts;

It supported the implementation of apartheid's Bantustan policy by offering extra cheap tariffs for industries settling in 'border areas', like Alusaf in Richards Bay; but

Reference 629 - 0.01% Coverage

and established its own armoury.

37. Evidence was presented under oath to the Commission that, during the twilight years of the apartheid system, high-ranking members of Eskom attempted to make available or sell a portion of this armoury to Inkatha. According to the evidence, this was authorised and done with the knowledge of the Commissioner of Police.

74 A secret society composed

Reference 630 - 0.01% Coverage

to the national electrical grid.

41. The politics of racial segregation and apartheid suppressed for decades both the human rights and the consumer demands of South Africa's black people. People living in low-income black residential areas, both urban and rural, persistently faced high environmental costs. Energy sources other than electricity (low-quality coal and wood burning in open indoor fires without proper stoves and chimneys, paraffin and candles) have constantly polluted the air and endangered their users. Accidental fires and burns, paraffin poisoning and chronic bronchitis were all too common. On winter evenings, dense smog with high concentrations of sulphur dioxide, carbon dioxide, airborne ash particles and dust was found hanging low over black residential areas, leading to respiratory diseases and even circulatory disorders, and severely reducing the quality of life for young and old.

Reference 631 - 0.01% Coverage

on the following two factors:

a The role of foreign lenders in supporting key institutions of apartheid. Debts incurred by Eskom and other parastatals during apartheid should also be considered 'odious' insofar as the new political dispensation is concerned.

b The failure of the

Reference 632 - 0.01% Coverage

should enable us to have

complete control over the Kaffirs'. In its submission to a 1944 commission on 'native wages', the Chamber of Mines argued openly for the 'subsidiary means of subsistence' that migration back to homelands guaranteed. This would subsidise the cost of labour and the costs of reproducing that labour. This zeal for population control on the part of the mining houses set a precedent for the pass laws of the apartheid government.

46. The mines' thirst for

Reference 633 - 0.01% Coverage

adequate compensation and/or pensions.

48. In mitigation of its housing policy, the Anglo American Corporation contends that it was frustrated in its attempts to develop an 'urban model for black South Africans' by the apartheid regime. The Corporation argued that Sir Harry Oppenheimer appealed to the Verwoerd government in the 1950s to be allowed to house 10 per cent of black workers with their families at the Free State gold mines. These appeals were rejected by the state, but they cannot atone for the cellblock structures and systems the company provided for each of its armies of black miners.

49. Harsh conditions on the mines were enforced by state repression which employers – and Anglo American – did nothing to discourage. Strikes were unheard of during the booming 1960s. When the upsurge of worker resistance began with the wave of strike actions in Durban in 1973, state security forces became almost permanently resident on production sites to maintain and restore order. From the outset, Anglo American did not hesitate to use the services of the apartheid security apparatus to curb working-class militancy during this period. A strike at its Weston Deep mine was dealt with by government forces and resulted in the deaths of twelve miners. Worker resistance to the state-led

Reference 634 - 0.01% Coverage

National Union of Mineworkers (NUM).

50. The consensus between business and the apartheid government was given institutional expression in an array of joint committees at the interface of private capital and the state. 'Total strategy' was quickly sold to business South Africa at the government-convened Carlton Conference in 1979. Harry Oppenheimer p

promoted the 'new era' of business and state détente. Joint Management Centres (JMCs) were set up to gather intelligence about trade union activity. Their reports to the State Security Council (SSC) effectively drafted business leaders into the state apparatuses.

51. The renting of Waterloo

Reference 635 - 0.01% Coverage

ment.

55. Apartheid also affected how workers were recompensed by the state, and can be seen in the inadequacy and racial differentials of lump sums paid out. The structure of the Workmen's Compensation Fund cleared mine owners of liabilities stemming from whatever civil claims could have been brought against them. Thus deference to the state made good business. As late as the early 1990s, permanently disabled black workers were paid only R2000, with a 1:13 compensation ratio between black and white workers.

56. In 1974, 'Harry Oppenheimer made a public call to review South Africa's labour laws' and was 'amongst the first to grant independent black unions access, recruiting and collective bargaining rights'. The Anglo American submission to the Commission attributes this to Oppenheimer philanthropy. Yet his sudden concern about the absence of union organisation amongst black workers cannot have been coincidental: his call was stoked by the fear of disruption of production schedules when industrial relations are not mediated by union representation. Despite the orderly bargaining framework that union recognition brought to industrial relations, apartheid employers did not take this to imply that legally striking workers ought not to be dismissed. Anglo American cut the biggest swathe through workers' ranks when it dismissed 50 000 workers who were on strike for a living wage.

57. Nor did the recognition

Reference 636 - 0.01% Coverage

the Bophuthatswana border.

58. When Botha's reforms of apartheid only elicited increased labour unrest, and economic sanctions looked set to force the regime to default on its debt, business leaders broke ranks with the government, and a delegation, including Mr Gavin Relly, flew to Lusaka to meet with African National Congress (ANC) leaders. Yet just two years later, in 1987, after the declaration of the second state of emergency, Mr Relly described the national alert as 'necessary'. 'Open minds' closed again once mass detentions brought a modicum of quiet to the townships and factory floors, and once debt payments had been successfully rescheduled by agreement with the International Monetary Fund.

59. The extent of Anglo

Reference 637 - 0.01% Coverage

a piece of delicious cake'.

10. Far from being simply a forum for profound moments of healing, the play has also proved a catalyst for expressions and questions that were often not articulated in the context of the Commission, especially those that were conflictual or anti-reconciliatory. While performing in South Africa, a youth expressed his sense of injustice at having to witness lies by perpetrators, asking, 'How do they expect us to feel?' In some instances, when the play was touring London and Great Britain, there were exchanges and debates between members of the audience about who had benefited from apartheid.

11. The story I'm about

Reference 638 - 0.01% Coverage

and the Healing of Memories.

14. Each workshop is an individual and collective journey aimed at exploring the effects of the apartheid years. The emphasis is on dealing with these issues at an emotional, psychological and spiritual – rather than at an intellectual – level. Time is given for individual reflection, creative exercises and opportunities to share in a small group. Typical themes that arise are anger, hope, hatred, joy, isolation, endurance and a discovery of the depths of common humanity shared. The workshops end in a liturgy / celebration.

15. The collective and uniquely

Reference 639 - 0.01% Coverage

GE158

Khulumani. The philosophy behind this initiative is a belief that the violations of the apartheid era not only left deep psychological wounds in peoples' minds, but also left people with a sense of isolation and feelings of disconnectedness. Being part of a victims' support group was seen by many as having a therapeutic effect.

The Northern Province and Mpumalanga

Reference 640 - 0.01% Coverage

GE160

the systemic abuse committed during the apartheid era, virtually every black South African can be said to be a victim of human rights abuse. By using the fact that they testified as evidence of their 'elite' character, these critics are in essence propounding the astounding argument that these victims should be punished (denied legitimate expectations) for having come forward.

4.

There

Reference 641 - 0.01% Coverage

for having come forward.

4.

There were very many victims of apartheid and, certainly, those who came before the Commission are only a subset of a much larger group. This is why, when balancing individual and socially oriented reparations, the Commission sought to address the specific needs of those who came before it in order to contribute to the wider truth about the nation's history, whilst at the same time addressing the broader consequences of apartheid. It is almost impossible to design a reparation programme without leaving some gaps. Nevertheless, the fact that not all victims will receive individual financial grants cannot be allowed to prevent at least some clearly deserving victims from getting such awards.

5. The reality is that

Reference 642 - 0.01% Coverage

especially outside of South Africa,

1 For an overview of the role of the security forces in suppressing resistance and countering armed actions by the opponents of apartheid, refer to Volume Two, Chapter Two, p. 42; Chapter Three, p. 165; Chapter Seven, p. 577. Refer also to the Regional Profiles in Volume Three. For a summary of the findings made against the state, refer to Volume Five, Chapter Six, p. 212ff.

VOLUME

Reference 643 - 0.01% Coverage

their offices around the country.

122. Applications for amnesty were received for over twenty attacks on offices or buildings, including the following: a The bombing of Community House in Salt River, Cape Town on 29 August 1987. Tenants of the recently completed building were to include COSATU and several anti-apartheid organisations and non-governmental organisations (NGOs). Operatives from the Western Cape Security Branch, Security Branch Headquarters and SADF Special Forces applied for and were granted amnesty for this incident [AC/2002/150 AC/2002/042].

b An arson attack on

Reference 644 - 0.01% Coverage

of political and economic transformation.

11. Yet, although the ANC had promoted the idea and led the legislation through parliament, the party appeared divided on the issue. Some of its leadership stated publicly that ANC members need not submit amnesty applications, on the grounds that the ANC had engaged in a just war against apartheid. Finally, 110 As early as 1996

Reference 645 - 0.01% Coverage

ording to the ANC:

The apartheid counter-insurgency machinery inserted itself into the IFP and, as it carried out its murderous campaign, cloaked itself in IFP colours, whereas the genuine leaders and members of the IFP had nothing to do with planning or carrying out any acts of violence originally conceived of by themselves.¹¹⁴

24. The 'special case' character

Reference 646 - 0.01% Coverage

hereby make the following declaration:

During the said period, the ANC played the foremost role in the leadership of the struggle of the masses of our people for the end of the hateful system of apartheid, appropriately dubbed a crime against humanity by the international community.

In the course of our people's struggle, with the intent to induce the apartheid government of the National Party to abandon apartheid with its concomitant violent repression, and with the intent to achieve, bring about and promote fundamental political, social and economic changes in the Republic, the ANC, inter alia, established its military wing, Umkhonto we Sizwe, through which it prosecuted an armed struggle.

At all material times, Umkhonto

Reference 647 - 0.01% Coverage

and leadership of the ANC.

Due to its peculiar circumstances, and the attacks mounted upon it by its adversary, the apartheid government, the ANC established various organs at

115 The highest elected body

Reference 648 - 0.01% Coverage

oil refineries, telecommunications structures, etc.);

government buildings and infrastructure and other apartheid symbols (courts, post offices, government offices);

security force targets (personnel

Reference 649 - 0.01% Coverage

Attacks on black security forces

60. Black security force personnel were prime targets for attack. The fact that they lived in the townships meant that they brought the apartheid regime onto home ground, making them extremely dangerous to local residents. They were seen as the enemy within. Many MK attacks on security force personnel took place while they were off duty, often while they were at home with their families. Of the sixty-one MK attacks on the security forces in 1986, twenty-three (roughly one third) were on the homes of police officers, and resulted in four deaths and nine injuries.¹²⁸

¹²⁷ See, for example, A

Reference 650 - 0.01% Coverage

GE279

Attacks on collaborators with apartheid political structures

61. There

Reference 651 - 0.01% Coverage

these were intended to send

messages to the white community and the Transkei homeland respectively regarding the futility of apartheid. Similarly, a number of facilities such as segregated 'whites only' bus stops were apparently selected in order to highlight apartheid discrimination.

Bombs outside security force offices

Reference 652 - 0.01% Coverage

and ANC into violent actions.

107. While MK operations formed a significant component of resistance in the pre - 1990 period, its estimated 1500 operations pale beside the scale of protest action by civilian opponents of the apartheid government inside South Africa. Police statistics¹⁴³

cite tens of thousands of

Reference 653 - 0.01% Coverage

that he wants to destroy'.

263. The February 1990 lifting of the ban on the liberation movements and the release of Mr Nelson Mandela precipitated an extensive mobilisation of youth, who embarked on a number of activities to express their opposition to the old order in Venda. Apartheid legislation had largely transformed traditional leaders into political functionaries who were seen not only as corrupt and self-serving but also as lackeys of the apartheid regime. Accusations of witchcraft were used to destabilise the Ravele government and to focus political protest in an effort to root out traditional superstitious beliefs. Mr Rogers Khathushelo Ramasitsi [AM2723/96] testified as follows at the Thoyohandou hearing on 12 July 1999:

The time [Mandela] was released

Reference 654 - 0.01% Coverage

and j IFP-linked vigilantes.

33. Many of the IFP applicants applying for amnesty testified that their activities were sponsored by the apartheid government and/ or the homeland government and/ or their political leadership. The Commission was required to investigate these allegations insofar as they shed light on the lines of command, motives and political context in which the IFP applicants were operating. This was particularly necessary in the light of the fact that the leadership of the IFP, unlike other groupings testifying before the Commission, gave no details of human rights violations committed by their members.

Those who did not apply

Reference 655 - 0.01% Coverage

granted amnesty.

MOTIVES AND PERSPECTIVES

116. In summary, the Amnesty Committee heard that most of the acts for which members and supporters of the Inkatha Freedom Party applied for amnesty were motivated by a sense of loyalty to an organisation which had embarked on what it perceived to be an alternative strategy for bringing about an end to apartheid. While senior members of the IFP claimed that there had never been an Inkatha decision to employ violence in this aim, amnesty applicants claimed that their use of violent means to achieve these aims were both authorised and sanctioned by the political leadership of the party.

117. The Commission took cognisance

Reference 656 - 0.01% Coverage

which African people were living.

Nobody dragged me to join APLA. I saw how our brothers were killed by white people together with the police and the soldiers, defending the apartheid system. So there f o r e nobody pushed me behind to go and join APLA, I personally joined APLA. (Hearing at Pietermaritzburg, 10 October 1998.)

82. Thanda came to Cape

Reference 657 - 0.01% Coverage

or white security force members.

91. Several PAC and APLA applicants were adamant that the attacks in which civilians were often killed were not motivated by racism. They testified that they t a rgeted places believed to be frequented by whites because all whites were p e rceived to be complicit in the govern m e n t 's policy of apartheid.

92. All the amnesty applicants

Reference 658 - 0.01% Coverage

was not a white person:

I say to the PAC and APLA and to the applicants, you killed the wrong person. Rolande was also joined in the struggle against the injustice for the apartheid system particularly in education. You simply ended her life as if she was a worthless piece of rubbish. You say you did so to liberate Azania. I say you did so for your own selfish and criminal purposes. You prevented Rolande from helping rebuild our broken nation which, if you had simply waited another few months, in fact came to pass when we had free elections.

Your commander Brigadier Nene stated

Reference 659 - 0.01% Coverage

within that cut-off date.

Then just thirdly, again on a parity of – because this is what this Committee must do, this is what the Commission as a whole must do is to be even-handed and to treat people in the same fashion. The apartheid government targeted overwhelmingly black people. Coetzee was told to get rid of Griffiths Mxenge and he did so very effectively. Griffiths Mxenge was a well-known human rights activist but he was a black civilian. Brian Mitchell committed the Trust Feeds murder where he killed innocent black young men, woman and children; he s l a u g h t e red them. Those were civilians and both of them got amnesty. (Hearing at Pietermaritzburg, 9–11 February 1998.)

165. The applicants expressed their

Reference 660 - 0.01% Coverage

attacks in the area between.

221. Dolo testified that certain houses in Ficksburg on the Lesotho border were regarded as belonging to members of the security forces. These he described as 'in the first line of defence' and 'acting as the garrisons of the then apartheid state'. They therefore qualified as suitable targets for attack. Khotle told the Committee that he attempted to confirm this information:

I ... re c o n

Reference 661 - 0.01% Coverage

in p ro g ress.

297. The primary objective of the PAC and its armed wing APLA in the early 1990s was the overthrow of the apartheid regime. To that end, the PAC recruited young men into self-defence or, as the PAC termed them, 'task force' units.

298. A P L A's

Reference 662 - 0.01% Coverage

G E 4 3 7

were attacked'. White persons (male and female) came to be described as 'the underbelly of apartheid'. By attacking white civilians, APLA hoped to bring pressure to bear on the apartheid government and thereby expedite the liberation of the African masses.

299. Due to the logistical

Reference 663 - 0.01% Coverage

Afrikaner circles in the country.

9. During the early 1990s, the movement away from apartheid by the National Party government was regarded by some as a treasonous capitulation to black political demands, which would result

Reference 664 - 0.01% Coverage

broke away from the ruling

National Party (NP) in 1969, was the first right-wing group to do so. Its reasons, as with all the breakaway parliamentary groups that followed, centred on dissatisfaction with NP reforms at the time. The HNP clung to its belief in the grand apartheid of the Verwoerd years, believing that a white government should dominate the entire territory of South Africa, with clear partition between the races.

BLANKE BEVRYDINGSBEWEGING 15. The Blanke

Reference 665 - 0.01% Coverage

in 1987 and advocated an

extreme version of fascist apartheid based on 'refined Nazism'. Its aim was to 'repatriate' all blacks, Jews and Indians and nationalise the assets of 'nonwhites'. The BBB had links with the British National Front (BNF) and similar

215 Re-established National Pa

Reference 666 - 0.01% Coverage

GE450

Vekom aimed to create a paramilitary structure to facilitate access to armaments and other resources during the run-up to the 1994 election. Together with up to sixty-five other organisations, the formation of a 'right wing front' was discussed and the Afrikaner Volksfront (AVF) was conceived, drawing in a broad spectrum of right wing groups. These included the CP, the HNP, Afrikaner Volksunie, the Afrikaner Vryheidstigting (Avstig), the Wêreld Apartheid Beweging (WAB) 230

, the Boere Vryheid

Reference 667 - 0.01% Coverage

meeting in Pietersburg during July

230 World Apartheid Movement, aka the World Preservatist Movement. 231 Boer Freedom Movement.

VOLUME

Reference 668 - 0.01% Coverage

GE469

129. Walus and Derby-Lewis were both thought to have strong ties with members of two international right-wing organisations, namely the World Preservatist Movement (WPB) and the World Apartheid Movement (WAM). Despite suspicion of a large conspiracy behind Hani's death, the Commission found no evidence that the two convicted killers took orders from either of these international groups, nor from members of the security forces or higher up in the right-wing echelons.

130. Both applicants and numerous

Reference 669 - 0.01% Coverage

two years and twelve years.

203. Mr Slippers testified before the Amnesty Committee that, at an AWB meeting held in November 1990, his Commander AWB Commandant Volshenk had instructed members to implement a policy of 'white-by-night'. This amounted to the re-implementation of the curfew laws of the apartheid era, which prohibited blacks from being in so-called 'white areas' without a permit after 21h00. Blacks present in white townships after 21h00 should be told to leave and, if they refused, should be removed by force if necessary. The Committee received affidavits from Brigadier Kloppers and John Wayne Rautenbach confirming the policy and the instructions to carry it out.

204. Mr Slippers testified that

Reference 670 - 0.01% Coverage

de Klerk as a witness.

R U D O L P H: What I told, or wanted to tell Mr de Klerk that evening was exactly what I have just told you, and that is that we did not go there to fight for or against apartheid and to demonstrate against apartheid, but simply for our freedom. Mr de Klerk chose to destroy us. He employed his forces there and thought well to set the police on us in an unbridled manner. (Klerksdorp hearing, 10 May 1999.)

244. The application was refused

Reference 671 - 0.01% Coverage

P A R T I E S

53. Forty-nine persons remain missing following their abduction by members of rival political organisations or unknown persons. The overwhelming majority of these disappearances (75 %) took place in areas of KwaZulu /Natal during the second half of the 1980s and the early 1990s; and to a lesser degree in the PWV1 2 area (22 %) during the early 1990s. Most of these disappearances related to the ongoing conflict between the UDF/ANC and IFP in these regions – a conflict the Commission has proved was fuelled by the former apartheid government. Fourteen per cent of missing persons in this category were female and, where political affiliation was specified, 19 per cent belonged to or were supporters of the IFP. This is higher than the proportion of female or IFP supporters in the overall disappearance category.

54. The following are some

Reference 672 - 0.01% Coverage

the 1960s to the 1980s.

5. The apartheid state's counter-insurgency efforts intensified during the 1980s, and especially after 1986. As testified to by a number of security force amnesty

35 Volume Two, Chapter

Reference 673 - 0.01% Coverage

political base in the Transvaal.

17. Inkatha's relationship with apartheid security force agencies had a long history. In April 1986, the State Security Council approved guidelines for a strategy for a counter-revolutionary war, which, amongst other things, emphasised the fact that the forces of revolution should not be combated by the security forces alone, but also by 'anti-revolutionary groups such as Inkatha ... or the ZCC3 8 well as the ethnic factor in South African society'.

as

18. In 1986

Reference 674 - 0.01% Coverage

Report, the Commission stated:7

A responsible society is committed to the affirmation of human rights and, to addressing the consequences of past violations) which presupposes the acceptance of individual responsibility by all those who supported the system of apartheid or simply allowed it to continue to function and those who did not oppose violations during the political conflicts of the past.

15. In the Final Report, the Commission defines not only legal and political accountability, but also boldly asserts the notion of moral responsibility. The Commission finds that all South Africans are required to examine their own conduct in upholding and supporting the apartheid system. The abdication of responsibility, the unquestioning obeying of commands, submitting to fear of punishment, moral indifference, the closing of one's eyes to events or permitting oneself to be intoxicated, seduced or bought with personal advantages are all part of the multi-layered spiral of responsibility that lays the path for the large-scale and systematic human rights violations committed in modern states.

16. There were those who were responsible for creating and maintaining the brutal system of apartheid; those who supported this brutal system and benefited from it, and those who benefited from the system simply by being born white and enjoying the privileges that flowed from that. Others occupied positions of power and status and enjoyed great influence in the apartheid system, even though they had no direct control over the security establishment and were not directly responsible for the commission of gross human rights violations. It is only by acknowledging this benefit and accepting this moral responsibility that a new South African society can be built. What is required is a moral and spiritual renaissance capable of transforming moral indifference, denial, paralysing guilt and unacknowledged shame into personal and social responsibility. This acceptance of moral responsibility will allow all those who benefited from apartheid – including the business community and ordinary South Africans – to share in the commitment of ensuring that it never happens again.

7 Volume One, Chapter Fi

Reference 675 - 0.01% Coverage

GE592

17. Those who must come under special scrutiny are those who held high office, those who occupied positions of executive authority and those cabinet ministers whose portfolios did not place them in a direct supervisory capacity over the security forces. While the Commission's findings are not judicial findings, the Commission finds them to be morally and politically responsible for the gross human rights violations committed under the apartheid system, given: a the specific responsibilities of cabinet ministers who oversaw aspects of the apartheid structure in areas that formed key aspects of apartheid's inhumane social fabric (education, land removals, job reservation, the creation of the Bantustans, for example); b the knowledge they had (given the extensive information regarding apartheid crimes in the public domain), or the knowledge that they are presumed to have had, given their access to classified information – at the highest level – about gross violations of human rights, and c their power to act, given their official leadership positions.

LEGAL ACCOUNTABILITY

Reference 676 - 0.01% Coverage

law and the Geneva Conventions.

Apartheid as a crime against humanity

19. The International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted by the United Nations (UN) General Assembly in 1973, states in Article 1 that apartheid is a crime against

humanity. The Convention is one of a series of General Assembly and Security Council resolutions condemning apartheid as a crime against humanity. This legal categorisation has been echoed in the jurisprudence of the International Court of Justice and the International Law Commission's Draft Articles on State Responsibility and Crimes against the Peace and Security of Mankind. The classification of apartheid as a crime against humanity has been confirmed, and apartheid has been treated as similar to other egregious crimes such as genocide, slavery and colonialism in international sources as wide-ranging as the African Charter on Human and People's Rights and the International Criminal Tribunal for the former Yugoslavia.

VOLUME

Reference 677 - 0.01% Coverage

a systemic pattern of violations⁹

Implications of this classification for the prosecution of human rights crimes under apartheid

21. While executing its mandate, the Commission gained a deep understanding of the apartheid system as a whole and its systematic discrimination and dehumanisation of those who were not white. Moreover, the Commission received a number of submissions from various institutions and structures, requesting that it interpret its mandate more broadly than was defined in the founding Act. Whilst taking these submissions very seriously, the Commission was bound by its legislative mandate to give attention to human rights violations committed as specific acts, resulting in killing, abduction and severe physical and/or mental injury, in the course of the past conflict. Although the Commission endorsed the internationally accepted position that apartheid was a crime against humanity, the focus of its work was not on the effects of the laws and policies passed by the apartheid government. The Commission has been criticised in some quarters for this approach.

22. It could be argued that the new government has an obligation, in terms of international law, to deal with those who were responsible for crimes committed under apartheid, even though their acts were considered legitimate by the South African government at the time. On the other hand, the international community declared apartheid to be a crime against humanity and saw the apartheid government as illegitimate. It can therefore be argued that crimes under apartheid have international implications and demand an appropriate response from the new state.

23. However, the Commission acknowledged in its Final Report that the urgent need to promote reconciliation in South Africa demanded a different response, and that large-scale prosecution of apartheid criminals was not the route the country had chosen. This does not mean, however, that those who were in power during the apartheid years should not acknowledge that the crimes committed in the name of apartheid were grave and heinous. Had there been no such

8 ILC, 1886 Draft Code

Reference 678 - 0.01% Coverage

ation

25. The recognition and finding by the international community that apartheid was a crime against humanity has important consequences for the victims of apartheid. Their right to reparation is acknowledged and can be enforced in terms of international law.

26. The classification of apartheid as a crime against humanity emphasises the scale and depth of victimisation under apartheid and, to that extent, adds further weight and urgency to the need to provide adequate and timely responses to the recommendations of the Commission. It also enhances the legitimacy

of the Commission's recommendations in respect of reparations, which now require urgent implementation. The classification also gives greater legal legitimacy to the Commission's recommendations for the institutional reform of apartheid institutions (including the security forces, public administration, the judiciary and business).

27. The Constitutional court in

Reference 679 - 0.01% Coverage

GE595

Importance of this classification for the struggle of the liberation movements against the apartheid state

28. As elaborated more fully in the section on African National Congress (ANC) violations (see below), the legal designation of apartheid as a crime against humanity has important consequences for the struggle conducted by the liberation movements. In terms of international law, the designation of apartheid as a crime against humanity has ensured that the legal status accorded to the war waged against the former apartheid state is that of a 'just war' or 'ius ad bellum'.¹⁰

29. The effect of this designation is to render as just the moral, political and legal status of the struggle against apartheid.

30. The criteria for determining

Reference 680 - 0.01% Coverage

ssion.

31. Thus those who waged war against the illegitimate apartheid state had legitimacy conferred upon them in terms of international law.

32. How e

Reference 681 - 0.01% Coverage

HUMANITARIAN LAW The Geneva Conventions

37. The Geneva Conventions were adopted in 1949 and additional Protocols I and II in 1977. The Conventions are considered to be binding in international law. Virtually every government in the world has accepted their tenets by ratifying them. However, even where states have not ratified the treaty, they have the force of 'customary international law' – that is, they bind governments irrespective of whether those governments have formally ratified the treaty accepting their obligations. The apartheid state acceded to the Geneva Conventions in 1952. It did not, however, ratify or accept the additional protocols, and sought to argue that it could not be bound by their provisions. However, because the international community does not regard ratification as a criterion for holding a state to be bound, it is generally accepted that, even though the previous government did not ratify these conventions, it was formally bound by the principles enunciated by these bodies during the relevant period, as they are expressions of customary international law on state responsibility for the commission of gross human rights violations.

38. In the case of

Reference 682 - 0.01% Coverage

address armed conflicts between states.

44. Whilst on the face of it this may be interpreted to mean that the Geneva Conventions had no application during that period, this is not the case, as a number of bodies within the UN passed resolutions relating to the armed conflict in South Africa. The resolutions covered subjects ranging from apartheid to colonialism and the right to self-determination. In this regard, Resolution 31029(XXXVIII) of the UN General Assembly adopted in 1973 provided as follows:

13 Appendix 2 to this

Reference 683 - 0.01% Coverage

and specifically of Protocol I.

54. As discussed above, the apartheid government did not accede to the additional protocols, particularly Protocol I. This was in the main due to the fact that it was of the view that Article 1(4) of Protocol I was intended to legitimise the struggle of the liberation movements and provide additional protection for their members.

55. As a liberation movement

Reference 684 - 0.01% Coverage

Geneva Conventions and Protocol I.

57. As a result of this declaration, the ANC bound itself to apply Protocol I and the Geneva Conventions. In terms of Article 96(3) of Protocol I, the protocol and the Geneva Conventions came into effect immediately in respect of the conflict, despite the fact that the apartheid state had not acceded to the additional protocol.

58. The importance of the

Reference 685 - 0.01% Coverage

the Parties to the conflict.

59. As discussed above, while the ANC had bound itself unilaterally by way of the declaration to the provisions of Protocol I, the apartheid government did not consider itself so bound. It treated members of the liberation movements as criminals rather than as prisoners of war. The ANC regularly sought to challenge the jurisdiction of the courts on the basis that they were entitled to prisoner-of-war status and invoked the protection of these treaties in an attempt to commute the death sentences of numerous political prisoners. In this they were unsuccessful. Professor John Dugard commented in a book that he wrote on the status of an ANC prisoner of war:15

The issue that most starkly

Reference 686 - 0.01% Coverage

POW's and not ordinary criminals.

15 Article by John Dugard: Denationalization of Black South Africans in pursuance of Apartheid V O L U M E 6 S E C T I O N 5 C H A P T E R 1 P A G E 6 0 1

Furth

Reference 687 - 0.01% Coverage

within or outside this territory;

- Unjustifiable delay in the reparation of prisoners of war or civilians;
 - Practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination;
- V O L U M

Reference 688 - 0.01% Coverage

G E 6 1 4

also endorsed the internationally accepted position that apartheid was a crime against humanity.

5. Whilst the Commission was

Reference 689 - 0.01% Coverage

G E 6 1 6

14. The Commission recorded the fact that patterns of abuse manifested themselves throughout South Africa in much the same way. These were not isolated incidents or the work of mavericks or 'bad apples'; they were the product of a carefully orchestrated policy, designed to subjugate and kill the opponents of the state. In any event, the Commission's findings are supported by the submissions made by many victims to various human rights organisations during the apartheid period.

15. The Commission has also

Reference 690 - 0.01% Coverage

as a justification for torture.

21. The Commission made its findings on torture based on evidence received from victims through the human rights violations process, perpetrators in amnesty applications and evidence given before the Commission by senior politicians and security force officials of the former government. In addition, local and international human rights groups made a number of submissions to the Commission, based on the studies they had carried out during the apartheid period.

22. The Commission received over

Reference 691 - 0.01% Coverage

in out-of-court settlements.

41. More distressing is the fact that many judges and magistrates continued to accept the testimony of detainees, despite the fact that most of them knew that the testimony had been obtained under interrogation and torture whilst in detention. In this way, the judiciary and the magistracy indirectly sanctioned this practice and, together with the leadership of the former apartheid state, must be held accountable for its actions.

V O L U M

Reference 692 - 0.01% Coverage

bad apples and mavericks'3 6

doubt that the apartheid state must be held responsible for the actions and deeds of its agents and that the state's failure to investigate or to take action created a climate of impunity and criminality in the security forces.

68. A key factor when

Reference 693 - 0.01% Coverage

G E 6 2 7

came unstuck. The apartheid government was obsessed with rule by law, and laws were created to cover almost every illegitimate act they could get away with. However, it was legal proceedings in inquest matters that stripped away the veneer of legitimacy and revealed the venality of the agents of the state. The adverse publicity that the government attracted abroad as a result of these deaths in detention forced the state to go underground and look for other mechanisms to deal with persons perceived to be political opponents.

76. Brigadier Jack Cronje [AM2773

Reference 694 - 0.01% Coverage

unrest and violence was stopped.

77. This, in effect, gave the security forces carte blanche to maim and kill, allowing the former apartheid state to move even further into the criminal arena. This was particularly so in the case of its internal operations, where it had to operate at a covert and clandestine level so that no operation was traceable to the state. It was this that led directly to the setting up of various death squads in the country – such as the Civil Co-operation Bureau (CCB) and Vlakplaas – and the training of surrogate forces such as the hit squads in KwaZulu and Natal.

78. In its quest for

Reference 695 - 0.01% Coverage

risk as it was inciteful'.

113. In August 1988, Minister Vlok was allegedly ordered by then State President PW Botha to render Khotso House 'unusable', but to do so without loss of life. Khotso House was the headquarters of the South African Council of Churches, considered to be an opponent of the former state. Numerous anti-apartheid organisations, including the United Democratic Front, also had offices in the building. This case provides an interesting study as, in his evidence before the Amnesty Committee, Minister Vlok testified that, although he had not been given specific instructions to bomb Khotso House, he could not think of a legal way to carry out the State President's injunction. He also testified that, since President Botha had said that 'it should involve no loss of life', he was led to believe that that Mr Botha had been suggesting unlawful means. This operation, which was also conducted by Vlakplaas with assistance from the Witwatersrand security Branch and the explosives section at security Branch Headquarters, took place on the night of 31

August 1988. Given the legal principles enunciated above, there can be little doubt that Mr PW Botha remains liable for these operations.

114. All of these operations

Reference 696 - 0.01% Coverage

party.

115. The pattern that was followed by successive apartheid governments was to pass laws to legitimise their conduct. When that failed, they did not hesitate to act outside of the law and resort to criminality.

116. In the B I

Reference 697 - 0.01% Coverage

acts is liable for them.

124. Using this principle, all former heads of the apartheid state could be held responsible for the commission of gross human rights violations committed by their agents.

125. The meaning of each

Reference 698 - 0.01% Coverage

T I O N 1.

In its five-volume Final Report, the Truth and Reconciliation Commission (the Commission) fully endorsed the international law position that apartheid was a crime against humanity. It also recognised that both the African National Congress (ANC) and the Pan Africanist Congress (PAC) were internationally recognised liberation movements that conducted a legitimate struggle against the former South African government and its policy of apartheid.

2. The Commission noted that

Reference 699 - 0.01% Coverage

international humanitarian law.

Moral equivalence

11. One of the criticisms the ANC levelled at the Commission was that of 'moral equivalence'. The ANC claimed that the Commission equated the actions of those who fought a just cause against apartheid with those who fought in defence of an unjust cause.

12. The Commission's position has

Reference 700 - 0.01% Coverage

either morally or legally justified.

16. The Commission also took care not to use apartheid definitions of legal conduct. IUS IN BELLO A N D IUS AD BELLUM

17. The ANC also criticised the Commission for failing to deal adequately with the fact that the apartheid state acted in breach of the Geneva Conventions and the Additional Protocols. According to this view, the actions that the state considered to be legitimate were war crimes. For this reason it is important to elucidate the distinction between a 'just war' and 'just means'.

18. In its five-volume

Reference 701 - 0.01% Coverage

20. The Report stated further:

The Commission's confirmation that the apartheid system was a crime against humanity does not mean that all acts carried out in order to destroy apartheid was necessarily legal, moral and acceptable. The Commission with the international consensus that those who were fighting for a just cause were under an obligation to employ just means in the conduct of this fight.

As far as justice in

Reference 702 - 0.01% Coverage

GE 646

clearly accepted. The Protocols to the 1977 Geneva Conventions are intended to apply to such a conflict and were subscribed to by the ANC in 1980. Although the Apartheid state did not ratify the relevant Protocol, that Protocol merely codified pre-existing contemporary law on the subject. Thus both belligerents in South Africa were under an obligation to treat the conflict as one governed by the law of war. Under Article 85, paragraph 5 of the Geneva Protocol, 'grave breaches' of the Convention and Protocol constitute war crimes.⁶⁰

23. The report of the

Reference 703 - 0.01% Coverage

of having followed orders. The

60 Asma I, K, Asmal L, and Roberts, R S, Reconciliation through Truth : A Reckoning of Apartheid's Criminal Governance. Cape Town, David Phillip, 1996.

VOLUME

Reference 704 - 0.01% Coverage

and to join Umkhonto weSizwe.

57. Whilst these kinds of incidents are considered to be gross human rights violations, they need to be contextualised. At the time, the country was engulfed in violence in which the apartheid state was the primary actor. It had established covert units, including death squads, whose main intention was to assassinate those considered to be political opponents, and was using all its might to crush opposition. Youth were targeted and enticed into entrapment operations. It would have been quite impossible for the UDF leadership to control the violence and actions of groups within communities all over the country. While the leadership may have uttered words of restraint, it is unlikely that they would have been heeded. This context of violence gave rise to some of the worst excesses in our country.

58. In testimony before the

Reference 705 - 0.01% Coverage

ANC argued that the finding:

has the deliberate intention, contrary to the truth readily available to the TRC, of shifting the blame for the political violence which occurred in the period since 1990 away for the apartheid regime to the democratic movement and condemning the oppressed for the efforts they took to defend themselves against a very intense campaign of repression and terror.

78. The ANC also restated what it had said in its submission to the Commission in May 1997: The post-1990 violence was the work of the state, was organised at the highest level, and was aimed at strengthening the hand of the government at the negotiations table by forcing a progressively weakened ANC into a reactive position in which it would be held hostage to the violence and forced to make constitutional concession.... the ANC was not engaging in 'ongoing conflict', nor were the majority of the people on the ground embroiled in 'ongoing conflict': they were being attacked by covert units operating in accordance with the wishes of the apartheid regime.

Amnesty process

Reference 706 - 0.01% Coverage

historic ceremony for my movement.

Apartheid, the policy of official discrimination enshrined in the law and constitution of South Africa, has now been legally denounced as a crime against humanity and has led to an International Convention for the Suppression and Punishment of the Crime of Apartheid. Protocol I of 1977 itself recognises that 'practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination' constitute grave breaches of the Conventions and must therefore join the list of crimes identified at the Nuremberg War Crimes Tribunal.

The international community has there

Reference 707 - 0.01% Coverage

by signing the following declaration:

It is the conviction of the African National Congress of South Africa that international rules protecting the dignity of human beings must be upheld at all times. Therefore, and for humanitarian reasons, the African National Congress of South Africa hereby declares that, in the conduct of the struggle against apartheid and racism and for self-determination in South Africa, it intends to respect and be guided by the general principles of international humanitarian law applicable in armed conflicts.

Wherever practically

Reference 708 - 0.01% Coverage

KwaZulu Government, Mncwango said that:

While the TRC found no evidence of wrongdoing, or a specific violation of human rights by Dr Buthelezi, it seeks to hold him accountable for the generic violation of human rights. This is legally obscene and morally

repugnant. One is politically accountable when certain actions may be the consequence of the policies adopted by a leader. But Minister Buthelezi never adopted any policy other than non-violent passive resistance and the echoing demand for all-inclusive negotiations, which in the final analysis were exactly what caused the demise of apartheid and led to the birth of the new South Africa.

67 Hansard, 25 February 1999

Reference 709 - 0.01% Coverage

Soviet and Cuban military personnel.

In fact, Inkatha and the KZG were the only major participants in the conflicts of the past which had no control over a private army to be deployed for political purposes. Private armies were available both to the exiled political forces, such as the ANC and the PAC through the military training camps abroad, as well as to the leaders of the TBVC states and, obviously, to the SAG. Prince Buthelezi's refusal to accept nominal independence was, as admitted by former State President FW de Klerk, the major cause of the demise of the great scheme of apartheid, as it prevented the SAG from consolidating its claim that the white minority was no longer ruling over the majority of disenfranchised black South Africans. The fact that the Zulu people remain a i n e d South Africans and did not have an independent state, forced the chief Minister of the KZG to provide for their security.

This as the background leading

Reference 710 - 0.01% Coverage

of gross human rights violations.

2. The Commission stated in its report that it recognised the PAC as a legitimate liberation movement which had waged a just struggle against the apartheid g o v e r n m e n t. However, in the course and conduct of that struggle, it had committed gross violations of human rights.

3. While the PAC did

Reference 711 - 0.01% Coverage

and attacks by Poqo gangs.

14. The PAC considered police officers to be an extension of the apartheid machinery and hence legitimate military targets. Spies and informers fell into this category as well. Dissidents in the movement were treated as the 'enemy'. It needs to be re m e m b e r e d that there were continual fears that the liberation movement would be infiltrated by those in the employ of the state. Not unnatur a l l y, vigilance tended to spill over into paranoia.

15. The PAC deliberately targeted

Reference 712 - 0.01% Coverage

G E 7 0 7

always the settler colonial regime of South Africa. Reduced to its simplest form , the apartheid regime meant white domination, not leadership, but control and s u p r e m a c y. The pillars of apartheid protecting white South Africa from the black d a n g e r, were the military and the process of arming of the entire white South

African society. This militarization, therefore, of necessity made every white citizen a member of the security establishment.

33. The vast majority of

Reference 713 - 0.01% Coverage

N T A R Y D E B A T E

38. In the parliamentary debate on the Commission's Report, held on 25 February 1999, PAC President Dr Stanley Mogoba noted that the Commission had revealed the painful truth of past apartheid atrocities but had not succeeded in bringing about reconciliation:

The TRC unavoidably opened the wounds of many families who were hurting in silence. The skeletons of this country came tumbling out of the cupboards. Some of us who had experienced the terrible side of the apartheid repression knew some of the truth, but only a fraction of the truth.

39. How e

Reference 714 - 0.01% Coverage

perpetrated during the liberation struggle:

Although the context of hostilities, war and the struggle for survival is grudgingly admitted, the condemnation is nevertheless made. How we may ask, can people who were fighting and killing to uphold an oppressive and inhuman apartheid system, which was roundly condemned as a crime against humanity, be placed on the same scales of justice with the victims of that system?⁷³

40. This, indeed, was the criticism levelled at the Commission by all the liberation movements, despite the fact that they themselves had played a leading role in drafting the legislation that required the Commission to adopt an 'even handed' approach to the commission of gross human rights violations. The legislation did not make a distinction between the state and any other party. It required the Commission to investigate all gross human rights violations. Moreover, in making its findings, the Commission found the former apartheid state to be the major perpetrator responsible for state-sponsored violence.

41. The Commission considered that the war waged by the liberation movements was a just war and upheld the finding of the United Nations that apartheid was a crime against humanity. Thus the fight against the apartheid government was considered to be just and legitimate. Reference should be made to Additional Protocol I to the Geneva Conventions of 1949 covering armed conflicts in which

⁷³ The Sowetan, 30 October

Reference 715 - 0.01% Coverage

Police officers as 'legitimate' targets

48. The PAC makes the assertion that they considered all police officers to be legitimate targets because they were the agents of apartheid and thus criminals. Their involvement with the apartheid government made them a legitimate target of the liberation movement.

49. An anomalous factor is

Reference 716 - 0.01% Coverage

uniform was not at issue.

52. There is no doubt that police officers were perceived by ordinary people to be an extension of the state and thus legitimate targets of the liberation movements. In most of the townships, police were perceived to be the enemy and in many instances played the role of maintaining the apartheid government's power. This is not true of all police officers, but it is certainly true of the vast majority who became police officers during the apartheid era. One of the most painful experiences for most members of the community was the fact that police officers were an extension of apartheid authority and were responsible for carrying out many brutal acts against members of the community. In a number of instances, they were responsible for the arrest and detention of loved ones. In a vast number of cases, black policemen were responsible for the torture of activists in the townships.

53. In its submission, the

Reference 717 - 0.01% Coverage

and enjoying a Sunday meal.

54. It goes on to make the point that the apartheid government did not make that distinction.

. V O L U M

Reference 718 - 0.01% Coverage

when they were off duty'.

56. However, even if one accepts the argument that police officers were an extension of the apartheid system and thus legitimate targets, this does not remove from the PAC responsibility for attacks on police officers when they were hors de combat or when, unacceptably, innocent family members were killed or injured in these attacks.

57. Furthermore, it is not correct to assume that all police officers collaborated with the former state. In many instances, they joined the force because there was little opportunity for them to do anything else. Are they to be considered any more complicit in the apartheid system than magistrates or other persons who accepted jobs in the apartheid system?

58. If one accepts the argument that police officers were an extension of the apartheid apparatus, does this make a police station a legitimate target? In one case, applicants sought amnesty for an attack on a police vehicle in Diepkloof during which one policeman was killed and another injured.

59. In another incident, amnesty

Reference 719 - 0.01% Coverage

fire that ensued.

60. A question that must be considered is: Are all policemen who served in the apartheid force to be considered combatants and thus legitimate targets?

61. If one accepts the

Reference 720 - 0.01% Coverage

Traditional leaders as 'legitimate' targets

62. The PAC treated traditional leaders who co-operated with the state as an extension of the apartheid system and thus as legitimate targets.

63. In 1962, members of

Reference 721 - 0.01% Coverage

to be a combat situation.

65. The question these incidents raise is whether those who became part of the apartheid system became legitimate targets as identified by the PAC. The above situation relates to but one example of the iniquity of the apartheid system, which dispossessed people of their land, often violently, and frequently replaced hereditary leadership with chiefs of their own. Yet the targeting of traditional leaders and chiefs cannot be condoned and must constitute a gross human violation. Thus the motivation for the attacks can be understood but not condoned.

Civilians and farmers as 'legitimate'

Reference 722 - 0.01% Coverage

and farmers as 'legitimate' targets

66. In its second submission to the Commission, the PAC confirmed its earlier stance that whites under apartheid were beneficiaries of the system, that every white person was part of the defence lines of apartheid, and that the Commission had to accept that every white home during the apartheid era was some kind of garrison.

67. While the Commission did

Reference 723 - 0.01% Coverage

people were the beneficiaries of

apartheid and its largesse. White people cannot escape the fact that being white in South Africa enabled them to benefit from the system at the expense of the black majority. Having said that, the Commission cannot accept the argument that every white person must be considered part of the apartheid defence system

V O L U M

Reference 724 - 0.01% Coverage

G E 7 1 4

and that every white home must be considered to be a garrison. This is absurd and must be rejected. There were a large number of white people who not only opposed apartheid but who also fought against it in a variety of different ways, including the taking up of arms.

68. An analysis of the

Reference 725 - 0.01% Coverage

C 's 'Operation Great Storm'.

70 . A number of applicants claimed that the attacks were not motivated by racism. R a t h e r, as whites were seen to be complicit in the govern m e n t 's policy of apartheid, they constituted a legitimate targ e t

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71. Mr Letlapa Mphahlele, APLA

Reference 726 - 0.01% Coverage

G E 7 1 6

81. These operations involved the deliberate targeting of white farmers and are quite unlike the ANC's landmine operations in farming areas. Whilst it is true that farmers in many of the border areas were trained and issued with weapons so that they could take part in commandos patrolling the area, not all of the farmers so targeted were an extension of the apartheid system.

Specific amnesty applications dealing with

Reference 727 - 0.01% Coverage

remain in custody serving sentences.

88. The leaders of the PAC maintain that a number of their cadres are languishing in apartheid jails and that special arrangements should be made to pardon them. At a parliamentary briefing after the debate on the Commission's report, Dr Stanley Mogoba, the President of the PAC, made a call to the State President to pardon 'the many freedom fighters who are still languishing in our prisons'.

Now that the TRC work

Reference 728 - 0.01% Coverage

TO REPA R ATION FUND

7. The Commission recommends and urges that all beneficiaries of apartheid make a contribution to the Reparation Fund.

N ATIONAL PROGRAMME OF ACTION

Reference 729 - 0.01% Coverage

h out its entire existence.

b Attempting to address the needs of those with a constitutional right to be acknowledged for the pain and suffering they had endured during the apartheid era.

c P roviding the machinery

Reference 730 - 0.01% Coverage

States Agency for International Development

Wêreld Apartheid Beweging ('World Apartheid Movement', aka 'World Preservatist Movement') World
Apartheid Movement

Wide area network

Wenkommando ('Winning

Reference 731 - 0.01% Coverage

on s 9 2 0

This volume is a tribute to the victims of Apartheid and a living monument to those who sacrificed so much in order that we could all enjoy the fruits of democracy. It contains the stories of those who came forward to speak of their suffering. Their stories symbolize the greater experience and suffering of our people, many of who were not able to come f o r w a r d to tell their own story.

G l o s s

Reference 732 - 0.01% Coverage

the horrors of our past.

The Commission there f o r e dedicates this volume of its report to the victims of Apartheid. W h o a r e t h e v i c t i m s ?

Many people came forward to tell of their suffering during the period of re p r e s s i o n and resistance. Som e had been act i v e par t i c i p a n t s in organised resist a n c e; som e had been identified as agents of the Apartheid state; others had been innocent, even ignorant, victims caught up in the wrong place at the wrong time.

Queries about reparations can be

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of victims who came forward .

The names listed in this volume are those victims of gross human rights violations who e m e r g e d through statements made to the Human Rights Violations Committee (HRV C) and in applications for amnesty before the Amnesty Committee (AC). The list is not intended to be exhaustive of all those who may be defined as victims of Apartheid.

V O L U M

Reference 734 - 0.01% Coverage

any of the Rivonia trialists.

These summaries cannot do justice to the magnitude of the violations experienced by victims. They do not always convey a sense of the lasting impact of the violations, nor do they describe the wider picture of abuse, discrimination and human rights violations that Apartheid wreaked primarily upon the black citizens of the country.

In certain cases, there is

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those tortured were largely male.

What is not adequately captured is the story of the thousands of women in South Africa who were left behind to fend for themselves and who experienced the brutality of the Apartheid system, particularly where their loved ones had left the country or had been identified by the Apartheid apparatus as opposing the state. Another story that is untold is that of the many women who went into exile to join the liberation movements. We have not been able to do justice to them. This remains unfinished business.

Although there are necessary areas

Reference 736 - 0.01% Coverage

movements and other political organisations.

The unknown victims of human rights violations in South Africa were not necessarily aligned to any particular political organisation or party. Neither were they confined to a particular province or region in the country. Men and women, young and old alike fell victim to the violence and suffering spawned by Apartheid.

In spite of efforts

Reference 737 - 0.01% Coverage

ANC supporter, was

gang-raped in her home by IFP supporters looking for 'comrades' in August 1990 in Katlehong, Tvl. Ms Buthelezi's three sisters and a friend were also gangraped during this attack. A fourth sister was stabbed in her back. BUTHELEZI, Rista B, was shot and wounded when ANC security guards opened fire from the ANC headquarters at Shell House, Johannesburg, on a crowd of IFP marchers, on 28 March 1994. At least nine marchers were killed and around 100 injured. Ten ANC security guards were granted amnesty (AC/2000/142). BUTHELEZI, Robert Paulos, was shot and wounded when ANC security guards opened fire from the ANC headquarters at Shell House, Johannesburg, on a crowd of IFP marchers, on 28 March 1994. At least nine marchers were killed and around 100 injured. Ten ANC security guards were granted amnesty (AC/2000/142). BUTHELEZI, Roster (49), an Inkatha supporter, had her home burnt down by ANC supporters at Richmond, Natal, on 3 July 1990. BUTHELEZI, Samson Punch (53), was shot dead when members of the SADF fired into a crowd in Kabokweni, KaNgwane, on 29 December 1990 during unrest that broke out following a music festival he was attending with his son. BUTHELEZI, Samuel Bafana (45), a councillor, had his house destroyed in an arson attack in Sebokeng, Tvl, in January 1984 during a rent boycott when councillors were targeted because they were seen as legitimate targets in the struggle against apartheid institutions. See VOLUME. BUTHELEZI, Sibongasonke Khubeni (21), was severely injured when he was beaten and repeatedly stabbed

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AGE 79

DISEKO, Seipati Welheminah (29), lost her shack when it was burnt down by members of the SACPs supporting Shenxe vigilante group during violent political conflict in Khutsong, Carletonville, Tvl, on 25 May 1993. DISEMBA, Totyi Sidwell (39), was shot and seriously injured by members of the SAP in Crossroads, Cape

Town, on 20 May 1993, during attempts by a named C r o s s roads leader to remove residents from Section 2 by forc e . DITHEBE, Jacob (17), was shot dead in Evaton, Tvl, on 15 June 1992 on the eve of the sixteenth anniversary of the SO W E T O U P R I S I N G . His brother also died in this a t t a c k . DITHEBE, John (26), was shot dead in Evaton, Tvl, on 15 June 1992 on the eve of the sixteenth anniversary of the SO W E T O U P R I S I N G . His brother died in the same a t t a c k . DITHEJANE, Kelebogile Elizabeth, was beaten and then shot dead by a member of the SAP in Wolmaransstad, Tvl, on 3 July 1990. DITHEKO, Daniel Mile (24), an ANC support e r , was shot and injured in Johannesburg, on 12 April 1993 en route to the memorial service for assassinated SACP leader CH R I S H A N I . DITHIPE, Lucky Raymond, an ANC support e r , was a rrested in Mmabatho, Bophuthatswana, in Febru a ry 1992 while cleaning graves with other ANC support e r s . DITHIPE, Wi l l i a m , an ANC support e r , was arrested in Mmabatho, Bophuthatswana, in Febru a ry 1992 while cleaning graves with other ANC support e r s . DITSE, Randitshe Shadrack (18), was severe l y beaten by a member of the SAP Riot Unit in Khutsong, Carletonville, Tvl, in September 1989 and then placed under arrest for a day on a charge of stoning a Casspir. DITSEGO, Malekutu Johannes (33), an ANC support e r , was injured when a bullet aimed at a policeman hit him in Lebohang, Leandra, Tvl, on 2 August 1993. At the time, police officers were attacked because they w e re seen as part of the apartheid state. DITSELA, Kgabo David (25), an ANC support e r , was s e v e rely beaten by members of the SAP and SADF in Ellisras, Tvl, in October 1990 during an ANC mass meeting in Ga-Seleka. The SAP declared the meeting illegal and dispersed the crowd with forc e . DITSHEGO, Jacob Sebudi (23), an ANC support e r , was shot and injured in a D R I V E - B Y S H O O T I N G i n Vo s l o o rus, Tvl, on 17 November 1991. Mr Ditshego was one of seven people killed and seven seriously i n j u red when gunmen opened fire with AK47s on a g roup of people at a party in Vo s l o o ru s . DITSHEGO, Kgarebyana Sarah (26), was teargassed, assaulted with fists, kicked and arrested in Moutse, KwaNdebele, in 1987 after 'comrades' called her and a friend to help defend a shop against attack during political conflict over I N C O R P O R A T I O N i n t o KwaNdebele. Ms Ditshego suff e red a miscarriage as a result of the assault. DITSHEGO, Khomotso Tebogo (15), was shot and killed by members of the SAP in Atteridgeville, Pre t o r i a ,

V O L U M

Reference 739 - 0.01% Coverage

A G E 9 9

near the Krugersdorp Magistrate's court and the adjacent police station, Tvl, on 16 March 1988. Thre e people were killed and more than 20 were injured in the blast. Two MK operatives were granted amnesty (A C / 2 0 0 1 / 0 0 3) . DU PLESSIS, PC, was severely injured when MK operatives detonated an explosive in a car outside the South African Air Force (SAAF) headquarters in Churc h S t reet, Pretoria, on 20 May 1983. Twenty-one people w e re killed and 217 injured. The overall commander of M K ' s Special Operations Unit and two MK operatives w e re granted amnesty (AC/2001/003 and AC/2001/023). See CH U R C H S T R E E T B O M B I N G , P R E T O R I A . DU PLESSIS, Pieter, a member of the SAP, was shot and injured on 8 August 1988, when his SAP tracking unit ambushed an MK unit of seven members in Ellisras, Tvl. One SAP member was killed and four wounded during this confrontation. An MK operative was also killed. One MK operative was granted amnesty (AC/2000/081). DU PLESSIS, Willem Petru s , was injured when members of MK's Special Operations Unit detonated an explosive in a car outside the SADF Wi t w a t e r s r a n d Command headquarters in Johannesburg on 30 July 1987. At least 68 people were injured. Three MK operatives and one UDF supporter linked to MK were granted amnesty for their various roles in this attack (AC/2001/0003 and AC/2000/248). DU PREEZ, Peter Wi l l i a m , was shot and injured when APLA operatives threw hand grenades at and opened f i re on the congregation of St James' Church, Kenilwort h , Cape Town, on 25 July 1993. Eleven people were killed and 58 wounded in the attack. See A P L A A T T A C K S . Three of four APLA members were granted amnesty for the attack. The fourth had his application s t r u c k off the roll for failing

to attend the amnesty hearing (AC/1998/0018). DU PREEZE, CJ, a traffic officer, was shot and injured by MK operatives in Krugersdorp, Tvl, on 27 September 1991. The MK operatives were escaping arrest after being stopped at a roadblock by traffic officers. Several other traffic officers were also injured and a passing motorist was shot dead and robbed of his vehicle by the fleeing operatives. Three MK operatives were granted amnesty (AC/1998/0091). DU TOIT, Afrika Johannes (21), lost his eye after being shot with birdshot when members of the SAP opened fire on a crowd of protesters in Ashton, Cape, in June 1990. Residents were campaigning against ongoing apartheid segregation and racism in the town. DU TOIT, CJ, was severely injured when MK operatives detonated an explosive in a car outside the South African Air Force (SAAF) headquarters in Church Street, Pretoria, on 20 May 1983. Twenty-one people were killed and 217 injured. The overall commander of MK's Special Operations Unit and two MK operatives were granted amnesty (AC/2001/003 and AC/2001/023). See CHURCH STREET BOMBING, PRETORIA. DU TOIT, David, was shot and injured when APLA operatives threw hand grenades at and opened fire on the congregation of St James' Church, Kenilworth,

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Reference 740 - 0.01% Coverage

E 7 Victim findings: Summaries

during conflict between ANC and IFP supporters. Two others were killed and Ms Jiliza was reportedly paralysed as a result of her injuries. JIM, Richard (34), a taxi driver, was paralysed in a shooting at the Nyanga terminus, Cape Town, on 10 August 1991, during conflict between opposing taxi associations, which acquired a political dimension due to perceptions of political affiliation. See TAXI VIOLENCE. JIMLONGO, Myoyo Simon (37), an ANC supporter, was severely beaten by members of the CDF in King William's Town, Cape, on 6 September 1992 during political conflict over the reimposition of the headman system. JINGANA, Lizo Livingstone (44), was stabbed and injured by UDF supporters in Uitenhage, Cape, on 30 September 1985, for refusing their request not to sell liquor to AZAPO and AMAAFRICA supporters. JINGELA, Bekabakubo Paulos (44), an ANC supporter, had his house burnt down by the AMAVARA in KwaNdengezi, KwaZulu, near Pinetown, Natal, in 1992. JINIKWE, Hilton Vumzi, an ANC supporter, disappeared in April 1985 in Kirkwood, Cape, together with his friend with whom he was planning to go into exile. He has not been seen since. JININEKA, Mzonke Ben (64), an ANC supporter, was sentenced in 1960 to five years in prison in Kokstad, Natal, where he was beaten with rifle butts and sjamboks. He had participated in the NONQULENA resistance, which challenged apartheid legislation in Transkei. JININEKA, Ndaleko, a Transkei Defence Force (TDF) soldier, was injured during an ATTEMPTED COUP IN UMTATA, TRANSKEI, on 22 November 1990. Seven TDF soldiers were killed and some 33 wounded. Four of the coup conspirators were granted amnesty. Six Vlakplaas operatives were granted amnesty for providing arms for the attempted coup. An SADF Military Intelligence operative, who applied for amnesty for his role in supporting the coup, later withdrew his application (AC/2000/036; AC/2001/095 and AC/2001/199). JININEKA, Nelson (23), an ANC member, was assaulted with sticks by SADF and SAP members while in detention in Kokstad and Bizana prisons in June 1960. In the PONDOLAND REVOLT, Mr Jinineka had taken part in the protest against the allocation of land to whites in return for money. JININEKA, Ziphate, an ANC member, was imprisoned for two years for his role in the PONDOLAND REVOLT in Transkei during 1960. JIYANE, Isaiah (47), was killed by IFP supporters when he was thrown off a moving train near Denver station, Johannesburg, on 28 March 1994. Several people were killed on trains that day in reaction to the shootings that had taken place at the ANC headquarters at Shell House. JIYANE, Jeminah, was shot dead by members of the SAP in Kwa-Guga, Witbank, Tvl, on 16 July 1985 during conflict caused by a school boycott in the township. Her unborn baby

was also killed in the incident. J I YANE, Mary Monyadiwe, was severely beaten by members of the IM B O K O D O vigilante group in Dennilton, KwaNdebele, on 1 January 1986. IM B O K O D O v i g i l a n t e s
P A G E 1

Reference 741 - 0.01% Coverage

E 7 Victim findings: Summaries

opposed to the political changes taking place in the c o u n t r y. JONES, Johannes (22), a SAYCO member, died two days after he was shot in the chest by a named SAP member in Robertson, Cape, on 2 July 1990, during political conflict. The shooting occurred during a campaign by residents of Boland townships to p r o t e s t continuing apartheid practices. JONES, Nancy Sanuse, had her house and belongings b u r n t in an arson attack at Inanda, near KwaMashu, Durban, during intense conflict between IFP and ANC s u p p o r t e r s in the early 1990s. JONES, Peter Cyril, a senior member of the Black Consciousness Movement, was detained, together with Steven Biko, on 18 August 1977, and subsequently i n t e r r o g a t e d and assaulted by members of the Port Elizabeth Security Branch. Mr Jones was held for 17 months and banned on his release. One member of the Port Elizabeth Security Branch was granted amnesty for assaulting Mr Jones (AC/1998/0114 and A C / 1 9 9 9 / 0 0 2 0) . JONES, Richard William (38), was severely i n j u r e d when a limpet mine, planted by MK operatives, exploded during lunchtime at the Wimpy restaurant in Benoni, Tvl, on 30 July 1988. One woman was killed and at least 66 people were injured. Four MK operatives w e r e granted amnesty for the planning and execution of the attack (AC/1999/0294). JONGA, Elliot Mbulelo, was shot dead by a named M U N I C I P A L P O L I C E M A N in Paballelo, Upington, Cape, on 31 December 1985. The policeman opened fire on persons he believed to be responsible for stoning his h o u s e . JONGILE, Landile Andrew (18), was arrested, beaten and t o r t u r e d by members of the Ciskei Police in 1983 and 1984 in Mdantsane, Ciskei, Aliwal North and East London, Cape. JONNIE, Sicelo Corie (18), an ANC support e r, was shot and seriously injured by members of the CDF in Bisho, Ciskei, on 7 September 1992 during an ANC p r o t e s t march to demand free political activity in Ciskei. T h i r t y people were killed and 200 people injured in the event which became known as the B I S H O M A S S A C R E . Two members of the former CDF were r e f u s e d amnesty for the shooting (AC/2000/122). JOOSTE, Davids (30), was injured when A W B members detonated a pipe bomb at a taxi rank on the c o r n e r of Third and Park Streets in Randfontein, Tvl, on 25 April 1994, in an e f f o r t to disrupt the electoral p r o c e s s . Six people were injured in the blast. Six A W B members were granted amnesty (AC/1999/0342). See R I G H T - W I N G A T T A C K S . JOOSTE, Ursula Amelda (17), was punched in the face in W o r c e s t e r, Cape, in May 1985, after attending a mass meeting at her school. During interrogation at the police station, a policeman attempted to beat her. She retaliated by breaking his spectacles and was c h a r g e d with public violence and assaulting a policeman. Ms Jooste was sentenced to four years' imprisonment, which was suspended for five years.

P A G E 1

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E 7 Victim findings: Summaries

KRUGER, Susanna Maria Magdelina, s u f f e r e d injuries when a limpet mine, placed in a pot plant, was detonated near the Juicy Lucy restaurant on the c o r n e r of Andries and Ve r m e u l e n Streets, Pretoria, on 26 May 1988. Three MK operatives were granted amnesty (AC/2000/199). KRUSER, Gary John (25), an MK operative, was t o r t u r e d during interrogation in Cape Town by members of the W e s t e r n Cape Security Branch, in September 1987. He was held for six months under S E C T I O N 2 6 and then for three years, while on trial for t e r r o r i s m . Two members of the W e s t e r n Cape Security Branch w e r e granted amnesty

for the torture of Mr Kru s e r (AC/1999/0027 and AC/1999/028). KUAPE, Mantwa Ly d i a, a UDF activist, was shot dead by members of the SAP, allegedly in an ambush, in Katlehong, Tvl, on 25 July 1986. Prior to her death Ms Kuape was repeatedly visited by members of the security forces who accused her of hiding weapons and ammunition. Ms Kuape's brother was an MK member in exile at the time of her death. K U B AYI, Solomon Muzamane (15), was shot with b i rdshot and injured by members of the SAP in Alexandra, Johannesburg, on 25 April 1986 during mass community action against vigilante groups and community councillors. KUBEKA, Fakazile Joyce (36), a UDF support e r, was shot by members of the Security Branch at Ntuzuma, near Durban, on 21 October 1989 in a raid on her home. She lost her sight as a result of the shooting. KUBEKA, Lilian Matshomo (49), mother of a policeman, lost her home when it was petro l - b o m b e d by alleged 'comrades', in Daveyton, Tvl, on 25 Febru a ry 1994. Policemen were targeted because of their ro l e in enforcing apartheid laws. KUBEKA, Mpoto Philemon (67), had his store looted and burnt and his car burnt to ashes by named perpetrators at Madadeni, KwaZulu, near Newcastle, Natal, on 1 March 1994, in political conflict in the are a . KUBEKA, Zamokwakhe (42), an ANC supporter and a c o u n c i l l o r, was shot dead, and his shop was looted, by IFP supporters in KwaMashu, Durban, on 17 November 1 9 9 0 . KUBEKA-MODISE, Abigail Sibongile (46), an ANC s u p p o r t e r, had her house in Orlando, Soweto, Johannesburg, burnt down in 1986 by named perpetrators because of her participation in a peace song that was o rganised by the apartheid govern m e n t . KUBHEKA, Albert i n a, died in hospital on 5 May 1986 f r o m burn wounds sustained when her house in Madadeni, KwaZulu, near Newcastle, Natal, was set alight by Inkatha supporters on 27 April 1986. Her sons were shot and injured while extinguishing the f i r e . Another son, who was later killed, was a NACTU m e m b e r . Inkatha and KWAZU L U P O L I C E m e m b e r s r e p o r t e d l y harassed union members and their families because unions were considered a political thre a t . KUBHEKA, Amos Bongani (17), was abducted and t o r t u r e d by IM B O K O D O vigilantes in KwaNdebele, in May 1986 following violence over the are a 's p r o p o s e d i n d e p e n d e n c e .

P A G E 2

Reference 743 - 0.01% Coverage

G E 2 3 4

L E T S O H A - M ATSHAE, Maqueen Joyce (24), an ANC s u p p o r t e r, was shot by named perpetrators in Tw e e s p ruit, OFS, on 15 July 1993. She was with an unnamed friend who was shot dead. LETSOKO, Maleshwane Anna, was killed in the B O I PAT O N G M A S S A C R E by IFP supporters in Boipatong, near Vanderbijlpark, Tvl, on 17 June 1992, which left 45 people dead and 27 seriously injured. Thirt e e n perpetrators were granted amnesty; a further thre e applications were refused (AC/2000/209). LETSOKO, Phetho Andries, was killed in the B O I PAT O N G M A S S A C R E by IFP supporters in Boipatong, near Vanderbijlpark, Tvl, on 17 June 1992, which left 45 people dead and 27 seriously injured. Thirt e e n perpetrators were granted amnesty; a further thre e applications were refused (AC/2000/209). L E T S WALO, Ernest (9), was stabbed in the chest by Inkatha supporters in his home in Pinetown, Natal, on 4 Febru a ry 1985, apparently because his father s u p p o r t e d a local football club. This was seen as an indication of his support for the UDF. L E T S WALO, Fano Marc u s (45), an ANC support e r, had his house burnt down in Pinetown, Natal, on 4 Febru a ry 1985, in intensifying political conflict in the are a . L E T S WALO, Jane Phumzile, was stabbed and injure d by Inkatha supporters at her home in Pinetown, Natal, on 4 Febru a ry 1985, allegedly because Ms Letswalo's husband supported a local football club. This was seen as an indication of his support for the UDF. L E T S WALO, Princess (4), was stabbed and injured by Inkatha supporters at her home in Pinetown, Natal, on 4 Febru a ry 1985, allegedly because her father support e d a local football club. This was seen as an indication of his support for the UDF. L E T S WALO, Tshabane Samuel (18), a COSAS m e m b e r, was arrested, severely tort u r e d during i n t e r r o g a t i o n and detained in Wa rmbaths, Tvl, on 24 December 1985. He was later sentenced to five years' i m p r i s o n m e n t . LEVE,

Phikolomzi Bigboy (23), was left blind in one eye after being shot by members of the CDF in Bisho, Ciskei, on 7 September 1992 during an ANC protest march to demand free political activity in Ciskei. Thirty people were killed and 200 people injured in the event which became known as the BISHOMASSACRE. Two members of the former CDF were refused amnesty for the shooting (AC/2000/122). LEVUNO, Velile Churchill (22), was detained, severely beaten and intimidated by members of the SAP in Krugersdorp, Tvl, in January 1977 for recruiting for the PAC. LEVY, Ricardo Shane 'Ballie' (12), was shot dead by a named member of the Springbok security patrol in Kalksteentfontein, Cape Town, on 6 September 1989, during protest action against the apartheid elections being held that day. The perpetrator received an 18-month sentence. LEWIS, Edith (45), was shot dead by SAP members in Elsies River, Cape Town, on 17 June 1980. Riot Police shot her during a two-day stayaway commemorating

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Reference 744 - 0.01% Coverage

E 7 Victim findings: Summaries

plans by the Verwoerd government for South Africa to become a republic. LINDA, Margareta Nontombi, ANC supporter, was shot dead by IFP supporters near Murchison, Port Shepstone, Natal, on 5 December 1993, during political conflict in the area. LINDA, Nhlanhla Thembinkosi (34), was shot dead in political conflict between ANC and IFP supporters while driving in the Bhuhubhu area, near Richards Bay, Natal, on 10 December 1993. He was allegedly accused of transporting supporters of the rival political party. LINDA, Nomashosha Agnes (36), a UDF supporter, lost her husband and had her house burnt down in an attack by Inkatha supporters in Umbumbulu, KwaZulu, near Durban, on 25 December 1985, in the UMBUMBULUMASSACRE. LINDA, Norman, an ANC supporter, was shot dead by a member of the AWB in Boipatong, Vanderbijlpark, Tvl, on 17 April 1993 during a protest march to the local police station. LINDA, Sindisiwe Eugenia (23), an IFP Youth Brigade supporter, was shot dead, allegedly by ANC supporters in Nyangwini, Port Shepstone, Natal, on 4 September 1992. See NYANGWINIATTA C K. LINDA, Siphoshe, ANC supporter, was shot dead by IFP supporters near Murchison, Port Shepstone, Natal, during 1990, in political conflict in the area. LINDA, Thoko Lephinah (31), an ANC supporter, had her home burnt down by IFP supporters in Ogunjini, Ndwedwe, KwaZulu, near Durban, on 16 November 1991. LINDI, Martin Sicelo (15), a UDF supporter, was shot and injured by members of the SAP in Zwelethemba, Worcester, Cape, on 16 August 1985, during protests in the area. One person was killed and several others were injured that day. LINDI, Nozuko (33), had her house burnt down along with her possessions in an arson attack in Bhambayi, near KwaMashu, Durban, in 1993 during intense political conflict between the 'REDA ND'GREEN' Factions. LINDWA, Mgangathi, a PAC supporter, was severely assaulted after being detained, and was sentenced to five years' imprisonment on Robben Island, Cape Town, in 1964. Upon his release he was placed under house arrest for two years in Cofimvaba, Transkei. LINGWATE, Noelana, survived a hand grenade attack by MK operatives on the home of an ANC member in KaNyamazane, Nelspruit, Tvl, during the night of 10/11 November 1992. Five other occupants of the house also survived. Three MK operatives were granted amnesty for the attempted killings (AC/1997/0065; AC/1997/0066 and AC/1997/0067). LINKS, Aletta Irene (35), was assaulted with batons by members of the SAP on her way back from the funeral of an unrest victim in Paballelo, Upington, Cape, on 23 November 1985. A local doctor refused to treat her open wound. LINKS, Lewellyn Neil Cornelius (18), was shot and injured in Ravensmead, Cape Town, on 5 September 1989, during protests against the apartheid elections to be held the following day. Widespread clashes with

PAGE 2

Reference 745 - 0.01% Coverage

IFP activities. The year was

marked intense political conflict between the 'RE D' A N D ' G R E E N' F A C T I O N S in the area. MAHLASE, Dorah, was beaten by IM B O K O D O m e m b e r s at Siyabuswa, KwaNdebele, on 1 January 1986 to try and prevent Ms Mahlase and her family speaking N o r t h Sotho during conflict over the pro p o s e d independence of KwaNdebele. MAHLASE, Iphafus (26), a policeman, was shot in the stomach by a named perpetrator in Kamelrivier, KwaNdebele, on 19 Febru a ry 1994. As a result, Mr Mahlase is confined to a wheelchair. The incident o c c u r r e d when relations between the Kamelrivier community and the police were strained as the police w e r e seen as agents of the apartheid state. MAHLASE, Teme Phineas (50), was abducted fro m his home in KwaNdebele by IM B O K O D O vigilantes on 1 January 1986. At Siyabuswa community hall he and others were put in a room where the floor had been deliberately soaped to make it slippery and were sjambokked and beaten when they fell. Between 200 and 360 individuals were abducted and assaulted in this way. The attacks were led by named KwaNdebele g o v e r n m e n t officials and were aimed at suppre s s i n g Moutse resistance to I N C O R P O R A T I O N into KwaNdebele. MAHLASELA, Msebenzi Wellington (61), an ANC s u p p o r t e r, was killed after he was thrown from a moving train, allegedly by IFP supporters between Katlehong and Wattville train stations, on 14 October 1992. See T R A I N V I O L E N C E. M A H L A T S A N E, Ennuel, was killed by members of the SAP during the SH A R P E V I L L E M A S S A C R E i n Sharpeville, Ve reeniging, Tvl, on 21 March 1960. M A H L A T S E, Vela Russel (37), an ANC support e r, was shot dead by IFP supporters in Bhoboyi, Port Shepstone, Natal, on 20 June 1993. M A H L A T S I, Edward Mohaka, an ANC member, was shot in Sebokeng, Tvl, on 26 March 1990 by members of the SAP who fired at a crowd of about 50 000 people who had been refused permission to hold a pro t e s t m a r c h against councillors and increased rentals. Eight people were killed and more than 350 people were i n j u r e d . M A H L A T S I, Esau Pule, a Sebokeng mayor, was shot and his body burnt in Sebokeng, Tvl, on 27 May 1992 by ANC-aligned self-defence unit members. He had been seen as a collaborator since he was a member of the community council in 1984. M A H L A T S I, Lesege Patrice (25), a SANCO member, was abducted from his home by named members of the SAP and repeatedly beaten and tort u r e d in Kagiso, Tvl, on 17 October 1985 because he was a civic and union leader. Police re p o r t e d l y disrupted civic meetings constantly while refusing to grant the local re s i d e n t s ' o r g a n i s a t i o n permission to hold them. M A H L A T S I, Martha Ts a t s a n e, was shot dead in a car in Evaton, Tvl, on 27 July 1991 with her boyfriend after receiving death threats from a rival grouping within the ANC-aligned civic org a n i s a t i o n .

P A G E 2

Reference 746 - 0.01% Coverage

E 7 Victim findings: Summaries

M A K G A T I, Mathibe Philemon (26) a UDF support e r, was arrested and tort u r e d by named members of the SAP in Nebo, near Pietersburg, Tvl, during 1986. Mr Makgati was in the fore f r o n t of a UDF campaign to isolate policemen in the community and was implicated in a politically motivated arson attack. MAKGETE, LD, and other SAP members, survived an explosion when the arm o u r e d vehicle in which they w e r e travelling detonated a landmine in Mamelodi, P r e t o r i a, on 16 Febru a ry 1986. One MK operative was granted amnesty for his part in causing the explosion (AC/2000/195). See ANC L A N D M I N E C A M P A I G N. MAKGOBA, Ramakone Tlou (33), had her home at GaMatlala, Lebowa, burnt down at GaMatlala, Lebowa, by supporters of Chief BK Matlala on 2 Febru a ry 1980, because she resisted Lebowa's proposed independence f r o m South Africa. MAKGOBA, Solomon Maphuti (17), had his home in GaMatlala, Lebowa, burnt down at GaMatlala, Lebowa, in GaMatlala, Lebowa, by supporters of Chief BK Matlala on 2 Febru a ry 1980, because Mr Makgoba re s i s t e d L e b o w a ' s proposed independence from South Africa.

MAKGOBOTLOU, Johannes (62), an ANC activist, was h a n d c u f f e d, assaulted and threatened with death by members of the SAP in Louis Tr i c h a r d t, Tvl, in Marc h 1 9 9 2 . MAKGOLO, Victor Manase (16), was shot dead by members of the SAP in Meadowlands, Soweto, on 16 June 1986 during a three-day stayaway to p r o t e s t against the apartheid government. Police were also p r e s e n t when Victor was buried. MAKGOMOLA, Frans Masidi (27), was shot and injure d by members of the SAP at Naboomspruit, Tvl, on 20 April 1993 during unrest after the killing of SACP leader CH R I S H A N I . He was detained for two months and denied medical treatment. The bullets were never re m o v e d . MAKGOTHI, Henry Gordon (33), an ANC member f r o m Orlando, Soweto, Johannesburg, was arrested in N o r t h e r n Rhodesia (Zambia) by the British colonial authorities in 1962 and handed back to the South African authorities. Mr Makgothi was detained and subjected to tort u r e . He was sentenced to two years' imprisonment for leaving South Africa illegally, and later to a further six years for offences under the S u p p r e s s i o n of Communism Act. MAKGOTLHO, Dikene Joshua (39), chairperson of the U D F - a f f i l i a t e d Krugersdorp Residents' Org a n i s a t i o n , was detained in 1981 in Krugersdorp, Tvl, and tort u r e d by members of the SAP wanting information about bus boycott organisers. Mr Makgotlho was eventually c h a r g e d with sedition, but charges were later dro p p e d . MAKHABANE, Petrus, was shot dead by members of the SAP on 16 June 1976 during the SO W E T O U P R I S I N G . MAKHALE, Ratselane Joshua Moholo (43), an ANC and SAMFU member, was shot and severely injure d by members of the SAP in Ladybrand, OFS, in Marc h 1992, when police opened fire on striking workers p r o t e s t i n g outside the municipal offices in Ladybrand. MAKHALEMELE, Goodman, was shot dead by members of the SAP in Duduza, Nigel, Tvl, on 23 May 1985 during unrest in the are a .

P A G E 2

Reference 747 - 0.01% Coverage

E 7 Victim findings: Summaries

apologised to Ms Masinga once they realised they had the wrong addre s s . MASINGA, Ntombi Hilda (54), an ANC support e r , had her house petrol-bombed by Inkatha supporters in Esimozomeni, Richmond, Natal, on 26 May 1990. MASINGA, Thozwana (52), was shot and severe l y b u r n t when her home was attacked by IFP support e r s in Enseleni, KwaZulu, near Empangeni, Natal, on 6 April 1994 in political conflict in the area during the ru n - u p to the AP R I L 1994 E L E C T I O N S . MASIPHA, Ananias Boksa (23), an ANC support e r , was shot and injured by members of the SAP in N a b o o m s p r u i t, Tvl, on 14 April 1993. MASITHA, Mekia Thele (34), lost his house in an arson attack in Maboloko, Bophuthutswana, on 29 September 1976 during a dispute over the chieftaincy of the are a . MASITHA, Sobane Paulos (37), lost his house in an arson attack in Maboloko, Bophuthutswana, in 1976 during a conflict between chiefs in the are a . MASITHI, Nyamukamadi , was burnt to death in Thohoyandou, Venda, on 4 Febru a r y 1990 by named ANC supporters who accused her of being a g o v e r n m e n t leader responsible for ritual murders and re i n f o r c i n g her position by the use of witchcraft. One of the perpetrators applied for amnesty. MASITHI, Thari William (49), lost his home in an arson attack by named perpetrators in Thohoyando, Venda, 11 Febru a r y 1990 because he was suspected of practising witchcraft. Mr Masithi's mother was killed in the attack. M A S I Y A, Ms (first name not given), was publicly assaulted in Hambanathi, near Ve rulam, Natal, on 5 May 1985, by Inkatha supporters who were allegedly taking possession of the homes of UDF support e r s . MASOEU, Samuel (44), was permanently injured when he was pushed from a moving train and shot five times in the back by IFP supporters in Braamfontein, J o h a n n e s b u r g, on 14 April 1992. See T R A I N V I O L E N C E . MASOGA, Tihong Justice (50), had his home burn t down on 2 Febru a r y 1980 at GaMatlala, Lebowa, by s u p p o r t e r s of Chief BK Matlala because Mr Masoga resisted Lebowa's proposed independence from South A f r i c a . MASOKANYE, Liziwe , was shot dead by named members of the SAP in Kayamnandi, Stellenbosch, Cape, on 6 September 1989, while she was walking in the s t r e e t with friends. There were widespread p r o t e s t s ,

shootings and fatalities in and around Cape Town arising from the apartheid elections being held that day. MASOKOAMENG, Norah, was repeatedly kicked in the stomach by members of the SAP in Alexandra, Johannesburg, in 1983 and subsequently died of her injuries. Police continually harassed the family after her sister went into exile. Police arrived at Ms Masokoameng's house to inform her of their role in the death of someone known to the family and then attacked her. Police were allegedly trying to stem rising resistance to the Black Local Authorities Act in Alexandra.

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MATIA, Don Molteno (55), an ANC supporter, lost his home in an arson attack in July 1985 in East London. MATIBIDI, Phineas Nkgafeng, was stabbed to death and his body burnt in Sebokeng, Tvl, on 3 September 1984 during a rent boycott, because he was suspected of being a councillor. During the VAWALUPRISIN Gcoun cillors were targeted as puppets of the apartheid state. MATIDZA, Matoria William (81), a Vending Independence People's Party member, was arrested and severely beaten by named policemen in Maelula village, Sibasa, Venda, on 18 July 1984 during conflict between the Venda Independence Party and the Venda National Party. MATIKINCA, Buzelwa Eunice (42), an ANC supporter, was trampled on by a crowd running away from shots fired by members of the CDF in Bisho, Ciskei, on 7 September 1992 during an ANC protest march to demand free political activity in Ciskei. Thirty people were killed and 200 people injured in the event which became known as the BISHOMASSACRE. Two members of the former CDF were refused amnesty for the shooting (AC/2000/122). MATIKINCA, Nomalungelo Lucy (39), was continually harassed and detained by members of the Ciskei Police and SAP in Mdantsane, Ciskei, in 1980. She was questioned about her husband, an ANC/MK operative, who went into exile, but was later killed in a shoot-out with the police on 31 July 1985. MATIKINCA, Patrick Dumile (16), a COUNCILO R'Sson, was stabbed and burnt to death by 'necklacing' by named perpetrators in Fort Beaufort, Cape, on 24 December 1986 during conflict between UDF supporters and residents who supported the councillors. MATIKINCA, Siputsu Cameron, an ANC supporter, was shot dead by members of the CDF in Bisho, Ciskei, on 7 September 1992 during an ANC protest march to demand free political activity in Ciskei. Thirty people were killed and 200 people injured in the event which became known as the BISHOMASSACRE. Two members of the former CDF were refused amnesty for the shooting (AC/2000/122). MATIMA, Ntshiuoa Agnes (25), was held at gunpoint while SAP members assaulted her husband in Thabong, Welkom, OFS, on 24 October 1992. Her husband, a member of the Thabong Civic Association, died of his injuries. The assault took place at a time of heightened political tension and boycotts in the area. MATIMA, Solomon Mabusane (32), a member of the Thabong Civic Association, was severely beaten by named and other SAP members at Thabong, Welkom, OFS, on 24 October 1992, at a time of heightened political tension and boycotts in the area. He died of his injuries. MATIMA, Tefo Johannes (15), was shot dead by a named SAP member in Masilo, Theunissen, OFS, on 19 May 1990. At the time, 'comrades' were allegedly burning houses belonging to 'anti-comrades' and police members. Tefo was found at his home and shot dead while hiding under a bed.

MATISO, Mbuyiseli Michael (27)

Reference 749 - 0.01% Coverage

E 7 Victim findings: Summaries

conflict between ANC and IFP supporters in the area during 1993. M ATYENI, Makhwenkwe (35), a PAC member, was detained in January 1962 by members of the SAP in East London. He was held for a year without being charged. M ATYENI, Mzwandile (39), was assaulted by members of the Ciskei Police at Phathikhala police station, near Seymour, Ciskei, on 6 January 1992, after being arrested at the meeting of the Kolomane Residents' Association. M ATYENI, Nelson, an IKONGOMEBER, was shot by the members of the SAP in 1960 in Bizana, Transkei, during the PONDOLANDREVOLT. M ATYENI, Pinky (17), was severely assaulted by members of the SAP in January 1992 at Kolomane police station in Seymour, Ciskei, after a community meeting. Mr Matyeni was accused of alerting people about police presence in the area. M ATYENI, Sipiwe, an ANC member, was severely assaulted by named members of the SAP at Kolomane, Seymour, Ciskei, in November 1992, for organising a public meeting in the area to inform people about the ANC. M ATYHOLO, Zalisile Ernest (33), a UDF supporter, was severely assaulted and then decapitated by named members of a group supporting the Ciskei government in Zwelitsha, Ciskei, on 14 November 1985. He was wanted by police for his role in assisting youths to skip the country into exile. M ATYOBENI, Mfundo, was assaulted by named ANC members in 1994 during conflict between ANC and ADM members at Mngqesha, near King William's Town, Cape. M ATYOBENI, Nothabeli Agnes, an ANC supporter, had her home destroyed in an arson attack by other ANC supporters at Mngqesha, near King William's Town, Cape, in April 1994, after the perpetrators accused her of being an ADM member. M ATYOLO, Nokulunga, was shot on 11 December 1990 in Katlehong, Tvl, allegedly by IFP supporters, during political conflict on the East Rand which exploded in August 1990. M ATYWATYWA, Daweti (29), a PAC supporter, was severely beaten by police on his arrest during a Poqomarch to the police station in Paarl, Cape, on 21 November 1962. Two Paarl residents were killed by the marchers and five marchers were shot dead. Mr Matywywa was then convicted of sabotage and sentenced to eight years' imprisonment on Robben Island, Cape Town. After his release he was banned for six years. MAUMELA, Tshifihwa Anthony (18), an ANC supporter, was detained, tortured and constantly intimidated by police in Sibasa, Venda, from 1977 because he addressed a march against Bantu education and openly criticised apartheid policies. MAUNYE, Simon Peter, a member of the SAP, survived an attempted armed robbery by MK operatives at the Emthonjeni police station in Machadodorp, Tvl, on 25 July 1990. The aim of the operations was to

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September 1990. The attackers moved through three carriages, killing about 26 people. See TRAINVILLE OLENCIE. MDINISO, Mafika David (17), an ANCYL supporter, was detained in Bethal, Tvl, on 14 January 1991 and tortured by named members of the SAP at Bethal, Ermelo and Davel police stations and at a shooting range. He was reportedly one of a group of young people detained and assaulted after police raided the homes of political activists looking for AK47s. M DISHWA, Zimisele, was shot dead by IFP supporters in Swanieville, near Krugersdorp, Tvl, on 12 May 1991. IFP - supporting hostel-dwellers were retaliating against the expulsion of IFP supporters from the area by ANCs supporting squatters. About 115 shacks were set alight, 27 people were killed and 25 vehicles were destroyed. Twelve people were charged with crimes ranging from murder to arson but were acquitted due to lack of evidence. M DISHWA, Florence Nomabala (34), the wife of a local chief, was assaulted by members of IKONGO in Bizana, Transkei, on 2 December 1960. Persons associated with chiefs were targeted in the belief that they were collaborating with the government. See PONDOLANDREVOLT. M DITSHA, Stanford, was killed by members of IKONGO on 2 December 1960 in Bizana, Transkei. Chief Mditshwa was allegedly accused of being an informer and a sell-out to the apartheid government. Chiefs who supported the

self-governance of Transkei were targeted by activists because they were believed to be involved in the redistribution of land. See PONDOLAND REVOLT. MDIYA, Lungisani, was severely beaten by members of the Security Branch in Mafikeng, Bophuthatswana, on 30 November 1975. Mr

Reference 751 - 0.01% Coverage

E 7 Victim findings: Summaries

MDYUBA, Boties (42), was severely tortured on 1 July 1963 at the police station in Burgersdorp, Cape, after he had been accused of being a member of Poqo. MDZEKE, Mthimkhulu (77), lost his house in arson attack by UDF supporters during intense public unrest in DUNCANVILLE, East London, in August 1985. He was targeted allegedly because he was a COUNCILLOR. MEDUPE, Itumeleng James Nango (22), an ANC supporter, was shot dead by unidentified attackers in Welkom, OFS, on 9 May 1992. The killing took place at a time of heightened political tension and boycotts in the area. MEER, Fatima (47), president of the Black Women's Federation, was detained without trial in Durban for five months in 1976. Other members of her family were detained at the same time. MEER, IC, was banned in 1976, allegedly because of his family's opposition to apartheid. His wife, son and son-in-law were detained without trial for five months in the same year, following the SOWETOUPRISING. MEER, Rashad, was detained without trial in Durban for five months in 1976, allegedly because of his mother's affiliation to the Black Women's Federation. MEGALE, Mpho Ellen, a political activist, was arrested and tortured by named members of the SAP in Mamelodi, Pretoria, on 9 June 1988. MEGKWE, Pelo Gabriel, was beaten and injured by members of the MANDIELA UNITED FOOTBALL CLUB (MUFC) in Diepkloof, Soweto, Johannesburg, during 1988. MUFC members accused Mr Megkwe of having sexual relations with a priest at the place where he had sought refuge from the police. MEHALE, Manke Kweni (47), had her home burnt down on 2 February 1980 in GaMatlala, Lebowa, by supporters of Chief BK Matlala because she resisted Lebowa's proposed independence from South Africa. MEHLALA, James Mncedisi, was hacked to death in New Cross roads, Cape Town, on 19 March 1986, during clashes between vigilantes known variously as the 'Fathers' or the WITDOEK, and UDF supporters. Seven people died in the two-day clash. MEHLOMAKHULU, Harriet (46), had her home burnt down by IFP supporters in Swanieville, Kurgersdorp, Tvl, on 12 May 1991. IFP-supporting hostel-dwellers were retaliating against the expulsion of IFP supporters from the area. About 115 shacks were set alight, 27 people were killed and 25 vehicles were burnt. Twelve people were charged with crimes ranging from murder to arson but were acquitted due to lack of evidence. MEINTJES, David Kaiser (12), was shot by a member of the SAP in June 1985 in Thembalesizwe, Aberdeen, Cape. David believes he was targeted because he may have been spotted in a protest march earlier that day. MEIRING, A, was injured when MK operatives detonated an explosive in a car outside the South African Air Force (SAAF) headquarters in Church Street, Pretoria, on 20 May 1983. Twenty-one people were killed and 217 injured. The overall commander of MK's Special Operations Unit and two MK operatives

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MINDLULA, Raisibe Francina (51), had her home burnt down on 2 February 1980 at GaMatlala, Lebowa, by supporters of Chief BK Matlala because she resisted Lebowa's proposed independence from South Africa. MINERS, Eddie (34), a CRADORA and UDF activist, was detained twice during the state of emergency in 1985 in Cradock, Cape. In detention, he was interrogated and severely beaten by named members of

the Security Police, allegedly because they wanted him to become an informant. See POLICE BRUTALITY. MINI, Noluthado Doreen (17), was shot and injured by members of the SAP in Langa, Cape Town, on 11 August 1976, after the SOWETO UPRISING erupted in Cape Town. Over 20 people were shot dead that day. MINI, Nombiyiselo Jane (20), a PAC activist, was severely ill-treated when she was imprisoned for a year in December 1962 in Mqanduli, Transkei. Poqo attacked representatives of traditional authority in the homelands because chiefs were perceived as collaborating with the apartheid state. During that month, an attempt was made on Chief Kaiser Matanzima's life and residents of Jixini Location, arrested either in Cape Town or Mqanduli, were transferred to East London to stand trial for Poqo activities. MINI, Nomkhosi (aka 'Mary') (26), an MK operative from Port Elizabeth, was shot dead by Vlakplaas operatives during a raid on two houses in Maseru, Lesotho, on 19 December 1985. Nine people were killed in the raid, three of them citizens of Lesotho. Six years earlier, in March 1979, Ms Mini had survived an SADF attack on Novo Catengue camp in Angola. Her father, Vuyisile Mini, had been sentenced to death in 1964 and executed for alleged political offences. Seven members of the Security Branch, including the then deputy chief, were refused amnesty for her killing (AC/2001/231). MINI, Vuyisile (44), a founder member of SACTU and an ANC supporter, was executed in Pretoria, on 6 November 1964 after being sentenced to death in the 1960 treason trial. Mr Mini

Reference 753 - 0.01% Coverage

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Kagiso, Krugersdorp, Tvl, during conflict between IFP-aligned hostel-dwellers and ANC-supporting residents. MODISE, Rejoice, an ANC supporter, was stabbed with a pang in April 1988 in Lekubu, Bophuthatswana, when named members of the Bophuthatswana Democratic Party attacked the funeral of a community leader. Residents were targeted by supporters of President Mangope and the apartheid regime because they resisted the area's proposed INCORPORATION into Bophuthatswana. MODISE, Seele, an ANC supporter, was beaten by members of the Bophuthatswana Police in Kuruman, Cape, on 15 October 1992. MODISE, Simon (28), an MK operative, was shot and left for dead by a skarris in Diepkloof, Soweto, Johannesburg, on 21 September 1987. He was arrested at Johannesburg Hospital after an operation and removed to an unidentified place where he was interrogated and tortured by being pulled around by the frame supporting his injured arm, and by being dragged by named members of the Security Forces. He was detained for about five months at Johannesburg prison, then tried and found guilty of possessing arms. MODISE, TA, a member of the Bophuthatswana security forces, was shot dead by MK operatives in an attack on the Braklaagte military base, Bophuthatswana, on 31 July 1990. Three others were killed and two were injured. Three MK operatives were granted amnesty (AC/2001/254). MODISE, Thabo Benjamin (35), an ANCYL member, was beaten and subjected to electric shock torture by members of the SAP at the Powerville ISU offices during his detention in June 1992 in Sebokeng, Tvl. He was then detained for 29 days and only received medical attention after his lawyer intervened. Police wanted information on arms and ammunition because ANC supporters were attempting to stop the harassment of the community by members of the IFP-aligned KHETISIKHESWAGAN Gaided by members of the ISU. MODISELLE, Oupa Meshack, was shot dead in a random shooting by members of the SAP on patrol in Pimville, Soweto, in 1989. MODISHWA, Mavusi (15), an ANC supporter, was shot dead by identified members of the local self-defence unit (SDU) in Moleleki Section, Katlehong, Tvl, on 7 December 1993. Mr Modishwa was one of nine ANC supporters killed execution-style by SDU members during a conflict between the local ANCYL and SDU. The SDU members involved applied for but were denied amnesty. MODISHWA, Peter Mavuso (15), was shot dead by members of an ANC self-defence unit (SDU) in Katlehong, Tvl, on 7 December 1993. Eleven people were killed, nine execution-style,

during conflict between the local ANCYL and members of an ANC SDU. Thirteen SDU members were refused amnesty (A C / 1 9 9 8 / 0 0 1 3) . MODUKANELE, Thuso Kenneth (29), a SANSKO member, was axed, shot and burnt to death on 24 October 1993 in Tokoza, Tvl, allegedly by IFP supporters .

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7 Victim findings: Summaries

Four people, including two children, were killed in the attack. See ROADBLOCK KILLING S. One AWB member was granted amnesty; eight further applications were refused (AC/1999/0045). MOTHUPI, Daniel (13), was shot dead on his way home from school by members of the SAP on 10 February 1986 in Atteridgeville, Pretoria, during student protests in the area . MOTHUPI, George Jordan (36), was shot and injured by members of the Riot Squad in Heilbron, OFS, on 19 March 1990, during a stayaway in the area. Two SAP members were charged and convicted for this offence . MOTHUPI, Petrus Buti (27), was shot and killed by members of the AWB on 12 December 1993 at an illegal roadblock set up outside Ventersdorp, Tvl. Four people, including two children, were killed in the attack. Eight AWB members were refused amnesty and one was granted amnesty (AC/1999/0045). See ROADBLOCK KILLING S. MOTHUPI, Sello Paulos , was shot and injured by members of the security forces in Kanana, Orkney, Tvl, on 1 May 1986 during a boycott in the area . MOTIANE , (first name not given), was shot and injured in the leg by a member of an ANC self-defence unit (SDU) in Mzimhlope, Soweto, Johannesburg, in 1992, after being accused by residents of disruptive behaviour . One SDU member was refused amnesty for the attack (AC/1999/0317). MOTIKI, Deborah , was severely beaten by Inkatha supporters in Hambanathi, near Verulam, Natal, during conflict between UDF and Inkatha supporters over the INCORPORATION of Hambanathi into KwaZulu. MOTINGOE, Joseph (29), an ANC supporter, was severely beaten by members of the SAP in Verfontein , OFS, on 2 August 1993. He was allegedly returning from work when police stopped and assaulted him for wearing a Saddam Hussein T-shirt . MOTJEANE, Ceaser (44), a local councillor, was killed by members of the UDF-aligned Vaal Civic Association in September 1984 in Sebokeng, Tvl, during a rent boycott. Councillors were seen as legitimate targets in the struggle against apartheid institutions. MOTJEANE, Maud Fikile Lucy (40), was stoned and injured by 'comrades' in September 1984 in Sebokeng, Tvl, during a rent boycott. Ms Motjeane's husband was a community councillor and the community was calling for councillors to resign . MOTJHEKWANE, Philip (55), was detained in Bloemfontein in September 1990, while participating in a protest march calling for the release of a detained student. In custody, he was severely beaten by members of the SAP. MOTJOPE, Thato Eunice (2), was severely injured when members of the SAP fired teargas into a crowd of marching COSAS supporters in Ladybrand, OFS, on 5 March 1990. The child, who was with her mother at the time, later lost her sight in one eye as a result of her injuries. MOTJOTJI, Makalo Charles (26), an ANC supporter, was shot dead by members of the SADF during protests at Dukathole, Aliwal North, Cape, on 22 August 1985.

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Samuel (22), an MK member, was detained in October 1986 for allegedly being an enemy agent and held for five years at Quatro camp, Angola, as well as in Uganda. During this time, he was repeatedly tortured and subjected to severe ill-treatment . MOTLAFI, Isaac , was abducted by IMBOKODO vigilantes in April 1986 in KwaNdebele,

during conflict over the proposed independence of KwaNdebele. MOTLAFI, Manaki Violet (44), was severely beaten by IM B O K O D O vigilantes in April 1986 in KwaNdebele, during conflict over the proposed independence of KwaNdebele. MOTLAFI, Steve Kgotso (18), was severely beaten by IM B O K O D O vigilantes in April 1986 in KwaNdebele, during conflict over the proposed independence of KwaNdebele. MOTLALE, Charles Motlogelwa (19), was injured when police opened fire on a student protest march in Viljoenskrond, OFS, on 19 April 1990. Five people were killed and six others injured in the shooting. MOTLALEKGOSI, Martha Doreen (16), was shot by members of the SAP on 27 September 1991 in Reagile, Koster, Tvl, while toyi-toying with other youths. MOTLALENTOA, Pharasi Berman (aka 'Elick Mabuza'), an MK member, died in 1981 in the Fazenda camp in Angola after being severely assaulted by members of the ANC security department, allegedly for a breach of discipline. MOTLANA, Nthato, a prominent anti-apartheid activist, was harassed by the Witwatersrand Security Branch between 1982 and 1986. One Witwatersrand Security Branch operative was granted amnesty (AC/2001/0184). MOTLATSI, Tahleho Canaseus (48), was stabbed on 14 August 1990 in Tokoza, Tvl, allegedly by IFP supporters, during violent political conflict in the area. MOTLATSI, Taylor Malupe (38), an ANC supporter, was detained, severely beaten and tortured by members of the security forces while in custody in Paarl, Cape, during 1960. He later fled the country to Lesotho. MOTLENG, Richard Tankiso (22), an ANCYL member, survived an attempted killing when police fired on his vehicle at a roadblock near Welkom, OFS, in 1985. Motleng had allegedly been transporting an ANC supporter, who was attempting to flee to Lesotho. MOTLENG, Mamaseli M (44), an ANC supporter, had her house destroyed in an arson attack in Nqutu, KwaZulu, near Vryheid, Natal, on 20 April 1994, in political conflict between IFP and ANC supporters before the April 1994 elections. MOTLHABANE, Nokuhlupheka Daisy (39), was killed on 13 September 1990 by armed men who boarded a Soweto-bound train at Jeppe station and began their attack as the train passed through George Goch station. The attackers moved through three carriages, killing about 26 people and wounding 45 others. See TRAIN VIOLENCE. MOTLHABANE, PJ, a member of the Bophuthatswana security forces, was shot dead by MK operatives in an attack on the Braklaagte military base, Bophuthatswana, on 31 July 1990. Three other security force members were killed and two were injured. Three MK operatives were granted amnesty (AC/2001/254).

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killed by the gang. Gang members fired and threw hand grenades at mourners, killing a number of people and injuring several others. Police arrived on the scene but provided no protection, ignoring both the attackers and the injured. See NANGALEMBENIGHTVIGILMASSACRE. MOTSISI, Nthoesang Stephen (20), was severely injured on 18 April 1993 in Sebokeng, Tvl, when IFP supporters shot at people at a night vigil for assassinated SACP leader CHRISHANI. Nineteen people were killed. MOTSISI, Patrick, was shot dead by members of the SAP in June 1976 in Mohlakeng, Randfontein, Tvl, in the aftermath of the SOWETO UPRISING. MOTSITSE, Teboho Jacob (45), was beaten, stabbed and thrown from a train by IFP supporters in Wadeville, Tvl, on 1 December 1992. Between 1990 and 1993, 572 people died in TRAIN VIOLENCE initiated by groups opposed to a democratic transition. MOTSITSI, Daniel, was shot and injured on 15 April 1993 in Sebokeng, Tvl, in one of many DRIVE-BY SHOOTINGS which followed the assassination of SACP leader CHRISHANI. Residents barricaded roads to protect themselves from attack. Mr Motsitsi and others were fired at when they came to the assistance of a victim of such a shooting. The attackers doubled back and fired at them, killing several people. MOTSITSI, Doctor Elliot, an ANC supporter, was shot and killed by a named member of the SAP in Sharpeville, Vereeniging, Tvl, on 10 September 1992 during conflict between ANC and IFP supporters. MOTSITSI, Joseph, was shot

dead at his home by members of the SAP during a stayaway in Tembisa, Tvl, in 1984. MOTSOALEDI, Elias Mathope (39), an ANC member, was arrested and detained in June 1964 in Johannesburg, for actively resisting the apartheid state during a clampdown on all black political organisations. He was one of the Rivonia trialists and, after being charged with treason, was sentenced to life imprisonment on Robben Island. He served 27 years and was released after the unbanning of the liberation movements and the release of political prisoners. MOTSOANE, John Lehlohonolo (38), was shot in the arm and foot by members of the SAP during the SHARPVILLE MASSACRE in Sharpeville, Vereeniging, Tvl, on 21 March 1960. MOTSOENENG, Bikinyana David (17), was shot and injured by IFP supporters on 15 May 1992 in Sebokeng, Tvl, during conflict between IFP-supporting hosteldwellers and ANC-supporting residents. MOTSOENENG, Emma (40), had her home destroyed by IFP supporters on 8 September 1991 in Mofolo, Soweto, Johannesburg, during conflict between ANC supporting residents and IFP-supporting hosteldwellers. The IFP supporters were on their way back from a rally at Jabulani stadium when the attack took place. Four women in the household were killed. MOTSOENENG, Esther (13), was stabbed and injured on 8 September 1991 in Mofolo, Soweto, Johannesburg, during conflict between ANC-supporting residents and IFP-supporting hostel-dwellers. The IFP supporters were on their way back from a rally at

V O L U M

Reference 757 - 0.01% Coverage

E 7 Victim findings: Summaries

on 20 March 1990. She was accused of practising witchcraft to hinder the anti-homeland political activities of youths in the area. One ANC supporter was granted amnesty (AC/2000/094). MULAUDZI, Muumisi Samson, a COSATU member, was stabbed and injured at Johannesburg, on 9 December 1989 while on his way to work during a strike by railway employees. MULAUDZI, Phaniel, was hacked to death at work by Inkatha supporters in Germiston, Tvl, in September 1989 during conflict between the Inkatha-aligned UWUSA and COSATU - a affiliated NUMSA. MULAUDZI, Tshililo Jackson (66), an ANC supporter, lost his house in an arson attack by alleged 'comrades' in Thohoyandou, Venda, in 1990. MULEYA, Betty (71), was lying in her bedroom in Messina, Tvl, during March 1994 when police threw tear gas cannisters into her house, causing her permanent injury. Residents were protesting against attempts by FW de Klerk to canvass in the township for the APRIL 1994 ELECTION when police fired tear gas. MULHOLLAND, P, was injured in what became known as the MARGO O'SBARBOMING in Durban on 14 June 1986. The explosion killed three women and injured at least 74 other people. Seven MK operatives were granted amnesty (AC/2001/128). MULLER, Frederick MacLagan (57), a UDF activist, was detained under emergency regulations by members of the SAP in Middelburg, Cape, on 16 June 1986. He was held for five months. During this time, several false charges were brought against him. He was found guilty on all those charges and subsequently ordered to pay the State a large amount of money. He got financial assistance through the Western Province Council of Churches for his release. MULLER, HI, a traffic officer, was shot at and injured by members of an ANC self-defence unit (SDU) in Alberton, Tvl, on 27 March 1992. One colleague was killed and another injured. One SDU member was granted amnesty (AC/1999/0225). MULLER, Patrick (13), was shot and killed by a named member of the SAP in Bellville, Cape Town, on 6 September 1989, during widespread protests against the apartheid election being held that day, accompanied by police shootings, injuries and deaths. MULOBELA, David (32), a Zambian citizen, was killed by alleged members of the SADF on 25 April 1987 in a cross-border attack on the family home in Livingstone, Zambia. Some months prior to the raid the house had been rented to ANC members. His brother was also killed and his wife seriously injured in the raid. Elsewhere in the city two other Zambian citizens were killed in separate attacks on this day. MULOBELA, Hilda, a Zambian citizen, was shot and severely injured by alleged members of the SADF in a cross-border raid in Livingstone, Zambia on 25 April 1987. Her husband and

brother-in-law were killed in the attack on her residence which had previously been rented to ANC members. Elsewhere in the city two other Zambians were killed in separate attacks in this operation.

P A G E 5

Reference 758 - 0.01% Coverage

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NAPE, Molefi Joel (26), was beaten with sjamboks when members of the SAP disrupted a funeral on 23 August 1984 in Bophelong, Vanderbijlpark, Tvl, during the V A A L U P R I S I N G. Mr Nape was shot by another group of policemen as he ran away. Mr Nape spent a month in hospital recovering from his injuries. NAPHAKADE, Ronnie Sipho (23), was shot, arrested and severely beaten by named members of the SAP in Upington, Cape, on 11 November 1985. He was later convicted of public violence and sentenced to eight months' imprisonment. NAPHI, Hilton Nkosivumile (36), an ANC supporter, was abducted and shot dead by IFP supporters near New Canada station, Johannesburg, on 10 September 1991. He and four other men were travelling in a taxi when they were allegedly taken to a place where the perpetrators shot them. NAPO, Tholi David (32), was severely beaten by members of the SAP at a roadblock in Alexandra, Johannesburg, on 18 June 1991. NAUDE, Beyers, a clergyman, former head of the banned Christian Institute and a long-standing opponent of apartheid, suffered continuous harassment and intimidation by members of the Witwatersrand Security Branch from April 1977 through to December 1989. Two Witwatersrand Security Branch operatives were granted amnesty (AC/2001/005 and AC/2001/184). NAUDE, C, was injured when MK operatives detonated an explosive in a car outside the South African Air Force (SAAF) headquarters in Church Street, Pretoria, on 20 May 1983. Twenty-one people were killed and 217 injured. The overall commander of MK's Special Operations Unit and two MK operatives were granted amnesty (AC/2001/003 and AC/2001/023). See CHURCH STREET BOMBING, RETORIA. NAWA, Enos (56), was deposed from his chieftainship by the Bophuthatswana Government at Tembisa, Bophuthatswana, in 1976 because he did not support the Mangope regime. NAYLOR, Anna Cecilia (27), was injured when a limpet mine, planted by MK operatives, exploded during lunchtime at the Wimpy restaurant in Benoni, Tvl, on 30 July 1988. One woman was killed and at least 66 people were injured. Four MK operatives were granted amnesty for the planning and execution of the attack (AC/1999/0294). NAYLOR, Samantha (2), was injured when a limpet mine, planted by MK operatives, exploded during lunchtime at the Wimpy restaurant in Benoni, Tvl, on 30 July 1988. One woman was killed and at least 66 people were injured. Four MK operatives were granted amnesty for the planning and execution of the attack (AC/1999/0294). NAZIMA, Sipho Eugene (17), was detained by named members of the SAP in 1986 after a school was burnt down in Willowmore, Cape. In detention, he was tortured and questioned about other political activists. NAZO, Dingaan David (56), an ANC underground member, was detained in Mdantsane, Ciskei, on 13 June 1978. He was held for six months and interrogated by named members of the Ciskei Security Police.

V O L U M

Reference 759 - 0.01% Coverage

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NONDALA, Boyisi (31), an ANC activist, disappeared while in police custody in KwaZakele, Port Elizabeth, in June 1987. He has not been seen since. NONDALA, Joseph Mzwamandla, an ANC supporter, was assaulted and shot dead by two named members of the SAP at his home at Dukathole, Aliwal North, Cape, on 28 June 1986. NONDLALA, Lennox, was killed by IFP supporters at the Vusimuzi hostel in Tembisa, Tvl,

in 1991 during conflict between ANC and IFP supporters at the hostel. Although the dead were taken to two specific mortuaries, Mr Nondlala's body was never found. NONDULA, Bongani (18), was tortured in various ways by named members of the SAP at different police stations around East London in October 1977. He had been detained during political unrest in the region following the death of Steve Biko. NONDULA, Nomusa Leticia (36), had her house at Bhambayi, near KwaMashu, Durban, burnt down on 5 November 1993 in ongoing conflict between IFP and ANC supporters in the area. Four people were burnt to death in their homes in Bhambayi that day. NONDUMO, Monde, an ANC supporter, was abducted, interrogated, and then necklaced to death by a group of ANC supporters at Mangwani, Cape, during 1990. Mr Nondumo was suspected of associating with a askari and engaging in other anti-ANC activities. The Chairperson of the local Youth Congress was granted amnesty for his role in the kidnapping (AC/2001/098). NONDZUBE, Misile Devilliers (42), a member of the SAP, had his house petrol-bombed in Grahamstown, Cape, on 9 April 1987. At the time, members of the police, as well as their property, were often regarded as legitimate targets in the anti-apartheid struggle. NONG, Meshack (19), was detained and severely beaten by members of the SAP in Oukasie, Brits, Tvl, in 1986. The Oukasie community was resisting IN C O R P O R A T I O N into Bophuthatswana at the time. Mr Nong was reportedly also tortured in detention in May 1988. NONG, Raesibe Johana (42), an ANC supporter, had her house and livestock burnt on 2 February 1980 in Gamatlala, Lebowa, by supporters of Chief BK Matlala because she resisted Lebowa's proposed independence from South Africa. NONGAUZA, Velekaya Hofmeyr, a PAC member, was severely assaulted with truncheons by a prison warden while in detention at Roeland Street prison in Cape Town, on 4 June 1960. He was imprisoned for furthering the aims of a banned organisation. NONGENA, Daniel Paulos (37), a PAC supporter, was arrested in 1963 at Queenstown, Cape, for his Poqo activities. He was tortured while in detention, and charged with sabotage. On 10 October 1963, he was sentenced to 12 years' imprisonment on Robben Island, Cape Town. NONGENA, Mvulo Johnson (41), was shot and tortured by various methods while in detention in King William's Town, Cape, in April 1963. He and other PAC members were marching to the King William's Town police station to free their 'comrades' when named members

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OLIVER, L, was injured in what became known as the M A G O O'S B A R B O M B I N G in Durban on 14 June 1986. The explosion killed three women and injured at least 74 other people. Seven MK operatives were granted amnesty (AC/2001/128). OLIVIER, John David 'Soppie' (20), a youth activist, was detained in Atlantis, Cape, on 14 June 1986 and held for six weeks under emergency regulations at Victor Verster prison, Paarl, Cape. OLIVIER, L, was injured when MK operatives detonated an explosive in a car outside the South African Air Force (SAAF) headquarters in Church Street, Pretoria, on 20 May 1983. Twenty-one people were killed and 217 injured. The overall commander of MK's Special Operations Unit and two MK operatives were granted amnesty (AC/2001/003 and AC/2001/023). See CHURCH STREET BOMBING, PRETORIA. OLIVIER, Mervin Govan (18), a UDF activist, was suffocated with a plastic bag by members of the SAP after his arrest at George, Cape, in 1989. He was later injured in a vigilante attack. OLIVIER, Peter, a civilian, was injured when APLA operatives attacked members and guests at the King William's Town Golf Club, Eastern Cape, on 28 November 1992. Four people were killed and 17 injured in the attack. See APLA ATTACKS. Four APLA members were granted amnesty (AC/2001/182). OLIVIER, Val, a civilian, was injured when APLA operatives attacked members and guests at the King William's Town Golf Club, Cape, on 28 November 1992. Four people were killed and 17 injured in the attack. See APLA ATTACKS. Four APLA members were granted amnesty (AC/2001/182). ONIWE, Aubrey, (11), was shot and severely injured

d by members of the SA Railway Police in Guguletu, Cape Town, on 28 December 1976. He was playing near the railway line when police opened fire on protesters. Vuyo suffered permanent injury from the shooting. ONTONG, Paul Eienne (19), was killed when a bomb, planted by AWB members, exploded at a taxi rank on the corner of Odendaal and Victoria Streets in Germiston, Tvl, on the 25 April 1994. Ten persons were killed and nine were injured in the blast. Four perpetrators were granted amnesty (AC/1999/0342). See R I G H T-W I N G AT TA C K S. ONVERWACHT, Abraham Carel (29), was hit by a brick while driving past stone-throwing youths near Bonteheuwel, Cape Town, on 7 September 1989, in the aftermath of the apartheid election held on 6 September 1989. Mr Onverwacht lost an eye in the attack. OOSTENHUIZEN, J , a member of the SAP, was injured in a shoot-out with an MK operative in Johannesburg on 25 May 1991. Mr Oosthuizen and his colleague were both injured in the shoot-out, when they attempted to stop a vehicle. One MK operative was granted amnesty (AC/1997/0035). OOSTHUIZEN, GJ , was injured when MK operatives detonated an explosive in a car outside the South

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Vuyiswa Violet
(57), a Soweto

town councillor, had her home damaged when an explosive device was detonated by a named MK operative in Phefeni, Soweto, Johannesburg, on 18 February 1987. Councillors were regarded as legitimate targets by the ANC because of their collaboration with the Apartheid State. PHETLA, Essau Mogolongwane (22), was shot by members of the Municipal Police in March 1986 in Emalahleni, near Witbank, Tvl, shortly after he took part in a protest march about services in the area. PHETO, Anele Moses (16), an ANC supporter, was severely beaten, by members of the 'Zim-Zim' faction of the KHUTSONG YOUTH CONGRESS (KYC) in Khutsong, Carletonville, Tvl, on 26 November 1990. The assault took place following a split in the KYC. At least 17 people were killed in Khutsong between 1989 and 1991 before a peace pact took effect in May 1991. PHETO, Shorty Christopher (22), died when he was shot and then set alight by members of the 'Zim-Zim' faction of the KHUTSONG YOUTH CONGRESS (KYC) assisted by the police in Khutsong, Carletonville, Tvl, on 26 February 1991. The incident took place following a split in the KYC. At least 17 people were killed in Khutsong between 1989 and 1991 before a peace pact took effect in May 1991. PHETO, Sitembiso Masenyane , a local councillor, had his house, cars and business

Reference 762 - 0.01% Coverage

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public violence and sentenced to an effective two years' imprisonment. RASMENI, Lena (65), was raped by members of the SADF on 3 August 1985 in Port Elizabeth. RASMENI, Michael Ntlupheko , was one of six persons who were abducted and interrogated by ANC self-defence unit (SDU) members near Port St Johns, Transkei, on 20 April 1994, shortly before the APRIL 1994 ELECTIONS. Four were shot dead, while Mr Rasmeni and another survived the shooting with injuries. The SDU members believed that they were APLA members who were on their way to disrupt an ANC mass rally. Three SDU members were granted amnesty (AC/2000/045). RASMENI, Sandile Hurwitz , was shot dead by members of the SAP in Soweto, Johannesburg, on 24 October 1976 in the aftermath of the SOWETO UPRISING. RASMENI, Solomon Mandlenkosi (37), an ANC executive member, had his home bombed in Joburg, Klerksdorp, Tvl, on 15 February 1991. RASONA, Nkosini Jonathan (36), a former ANC community representative, was stabbed

to death by an IFP supporter in Stanger, Natal, on 27 July 1993. RASS, Leonard (13), was shot dead by named members of the SAP in Kleinvllei, Cape Town, on 6 September 1989, while participating in protests against the apartheid election being held that day, which led to numerous injuries and fatalities in and around Cape Town. RATAU, John, was injured when MK operatives detonated an explosive in a car outside the South African Air Force (SAAF) headquarters in Church Street, Pretoria, on 20 May 1983. Twenty-one people were killed and 217 injured. The overall commander of MK's Special Operations Unit and two MK operatives were granted amnesty (AC/2001/003 and AC/2001/023). See CHURCH STREET BOMBING, PRETORIA. RATHANE, Remaketse Jim (21), an ANC supporter, was shot dead in Rweleleyathunya, Rouxville, OFS, on 9 September 1990 by named members of the INKATHA GANG. RATHABA, Fusi Shadrack (21), was detained and severely assaulted in Botshabelo, near Bloemfontein, in June 1990, by members of the SAP. Mr Rathaba was returning from school when he was detained by the police, who were allegedly looking for 'comrades'. RATHBONE, M, was injured in what became known as the MARGO'S BAR BOMBING in Durban on 14 June 1986. The explosion killed three women and injured at least 74 other people. Seven MK operatives were granted amnesty (AC/2001/128). RATHEBE, Betty Johanna (18), was shot dead in Soweto, Johannesburg, on 23 June 1977 by alleged members of the SAP. Ms Rathebe was shot after she heard gunshots and ran out of the house to look for her brother. Students had organised a protest march to John Vorster Square on that day and there was a strong police presence in the area. In 1984 her father was killed under similar circumstances. RATHEBE, Isaac Moeletsi (53), died after being shot with rubber bullets by members of the SAP outside

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E 7 Victim findings: Summaries

SAKMAN, Kedanile, a primary school pupil, was detained for three months from 9 September 1993 in Venterstad, Cape. He was accused of burning down a policeman's house and tortured. He later sued the Minister of Safety and Security for wrongful arrest. SAKOANE, Keketso Moalosi, secretary of the BCP local branch, was severely beaten in January 1967 in Johannesburg. He was charged with sabotage and sentenced to seven years' imprisonment on Robben Island. Mr Sakoane and all who attended a meeting called by Chief Jonathan and the King of Lesotho were targeted by security forces, as the apartheid regime suppressed the new Lesotho government. SAKU, Xolile Eric (20), a member of the ANCYL and the Uitenhage Youth Congress, was arrested on 7 March 1987 in Port Elizabeth and tortured in detention by members of the SAP. SAKULAKAZANA, Jonguvuyo Thabane

(23), a UDF

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Reference 764 - 0.01% Coverage

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victim was part of a group marching to the municipal offices to protest against the cutting off of electricity and water. Police used teargas, baton charges and birdshot to disperse the group. SEGANENO, Ezekiel, was shot dead in 1991 in Bafokeng, Bophuthatswana. SEGANO, Kgakgamatso David (31), was sjambokked, kicked and hit with a rifle butt by members of the Bophuthatswana Defence Force on 8 January 1994 at Mogorong village in Taung, Bophuthatswana, when security forces allegedly disrupted an ANC mass meeting. SEGOBELA, Sammy Mpho, a UDF supporter, was arrested and severely injured when beaten with batons in May 1986 at the Namakgale Police station, Lebowa. Segobela and others were involved in

campaigns demanding the unbanning of all political organisations opposed to apartheid, and the release of Nelson Mandela and other political prisoners. SEGOBODI, Ikageng (24), was beaten by members of the Bophuthatswana Police on 5 January 1991 in Lekubu, Bophuthatswana, during a conflict between Chief Sebogodi and Edwin Moila. Chief Moila had imposed himself as the new Lekubu chief with the support of President Mangope. Moila also supported Lekubu's INCORPORATION into Bophuthatswana. SEGOBODI, Lekolobo Norah, (45), was severely beaten by Bophuthatswana Police on 5 January 1991 in Lekubu, Bophuthatswana, during a conflict between Chief Sebogodi and Edwin Moila. Chief Moila had imposed himself as the new Lekubu chief with the support of President Mangope. Moila also supported Lekubu's INCORPORATION into Bophuthatswana. SEGOBODI, Thabang (20), was beaten by members of the Bophuthatswana Police on 5 January 1991 in Lekubu, Bophuthatswana, during conflict between Chief Sebogodi and Edwin Moila. Chief Moila had imposed himself as the new Lekubu chief with the support of President Mangope. Moila also supported Lekubu's INCORPORATION into Bophuthatswana. SEGOLA, Elisa Dikeledi (38), an ANC supporter, was beaten by a group of fellow ANC supporters in Tikwana, Hoopstad, OFS, on 3 September 1992, allegedly for defying a stayaway. SEGOLE, Ezekiel Mamae, was stabbed to death by IFP supporters on 12 September 1990 in Vosloorus, Tvl. His one son was killed that day and another son was burnt to death the following day during ongoing clashes between IFP-supporting hostel-dwellers and mainly ANC-supporting residents. SEGOLE, Kelo Ignatious, was shot dead by IFP supporters on 12 September 1990 in Vosloorus, Tvl. His father was also killed that day and his brother was burnt to death the following day during ongoing clashes between IFP-supporting hostel-dwellers and mainly ANC-supporting residents. SEGOLE, Samuel, an MK operative, was shot dead by members of the SAP in March 1986 in Katlehong, Tvl. Mr Segole was part of an MK unit which had infiltrated the country to carry out a number of internal operations.

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27), had her home in

Gezibuso, KwaZulu, near Pietermaritzburg, burnt down by Inkatha supporters in March 1990, during the SEVEN-DAY WAR. SHEZI, Pauline Sebenzile (19), was raped by a group of Inkatha supporters known as 'Othelweni' in Mpumalanga, KwaZulu, near Durban, in June 1987, allegedly because her brothers were UDF supporters. The other women in the Shezi household were also tortured in the incident, and Ms Shezi's mother was killed. SHEZI, Paulos (48), a member of the SAP, had his house destroyed in a hand grenade explosion in Umlazi, Durban, on 17 August 1986. Policemen were perceived to be agents of the apartheid state and were therefore considered legitimate targets. SHEZI, Petros Sifiso (23), was shot at by IFP supporters near Germiston, Tvl, on 30 March 1994 when the taxi in which he was travelling was forced off the road. The perpetrators opened fire on the passengers, killing eight and wounding several others. SHEZI, Samuel Musa, survived a petrol bomb attack on his home in Ixopo, Natal, on 9 September 1992. Mr Shezi's father, an Inkatha supporter, was killed in the attack, allegedly by ANC supporters. SHEZI, Sibongiseni Goodwill

, was one of eight people

Reference 766 - 0.01% Coverage

E 7 Victim findings: Summaries

21 March 1985 when police opened fire on mourners marching to a funeral. At least 20 people were killed and many injured in the shooting. See LANGASHOOTINGS. TULLUES, H, was injured when MK

operatives detonated an explosive in a car outside the South African Air Force (SAAF) headquarters in Church Street, Pretoria, on 20 May 1983. Twenty-one people were killed and 217 injured. The overall commander of MK's Special Operations Unit and two MK operatives were granted amnesty (AC/2001/003 and AC/2001/023). See CHURCH STREET BOMBING, PRETORIA. TUMENG, Moronko Azael (33), a member of SANCO, lost his house and vehicle in an arson attack by ANC supporters and members of the SAP in Meqheleng, Ficksburg, OFS, on 3 August 1993. There was tension and conflict between SANCO and the ANC in the area at the time. TUMISI, Tebello Jacobs (46), a UDF supporter, was detained and severely tortured by named members of the Security Branch in Kroonstad, OFS, between 18 and 21 December 1990, because of his political activities. TUNGATA, Lindikaya Nelson, was shot and injured by members of the SAP who opened fire on PAC members and bystanders outside a PAC meeting in Guguletu, Cape Town, on 6 January 1994. A young boy was shot dead and several others injured in the shooting. TURNER, Catherine Anne, an ECC supporter, was harassed by members of the SAP in Port Elizabeth, in 1988 during the state of emergency. See POLICE BRUTALITY. TURNER, Hendrick Stephanus, was injured in Mmabatho, Bophuthatswana during an attempted coup d'état on 10 February 1988. The coup was brought to an end when the SADF came to the assistance of the Bophuthatswana government. Two Bophuthatswana Defence Force members were granted amnesty for their role in the attempted coup (AC/2000/044). TURNER, Nicole Jean (19), an ECC supporter, was arrested in February 1989 in Port Elizabeth, during the state of emergency. She was charged with the possession of drugs in an attempt by named members of the SAP to discredit her. TURNER, Richard Albert David (36), a political scientist at the University of Natal, was shot dead at his home in Durban on 8 January 1978. He had been banned since 1973 for his opposition to apartheid, and had been repeatedly harassed by the Security Branch during the 1970s. His two young daughters were in the house with him at the time. The identity of the killer, widely suspected to have been a member of the Security Branch, has never been established. TUROK, Ben (35), an MK operative, was convicted of arson and sentenced to three years' imprisonment in 1962 in Johannesburg, a prison term spent largely in solitary confinement. On his release he was banned for five years and eventually went into exile from 1969 to 1990. TUROK, Mary, an SACP member in Johannesburg, served a six-month prison sentence in 1963 for putting up banned ANC posters. She was then served with a banning order for five years. Her husband also served

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a jail term. They experienced ongoing police harassment and intimidation and were forced to leave the country. TUSHINI, Mbeshe Ephriam (23), an ANC supporter, was abducted by named IFP supporters and later killed in Port Shepstone, Natal, in August 1991. TUSI, Dumisani, an ANC supporter, was shot and killed while fleeing Clermont, near Durban, allegedly because of internal divisions within the ANC in 1992. TUTANI, Freddie Qwantsu (47), was shot by members of the CDF in Bisho, Ciskei, on 7 September 1992 during an ANC protest march to demand free political activity in Ciskei. Thirty people were killed and 200 people injured in the event which became known as the BISHOMASSACRE. Two members of the former CDF were refused amnesty for the shooting (AC/2000/122). TUTANI, Nombulelo (14), became partially blind after being severely beaten with sjamboks by members of the Ciskei Police at a community meeting in Berlin, Cape, on 21 September 1985. TUTSHINI, Bekisisa Robert (49), an ANC supporter, lost his house in an arson attack by IFP supporters in Mvutshini, Port Shepstone, Natal, on 21 March 1994, in the run-up to the APRIL 1994 ELECTIONS. TUTU, Desmond Mpilo, a church leader and prominent anti-apartheid activist, was a target of intimidation and harassment by the White Paper and Security Branch between 1982 and 1986. In 1989, CCB operatives placed a monkey fetus on his property. One

Witwatersrand Security Branch operative and four CCB members were granted amnesty for these incidents (AC/2001/0184 and AC/2001/232). TUTU, Jerry Thozamile, a local squatter leader, lost his home and vehicle in an arson attack by UDF supporters near Crossroads, Cape Town, in October 1985, during conflict over the issue of state-sponsored removals to Khayelitsha. His girlfriend was abducted and 'necklaced' in the attack. In 1989 he was shot and injured in an attack on his home in Khayelitsha by his former allies linked to the Lingeletu West Town Council. TUTU, Mhlanbunzima (21), an IKO N G O m e m b e r, lost the use of a leg after being shot and injured on 6 June 1960 in Flagstaff, Transkei, during the N G Q U Z A H I L L r a i d in which police members ambushed community members attending a N O N Q U L W A N A meeting during the P O N D O L A N D R E V O L T. TUTU, Patrick, a member of the SAP, was shot and killed in an attack by three APLA members near the Crossroads police station, Cape Town, on 8 September 1992. A Spoornet employee was also killed in the attack. See APLA AT TA C K S. One APLA member was granted amnesty (AC/1998/0103). TUTU, Zukile Faithful (18), was beaten with batons and knobkerries by a named member of the A M A S O L O M Z I vigilantes, together with SAP members, in Zolani, Ashton, Cape, and arrested on a charge of arson on 20 November 1985. After being held in custody for many months while awaiting trial, Mr Tu t u was sentenced to an effective three years in prison. TUTUBALA, Limakatso Elizabeth (47), was shot and i n j u r e d in Thabong, Welkom, OFS, on 16 June 1985,

V O L U M

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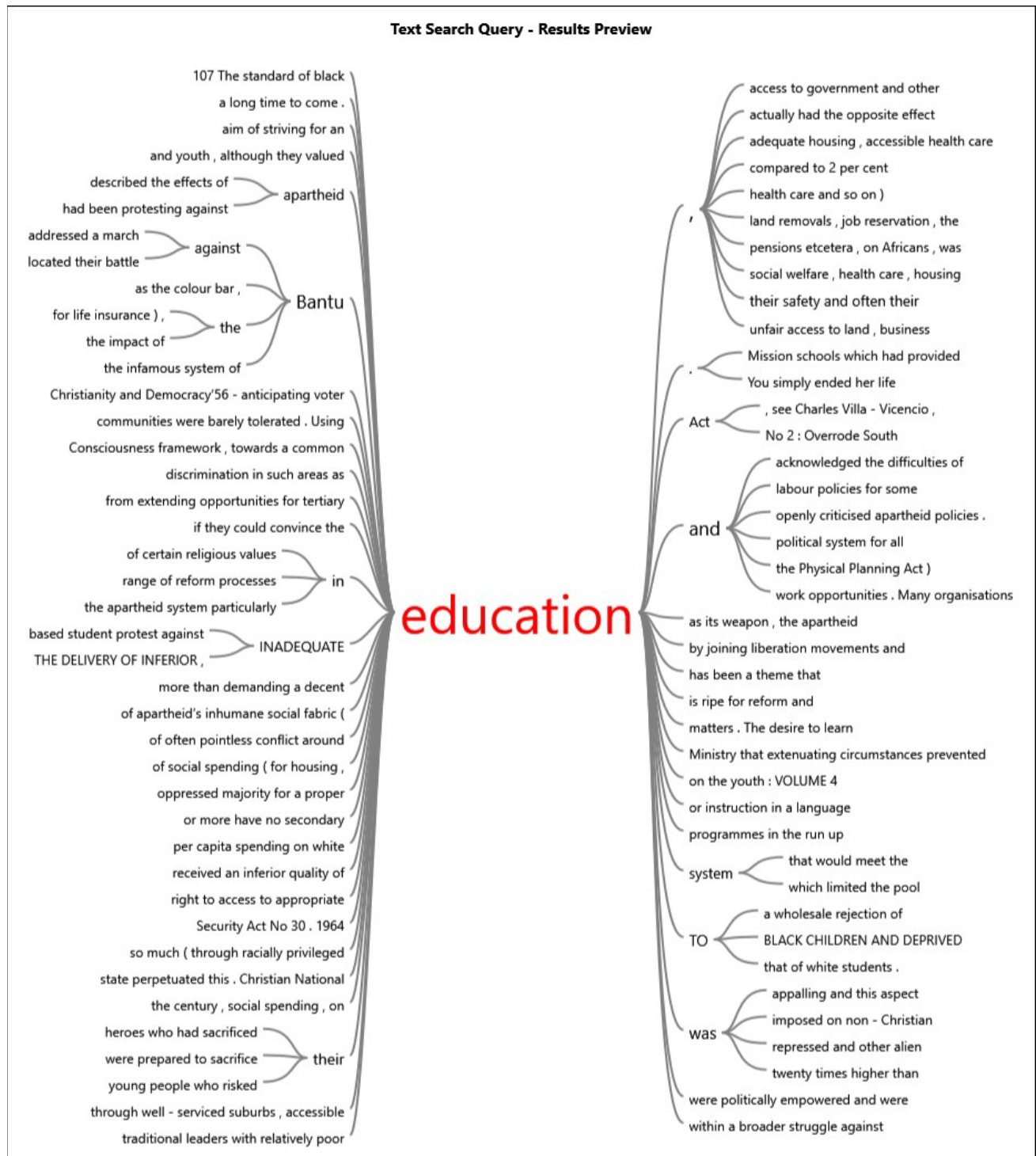
E 7 Victim findings: Summaries

of MK, had control over residential centres and the Angolan camps, including 'Camp 32' or the Morr i s Seabelo Rehabilitation Centre (popularly known as ' Q u a t r o'), Panga, Viana and the Nova Catengue camp. Following the SADF bombing of Nova Catengue camp in 1979, there was an atmosphere of paranoia about infiltration by South African agents. A number of ANC members were detained and tort u r e d; some died as a result of assaults and some were executed. Dissatisfaction in MK training camps in Angola led to mutinies at the Viana and Pango camps during 1984. Both mutinies were put down with loss of lives on both sides. Many MK members were detained in connection with the uprisings, and some were t o r t u r e d. Two groups of mutineers were tried by m i l i t a r y tribunals and seven were executed. ANC landmine campaign : The ANC's landmine campaign from 1985 to 1987 targeted military patro l s in the mainly nort h e r n and eastern areas of the Transvaal. A number of civilians – white farmers, their families, and black farm labourers – were killed when these explosives were detonated. The campaign was called off in the light of its high civilian casualty rate. A P L A: Azanian People's Liberation arm y, military wing of the PAC, formed in 1967 APLA attacks : During the early 1990s, the P A C p r o c l a i m e d a military strategy of a 'protracted people's war', which involved the infiltration of APLA guerr i l l a s into the country to conduct rural guerrilla warf a r e. The initial targets of such attacks were members of the security forces and white farmers who were perc e i v e d to be the frontline of defence for the former apart h e i d g o v e r n m e n t . A 'repossession unit' was also set up, in which APLA cells conducted armed robberies on the instructions of the APLA High Command to raise funds and/or obtain weapons and vehicles to enable APLA to carry out its m i l i t a r y strategy. Civilians were killed or injured in many of these ro b b e r i e s . In 1993, attacks on civilians increased sharply with a series of high-profile attacks by APLA cadres on public places, including restaurants, hotels and bars, in urban a r e a s. These were usually, but not always, places f r e q u e n t e d by white civilians. The PAC/APLA claimed that the attacks were not racist in character, but dire c t e d against the apartheid government as all whites, a c c o r d i n g to the PAC, were complicit in the policy of a p a r t h e i d. The 1993 attack on the St James' Churc h , K e n i l w o r t h, Cape Town, produced the highest number of casualties, with 11 people dead and 58 injure d . April 1994 elections : South Africa's first democratic elections began on 27 April 1994 and continued for thre e days. In some areas of Natal, polling was extended into a fourth

day. The elections brought to a conclusion a fouryear process of constitutional negotiations and brought about a dramatic reduction in political conflict and violence around the country. The ANC won 62,6% of the vote, and a Government of National Unity was constituted. The elections were followed by the inauguration of Nelson Mandela as President on 10 May 1994.

P A G E 9

References to “Education” in Apartheid References



Name: References to Education in Apartheid References

<Files\\SouthAfrica.TRC_Report> - § 32 references coded [0.08% Coverage]

Reference 1 - 0.01% Coverage

Extension of University Education Act

38 This perversely named law, far from extending opportunities for tertiary education, actually had the opposite effect by denying black students the right to attend their university of choice. It imposed apartheid on the tertiary sector, making it illegal for the existing largely (in the case of the Afrikaans campuses exclusively) white universities to admit black students except with ministerial permission. It resulted in the creation of separate ethnic colleges for Indians, coloureds and Zulu, Sotho and Xhosa-speaking Africans.

39 This Act, which was

Reference 2 - 0.01% Coverage

2 Historical Context PAGE 34

46 Many of the killings and acts of torture documented in this report occurred precisely because of resistance to the day-to-day experience of life under apartheid. The sixty-nine people killed at Sharpsville were not armed Umkhonto weSizwe (MK) cadres or even human rights' activists. They were just ordinary men and women protesting against the hated dompas. Countless, nameless people had their rights trampled trying to save their homes from apartheid's bulldozers. Hundreds died doing no more than demanding a decent education or instruction in a language other than Afrikaans. One did not need to be a political activist to become a victim of apartheid; it was sufficient to be black, alive and seeking the basic necessities of life that whites took for granted and enjoyed by right.

■ THE LAW AND ETHNICITY

47

Reference 3 - 0.01% Coverage

serving drink to African people.

49 One of the most iniquitous acts of apartheid was the separation of educational facilities and the creation of the infamous system of Bantu education. Mission schools which had provided some schooling to African people were closed down and generation after generation of African children were subjected to teaching that was deeply inferior in quality to that of their white counterparts.

6 Dumping Grounds, Christian Institute

Reference 4 - 0.01% Coverage

This responsibility lies with government.

93 The plight of those who, through the legacy of apartheid, need assistance in the form of social spending (for housing, education, health care and so on) must also be remembered. The provision of reparations to the (relatively) few victims of gross human rights violations who appeared before the Commission cannot be allowed to prejudice apartheid's many other victims. The need to provide reparations for the former

cannot be allowed to constitute so great a drain on the national fiscus that insufficient resources remain for essential social upliftment and reconstruction programmes.

94 Beyond these considerations, it

Reference 5 - 0.01% Coverage

for past human rights violations.

111 In this process of bridge building, those who have benefited and are still benefiting from a range of unearned privileges under apartheid have a crucial role to play. Although this was not part of the Commission's mandate, it was recognised as a vital dimension of national reconciliation. This means that a great deal of attention must be given to an altered sense of responsibility; namely the duty or obligation of those who have benefited so much (through racially privileged education, unfair access to land, business opportunities and so on) to contribute to the present and future reconstruction of our society.³¹

30 Speech in National Assembly

Reference 6 - 0.01% Coverage

Public Security Act No 30.

1964 Education Act No 2: Overrode South African apartheid schooling systems and provided for black schooling and subsidies. Commenced: 1 April 1965

1964 Transkei Authorities Act No

Reference 7 - 0.01% Coverage

338

■ 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

Reference 8 - 0.01% Coverage

Regional Profile: Transvaal PAGE 555

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.

Reference 9 - 0.01% Coverage

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

Reference 10 - 0.01% Coverage

found themselves obliged to defend.

12 The chapter on children and youth describes the devastating effects of apartheid on young people in South Africa. It also pays tribute to the extraordinary heroism of generations of young people who risked their education, their safety and often their lives for a better society. Many of them today are greatly the poorer for their sacrifice. Many others did not live beyond their teens and became victims of the system against which they struggled.

13 The chapter on women

Reference 11 - 0.01% Coverage

occupational mobility of African workers.

87 Business organisations argued that they made representations and protested to government about the impact of apartheid on business (see submissions by SEIFSA, SACOB and the Johannesburg Chamber of Commerce and Industry). These protests tended, however, to relate to specific policies (such as the colour bar, Bantu education and the Physical Planning Act) rather than broader political concerns. In other words, they protested against aspects that disadvantaged business. Before the 1980s, most criticisms were voiced at times of skilled labour shortages. Major business organisations also protested during incidents of social and political unrest, most notably after the Sharpville massacre (1960), the Durban strikes (1973) and the Soweto uprising (1976).

88 But, as the submission

Reference 12 - 0.01% Coverage

of the costs of apartheid:

As the costs for business escalated from the 1970s onwards, the AHI gradually added its voice to the (predominantly English) business organisations which had been protesting against apartheid education and labour policies for some time.¹⁶ By the end of the long post-war boom, most sections of urban business were united in their calls for an urbanised African labour force with better access to skills and jobs.

Opposition by organised business to

Reference 13 - 0.01% Coverage

in relation to trade unions.

96 Old Mutual's submission on the costs and benefits of apartheid was illustrative. On the negative side, the submission pointed to the lowering of economic growth (which constrained the market for life insurance), the Bantu education system which limited the pool of quality employees and the existence of exchange controls which limited their expansion overseas. Old Mutual offered only two possible 'positives': their acquisition of assets from Colonial Mutual of Australia when it disinvested in 1987 and the "marketing opportunities" created by the expansion of the homeland bureaucracies. On this latter score, however, Old Mutual reserved judgement as to whether this would have resulted in a net gain or loss compared to some other (non-apartheid) scenario.

97 Again, not all businesses

Reference 14 - 0.01% Coverage

Nokuphila Hospital in Alexandra township.

23 The loss of a Mosque is, the MJC explained at the hearings, especially significant within the Muslim community. More than a building, it is a sacred site and must never be abandoned. Group Areas legislation was a direct attack on this principle, assuming that the sacrality of such spaces was transferable to wherever the state decided to resettle the community. 24 In addition to losing land and space, the churches were sometimes forced to relocate a distance away from where their members lived. 25 For a discussion on the impact of the Bantu Education Act, see Charles Villa-Vicencio, *Trapped in Apartheid* (Cape Town and Mary-Knoll: David Philip & Orbis Books, 1988), page 95f. 26 The United Methodist Church claimed to have lost properties under the Holomisa regime in the late 1980s. 27 The Church of Scotland originally donated the land.

VOLUME 4 CHAPTER 3 Institutional

Reference 15 - 0.01% Coverage

of religious values and laws

73 Despite the many different religious allegiances of its subjects, the apartheid state saw itself as the guardian of 'Christian civilisation' in southern Africa. From the time of the arrival of the colonists in the seventeenth century, other faith communities were barely tolerated. Using education as its weapon, the apartheid state perpetuated this. Christian National Education was imposed on non-Christian faith communities – a fact highlighted in Muslim and Hindu submissions. The expression of certain religious values in education was repressed and other alien values were imposed. This was true even in the case of such Christian communities as the amaNazaretha where taboos concerning shaving were not honoured in schools and children were forced to remove their hair, causing ritual defilement.

74 Related to the repression

Reference 16 - 0.01% Coverage

COMMUNITIES AND SOUTH AFRICA'S TRANSITION

114 The story of faith communities and their members who were involved in opposition to apartheid does not end with the unbanning of the liberation movements. As the 1980s drew to a close, some organisations began looking toward the future and preparing people for democracy. One example of the many that illustrate the way in which the transition was anticipated is Diakonia, an ecumenical group in the Durban area, which published 'The Good Society: Bible Studies on Christianity and Democracy'⁵⁶ - anticipating voter education programmes in the run up to the 1994 elections.

115 Faith communities were engaged

Reference 17 - 0.01% Coverage

occurred frequently.³¹

■ MEDICAL SCHOOLS

58 Medical schools played a significant role in perpetuating human rights abuses. Black people were systematically prevented from obtaining training in the health sciences and, even where this was allowed or provided for, received an inferior quality of education to that of white students. Medical schools failed to teach ethics and human rights. Professors in medical schools held dual appointments with both the state and the medical schools, leaving them vulnerable as health professionals with dual obligations. Finally, with a few exceptions, medical faculties did not speak out about the unethical nature of apartheid medicine and its adverse effects on training and patient care.

Admission for training in the

Reference 18 - 0.01% Coverage

The Health Sector PAGE 131

and, in turn, for many aspiring medical students living outside Natal (as it was then) to attend medical school. UND was far from their homes and many did not have the financial resources to pay accommodation and travel expenses and academic fees. A small number were, however, able to attend white universities if they could convince the Education Ministry that extenuating circumstances prevented them from attending UND. The number of black medical students increased from the early 1980s, after the Medical University of Southern Africa (MEDUNSA) was established. This was part of the apartheid plan to keep blacks (especially Africans) out of white universities, while at the same time ensuring a supply of black doctors to care for the black population.

62 The lost opportunities that

Reference 19 - 0.01% Coverage

excluded themselves from the hearings.

5 These stories are not, consequently, captured in what follows. No concerted attempt was made by the Commission to encourage those young people who did attend the hearings to speak of themselves as heroes who had sacrificed their education, their safety and often their long term opportunities through their active resistance to apartheid.

A culture of human rights

Reference 20 - 0.01% Coverage

or disability.

Disruptions to education

104 The quest by the oppressed majority for a proper education has been a theme that has dominated South African resistance. According to Professor Mzamane: "The deprivation of one's opportunity to develop one's mind must surely rank as one of the most evil conceptions of apartheid." Children and youth, although they valued education and acknowledged the difficulties of advancing their careers without certificates, were prepared to sacrifice their education by joining liberation movements and participating in mass mobilisation under the slogan of 'liberation before education'.

105 Mr Maxlesi described the effects of apartheid education on the youth: VOLUME 4 CHAPTER 9 Special Hearing on Children and Youth PAGE 275

The unjust education system resulted

Reference 21 - 0.01% Coverage

gross violation of human rights'

48 This definition limited the attention of the Commission to events which emanated from the conflicts of the past, rather than from the policies of apartheid. There had been an expectation that the Commission would investigate many of the human rights violations which were caused, for example, by the denial of freedom of movement through the pass laws, by forced removals of people from their land, by the denial of the franchise to citizens, by the treatment of farm workers and other labour disputes, and by discrimination in such areas as education and work opportunities. Many organisations lobbied the Commission to insist that these issues should form part of its investigations. Commission members, too, felt that these were important areas that could not be ignored. Nevertheless, they could not be interpreted as falling directly within the Commission's mandate.

49 The Commission recognised that

Reference 22 - 0.01% Coverage

of Human Rights PAGE 166

182 Through apartheid, the white community retained political and economic power. The unequal distribution of resources meant that white communities benefited through well-serviced suburbs, accessible education, access to government and other employment opportunities and countless other advantages. Whilst only a minority of white people engaged in the direct perpetration of violence, many gross human rights violations were committed in order to retain these benefits.

183 The mobilisation of members

Reference 23 - 0.01% Coverage

Reparation and Rehabilitation Policy

■ INTRODUCTION

1 During the period under review, the majority of South Africans were denied their fundamental rights, including the right to vote and the right to access to appropriate education, adequate housing, accessible health care and proper sanitation. Those who opposed apartheid were subjected to various forms of repression. Many organisations and individuals in opposition to the former state were banned and banished,

protest marches were dispersed, freedom of speech was curtailed, and thousands were detained and imprisoned. This gave rise to tremendous frustration and anger amongst the disenfranchised. Soon, each act of repression by the state gave rise to a reciprocal act of resistance. The South African conflict spiralled out of control, resulting in horrific acts of violence and human rights abuses on all sides of the conflict. No section of society escaped these acts and abuses.

■ WHY REPARATION?

2 Victims of

Reference 24 - 0.01% Coverage

Rehabilitation Policy PAGE 192

Education

107 The standard of black education was appalling and this aspect of the legacy of apartheid is likely to be with us for a long time to come. Education is ripe for reform and the possibilities for its transformation are exciting. However, one of the effects of the past is that it has resulted in a strong culture of often pointless conflict around education matters. The desire to learn in a disciplined environment no longer seems to prevail.

Assistance for continuation of studies

Reference 25 - 0.01% Coverage

SOUTH AFRICA AND SOUTHERN AFRICA.

THE POLICY OF APARTHEID RESULTED IN THE DELIVERY OF INFERIOR, INADEQUATE EDUCATION TO BLACK CHILDREN AND DEPRIVED THEM OF THE RIGHT TO DEVELOP IN MIND AND BODY. THIS DEPRIVATION CONSTITUTES A VIOLATION OF HUMAN RIGHTS.

THE BANNING BY THE GOVERNMENT

Reference 26 - 0.01% Coverage

perpetrators – at times as both.

165 The primary task of the Commission was to address the moral, political and legal consequences of the apartheid years. The socio-economic implications are left to other structures – the Land Commission, the Gender Commission, the Youth Commission and a range of reform processes in education, social welfare, health care, housing and job creation. Ultimately, however, because the work of the Commission includes reconciliation, it needs to unleash a process that contributes to economic developments that redress past wrongs as a basis for promoting lasting reconciliation. This requires all those who benefited from apartheid, not only those whom the Act defines as perpetrators, to commit themselves to the reconciliation process.

VOLUME 5 CHAPTER 6 Findings

Reference 27 - 0.01% Coverage

CHAPTER 9 Reconciliation PAGE 409

Secondly, for decades, millions of Africans were paid exploitative wages, in all sectors of the economy but mainly in gold mining and agriculture. The fact that the Africans were politically powerless and economically

unorganised might make them easy prey for super-exploitation [in favour of] the white workers. Thirdly, a great variety of discriminative legislation not only deprived Africans of the opportunity to acquire skills, but also compelled and humiliated them to do really unskilled work at very low wages. While discriminatory measures were often to the disadvantage of business, they were very much to the advantage of white employees. Fourthly, perhaps the greatest disadvantage which the prevailing power structures had for Africans is that these structures deprived them of opportunities to accumulate human capital, the most important form of capital in the twentieth century. For the first three quarters of the century, social spending, on education, pensions etcetera, on Africans, was per capita more or less ten to eight times smaller than on whites. In 1970, the per capita spending on white education was twenty times higher than the per capita spending on Africans. Fifthly, the fact that a legal right to own property and to conduct a business was strongly restricted in the case of Africans also deprived them of the opportunity to accumulate property and to develop entrepreneurial and professional capabilities. The position of whites was again the complete opposite. They enjoyed property rights, they deprived Africans of their land, they had access to capital and the opportunity to develop business organisations, entrepreneurial capabilities, and etcetera. Sixthly, the liberation struggle and the resistance against it had a devastating effect on the poorer 60 per cent of the African population. Their income, already very low in 1975, decreased by more or less 35 per cent from 1975 until 1991. The fact that the poorer 40 to 50 per cent of the total population, more or less eighty million people, cannot satisfy their basic human needs on a regular basis, makes it so much more urgently necessary to do at least something meaningful to improve the quality of their poverty. Seventhly, it was not only individuals that have been impoverished and destroyed by the racist system, but also African societies, while it also prevented the South African people from becoming a society. We can put forward a strong argument, that the depravation, the repression and the injustices inherited in the racist system not only impoverished the African population but also brutalised large numbers of Africans. After decades of apartheid and the struggle against it, South African society is a very disrupted and divided society; not only along racial and ethnic lines but also because of seemingly irreconcilable values and attitudes.

VOLUME 5 CHAPTER 9 Reconciliation

Reference 28 - 0.01% Coverage

A G E 4 0

22. It was also clear from the evidence heard by the Committee that, in Venda p a r t i c u l a r l y, the liberation forces used cases of witchcraft and ritual killings to politicise communities. This strategy was facilitated by the fact that local communities were dissatisfied with the manner in which the apartheid authorities had handled such cases. For example, the failure of the authorities to act against people who were believed to be witches resulted in a belief that the g o v e r n m e n t was the protector of witches. In Venda, where traditional leaders with relatively poor education were politically empowered and were associated with some of the most heinous abuses, the situation was ripe for political conflict.

23. In some cases, where

Reference 29 - 0.01% Coverage

apartheid discrimination'.7 1

5.

Implicit in this and other recommendations relating to business was the notion of the involvement of business in a wider project of reparation, relating not simply to those identified as victims by the Commission, but to all those South Africans whose normal development was impaired by the system of

apartheid. The desirability of such involvement was reinforced by the socio-economic reality of South Africa. Although South Africa is a middle-income economy, about half of South Africa's population lives in poverty. Half of the African population is homeless or lives in informal accommodation, such as shacks. More than half of Africans aged twenty or more have no secondary education, compared to 2 per cent of whites. As many as 42 per cent of Africans are unemployed or have given up

71 Volume Five

Reference 30 - 0.01% Coverage

was not a white person:

I say to the PAC and APLA and to the applicants, you killed the wrong person. Rolande was also joined in the struggle against the injustice for the apartheid system particularly in education. You simply ended her life as if she was a worthless piece of rubbish. You say you did so to liberate Azania. I say you did so for your own selfish and criminal purposes. You prevented Rolande from helping rebuild our broken nation which, if you had simply waited another few months, in fact came to pass when we had free elections.

Your commander Brigadier Nene stated

Reference 31 - 0.01% Coverage

GE592

17. Those who must come under special scrutiny are those who held high office, those who occupied positions of executive authority and those cabinet ministers whose portfolios did not place them in a direct supervisory capacity over the security forces. While the Commission's findings are not judicial findings, the Commission finds them to be morally and politically responsible for the gross human rights violations committed under the apartheid system, given: a the specific responsibilities of cabinet ministers who oversaw aspects of the apartheid structure in areas that formed key aspects of apartheid's inhumane social fabric (education, land removals, job reservation, the creation of the Bantustans, for example);

b the knowledge they had

Reference 32 - 0.01% Coverage

E7 Victim findings: Summaries

conflict between ANC and IFP supporters in the area during 1993. M ATYENI, Makhwenkwe (35), a PAC member, was detained in January 1962 by members of the SAP in East London. He was held for a year without being charged. M ATYENI, Mzwandile (39), was assaulted by members of the Ciskei Police at Phathikhala police station, near Seymour, Ciskei, on 6 January 1992, after being arrested at the meeting of the Kolomane Residents' Association. M ATYENI, Nelson, an IKONGOMEBER, was shot by the members of the SAP in 1960 in Bizana, Transkei, during the PONDOLAND REVOLT. M ATYENI, Pinky (17), was severely assaulted by members of the SAP in January 1992 at Kolomane police station in Seymour, Ciskei, after a community meeting. Mr Matyeni was accused of alerting people about police presence in the area. M ATYENI, Sipiwe, an ANC member, was severely assaulted by named members of the SAP at Kolomane, Seymour, Ciskei, in November 1992, for organising a public meeting in the area to inform people about the ANC. M ATYHOLO, Zalisile Ernest (33), a UDF supporter, was severely assaulted and then decapitated by named members of a group supporting the Ciskei government in Zwelitsha, Ciskei, on 14 November 1985. He was wanted by police for his role in assisting youths to skip the

country into exile. M ATYOBENI, Mfundo , was assaulted by named ANC members in 1994 during conflict between ANC and ADM members at Mngqesha, near King Wi l l i a m 's Town, Cape. M ATYOBENI, Nothabeli Agnes , an ANC support e r, had her home destroyed in an arson attacks by other ANC supporters at Mngqesha, near King Wi l l i a m 's Town, Cape, in April 1994, after the perpetrators accused her of being an ADM member. M ATYOLO, Nokulunga , was shot on 11 December 1990 in Katlehong, Tvl, allegedly by IFP support e r s , during political conflict on the East Rand which exploded in August 1990. M AT Y WAT Y WA, Daweti (29), a PAC support e r, was s e v e rely beaten by police on his arrest during a Poqo m a rch to the police station in Paarl, Cape, on 21 November 1962. Two Paarl residents were killed by the marchers and five marchers were shot dead. Mr Matywytywa was then convicted of sabotage and sentenced to eight years' imprisonment on Robben Island, Cape Town. After his release he was banned for six years. MAUMELA, Tshifihiwa Anthony (18), an ANC s u p p o r t e r, was detained, tort u red and constantly intimidated by police in Sibasa, Venda, from 1977 because he addressed a march against Bantu education and openly criticised apartheid policies. MAUNYE, Simon Peter , a member of the SAP, s u rvived an attempted armed ro b b e ry by MK operatives at the Emthonjeni police station in Machadodorp, Tvl, on 25 July 1990. The aim of the operations was to