

Reconciliation

p INTRODUCTION

- 1 The Commission sought to highlight the deep damage inflicted by past gross human rights violations on human relationships in South Africa. While the main conflict was between a state representing a white minority and an oppressed black population, the conflict found expression in various ways and involved different sections of the population, exploiting and creating divisions within and between communities. The young and the old, men and women, members of the same family or organisation, neighbours, different ethnic and racial groups often turned against each other. People were victimised in different ways and a range of gross human rights violations was committed. The result demands extensive healing and social and physical reconstruction at every level of society. Sometimes these different needs themselves compete with one another, leading to fresh conflicts. This makes reconciliation a complex, long-term process with many dimensions.
- 2 With its short lifespan and limited mandate and resources, it was obviously impossible for the Commission to reconcile the nation. The following selected moments from the life of the Commission do, however, express significant steps in the reconciliation process. Some are beacons of hope. Others warn of pitfalls. Together they constitute signposts on the long road towards making individual, communal and national reconciliation a living, lasting reality in South Africa.
- 3 Clearly, everyone who came before the Commission did not experience healing and reconciliation. However, extracts from testimonies before the Commission illustrate the varying ways and degrees in which people have been helped by the Commission to restore their human dignity and to make peace with their troubled past. They include cases where an astonishing willingness to forgive was displayed, where those responsible for violations apologised and committed themselves to a process of restitution, and where the building or 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 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.

p TOWARDS THE RESTORATION OF HUMAN DIGNITY: VICTIMS

Healing through truth-telling and official acknowledgement

- 5 At a follow-up post-hearing workshop in Reiger Park, Anglican Bishop David Beetge said:
[The Commission] has given the opportunity for people to tell their story, stories which [could] never be told before... There were so many unhealed wounds before the [Truth and Reconciliation Commission] began its work. The evidence of those who have given witness [is] that, by telling their story, they have shared a burden and found a new sense of peace. This is very obvious from the sheer look of some of them as they walk out of

the meetings of the Commission. Archbishop Tutu has said truth will ultimately come out; it cannot be concealed forever. It is in its very nature to reveal, to throw light, to clarify what is hidden. There are ways and ways of telling our stories and we are not encouraging people to relive and retell their stories endlessly and promiscuously – never moving forward, never leaving the past behind.

We retell our painful stories so that we shall remember the years that lie behind with all their struggles and terror as the way that led to new life...

6 Not all storytelling heals. Not everyone wanted to tell his or her story. Many, on the other hand, were able to reach towards healing by telling the painful stories of their pasts. The healing potential of storytelling, of revealing the truth before a respectful audience and to an official body, is illustrated by the following testimonies:

7 At a Commission hearing in Heideveld, Cape Town, Mr Lukas Baba Sikwepere was given the opportunity to relate, in his own language¹, his account of the human rights violations of which he had been a victim. During a political conflict in KTC (one of the informal settlements around Cape Town) on 31 December 1985, police allegedly began shooting at a number of people gathered around a police vehicle.

I decided to walk, because I knew that if you run, you were going to be shot... When I arrived at the place – when I thought, now I am safe, I felt something hitting my cheek... I felt my eyes itching... I was scratching my eyes, I wasn't quite sure what happened to my eyes....

8 Mr Sikwepere described to the Commission how he was shot in the face and lost his sight. He also told of how, two years later, the police beat him with electric ropes, suffocated him, forced him to lie in an empty grave and tortured him in other ways.

9 When a Commissioner asked Mr Sikwepere how he felt after having delivered his testimony, he replied:

I feel that what has been making me sick all the time is the fact that I couldn't tell my story. But now it feels like I got my sight back by coming here and telling you the story.

10

Quite often, witnesses revealed far more in oral testimony than they had in their written statements. This is illustrated by the testimony of a middle-aged woman, Ms Yvonne Khutwane, at the Worcester hearing:

I was just alone at the back of the Hippo² and they [two South African Defence Force members] were just driving. It was pitch dark outside. They alighted [from] the Hippo and then they came to take me out of the Hippo. One of them said to me, can I see what I have put myself in, and then they asked me when did I last sleep with a man. I was so embarrassed by this question. And I felt so humiliated. I informed them that I have nobody. I didn't have a partner. And then they asked me with whom am I staying. I informed them that I was with my family.

The other question that they asked me is, how do I feel when they – when I am having intercourse with a man. This was too much for me because they were repeating it time and again, asking me the same question, asking me what do I like with the intercourse, do I like the size of the penis or what do I enjoy most.

So the other one was just putting his hand inside me through the vagina. I was crying because I was afraid – we have heard that the soldiers are very notorious of raping people. This one continued putting his finger right through me, he kept on penetrating and I was asking for forgiveness and I was asking them what have I done, I am old enough to be your mother. But why are you treating me like this. This was very, very embarrassing. It was so painful. I couldn't stand it, because these kids were young and they were still at a very young age, they had all the powers to respect and honour me. They were just the same age as my children and look what were they doing to me.

11 In her written statement, Ms Khutwane had made no mention of this sexual assault. In her debriefing session, she said that this was the first time she had spoken of it and that she felt tremendously relieved.

12 Mr Tim Ledgerwood, a former conscript in the South African Defence Force (SADF), went absent without leave in 1981 and later tried to join the African National Congress (ANC) military wing, Umkhonto weSizwe (MK). He was caught and severely tortured by the security police. At a special hearing on conscription in Cape Town on 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 the work of the Commission, also took place outside the Commission itself. In the Western Cape, for example, the 'Religious Response to the TRC' held a number of 'Healing of the Memories' workshops. In different regions of the country, important work was done by, amongst others, the South African Council of Churches (SACC) and Khulumani, a victim support group facilitated by the Centre for the Study of Violence and Reconciliation in Johannesburg.

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 experiences was significant, certain of which vividly highlighted the long, difficult road to healing.

16 Ms Eleanor Juqu told the Commission about the killing of her son, Fuzile, by the police. Mr Juqu then testified about his painful search for his son:

Mr Juqu: *I started at Tygerberg. I went through all the wards but I couldn't find him there. I came back. I told myself, my wife, that I couldn't find him. So, I went to Salt River. There I went to the police station. I asked them. They said no, they don't know anything. They said no; you're wasting our time. They said just go and sit over there. When I got to the police station, I was told that my son is in the mortuary... I saw him. Actually, he*

was lying on his stomach. His whole back was full of bullet holes. This policeman was a white man. I don't even know his name. I didn't even want to know his name because I was already hateful towards him.

Commissioner Ntsebeza: *When you identified him, was he already dead?*

Mr Juqu: *Yes, they just told me that here he is, what do you think I should do?*

Commissioner Ntsebeza: *How did you feel during that moment when he said that?*

Mr Juqu: *If I had anything in front – in front of me or anything – any, any stick or any, any arm at all I will just throw it at him because my son was just lying there dead ... [His clothes] looked like [they were] eaten by mice, and it was full of blood. There were many, many bullets. He had blood coming out of his nose. He was – he was just shot at the back by very many, many bullets.*

Commissioner Ntsebeza: *Were you called in to any court? Maybe in Wynberg?*

Mr Juqu: *Yes sir, I was called at Wynberg... They asked me, is this your son? I said, yes he is. He said, ja he is dead. So I said, so what should I do? He said: Oh! We are very sorry. So, I said, what are you sorry about? At that time I was already confused but I told myself no, let me just stand here and listen and this. [The] magistrate said, okay, there is nothing we can do. So I just turned around and I left. I didn't give a damn what he was thinking about me, and I simply left.*

Commissioner Ntsebeza: *Do you know who can be blamed for this?*

Mr Juqu: *No. They just told me that they are sorry that my son has been shot; there is nothing then they can do. I said: Oh! Is that what you say? They said, yes, that's what we say. So I just turned around and left.*

17 When **Mr Juqu** was asked if the Commission could be of any help, his response was:

Ma'am, I am not here to get any compensation, I am just – I feel very hurtful for my shot son. It is the Commission that will see what it can do, but I am not here to tell the Commission what to do. I am not here to gain anything about that. I just feel very sore inside. My heart is broken. There is nothing else I am going to say now.

18 There were also, of course, people who were critical of the human rights violations hearings. These included survivors, who demanded justice and retribution, and activists who saw themselves as heroes rather than victims. Some psychologists and others expressed concern that adequate professional support was not provided after the hearings. The latter view was voiced by Ms Thenjiwe Mtintso, former Chairperson of the Commission on Gender Equality and currently Deputy Secretary General of the ANC, at the Commission hearing on women in Johannesburg:

I know, Chairperson, that the Truth Commission has got a programme of therapy, but I hope it can be sustained, because my own experience in the few months has been that some of the women whose wounds you opened – we did not pay enough time or give them enough opportunity to heal once they left these halls. I have been to Cape Town where there were hearings, Chairperson. I have been to Port Elizabeth. I have been to King William's Town. There are wounds that have been left gaping. It may not be the duty of the [Commission] alone; it may be the duty of the public, of all of us; but those wounds, they need to be addressed, Chairperson. You cannot open them in this hall and leave them gaping. Somebody has got to take responsibility.

19 A further cause of concern was the inevitably long delay between victims' testimony at hearings and the implementation by the state of the Commission's recommendations on reparations and rehabilitation. In a submission to the health sector hearing in Cape Town, Professor M Simpson, a psychiatrist specialising in post-traumatic stress disorder, raised a further concern:

There has been far too little genuine debate about the nature of social healing and what surely promotes it. Truth is one essential component of the needed social antiseptic which could cleanse the social fabric of the

systematised habit of disregard for human rights, but it needs to be an examined truth; it needs to be considered, thought about, debated and digested and metabolised by individuals and by society. Failure to comprehend recent suffering is too often, in the studies I have made, the seed of future suffering.

Decriminalisation

20 *Individual and social healing are lengthy, complex processes, of which the restoration of human dignity must be seen as an essential part. One of the most important contributions of the Commission was to help decriminalise the actions of the majority of those victims who opposed the former state. During the uprisings in the 1980s, in particular, thousands of young people were sentenced to prison for arson, public violence or attempted murder. An extract from a Ministry of Foreign Affairs secret memorandum to all members of the State Security Council (SSC), dated 12 November 1984, is significant in this regard – illustrating some of the ways in which political opposition was criminalised as part of the ‘total strategy’ against the ‘total onslaught’ Unrest situations: suggested terminological guidelines for official spokesmen*

1. Goals

1.1 *To withhold positive political/social recognition, credit and publicity from the organisers (UDF³ et al) of riots, boycotts etc.*

1.2 *To channel the anger of the innocent masses against **criminal activities**.*

1.3 *To educate local and international opinions about the criminal nature and uselessness of these activities.*

2. The Conceptual Framework for the Terminology

*From the abovementioned goals it is clear that the main emphasis should fall **on specific common law crimes** and that references to crimes with political connotations should mostly be avoided, for example:*

arsonists, looters, murderers, muggers

Where it is not practically possible to refer to specific common law crimes, descriptions such as “rioters”, “boycotters”, “protesters” should rather be avoided and replaced where applicable with descriptions such as:

hooligans, vandals, thugs

Where the instigator is associated with widespread actions/unrest his status is enhanced. As a guideline, it is suggested that militant organisations (ANC, UDF etc.) should rather be linked to individual atrocities (e.g. car bombs) than to mass actions.

3. Innocent victims of criminal actions

It is of the utmost importance that publicity should be given to the victims of violent activities. The “human dimension” is the key factor which must be used to foment sympathy and condemnation...⁴

21 The ideas contained in the memorandum illustrate the official mindset at that time – frequently appropriated by the media and promoted by many who were themselves directly involved in perpetrating gross violations of human rights. The guidelines provide some context for a statement by a mother of one of the seven activists killed in Gugulethu. After the second day of police testimony at the Commission’s hearing on the ‘Gugulethu Seven’, she told Commissioner Mary Burton that she felt much more comforted and reconciled; not, she said, because she was yet feeling forgiveness, but because “people now know that our sons were not criminals, but freedom fighters”.

22 After Mr Jacob Nombiba's testimony at the human rights violation hearing in Grahamstown on 7 April 1997, the chairperson, the Reverend Bongani Finca, captured this point as follows:

We found that many parents are not aware whether their children died as heroes because at that time you couldn't go home and tell your parents what you were involved in. You did not want them to expect you to be shot and to be in jail. I think this is one of the important things in this Commission, that old people like you, at last, would find out the truth, the truth about the struggle of their children, because they did not tell them what was happening.

What is important to me is that maybe the Commission will give out a report that will help you to go to your children's graves, to talk to your children – that you were not aware that they were fighting for their country – so 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, the 23rd of July 1997, is one of the most powerful days of my life as well, when I have the opportunity to publicly celebrate my survival through that year in prison and to say 'yes' to a society 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:

I wanted to say this when Miss Mhlawuli was here – but perhaps I should speak and you will tell her. I said after Ms Mazwai that I was deeply proud of the fact that I was black and that we had people of her calibre. We are proud to have people like you and your husbands, and the reason why we won the struggle is not because we had guns; we won the struggle because of people like you: people of incredible strength. And this country is fortunate to have people like you... We have a tremendous country, which has tremendous people, and you are one example of why we make it in this country. And that she, your daughter, should say, "I want to forgive, we want to forgive", after what she has experienced and seen what happened to her mother and to her father, and she says, "we want to forgive, but we want to know who to forgive". We give thanks to God for you, and thank you for your contribution to our struggle, and thank you, even if it was reluctant in a sense, rightly, thank you for sacrificing your husbands.

25 The work of the Commission also highlighted the impact of decriminalisation on those who always believed that the security forces were upholding the moral order and legitimately enforcing law and order against 'terrorists', 'hooligans', 'vandals', 'arsonists' and 'murderers'. Those who supported the previous state or were conditioned by 'total onslaught' propaganda needed to come to terms with the painful truths uncovered by the Commission. This is illustrated in the following extract from an interview with a white Afrikaner victim of 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'.

I don't have a lot of contact with blacks myself in every day life, so your perceptions aren't always a hundred per cent correct, and you tend to believe what the media tells you. And all of a sudden, the media turns around and [makes] the white guy, the police ... the bad guy.

I started questioning the whole [Commission process], I think the role of the media – I think they went overboard and that created the impression that they just want to keep on highlighting that side of things. Yes, I think that's why I called it a circus; that's why I wasn't keen on going at first. But then, because of my personal involvement, I thought, "no, let me just see".

And I think it was a sort of initial resistance that came about, which I think if I think of my friends and so on, it's a fairly natural reaction.

- 26 It was even more difficult for those who were directly involved in the security forces to reconcile themselves with the decriminalisation of their former enemies. This difficulty was articulated by Ms Trudy de Ridder, a psychologist who had recently worked with a number of ex-SADF conscripts struggling to cope with their involvement in the war on the Namibian border during the 1970s and 1980s. In her written submission to the 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.

- 27 The complexity of the impact of decriminalisation on different communities was illustrated by the testimony of Mr Chris van Eeden, president of a mainstream Afrikaner youth organisation, the Junior Rapportryers Beweging (JRB) at the Commission's special hearing on children and youth, in Johannesburg:

In our organisation, there are a couple of thousand of young men. More than 50 per cent of them were national servicemen; the rest were too young. In my work in the JRB, I see most of these people during the year and we talk to each other.

I don't want to blame the [Commission] – the media is inclined to look at these atrocities. But the same names, the same police are repeatedly referred to, while there is no mention made of the majority of people who were in the police and the Defence Force who weren't involved in the atrocities.

They provided a service for the country, because they loved the country. This is still the case at present and they would probably do it again.

Commissioner Malan: *Could I just interrupt you here, because I think we've got the message. I refer to the other part, you hear the same names and things but those are things that you didn't hear when you were in the army? That is my question.*

Mr Van Eeden: I can honestly say to you that these kinds of acts, no one can approve of. It makes you furious and angry because that is not what myself and thousands of young Afrikaner men got involved to do.

Commissioner Malan: Can I take the question a bit further and the answer. I know is very difficult for people to understand who look at this whole history from a different perspective... How is it possible that you didn't know anything of it or did anything about it? Do you have a perspective on that?

Mr Van Eeden: War as such is a crime against humanity; there are no victors. I had personal knowledge because I saw it, of certain of these actions that took place. I saw the result of bodies being burnt. I had knowledge of that. I didn't have knowledge of orchestrated efforts of forces that I served to incite such incidents...

Commissioner Malan: *You say that you saw bodies that were burnt. What did you think was the reason for that? Who burnt them?*

Mr Van Eeden: I didn't have to think of what the reason was; it was quite clear. I did my service in Vaal Triangle in the 1990s and it was black on black violence. That it could have been incited from another force, well we have evidence for that now. But I have personal knowledge of, well, let's refer to it as violence between ethnic groups, black ethnic groups in the Vaal Triangle, I saw that.

Commissioner Malan: *You never saw some kind of an orchestrated effort from government?*

Mr Van Eeden: No, I never experienced it as such and I think the 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 deal of pain through all these years. It is now ten years and ten months and forty-three days ago that he died, but the pain is still with me. It still lives inside of me because the 'whys' and the 'wherefores' I still don't know. Although there are some people who pretend that nothing happened; there is a peace on the surface. The pain which I suffered, well I think my second eldest son, the one just after the deceased, I think his drinking problem is the result of the death of his brother.

During the time that I suffered so much, I felt like I had been ostracised from the community, that I had been rejected by the people. I felt that I could not look the world in the eye. I should just accept things as the world accepted me. It was a great pain for me to move in amongst the other women in the women's associations and groups to go and pray. It was always, it felt to me as if I was accused of this 'Uppington 26' case. It didn't matter to them what was happening to me. Their prayers were always plaintive. I always had to hear about the food that they were dishing out to their loved ones, never mind the ones who had died. Even the ministers were the same. Not one, I didn't hear one minister praying for the deceased's mother who had also suffered a loss, who had also lost a son. The pain has been living with me through all these years.

The court case was a long protracted one, and I had to suffer a lot of prejudice, and people swearing at me, insults that I had to endure. But the fact that I am sitting here today does not mean that I want to accuse anybody in Paballelo of anything. I was quite sincere when I spoke to you during the Court case after I gave evidence. I was given the opportunity to speak to you and I am, I still say to you, I am extremely disappointed in you people of Paballelo community. Paballelo is a small community. We know each other. We know each other very, very intimately, and when we speak of each other, we immediately know who is being referred to and I still say to you, "I am disappointed in you". But there is nothing in my heart. I thought I just had to endure the pain and suffering that I was going through, but I still maintain that my faith in my fellow human beings has been scarred for life. I will, can never violate anybody else's rights because you knew my son, Tsenolo Lukas. Some of you were his friends. But that means nothing. Talk will not bring him back.

My pain and suffering is still a reality, and that played a major role in that household because I don't have a child in the Paballelo school. I would also have wanted my child to go to school there. I had to remove my children, and I had to go and live with other people. The hardship, the songs that you sang for me, that really affected me badly. It happened not that long ago. The last song was u-Jetta and that was such a bitter thing for me because some of you who sang that song, you go to the same church as I do, and some of you have very high posts, as you sit here. Some of you didn't know what exactly took place that day, but you just felt that you could just ride roughshod over my feelings. You felt that you could sing that song, but when you saw me walking across the street you started singing this u-Jetta song. I laughed at you. I answered you and said Jetta didn't hurt you, he is dead and that is nothing less than the truth.

Paballelo community, the community killed my child and they burnt him to death. That is the truth. Lastly, I would like to say thank you very much to the South African Police (SAP) who looked after me and my children as well during that time. Thank you very much. For the 'Uppington 26' group I want to say it was a low blow, it was a heavy blow, but I picked myself up again, I survived. Thank you...

Commissioner Wildschut: [That is] why we felt it is important that you too have the opportunity to tell your story today. I think that many people say, looking back they acknowledge the fact that they didn't give you that opportunity and didn't recognise your pain and your grief. People are saying today that it is important for reconciliation and for healing to take place; that we begin to acknowledge that you too went through a lot of suffering. How do you feel about the fact that people are now beginning to say that they would like to work towards reconciliation first by beginning to acknowledge that you yourself have suffered?

Ms Sethwale: I feel I am already dead and that this process will be a very long and time-consuming one. It will take a lot of effort to make me entirely normal again because I have actually become quite used to my pain and place where I find myself currently. I don't bear any grudges against anybody. But if you lose your confidence and your faith in other people, it is very hard to restore. My faith in my fellow human being has been shattered, but I don't bear anybody any grudges.

Exoneration

- 29 A particularly complex healing process is involved in restoring trust where someone has been falsely accused of being a spy or an informer. In a number of cases, the Commission helped to restore the dignity of those who were thus falsely accused. This is illustrated by the testimony of Ms Evelina Puleng Moloko on the 'necklacing' of her sister, Maki Skosana, after the latter was suspected of being involved in the killing of a number of youths when booby-trapped hand grenades blew up in their hands. Ms Moloko told her story at the Duduza human rights violations hearing:

Maki was a Comrade. She was politically active. We woke up, and we saw quite a number of corpses around the place lying on the ground. Maki went to have a look at these bodies because we were preparing to go to work on that particular morning. Maki came back, and she was in tears when she came back, and she was in shock. She also mentioned the names of the people or the bodies that were lying around on the ground. She said they were Ngungun Yani, Lucky and others. After that incident, we heard that there were rumours around the location, and it seemed it was common knowledge that Maki had a hand in the killing of those youths... I spoke to Maki as a sister, and I told Maki that it was better for her to run away, and she told me that she was not going to run away because whatever they 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 regularly requested the Commission to help them find loved ones who had disappeared or to locate the bones of those who died in the conflicts of the past. The Commission was, through intense investigation, able to uncover the truth in more than fifty cases.⁸ For example, the body of Ms Phila Portia Ndwandwe (MK alias, Zandile) was exhumed on 12 March 1997. Ms Ndwandwe was the acting commander of Natal MK activities initiated from Swaziland. She was

abducted from Swaziland by members of the Durban Security Branch but refused to co-operate with the police. It seems that the police did not have admissible evidence against her, but felt they could not release her. She was kept in custody and tortured. Eventually she was killed and secretly buried on a farm in the Elandskop area, near Pietermaritzburg. When she was exhumed, her pelvic bones were covered with a plastic supermarket packet with which she had tried to protect the dignity of her naked body.

31 The Commission provided financial and logistic assistance to the relatives of those victims whose remains were exhumed, so that dignified reburials could take place. These exhumations and reburials were sad occasions, but the families expressed their relief at the end of many years of uncertainty.

32 There were, sadly, still at least 200 such cases outstanding when the Commission's work ended in June 1998. There were also requests and demands that the programme of exhumation be extended to neighbouring and other foreign countries.

p TOWARDS THE RESTORATION OF HUMAN DIGNITY: PERPETRATORS

33 Reconciliation meant that perpetrators of gross human rights violations must be given the opportunity to become human again. Ms Cynthia Ngewu, whose son was killed by the police in the 'Gugulethu Seven' incident, confirmed this crucial insight. At the forum on Reconciliation, Reconstruction and Economic Justice in Cape Town on 19 March 1997, Ms Ngewu was asked how she saw the notion of reconciliation. She responded as follows:

Ms Ngewu: What we are hoping for when we embrace the notion of reconciliation is that we restore the humanity to those who were perpetrators. We do not want to return evil by another evil. We simply want to ensure that the perpetrators are returned to humanity.

Ms Pumla Gobodo-Madikizela: Many people in this country would like to see perpetrators going to prison and serving long sentences. What is your view on this?

Ms Ngewu: In my opinion, I do not agree with this view. We do not want to see people suffer in the same way that we did suffer, and we did not want our families to have suffered. We do not want to return the suffering that was imposed upon us. So, I do not agree with that view at all. We would like to see peace in this country... I think that all South Africans should be committed to the idea of re-accepting these people back into the community. We do not want to return the evil that perpetrators committed to the nation. We want to demonstrate humaneness towards them, so that they in turn may restore their own humanity.

34 Similar sentiments were echoed at the amnesty hearing of Mr Brian Gcina Mkhize, a former Inkatha Freedom Party (IFP) hit squad commander in the Esikhawini area on the KwaZulu-Natal north coast. Mr Mkhize was serving a life sentence for two murders. He applied, together with six other members of a Caprivi-trained hit squad, for amnesty for more than fifty-six incidents of violence. At the amnesty hearing in Richards Bay, Mr Mkhize drew attention to the need for the many IFP and ANC "foot soldiers" who committed gross human rights violations to "become human again":

We represent IFP prisoners in reconciliation with ANC prisoners... There are a lot of people who are in prison who are responsible for actions similar to ours. But organisations today are not interested in those people. They are speaking about peace processes, but are not concerned about the foot soldiers who carried out these activities...

We need counselling because this affects you mentally, psychologically. Nobody has come forth to suggest how we can get this counselling; how the element of criminality can be rooted out; how we can become human again.

35 *Testimony to the Commission underlined the profound challenges faced by perpetrators and victims in the light of the violations perpetrators had committed against their fellow human beings. The restoration of their dignity would be a*

painful and difficult process. The following testimony was given at the gross human rights violations hearings in East London: Ms Bawuli Mhlawuli: After my father's death, we went back to Oudtshoorn. That's where my mother was teaching. There was this particular morning when we were all sleeping in one room... they would just kick it open you know, and my mother just thought there was nothing else she could do. She just went to open the door. She led them into the house, and as usual they came in and were searching for things that we didn't know. They came across one big poster titled 'Freedom Now' and they took it. And they saw some sympathy cards from people who were very sympathetic and sent the stuff from all over the world... This one policeman whose name was Kroeter, he came across those, and he was making fun of them saying, "Dit is die kaarte van die dooie man" [These are the cards of the dead man], and they were kind of making a joke out of it, out of the death.

After that, this man Kroeter was like harassing my mother; he was screaming and yelling at her, asking whose belongings are these, why does she say everything belongs to my father? And my mother said, "because the stuff does belong to him", and he doesn't necessarily do what he does with her, because he was like barking, like talking to a dog. My mother said, "I'm a human being, so are you, so you don't need to speak the way you do."

This man said, "The truth will come out one day", and that was very ironic because here we are today in the Truth Commission talking about this truth. And I mean I never expected him to say that because the truth that is coming out is based on him now, not us. We're the victims. He's the one that committed all this pain to us, you know. And after that my mother said, "I agree with you very much, I strongly agree with you. The truth is definitely coming out one day." And this man sat down, and for once ever since he entered the door, he sat down, and he asked my mother if he could smoke. My mother said, "Okay fine", he could smoke. He lit a cigarette and he sat down and smoked. He looked quite withdrawn after that. And they had arrived at our house around about twelve midnight, and now it was around about six in the morning.

Mr Smith: *So they were there for the whole evening?*

Ms Mhlawuli: *For the whole evening.*

Mr Smith: *Kept you out of sleep?*

Ms Mhlawuli: *Yes, and we never got to go back and sleep; we just had to get ready to go to school.*

Mr Smith: *How old was your younger brother at the time?*

Ms Mhlawuli: *He was three years.*

Mr Smith: *Three years! How was he affected by this?*

Ms Mhlawuli: *We used to go to town with my mother or just go out, but my brother, immediately he saw the policeman or a white person, or he saw whoever was non-black, he would say, "Here are these dogs who killed my father".*

36 The questioning of Captain Jeffrey T Benzien at his amnesty hearing in Cape Town provided another example of the difficulties many perpetrators face in reconciling with themselves, their families, their victims and the rest of society. Amongst those who questioned Captain Benzien was Mr Tony Yengeni, one of his victims, who asked him to demonstrate his torture methods:

Captain Benzien: *It was a cloth bag that would be submerged in water to get it completely wet. And then the way I applied it was: I get the person to lie down on the ground, on his stomach normally on a mat or something similar with that person's hands handcuffed behind his back.*

Then I would take up a position in the small of the person's back, put my feet through between his arms to maintain my balance and then pull the bag over the person's head and twist it closed around the neck in that way, cutting off the air supply to the person.

Chairperson: *What happens to the person while he is being choked? Can you describe [it]?*

Captain Benzien: *There would be movement. There would be head movement, distress. All the time there would be questions being asked: do you want to speak? And as soon as an indication was given that this person wanted to speak, the air would be allowed back to this person to say what he wanted to say.*

Mr Tony Yengeni: *Would the person groan, moan, cry, scream? What would the person do?*

Captain Benzien: *Yes, the person would moan, cry, although muffled; yes, it does happen.*

Mr Tony Yengeni: *And you did this to each and every one of us?*

Captain Benzien: *To the majority of you, yes.*

Mr Tony Yengeni: *But were there any ... was there any physical condition that would make you to release the bag on the part of the person who is tortured?*

Captain Benzien: *On occasions people have I presume, and I say presume, lost consciousness. They would go slack and every time that was done, I would release the bag...*

Mr Tony Yengeni: *What kind of man uses a method like this – one of the wet bag, to people, to other human beings, repeatedly and listening to those moans and cries and groans and taking each of those people very near to their deaths – what kind of man are you? What kind of man is it that, that can do that kind of – what kind of human being is that Mr Benzien?*

I want to understand really why, what happened? I am not talking now about the politics or your family. I am talking about the man behind the wet bag? When you do those things, what happens to you as a human being? What goes through your head, your mind? You know, what effect does that torture activity done to you as a human being?

Captain Benzien: *Mr Yengeni, not only you have asked me that question. I – I, Jeff Benzien, have asked myself that question to such an extent that I voluntarily – and it is not easy for me to say this in a full court with a lot of people who do not know me ... approached psychiatrists to have myself evaluated, to find out what type of person am I.*

I had the fortune or misfortune of growing up in a white environment in Cape Town. I did not, either through my own stupidity or ignorance, as long as I was one of the whites, the privileged whites who had an education, who had a house, I couldn't see it being taken away. If you ask me what type of person is it that can do that, I ask myself the same question.

37 Ronnie Kasrils spoke of the appeal he had made to the soldiers who had fired on marchers at Bisho:

I would like to say a few words about the Ciskeian soldiers who opened fire on the march. An irony of this rainbow nation of ours, as you've coined it Archbishop, is that, with all the strange things happening, Raymond Mhlaba is now here at Bisho where Oupa Gqozo used to lord it. Here I am, a Deputy Minister of Defence in this democratic government, and I have a responsibility to the soldiers of this country including [these] and to the members of former SADF who trained and commanded them. We are creating a new defence force of seven former antagonistic forces, and we can only do this on the basis of reconciliation, which is vital to the well-being of our society and our future.

Can we blame any of the – any individual in their rank? I've had to meet them, old SADF, former Ciskei. I've been to the barracks here at Bisho – on a tour of inspection with Minister Modise, trying to create this new defence force which must defend and guard the freedom and the sovereignty which the Archbishop referred to, and I have had to grapple with my conscience. They were products of an evil system that conditioned them to fear the manifestations of democracy, and they were programmed to believe that we were devils incarnate.

As I have mentioned, they must have been worked up ... to believe that we were a threat to their lives. As recently as this past Friday I visited Defence Headquarters here in King William's Town and, through the commanding officers, I encouraged them all to seek indemnity because they did commit a heinous crime. They must expunge their guilt by telling the truth and seeking forgiveness from their victims. They can shed light on what actually happened and need to be encouraged to seek indemnity because this is the key thing: they have been afraid to tell the truth. And I have been told stories about this officer and that commander, and this one who is suicidal and this one who is drinking himself to death, and I must tell you that I have feeling for them, which is why I am making this statement, and I have sent back this message to tell them they've got nothing to fear if they come forward.

But that's not the only thing. It's not the only thing in creating a new defence force, because anyone in our new defence force now must demonstrate by their actions as soldiers that they wish to serve and protect the people of our country and our democratic system.

p FORGIVENESS

38 Despite the terrible stories told by victims, the Commission heard some remarkable evidence of a willingness to forgive. At the human rights violations hearing at Beaufort West, Mr Alwinus Ndodiphela Mralasi made the following statement:

Alwinus Mralasi: Thequewe Willie Manene was a member of the Methodist Church, and he accused me, together with his brother and another brother of his. I must tell you everything that I thought about him so that one could make a story out of this.

I hated him for five years. I even wanted to stab him to death ... stab him because he had hurt me, and he implicated me, and said I was there in that meeting. And he said I was ... we were hiding. There was a lamp that was hidden under a table, and this is an indication that this was a real lie.

I saw him in King Williams Town in 1972, and I was with my children. And my children were not succeeding at school, so I decided to send them to King William's Town because I was working then. I took them to King William's Town and that is where things went better for them, even in Somerset.

That is where I met Willie Manene who was working in a showroom where they sell cars. And one of my children pointed him and said there he is. So I asked for my knife, I opened it, I put it into my pocket ... I went close to Willie Manene. This is God's work because His works are wonderful.

I had intentions to stab him. I opened the door, and I saw a white man who asked me whether I wanted a car. Then I said, no. I had last seen Willie in 1968, in court. At the time, he was wiping the car, and he saw me as I was moving slowly towards him. In fact, a person who was guilty will always spot you, and you know this is the truth.

So I went and greeted him, and I asked him how he was, and I asked him to go out with me. We went outside, and he stood there, and he had some difficulty to talk. And I was surprised [and wondered] what was wrong with him, and I looked at him and I could see there was real change in him. He had gone through a lot of suffering, I could see. It showed on his face. And I asked: "why are you like this? Do your people know that you are like this?" Then he said, "no".

I asked him about Frans Manene, Samuel Manene. Then I asked him if I could see Samuel to give him some messages. Then he ... said he was suffering from high blood pressure, he had pains on his hip and his son too was ill-treating and beating him. I could see he was finished, I then called my wife and even that one who was

born when I was detained. I called all them – all of them – and I said Willie: “here are your children”, because we had the same clan name. So, he greeted them.

Then I said: “these are your children, you can see they are old”. Then he said: “Are you still going on with this?” Then I said to my wife: “Look at this person, how he looks like”. And I asked my wife to take out one pound and give it to this man so that he could buy food for himself. And that was the last I saw of him. He never went back to his house. He never went to see his family. He went to hospital and that was the end of his life. So, when he asked me how I had come there, I said I had come in a car...

This is the man who was trying to drown me and, as I was driving [away] ... he lifted his hand, trying to wave. And I also waved back ... I kept on waving for a long time, hooting, and then I drove off to Mdantsane. That was the last I saw of him, because he died thereafter. So, even the hatred I had just faded away. So that's why I say, God is there and God is with us – we are parents but things may not do – people may not do bad things to others because we've got children. We have got children who we are bringing up.

So today, you have allowed me to say everything to you, and everything that has been locked in within my heart now, you have allowed me to have a clean breast of – so I am not even embarrassed today. You can go to my house. You will be surprised because God is like those old bottles of wine that used to be closed with a cork. And if you were to fill ... a bucket with water and then you take that cork and put it into that water, it will not sink, it will float. Thank you. I thank you for all you have done for me.

39

Ms Beth Savage gave this evidence to the Commission:

Beth Savage: On the 28th of November 1992, I attended our annual Christmas Party. It was our wine tasting club... We were seated at one long table... David did his usual thing by coming around and greeting us all, and he was squatting, chatting to Bob and me when I suddenly became aware of something that sounded like firecrackers. I saw Rhoda Macdonald throw back her arms and die, and I did exactly the same thing. I swung around to look at the door to see what was happening, and I saw a man there with a balaclava on his head (but not over his head) with an AK-47, and my immediate reaction was, "Oh my goodness, this is a terrorist attack!" After that I blacked out, and I don't remember anything else until I was on the helicopter being flown to Bloemfontein...

I spent a month in ICU [intensive care unit]. It was quite traumatic. I had to learn to walk again. [When] I came home, my children were unbelievable. They used to fight over who is to bath me, who was to dress me, who was to feed me. I don't know whether I could ever have made it without them.

I had open-heart surgery, I had a hole in the aorta, and I actually stopped breathing but, through the work of Dr John Pennel, they managed to get me to live. And I also had half my large intestine removed. I've got really very ugly scarring up the middle, and I have a damaged thumb from the shrapnel. I've still got shrapnel in my body, but all that means is that all the bells ring when I go through the airport; that makes life exciting. And I have an injury on the knee.

But all in all, what I must say is, through the trauma of it all, I honestly feel richer. I think it's been a really enriching experience for me and a growing curve, and I think it's given me the ability to relate to other people who may be going through trauma...

The bomb blast took its toll on my family. I believe I'm a very strong person, [but] I did have a complete breakdown after six months. My daughter also had a breakdown ... she was ... well all the children tried to be mother, father, sister, brother, husband, everything to me. They really carried me. They picked me up and carried me.

My son has had his problems as well. I think psychologically it affected my family in terms of them just being able to believe that it could actually happen to me... I had really a wonderful childhood, and my parents actually put a lot of young African people that worked for them, four that I can remember, that they actually educated, and my father was a person that was really anti-apartheid. I think of all the people affected by the bomb blast, it affected my dad the worst. He just went into a very deep depression, and he died about six months ago. When I was ill, he just used to sit next my bed and cry and say, "You know, I can't believe this".

I feel bad because you know I'm not the only victim, but that is how it affected us ... and then my mum, she couldn't carry on without him, and she died two months later. Basically, it just broke his heart.

Ms Crichton: *Beth, what are you actually feeling towards the perpetrators at this time?*

Ms Savage: *It's a difficult question, but I honestly feel that, there but for the grace of God go I. I really don't know how I would have reacted if I had been in their situation. I know ... that's about all I can say.*

Ms Crichton: *Is there – and this is my last question to you – is there anything that you were hoping the Commission will do for you?*

Ms Savage: *Really there's nothing in particular that I would like the Commission to do for me. I think it's fantastic that we're having the Commission. I think the idea that speaking out causes healing – I think that is really a wonderful idea ... and I really hope that healing comes to everybody. You know there are people here who have had far worse problems that I could ever have.*

Panel Member: *Is it important for you to have the identity – if the Commission can assist you to do so, to find out – is it important for you to have the identity of the people who are responsible?*

Ms Savage: *It's not important to me, but – and I've said this to many people – what I would really, really like is, I would like to meet that man that threw that grenade in an attitude of forgiveness and hope that he could forgive me too for whatever reason. But I would very much like to meet them.*

Archbishop Tutu: *Thank you, I just want to say, we are, I think, a fantastic country. We have some quite extraordinary people. Yesterday, I had spoken about how proud I was to be black in seeing the kind of spirit that people showed in adversity, and now we're seeing another example, and I think it just augers so wonderfully well for our country. We thank you for the spirit that you are showing and pray that those who hear you, who see you will say, "Hey, we do have an incredible country with quite extraordinary people of all races".*

40 Ms Savage's wish was fulfilled in April 1998 at the amnesty hearing of Mr Thembelani Xundu, the former Azanian People's Liberation Army (APLA) commander responsible for her injuries. In a newspaper interview, she said that, after meeting with Xundu, currently a major in the South African National Defence Force (SANDF), she no longer had nightmares about the attack. 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 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 gave testimony at the human rights violations hearing in East London:

Ms Seroke: You live in Pretoria, and you are the parents of Cornio Smit who at the age of eight years in 1985 was killed in a bomb blast in Amanzimtoti. At the time, he had gone to Natal with his grandparents for a holiday, and, whilst they were shopping, two days before Christmas at the Sanlam Shopping Centre in Amanzimtoti, this bomb blast occurred. Can you tell us, how did you get the news and what happened?

Mr Smit: I got a phone call from my uncle who stayed in Malvern in Durban, and he told me that my son was in an accident; and I had to come down and see him. I thought that it might be a car accident because he didn't explain what type of accident it was ... We only found out that it was a bomb blast when we arrived in Durban in the hospital. I can't remember the name of the hospital. They told us that my son's not there, but they know of a little boy who was in the mortuary. By that time it was very late; the mortuary was already closed, and I went to my uncle's house ...

We went to see him the following morning, but I didn't want to believe that it was my son that was lying there. I asked them to take him out of the glass case so that I could see his chin. Under his chin, he had a small little cut which he got when I accidentally dropped him when he was a child. I still really didn't want to believe it, and my wife and my father had to convince me it was my child.

Then after that, we came up to Pretoria. We buried him in Pretoria. I told newspapers that I thought my son was a hero because he died for freedom for people that (I would prefer to speak Afrikaans). He died in the

was also mutilated. We could not identify him. I only identified him through his thumb. There was a certain mark on his thumb.

45 She continued:

I want the people who killed my sons to come forward because this is a time for reconciliation. I want to forgive them, and I also have a bit of my mind to tell them. I would be happy if they could come before me because I don't have sons today. Their father died at an early age, and I put them through school. Now, they've never been criminals. They've never had any problems, even with the neighbours. They were Christians. I also want to speak to [my sons' killers] because I want to speak to them before I forgive them. I want them to tell me who sent them to come and kill my sons. Maybe they are my enemies, maybe they are not. So, I want to establish as to who they are and why they did what they did.

46 At the Port Elizabeth human rights violations hearings, an unnamed witness testified:

Chairperson: Thank you very much for taking the trouble to come to us. Our sympathy goes to you for all the hurt that you had to go through. What we are going to try and do according to the powers that we have, we are going to find the truth and medicine that will heal our country to make us one – something that will unite all of us and make us one, so that we can have reconciliation. Thank you very much for having sympathy for other people while you have your own problems and your own hurt. That is called humanity. Something that we are trying for our country to have, and everybody should have humanity. That is what we are trying to have now so that everybody can stop being selfish. Thank you very much.

Witness: Thank you, Bishop, but I am sorry there is something else that I would like to ask. Do not take me wrong my Bishop, you cannot make peace with somebody who does not come to you and tell you what he has done. We will have peace only when somebody comes to you and says, this is what I did. I did this and this and that and that. If they do not come, if we do not know who they are, we would not be able to. But now I will forgive somebody who has. That is the whole truth, sir. We take it that the people who are listening and the people who are coming to the Commission will be touched as well. Their conscience will tell them that if they want forgiveness they should come and expose themselves so that they can also get the healing that the victims are getting.

Unidentified: This is why we are trying to investigate the truth. Thank you.

Witness: Thank you, Bishop, but there is something more. I do not want to lie to this house. Yes, Bishop, you are my Bishop. I will not be able to forgive anyone until I know who they are. Then I will shake their hands.

Otherwise, I will not be able to forgive somebody that I do not know."

47 At the youth hearings in East London, the Inter-Church Youth (ICY) made the following statement:

We on our side were violated brutally, and we therefore plead with those who were involved in violating our own rights whether they were actively involved or otherwise, to humble themselves and confess to those who suffered in the atrocities of the past. Mr Chairperson, Sir, we are saying we were mostly wronged, but we are prepared to forgive people if they come and tell us what they have done. Surely, this hall here today is full of those people who were mostly sinned against. But where are those people that were involved in the atrocities. If they can come to us and tell us what they have done and start owning up to the process ... But instead what we are finding in this country is that those who were involved in the process of violating other people's human rights are starting to disassociate themselves with the acts of terror. And those people do that publicly because they are political figures, and they say they were not involved. But on the other hand, they call themselves committed Christians who are committed to nation building. We question that.

Coming forward here with a submission as the sinned-against group is an explanation of what type of people we are as black people. We are notoriously forgiving and up against what the missionaries have been saying in statements that are written down in books, implied that we are a non-religious community. I want to say that we are more religious than many a nation. It is because we are notoriously religious that we are notoriously forgiving. So said Dr Weli Mazamisa.

In conclusion, I want to say again that we are more than just religious. We are a peace-loving people and, if the Bible says, "blessed are the peacemakers", we might have had so many blessings if and only if these people will come forward. The people we want to make peace with are not coming to tell us what they have done so that at least we can forgive them. Please people, we need to be blessed by God for the peace, but they are deciding to run away. They are not just running away with themselves, but they are running away with our long overdue blessings. We want our blessing please. People we urge you to bring back our blessings. I thank you Mr Chairman.

48 Testimony at the Alexandra human rights violations illustrated that forgiveness is not cheap, and the journey towards overcoming deep feelings of anger and humiliation is a long one:

Ms Margaret Madlana: After my child's death, these white policemen came, and they came to one house where there was a tent, and they were running after some children. The children ran towards the house, and got into the house. When they arrived and entered the house I asked them (I didn't know that they understood Zulu and I asked in Zulu) what are they looking for because they have already killed my son. And one of the white men answered me, and he said to me, we are looking for the young kids. There were so many people in my house, and they [the police] said they are going to take me and kill me in the house. However, the people tried to ask them not to kill me ...

I would like to apologise before God ... if ever I was to be employed, I was going to poison the white man's children. The way they killed my son hitting him against a rock, and we found him with a swollen head. They killed him in a tragic manner, and I don't think I will ever forgive in this case, especially to these police who were involved, and who were there ...

This Sindani came to me to tell me that he has not finished the killings – they are still going to kill – and Mtebi himself came to say the very same words. They said they are coming to kill all the young kids and the dogs, and they are also coming to kill the leaders. Therefore, I don't think there will be any reconciliation or forgiveness because today the police in Alexandra, they promote crime because they eat together with these criminals. They are crooks. They are still doing the very same things that they used to do, and therefore I don't think I will ever forgive police. [Witness upset] ...

What will make me to forgive is if Sindani and Mtebi, these two policemen, come and tell us why he killed these sons of the wars and also ask for forgiveness before the mothers of these children. It is then that I can forgive him. I am so surprised to find out that today that Mtebi is today a reverend and which children is he preaching to and which parents is he preaching to if he killed the children of the wars.

I would like Sindani and Mtebi to come and ask for forgiveness. Thereafter I might consider forgiving them, together with his fellow white people who came to kill our children. They just killed these defenceless children with their machine guns. They brought their dogs and hoses running after young children with machine guns with the aim of killing the black nation, the black race underneath the sun. I will say that I will never forgive because this was my last born. Maybe if he was still alive, he was going to be married by now [and] have some children and a wife. But because they have killed him, I will never rest ...

I used to go out and go and sleep on top of his grave because even today I still go there and pray in his grave. I will never forgive them if they don't come before the Commission... I would like to say that for me to forgive, and I don't see the opportunity of me forgiving anyone, I suffered a lot because of this because I didn't understand why the children were killed. But there is just one important thing I would like to say before the Commission, before our children and the whole country.

At the beginning of the struggle – the struggle started at Wits9 University within the white community where white students threw away their books [and] not even a single of them was teargassed or killed. However, when black children started fighting for their liberation, they were shot by guns. We had to bury a lot of people killed by these guns and I would like to say I have buried a lot. I am only left with four children. However, when their children started to fight for their rights, they were not killed. However, our children when they started the very same thing, they were killed since from 1976 up to 1986. They never buried anyone, 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 tear gassed 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.

p APOLOGIES AND ACKNOWLEDGEMENTS

49 The Commission heard acknowledgements from a range of individuals and representatives of various institutions about their direct and/or indirect involvement with gross human rights violations. Many offered unqualified apologies for their acts of commission and/or omission and asked for forgiveness. The response of others was qualified. In the process, the role of sincere apologies in the reconciliation process emerged. While insincere apologies add insult to injury, honest apologies encourage forgiveness by “helping to pour balm on the wounds of many”¹⁰.

50 At the ‘Bisho massacre’ event hearing in Bisho, the following statements were made:

Colonel Schobesberger (former Chief of Staff, Ciskei Defence Force): *From my point of view and for the soldiers of the Ciskei Defence Force I can speak. I say we are sorry. I say the burden of the ‘Bisho massacre’ will be on our shoulders for the rest of our lives. We cannot wish it away – it happened – but please I ask ... the victims not to forget (I cannot ask this), but to forgive us, to get the soldiers back into the community, to accept them fully, to try to understand also the pressure they were under then. This is all I can do.*

Major Mbina (former captain, Ciskei Defence Force): *Some people shot, probably shot without having been given orders, knowing that at the end it's the boss that will answer. That is what I want to make clear. I also ask for forgiveness. I empathise with families that lost their members. I ask forgiveness on behalf of the Ciskeian Defence Force, especially those that were involved. We ask forgiveness. We will be very glad if the Commission would forgive us. To the community, we ask for forgiveness.*

51 The testimony of Major General Marius Oelschig, head of the Ciskei Defence Force at the time of the ‘Bisho massacre’, highlighted some of the difficulties with public apologies. At the time of the hearing, Major General Oelschig was serving as Director of Transformation Management in the SADF:

I repeat that I have been a soldier, a professional soldier of 35 years' standing. I do not know how else to express myself than in purely professional terms...

A commander grieves on his own and he grieves quietly. You learn through the years to accept it as such. I apologise if the Commission expected me really to open my heart and to put it out for public display. That, that

is my grief, that is my concern that I live with as I have during my professional career and as I will until the end of my days. I am a committed, loyal South African. I feel very, very deeply about everything that has happened in our country, and I have made my contribution where I could. I have done my very best as an officer and as a South African, to promote what is happening in this country today...

I would like to conclude by insisting that I be allowed to grieve the way I grieve, and if, in my professional language of expressing my regret that loved ones have been lost and injured, if that is not sufficient, I apologise for that, but that is how I feel. I am a soldier, and I have been taught to hide my tears, and I have been taught to grieve on my own.

52 A submission at the East London youth hearing stated:

This past week, we met in Burgersdorp to do what we call a reconciliation service where we were going to cleanse ourselves of the past deeds. We'd slaughter a goat and cleanse ourselves with the blood that is shed. In a symbolic sense we'd cleanse ourselves of the wrong deeds, even if they were justifiable... The following were acknowledged. That we as the Inter-Church Youth or the church within the youth have, in one way or the other, killed people or at least were involved in the process of killings. That we were involved in demolishing people's property... That we informed on others who ended up being tortured severely and who died in the process. We watched hopelessly whilst people were being 'necklaced'. If we didn't do the 'necklacing', we would have gone to buy petrol, arrange tyres and be part of making petrol bombs etc. We were part of this as the church youth. One needs to emphasise that this was justifiable for the cause of the liberation of ourselves.

We want to say we believe that 70 to 80 per cent of the young people who died during the period of the struggle, most of them were church going youth or were young people who believed in Christ, or who were baptised in the name of the Father, the Son and the Holy Spirit as it were. These people were all disappointed by the church. We are here to say that we take full responsibility for any human rights violations committed by our members. To families who perhaps had no idea that ICY members were involved, we are [unqualifiedly] apologising to you all.

53 In May 1998, at the hearing on the United Democratic Front (UDF) in Cape Town, Mr Patrick 'Terror' Lekota, former UDF leader and currently chairperson of the National Council of Provinces, had the following to say about 'necklacing' by UDF activists:

We accept political and moral responsibility. We cannot say these people have nothing to do with us. We organised them; we led them. When we were taken into prisons, they were left without leadership and many of them, angry even at our arrest, did things which were irrational.

54 At the human rights hearing in Upington, on 2 October 1996, local community leader and minister Aubrey Beukes apologised to the mother of the murdered municipal constable, Lukas 'Jetta' Sethwale (see above):

We were silent on the pain of the mother, the family of Jetta. As someone actively involved in campaigning for the release of the Upington 14 (those sentenced to death), I would like to say to Ms Sethwale and the family of Jetta: please forgive us that we allowed you to suffer in silence amid all the media attention. We were all victims. Forgive us the times when we drove past your house, showing journalists and foreign people where Jetta stayed and telling them our stories, and not inviting them to make some time 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.

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.

Over many years, people of our town [were] shut out from important decision-making 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 hearing in East London on 17 November 1997, Anglican Bishop Michael Nuttall made the following apology on behalf of the Church of the 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 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 hearing in Cape Town, the following apologies were made:

Medical Association of South Africa (MASA): Our written submission details the many failures and compromises that occurred along the way, failures of will and courage, compromises founded on expediency, many of these occurring even in the years since 1989. It's not possible in the time available today to explore in detail all the misdeeds of commission and especially of omission that have been detailed in our written submission. However, I can assure the Commission that we have made every possible effort to provide as complete and as honest a disclosure as it lies in our power to do.

I plead with you and with the nation, that this submission be accepted with respect for the truth which it embodies. It is vital for the Association, at this point in its development, [for] its renewal and its transformation, to achieve reconciliation, and this can only happen if there has been full disclosure and full acknowledgement of all the wrongs of the past. If there are gaps or omissions in this submission, they are unintentional. We would welcome any input in this regard from whatever quarter it may come.

The transformation of MASA of which I speak is an ongoing process. A significant event along the way was the unconditional apology for the past wrongs of the Association that was made in June 1995. We stand by every word that was spoken in that apology. However, there are those who understood this apology to be an attempt on the part of the Association to achieve what they termed blanket amnesty and to sweep everything else from our past under the carpet. This was far from the intention of that apology. The apology was a necessary step along the road we are travelling, but it was only a step. Our wholehearted participation in the work of this Commission is yet another step on this road, but again only a step.

In terms of the way forward, there is much that we have done to make sure that the wrongs perpetrated in the past by doctors can never occur again, but there is much that remains to be done. We intend to participate fully in the work of the proposed over-arching Health and Human Rights Organisation. We propose to enlarge and to strengthen the office and the activities of our ombudsman, our public protector. Our peer review system has already been sharpened and structured much more effectively than it ever was before. We are currently engaged in a programme designed to promote structured ethics education in all the medical schools in this country, and we are planning formal structured training for prisons' health service personnel.

However, in all these efforts, we still find ourselves hampered by the huge baggage of past wrongs that the Association has had to drag along with itself and from which it has found it impossible to free itself. It will only be through the process of truthful disclosure and reconciliation that we will finally be freed from the burden of this baggage.

58 In a written submission to the Commission presented at the institutional hearing on the legal profession, the following apologies were made:

LWH Ackermann, Constitutional Court Judge: It is difficult, if not impossible, for me as a white South African to draw a clear or steady line between my personal and my professional failures in regard to addressing wrongs of racism generally and institutionalised professional racism in particular. I failed as an advocate, in terms of my

ethical, moral and religious beliefs, by not speaking out sooner, and when I did, not sufficiently powerfully or persistently, against the Pretoria Bar's colour bar and, in general, against the discriminatory treatment meted out to blacks by the justice system, and by not trying to motivate the organised profession to protest against all such discrimination, particularly as it affected black colleagues. I did not do enough to resist the pervasive institutional culture and to dismiss my fears that, if I did speak out, my career would be jeopardised at a Bar where, soon after joining, I was as branded as a liberal.

I similarly failed on the Bench, prior to my resignation, by not pursuing the avenues ... soon enough, vigorously enough or at all. Of course, my failure to combat racism more vigorously extends beyond my profession and legal career...

I acknowledge and regret these failures. I am deeply saddened by the consequences of these failures on the lives of black people, and I wish to apologise for my role in denying them their full and equal humanity.

GL Grobler SC, Chairperson Pretoria Bar: We apologise to our colleagues, to the judiciary, the attorneys' profession, the public at large and in particular the victims of unjust laws for these failures. As is the case with the apology which we tendered in regard to the racial discrimination which our Bar practised until 1980, we should have offered our expression of regret at a much earlier stage. We apologise for this remissness. We are grateful for the opportunity which our fellow bars and the Truth and Reconciliation Commission have given us to set 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 in the period under review ... had the net result of increasing the total area of land held by blacks, the tribal system, which was maintained as part of the policy of separate development, sterilised land as a source of wealth for the individual who is the mainstay in market-driven economy.

Restrictions on trading and commercial activities also prevented blacks from establishing and operating business when they saw opportunities to do so. Latent entrepreneurship, potential skills and hidden talents: none of these assets in the black community could be used.

The practice of job reservation denied the black community access to skills and progress and thus prevented fair competition in the job market. It is also a fact that the mobilisation of the savings of the white [inaudible] produced remarkable results in terms of economic growth empowerment of the white Afrikaans-speaking community.

If we look at [the section in our submission on] ... omissions and commissions, it is clear from the submission, if we look back with the benefit of hindsight, that the AHI committed major mistakes.

Firstly, we deal with support for separate development. As explained before, the AHI supported separate development in the belief that it would bring about acceptable results for all in the country. This it didn't do. Separate development in the end meant social engineering with brutal human costs and enormous wastage of resources.

As a business organisation, we should have appreciated much earlier that moral and economic realities militate conclusively against even the loftiest interpretation of separate development. This failure was without doubt one of the 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 support for the later developments under Professor Nic Wiehahn. A similar omission occurred in regard to discrimination against women. The AHI should have helped to remove the barriers for women much earlier.

For its part in these omissions and commissions, the AHI firstly accepts moral responsibility. Secondly, admits that fellow South Africans were gravely wronged by these actions or inaction. Thirdly, we wish to express our sincere regret for these failings and, lastly, we apologise to all of those affected as a consequence hereof. In doing so, the AHI earnestly wishes to contribute to reconciliation in our country and the building of a South Africa in which we all can grow and prosper.

60 A number of amnesty applicants also expressed remorse, even though this was not required by the Act. This was, indeed, a controversial feature of the legislation, and some argued strongly that contrition should have been another precondition for amnesty. Others, however, said that this saved the process from lies and faked apologies.

61 At the amnesty hearing of the 'Pebco Three', Mr Kimpani Peter Mogoai, a former *askari* was questioned:

Advocate Lamey: Mr Mogoai, at this hearing you are aware that the – let me just say this – at this hearing you are aware that the family members of Mr Hashe, Godolozzi and Galela are present. Is there anything that you would like to convey to them?

Mr Mogoai: ... I know that they are present, but I don't know them well... These are the words which I want to say. I have written them down. They come from my heart, which I wanted to address them before this Commission, before the members of the deceased and then before the audience and those who are not present here. I have written them in English, Mr Chairperson.

Advocate Lamey: You can proceed.

Mr Mogoai: I have taken this opportunity to speak the truth and to express my torturing regrets about wasted years and my shame about a mean and petty past.

As I regard myself today as a disgrace to my mother, my family and my relatives. My friends and the families of the Pebco Three and the nation as such, it is with my deepest remorse that I ask for forgiveness and hopefully wish to be reconciled with everybody once more and be part of a better and brighter future of South Africa. I say it now here today, as I could not have done so in the earlier days of this realisation for obvious reasons. I thank you.

p TOWARDS RECONCILIATION BETWEEN VICTIMS/SURVIVORS AND PERPETRATORS

62 Although it was not part of the Commission's mandate to effect reconciliation between victims, the community and perpetrators, there were a number of significant instances where the Commission directly facilitated the beginning of this complex process.

Neville Clarence and Aboobaker Ismail

63 Fifteen years after he was blinded in the Church Street bomb in Pretoria, Mr Neville Clarence, a former South African Air Force captain, shook hands with the man who planned the attack aimed at the South African Air Force headquarters. During the amnesty hearing, Mr Aboobaker Ismail (former head of the special operations unit of the ANC's military wing MK and currently head of policy and planning in the Defence Secretariat) told the Committee that he regretted the deaths of civilians in the course of the armed struggle. In a face-to-face meeting before the start of the hearing, Ismail told Clarence: "This is very difficult, I am sorry about what happened to you." Clarence said that he understood, adding, "I don't hold any grudges". Both agreed that they should meet again, and they exchanged telephone numbers. "Talking about it is the only way to become reconciled", Ismail said.

64 *Afterwards, Clarence told reporters that he could not comprehend the full extent of the healing that had taken place at the meeting. I came here today partly out of curiosity and hoping to meet Mr Ismail. I wanted to say I have never felt any bitterness towards him. It was a wonderful experience... Reconciliation does not just come from one side. We were on opposite sides and, in this instance, I came off second best.*

65 According to an editorial in the *Sowetan*, "Clarence's magnanimous gesture will no doubt stand out as a symbol of hope for a society that remains deeply divided". The editor of another major newspaper saw the meeting between Clarence and Ismail as a lesson that:

Despite 'our war' (or perhaps because of it) we can live together. That is possible because people on both sides possess magnanimity of spirit. This is not a call to naivety and the creating of a 'new' South African nation will not happen overnight. But looking at other parts of the world – be it the Middle East, Northern Ireland, Somalia, Rwanda – we should never forget our ability to forgive.¹¹

Ivy Gcina and Irene Crouse

66 At the human rights violation hearing in Port Elizabeth, veteran activist and ANC MP Cikizwa Ivy Gcina gave harrowing testimony on her torture in detention in 1985. Ms Gcina also had praise for a warder at North End Prison, Ms Irene Crouse:

The same night I saw a light at night and my cell was opened. I did not see who was opening my cell. I did not look at the person. She said to me, "Ivy, it is me. I am Sergeant Crouse. I have fetched your medicine". She rubbed me. She made me take my medicine. I told her that I could not even hold anything but I can try. I told her I was going to try by all means. She said "It is fine, do not worry yourself. I will help you." So she made me take the medicine and then she massaged me. Then after that I could at least try and sleep.

67 A few days later the local newspaper, the *Eastern Province Herald*, carried a front page, full size picture of Ivy Gcina hugging Irene Crouse, under the main headline: "Ivy meets her Angel of Mercy. Now here's what reconciliation is all about". The report read:

Tortured activist Ivy Gcina was yesterday reunited with her Angel of Mercy – the kind jailer who held her hand and tended her wounds after hours of brutal interrogation by security police. "I never thought you'd remember me", said Irene, 37, as the two women threw their arms around each other on the stoep [verandah], crying and laughing at the same time. Ivy, 59, replied: "But after I was assaulted it was you who was there to help me, who entered my cell at night. Can you ever forget someone like that?"

- 68 Both women said the Commission hearings had brought out necessary, though painful, details about the country's past – but equally important, it had brought them together. "We met as human beings, as women," Ivy recalled. "There was such communication there. Ensuring I had a clean towel, asking me how I was. The relationship was so good." Irene felt she was "only doing her duty" when she helped Ivy.
- 69 At the Eastern Cape hearing, chairperson Revd Bongani Finca said the Commission was not only bent on discovering the hurt that had been done, but also those who had "risen above the system. It is wonderful that even in a system like that there were people who rose above it. I salute Ms Crouse that in such a situation she was able to show kindness".

Brian Mitchell and the Trust Feed Community

- 70 Trust Feed is a rural community situated north-west of Pietermaritzburg in KwaZulu- Natal. It is a freehold area with a hierarchical structure of landowners and tenants. The area has a long history of peaceful co-existence that changed in the mid-1980s as a result of political tensions between the UDF and the IFP. Threatened by the activities of the UDF, the local police unit colluded with the IFP to wipe out UDF members. This led to a sequence of atrocities culminating in the Trust Feed massacre in December 1988.
- 71 The massacre was directly related to the clandestine activities of Captain Brian Mitchell, Station Commander at the New Hanover police station at the time. On his orders, eleven people were killed and two others wounded at a night vigil following the death of a relative. Five of them were men and the rest were women and children. None were UDF members. In April 1992, Captain Mitchell was sentenced to death eleven times for his role in ordering the attacks. His sentence was subsequently commuted to life imprisonment in 1994. After serving a prison term of about five years, Captain Mitchell was granted amnesty by Commission in 1997.
- 72 The Trust Feed community (though they had not reportedly opposed amnesty) was enraged and seemed not to have forgiven Captain Mitchell. The hurt was profound, and the community went through a process of re-experiencing the original anger and pain. Captain Mitchell expressed remorse and asked for forgiveness. He pledged to honour the community request to help reconstruct the community he had polarised and destroyed through his clandestine operations.
- 73 In this way, two parties, divided by negative feelings of hostility and rage, were able to come together with the common purpose of reconciliation. For Trust Feed, polarised and divided by destructive forces, it offered an opportunity to help restore broken relationships and create a stronger sense of community.
- 74 Some of the essential and necessary elements for reconciliation were already in place. Captain Mitchell had made a confession. He appeared to repent of his own atrocious deeds and had made a request for forgiveness. He had also reconciled himself with God and was a member of the Rhema Church. At the same time, the community of Trust Feed was still in pain and needed time to heal its wounds. It had, however, indirectly paved the way for forgiveness by asking Captain Mitchell to commit himself to playing a part in the reconstruction of the Trust Feed community as an overt act of repentance.
- 75 The Commission facilitated the various stages of the process. Initial contact was made with Captain Mitchell who, accompanied by a Minister from Rhema Church, once again declared his intention to reconcile with the Trust Feed community.
- 76 This was followed by series of meetings with a special committee representing the Trust Feed community. Since the committee had a strong ANC bias, attempts were made to invite IFP members to join. This was followed by a community meeting that proved to be a cathartic experience. Community members were able to work through their feelings to the point where they were willing to meet Captain Mitchell.

- 77 This in turn paved the way for a reconciliation meeting between the Trust Feed community and Captain Mitchell. The meeting presented a major challenge to the Commission and the community. All efforts were made to mobilise professional expertise, including the services of mediation consultants.
- 78 The reconciliation meeting was held in July 1997 and was well attended by the Trust Feed community – including both ANC and IFP members. The community was given enough time to express its feelings and ask direct, clarifying questions of Captain Mitchell who was also given an opportunity to express his feelings and ask for forgiveness. A process of mediation followed, focusing on Captain Mitchell's offer to participate in community reconstruction and try to meet the community's expectations of him.
- 79 Following careful deliberations, all parties agreed that a committee should be formed to look into the needs of the relationship with Captain Mitchell. The meeting ended emotionally. As Captain Mitchell was driven away from the community he had so grossly violated, he was followed with parting calls of "Bye-bye, *uhambe kahle* [go well] Mitchell".
- 80 The reconciliation meeting was a considerable success and the spirit of goodwill and willingness to forgive by the Trust Feed community was very touching. The community's sense of trust is still very fragile and will need to be sustained by Captain Mitchell's long-term commitment to his offer. The fact that the community opened its heart to Brian Mitchell made it vulnerable to secondary violation and traumatised should Mitchell fail to honour his offer of reconciliation. Thus, the meeting was simply the beginning of a long process of reconciliation. The community and Brian Mitchell carry the major responsibility for ultimate reconciliation.
- 81 Reconciliation at the meeting went beyond this, however, and led to a healing of community tensions between ANC and IFP members. During the meeting, leaders of both parties expressed a great willingness to work together as a united community and committed themselves to follow-up meetings.
- 82 There were, however, problems. The overseas press sought to sensationalise the reconciliation initiatives by talking to Mitchell and a few selected families from the Trust Feed community. This created divisions and renewed feelings of mistrust. The situation was, however, well managed by the Trust Feed committee. In addition, the heavy police presence at the meeting did not create an ideal environment for conciliation. On the other hand, in the light of the potentially explosive nature of the situation, the role of the police force in helping to maintain a contained and controlled environment seemed necessary. **12**

Reconciliation in Esikhawini, Northern KwaZulu-Natal

- 83 Journalist Ken Daniels describes the process of reconciliation in Esikhawini in northern KwaZulu-Natal:
- Hit squad members reconcile with community they terrorised
- The people of Esikhawini township near Richards Bay on the KwaZulu-Natal North Coast for the past two weeks relived the horror that befell their community six years ago and at the end of it all on Friday, somehow found it in their hearts to forgive the men who had subjected them to a living hell.*
- The residents had, before this month's Truth and Reconciliation Commission Amnesty Committee hearings in Richards Bay, been in the dark as to who attacked them mercilessly on a daily basis. They were finally able to confront the seven members of an Inkatha Freedom Party hit squad that has admitted carrying out random attacks on the community of Esikhawini in an attempt to eliminate any support for the African National Congress.*
- When the community sat down on Thursday afternoon to hear pleas for forgiveness from the row of men that made up their nightmare, they found it had a human face. They saw it in Daluxolo Wordsworth Luthuli's resemblance to his Nobel Peace Prize-winning grandfather Albert Luthuli. They saw it in Brian Gcina Mkhize*

who had been stern throughout the two week hearing but let a faint smile slip across his face as he watched a young child wander playfully amongst applicants and victims oblivious to the shocking loss of life being discussed around him. And they saw it in the face of Romeo Mbamba whose face suddenly became awash with tears when he came face to face with a young woman he had crippled.

The victims found it hard to believe these were their tormentors – stripped of their balaclavas and blazing guns – who sat ready to take everything the community was willing to throw at them and then ask for forgiveness. The community and their former tormentors came together in an informal hearing that did not form part of the Truth Commission proceedings and was aimed at giving locals a chance to ask the applicants about particular incidents.

With the emotion drained from everyone after the applicants' harrowing testimony, the final performance took on a different complexion as perpetrator and victim discussed the mechanics of the political process which brought about a season of bloodletting in the previously peaceful community.

A thin old man with flashing eyes and upright stance indignantly asked Romeo Mbambo why he had killed his neighbour's son who was not at all involved in politics. Mbambo, recalling the incidents instantly, replied that it had been a mistake and that on the night in question he had been searching for an ANC activist but the assassins had attacked the wrong house and killed the young man along with three of his friends. The old man listened to the account and, as he walked away, he said sorrowfully that his own son had been one of the four killed that night.

Another elderly gentleman walked up to the microphone and in a booming voice questioned Hlongwane's version to the Amnesty Committee about an attack the old man had suffered. The tough old warrior with grey-tinged beard and hair and the young hit man then engaged in a lengthy discussion about their life and death battle on the night in question. At times the old man smiled as he told Hlongwane how he had avoided the bullets and the blows during the attack.

Finally, the old man told Hlongwane he was lucky that he had not succeeded in his mission, because then he would apologise to him now.

A young woman who had earlier reduced tough hit man Mbambo to tears sat in her wheelchair throughout the proceedings. Nokuthula Zulu was a 20-year-old student when Mbambo and his colleagues fired a shot into her side, paralysing her from the waist down. After the hearing she said she now felt more healed by the experience of confronting her assailants and she had overcome her anger at not being able to walk or to complete her studies.

At end of the meeting, the residents took a unanimous vote to forgive the members of the hit squad. All parties embraced and shook hands. For the residents of Esikhawini the nightmare was finally over.¹³

Reconciliation in Upington, Northern Cape: Nicholas 'Oupa' Links and the Jonga family

- 84 The house of Mr Nicholas Links, a municipal police officer, came under attack by youths in December 1986. When his daughter's head was injured by a stone hurled by the four youths attacking his house, he fired a shot which fatally wounded twenty-one year old Matan Jonga.
- 85 Links gave testimony at the human rights violations hearing in Upington on 2-3 October 1996. He related that he was congratulated by his superiors for his first murder and offered further lethal weapons and one hundred rounds of ammunition. This only had the effect of making him feel extremely guilty, especially since the victim was so young.

86 Mr Links left Uppington as he could not live with his guilt in the town. He returned only in 1991 and claims to have been well received by the community. At the hearing, he expressed the wish to publicly apologise to the family for causing the death of their son and relative.

87 Despite having apologised, when the hearing team returned to the Uppington for the follow up meeting, Mr Links again, in an extremely emotionally charged meeting, asked the family to forgive him. He referred to the fact that it was difficult for them to come to terms with the death of the son, as it was such a senseless killing. He acknowledged that receiving forgiveness from them would not return their son to them, but their acceptance of his apology would free him of the guilt he had carried for so many years.

88 Most of the people in the meeting had by this time been reduced to tears. Mr Links, who was speaking from the front of the church hall, asked a representative of the family to come forward if they were prepared to forgive him. An aunt came forward to accept the apology. However, she pointed out that the matter could not be completely resolved in such a forum and that a meeting of the elders of both sides of the family should be called. She seemed reluctant to be the spokesperson for the family.

89 Those present from the Commission had the impression that a process of reconciliation had started for these two families and for the community as a whole. The clergy at the meeting suggested that a reconciliation service be held, culminating in a communion mass and community feast.

Reconciliation in Ashton, Western Cape

90 In the late 1980s, the town of Ashton and the neighbouring town of Zolani were the sites of intense conflict between community members. A group of vigilantes called the *Amasolomzi*, allegedly supported by the police, terrorised residents believed to be engaged in anti-government protest or other political activity. It was believed that the *Amasolomzi* used the Langeberg-Koo factory as their 'headquarters' and that many of its members were on the staff at the factory.

91 The *Amasolomzi* were held responsible for numerous beatings, shootings and deaths. A number of residents told the Commission that *Amasolomzi* members also accompanied police on raids and other operations in Zolani and Ashton.

92 Almost a decade later, Ashton and Zolani were relatively peaceful. However, many of those who participated in *Amasolomzi* activities were still living in the town and while, on the surface, all seemed to be well, there was still a significant amount of distrust and anger between previous *Amasolomzi* members and other residents. These feelings resurfaced in the course of statement taking in the area and because of testimony given at hearings in Worcester. For example, Zolani residents told the Commission that they would only give statements to Commission staff from Cape Town, not to specifically trained Ashton or Zolani inhabitants, as no one knew who could be trusted.

93 It became evident that some sort of conflict resolution was needed in the area. Residents approached the Commission saying that they had decided to hold a service of reconciliation. The Commission was asked if it could help with the organisation of the service and attend it. The Cape Town Reparation and Rehabilitation co-ordinator worked with the Trauma Centre Satellite Clinic (based in Zolani) to help facilitate the process of bringing people from different factions together. In August 1996, a large inter-denominational church service was held at which residents committed themselves to reconciliation and peaceful co-existence. Obviously, peace and reconciliation were not achieved overnight, but the service seems to have been the start of a process in which township residents reached a stage of acceptance of the past and tolerance of each other.

p RECONCILIATION WITHOUT FORGIVENESS

94 The above-mentioned emphasis on peaceful or non-violent co-existence suggests that a weak or limited form of reconciliation may often be the most realistic goal towards which to strive, at least at the beginning of the peacemaking process. This applied to relationships between former enemies within communities, but also to the network of relationships between communities, ethnic and racial groups at regional and national levels. This form of reconciliation, without apologies by those responsible or forgiveness by victims, is also reflected in the following individual testimonies:

95 At the Parys human rights violations hearing in April 1997, Ms Mathabiso Marie Sekhopa said:

In 1990, it was in September on the twenty-second. It was on Sunday. I was in the house. My husband was working outside. I was staying with my two children. The other two were not inside the house. It was at about half past three. The Mangesi family – their shop is next to my house – Alina Matsimela, Senela Mangesi and Popo Mangesi. When they come, they were having stones. They threw stones at my house. They broke all my windows. I was in the kitchen then. I took my children and put them under the table, and then I was looking. They broke, then from there, they went to the shop. They came again and threw stones at my house up to half past three.

After that, they went back. I didn't see where they went. I took my children. I said to my daughter she must go and fetch a blanket for me so that I'll be able to carry the small one. Afterwards we went outside the house to my next-door neighbour. I sought accommodation at my neighbour. Then I said to my neighbour, "I don't know what is happening. I don't know where I am going to sleep." She said, "I will give you accommodation up to the following day in the morning".

Whilst I was still at her place up to the morning, before then, whilst I was still there, my daughter went outside and then she drank water, then returned and said, "Our house is burning." When I looked through the window, I could see that the house was burning. There were some boys whom we were with at my neighbour. While we were outside, I heard somebody say: "Here they come." We returned to my neighbour's house. Then I said to those people I was with in the house that they leave my house to burn, otherwise we will be at risk. We were even afraid to go outside.

96 When Ms Sekhopa was asked whether there is now peace in the Rouxville township and how she was getting along with the family which destroyed her house, she said:

Yes, there's peace now... Yes, we have reconciled because they are our neighbours.

97 At the Duduza human rights violations hearing on 12 February 1997, Ms Evelina Puleng Moloko testified thus:

Ms Seroke: Puleng, the people who killed Maki, what happened to them thereafter?

Ms Moloko: The people who killed Maki were arrested. That is the people who appeared on the video taking part in the killing. They were convicted, but I do not remember quite well as to what sentences were meted out. Some got five years, some ten respectively, and some got a life sentence, but all of them are here at the present moment. They are out.

Ms Seroke: Do you ever meet these people?

Ms Moloko: Yes, I do.

Ms Seroke: Do you talk?

Ms Moloko: Yes, I do talk to some others, and I work at a crèche, and there were two who came to bring their children at that crèche, and if you bring your child there you are supposed to speak to me. I am the one who is responsible with regard to admissions, and they had brought their children. I spoke to them as if nothing happened. We accepted their children, and there is nothing amiss. Everything is just as usual.

p RESTITUTION OR REPARATION

98 The previous two sections illustrated the healing potential of sincere apologies. A sure sign of sincerity is a commitment to restitution or reparation. The following statements from the Commission's hearings capture the vital importance of restitution as part of the reconciliation process. At the public announcement of the Reparation and Rehabilitation policy recommendations in October 1997, Archbishop Tutu said:

Much of what we are about is saying as a nation 'we are making acknowledgements to people'. The [reparation] amount is going to be symbolic... the nation is saying sorry.

99 At the forum on Reconciliation, Reconstruction and Economic Justice in Cape Town on 19 March 1997, Ms Cynthia Ngewu, mother of one of the 'Gugulethu Seven' said:

In my opinion, I think the best way to demonstrate a truthful commitment to peace and a truthful commitment to repentance is that perpetrators of acts of violence would make a contribution, a financial contribution to the families of victims and, in that way, they would then cleanse themselves of their own guilt, and they will then demonstrate with extreme confidence that in fact they are sorry about what they did.

100 A few amnesty applicants did seem sensitive to this need for restitution. Colonel Eugene de Kock devoted the royalties from the sale of his autobiography to a trust fund for victims. Mr Sakkie van Zyl saw his participation in the clearing of landmines in Angola as a form of restitution. Mr Brian Gcina Mkhize risked his own life by co-operating with the authorities to expose clandestine operations in KwaZulu-Natal during the years of conflict. The challenge is to involve much larger numbers of those who received amnesty and other perpetrators of gross human rights violations in the process of restitution.

101 The following extract from the 'Bisho massacre' hearing shows that perhaps an even greater challenge may be to involve people on a broader scale: for example, those who gave the orders or voted for the previous government and/or continue to benefit from past human rights violations.

Dr Ramashala: My question relates [not to] Bisho [specifically], but to the gross human rights violations in general which were supported by the then government of the day... We have been very successful in killing. We have been very successful in maiming and leaving people crippled for the rest of their lives. We have been very successful in leaving children without parents and without a future. Have there been any discussions at all within the National Party about these children... We all point to statistics, we all point to who has done what, but I really have never heard any discussions from the political parties about these children and our future, because these are our future South Africa...

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, please address the question of the perpetrators on your side. The other parties will deal with the perpetrators on their side. But the perpetrators on your side who, so far, when they apply for amnesty and present themselves, and even say they are sorry. None of them has said: "This is my contribution. I would like to do the following." It stops with, "I am sorry". None of them has said: "As a demonstration, perhaps of how sorry I am, this is what I would like to do". None of them have done that. So as you prepare that submission, could you please address that, because that is the more tangible thing that people are asking, and people say that is a re-victimisation, that is a dehumanisation and that has caused more pain than you realise. Thank you.

102 The following statements illustrate this vital need for broad participation, especially by those who have been unjustly privileged in the past, together with some of the obstacles to restitution. Dr Laurie Nathan, director of the Centre for Conflict Resolution and former Chairperson of the End Conscription Campaign (ECC), said at a special hearing on compulsory military service in Cape Town:

I want to end by addressing the question of how, in the light of this history, we should manage the past, and I want to address these comments in particular to the white community. The white community tends to take one of 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.

White racism is alive and kicking. It no longer takes the form of legislated supremacy, but it continues to manifest itself in crude and subtle ways. The most insidious is the assumption that white values are universal and by implication superior to those of other groups. The most offensive is the endless complaining about corruption, inefficiency and falling standards. This is one of the bad jokes of the new South Africa. The previous government set unsurpassed standards for corruption, incompetence and neglect.

There is a fourth position which is seldom heard and which I believe is the appropriate response. The white community should confront its pervasive racism, and stare our ugly history and its long shelf life in the face. We should acknowledge collective responsibility for our efforts and our acquiescence in constructing and maintaining a wretched system of discrimination, exclusion and repression. To invoke theological terminology, we should confess and engage in meaningful acts of contrition.

These acts of contrition could take many forms: establishing or funding memorials like those which commemorate the holocaust in Nazi Germany, funding bursaries for black students or basic facilities for pupils, providing medical supplies to amputee hospitals in Mozambique and Angola, church actions such as fasts and others, training in respect for human rights and multi-cultural diversity for teachers and pupils. These are only some examples. These and other actions are forms of reparation, but it's critical that they are undertaken, not as charity, but in partnership with black communities...

Let me say in closing that whites who interpret this argument to mean that they should become passive and sycophantic have misunderstood the nature of the challenge. The challenge is to become self-critical not uncritical, to acquire some humility, not be submissive; to become empathetic, not paternalistic. The challenge has nothing to do with self-flagellation or wallowing in guilt. It has everything to do with accepting responsibility for our actions and our lack of action.

- 103 At the hearing on conscripts in Cape Town on 23 July 1997, Mr Craig Botha talked about his involvement in the SADF as a conscript in the Navy during the late 1970s and early 1980s. He spoke honestly about his participation in the war:

As I look back upon this period, it is with deep shame and regret that I took part in these acts of sabotage and violent destabilisation. The struggles that our neighbouring states have had to undergo, even to this time, are partially attributable to these missions.

- 104 Most of his testimony, however, was devoted to his current attempts to be an agent of reconciliation as a pastor in the Jubilee Community 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 make the important point that a lack of restitution might not be because people are insensitive and indifferent, but because there is a lack of specific advice and concrete guidelines about how ordinary people could get involved in restitution and reconciliation:

We went through a stage when we were quite overwhelmed by the whole situation and didn't really know what to do or how to proceed, and we consulted people in the community, and we also did some soul-searching and some homework ourselves and realised that it would be good to target a particular community to see something established in a particular area. We therefore got this fund going through our church where people could put finances into that fund, knowing that it would be going to a specific community for upliftment and to build a centre in the area of Khayelitsha, and people responded to that in an overwhelming way.

So, I think if one could create channels, even simple channels and people know that there's an end product that it's not just going into a fund somewhere, but it's helping a particular community in a particular place. I think people want to give to that so that's what we did and it worked, and people are still wanting to give, not just money but also themselves as well. Obviously there are those that are still apprehensive about going to the townships but will give finances into a fund to help with things like that, so that also helps towards uplifting communities and so on...

What we've found is, despite what we've been through as a nation, there are a lot of people looking for places and areas they can go to in order to experience practical reconciliation. And I think what has happened is that, within the church we've been involved with and the project, I think it's provided an arena where people can come in and begin to work through issues and begin to meet people from different backgrounds and language groups and start a process together which is very exciting. That's been good just being a part of facilitating that.

106 At the faith community hearing in East London from 17 to 19 November 1997, Chief Rabbi Harris described some of the concrete work that members of the Jewish community are engaged in, born of a sense of shared responsibility for past wrongs while at the same time being sensitive to the pitfalls of patronising charity:

In the Jewish community, we are developing a programme called Tekun. There [was] a great deal of hot air yesterday and this morning about what ought to be done, but there have been very few practical examples which are influencing the grassroots ... Tekun is a Hebrew word meaning repairing, trying to put things right. It is a wonderful exercise; we are trying to apply Jewish resources, skills, expertise and know how, to be of maximum benefit to the upliftment programme. One instance is food: the Jewish housewife, when she shops, is asked to buy an extra tin or extra packet. She is buying half a dozen tins, buy a seventh tin. A dozen packets of something – buy a thirteenth packet. That goes in a separate part of the trolley, goes to the nearest Synagogue...

We have many projects. I give you one instance on welfare. Nokatula, which is a home for the physically and mentally handicapped in Alexandra township, is constantly visited by the Selwyn Segal Centre, which is a similar home for physically and mentally handicapped people in Johannesburg. We share expertise and facilities, and we all go together to Camp David at Magaliesberg. May I point out that here we are not being patronising. I know it sounds terribly patronising. We are trying to empower people to help themselves, and that's why we are handing over the skills. We have a major agricultural project at Rietfontein. It is an educational experience in farming, based on the success in Israel. Many of our projects, I mention this not, God forbid, to make a political point! I mention it because the state of Israel has expertise in things like water conservation, solar energy and all forms ... helping at the moment seventeen African countries, and we feel very proud that the Israelis want to help us with some of our projects. And they are helping us with this

Agricultural Education Centre at Rietfontein. Two weeks ago 100 000 spinach seedlings (I love spinach because it's good ... spinach gives you energy Mr Chairman!) – spinach seeds were planted, and we are all helping with this exercise. We have very many educational projects. We have enrichment programmes which SADTU [South African Democratic Teachers' Union] and COSAS [Congress of South African Students] have co-operated with us. Sometimes they have requested, sometimes we have gone to them. Our King David Schools in Johannesburg and the schools in Cape Town are helping in the townships with computer literacy programmes. It's where I'm computer illiterate, but the youngsters, bless them, have to be computer literate. And we're helping in East Bank High School for example, in Alex, with many adult education programmes. Basic literacy courses. Ossac is a black adult education school in Killarney, run in the Oxford Synagogue. We get over 100 every evening. The ages range from 20 to 60. There are domestic workers, security personnel, shop assistants, and unemployed people. They do the IEB tests in English and Maths, and we have a 95% success rate, and there is nothing more joyous in the world than seeing somebody over fifty who has been denied an education actually coming every night and studying, and the glow on that person's face when they hold their certificate. It is wondrous to behold. We are encouraging education in many ways. Our Union of Jewish Women has programmes in Soweto in HIPPI (home instruction for pre-primary youngsters which is geared to the mothers) and MATAL (upgrading the qualifications of pre-school teachers). We are using the expertise of ORT, which is an international Jewish organisation, and we have at Midrand a college of Science and Technology, which is again wonderfully successful. We are doing things for employment and there is a very wonderful lady called Helen Leiberman, in the Cape, who does Ikamva La- Bantu, it's making toys and bead decorations, and they are sold all over the world – in Paris, London and New York. And it's a way of getting [people], including blind people, who can be taught how to string the beads and by the touch on a colour system, and it's a marvellous thing. We have sporting activities, Maccabi goes in, and we have soccer in Soweto and they love it. And we have cultural activities. We have joint choral concerts. We have the black choir of Soweto, the Johannesburg Jewish Choir and something called the Welsh Male Choir. We are trying to build bridges. We are going across the board. I have only given you, Mr Chairperson, dear, dear friend – I have only given you a few examples. I know it's a drop in the ocean, but we are trying to galvanise our Jewish community in order that we can actually help. It is our responsibility to be of help.

107 At the hearing on the legal system in Johannesburg, the Natal Law Students said:

One of the more significant ways in which those who enjoyed the benefits of the past could make amends is to provide service to the community whom they allowed to be subjugated. As students, we can say that we do not want the money of these practitioners, we do not want them to go on their hands and knees and beg for forgiveness, we do not want any more platitudes and token gestures. The apology of the Pretoria Bar, amongst others, is noted. However, we need to go beyond this and ask ourselves, what are we going to do in concrete terms to redress the imbalances, to demonstrate that we really are sorry?

The law clinic suggests that these practitioners share their skills and resources. In concrete terms, all it requires is for each governing body to co-ordinate a programme where private practitioners volunteer their time to university law faculties, university law clinics and other community service organisations. If each governing body were to organise such an effort to ensure that more pro bono work and a greater degree of community service are carried out, then we would have gone beyond platitude to really transforming our society, to ensure that resources are shared, skills are shared and that human dignity is restored and protected.

108 In concluding this section, it is important to highlight, once again, the historical and moral basis for the above-mentioned demands for widespread reparations beyond the limited group of victims on which the Commission was required to focus. At the business sector hearing in Johannesburg on 11 November 1997, Professor of Economics, Sampie Terreblanche, listed the following seven reasons why “political supremacy and racial capitalism impoverished Africans and enriched whites undeservedly”:

Firstly, the Africans were deprived of a large part of land on which they conducted successful traditional farming for centuries. White farmers on the other hand had the privilege of property rights and access to very cheap and docile African labour, my father included.

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.

p THE WAY FORWARD

109 During the life of the Commission, other issues relating to national unity and reconciliation were highlighted. Important aspects of reconciliation at a community level as well as the need for a deep, practical commitment by ordinary citizens to the reconciliation process were also emphasised.

Towards national unity and reconciliation: building a culture of democracy and respect for human life

110 A statement by Archbishop Tutu at the opening of the 'Bisho massacre' hearings in Bisho on 9 September 1996 serves as a reminder that the Commission's attempts to help restore human dignity had a dual purpose: to restore the dignity of victims of past violations and to prevent future violations of human dignity.

111 One of the things the Commission was mandated to do was to make recommendations on ways to ensure that things of this kind never again happen in South Africa.

We will be looking to see how we might be able to inculcate, instil in all of us in this land, a deep reverence for human life against the prevalent cheapness that we see, for instance, in the high level of criminal violence that is happening at the present time in our country. We hope that as we listen to those who are not statistics but human beings of flesh and blood, that you and I will be filled with a new commitment, a new resolve that our country will be a country where violations of this kind will not happen, that the context will be inhospitable for those who seek to treat others as if they were nothing.

112 Addressing an angry audience at the same hearing, Archbishop Tutu made it clear that national unity and reconciliation are based on a difficult commitment to democratic values:

Chairperson: *Colonel Peter, please have the podium. I am going to give you [the audience] a warning... I don't know what you have come for – but we came here because we have been given a job to do which is to hear every point of view. Whether we like that point of view or not, that is not the point. We have to hear everything so that we are able to describe as fully as we can what it was that happened... If your strong feelings affect how we listen here, we are then going to ask you to take your feelings and leave with them...*

It is a democracy that we are trying to build up and many of us are believers, and believers say that it is possible for all kinds of people, all of us, to change and be different. That is why we are talking about reconciliation. You don't get reconciled with someone you agree [with]. You get reconciled with someone with whom you disagree; otherwise there would be no point in having reconciliation. You do not reconcile with someone whom you have no discordance with. We would not have a Commission if there were reconciliation already.

This Commission exists because all kinds of painful things have happened on all sides, and we are being asked to do a small job in a process [indistinct]. It is all of us who have to accept the pain of what happened in the past, to try to move into the future. I will then ask you – please I beg you – will you give everybody a fair chance and don't let anybody feel under pressure.

113 These sentiments were echoed by Mr Joseph Seremane, chairperson of the Land Claims Commission, at the special hearing on prisons in Johannesburg on 22 July 1997.

There is one thing that is messing up our country; it is the lack of sincerity in our country. It is the lack of recognising other people's contribution if they don't belong to your camp, if they don't belong to your tribe, if they don't belong to your race. We are still victims of fragmentation. We have achieved very little until we have changed...

We have been tested; we can forgive, we can reconcile; yet we are also capable of forming third forces to hit back. But that is not what we want. We are looking forward to a better South Africa – a South Africa that will respect the integrity of everybody, irrespective of their colour, creed, tribe, too, and social standing for that matter. And worse still, we must get out of this ideological straightjacket that we can only think of people, only as they belong to your straightjacket; outside your straightjacket, they are expendable commodities that you can wipe off as you please. Commissioner Wynand Malan emphasised the importance of seeing national unity

and reconciliation as the embodiment of both a human rights culture and a democratic culture... A shared understanding of the past may well go a long way towards reconciliation, yet an understanding of the other person's perspectives and motives will immensely increase the capacity to live with and manage the other and oneself, even with different understandings of the past persisting... A true human rights culture is a democratic culture. At the heart of a democratic culture is tolerance of divergent views and understandings of the past, present and future... National unity and reconciliation is a society with its members relaxed, a nation democratically at peace with itself.

Towards national unity and reconciliation: giving priority to the needs of children and youth

114 Ms Anne McKay, from the KwaZulu-Natal Survivors of Violence Project, made the following statement at the children/youth special hearing in Durban:

I think the stress on family life created by the constant pressure of the violence in this province cannot be underestimated. We've heard mothers in Bhambayi saying that they are literally too tired to take care of their children, even now in 1997, because their minds are full of the violence and they have no hope for the future. So they are not able to give that emotional nurturing and support to their children years after the violence has finished, because they have never received support; they have never received any place where they can feel safe enough to deal with their emotions so that they are emotionally available for their children... [As] the adults that are in a sense the representatives of our society, we need to acknowledge to young people what has happened to them. We actually need to admit to ourselves that we have millions of children who either have left school, or are reaching the end of schooling, and there are no jobs for them to go to. We have to acknowledge that. We cannot wait for the RDP [Reconstruction and Development Programme] and the Macro Economic Plan to come up with economic growth. They are unemployed at the moment. They are at a loose end and not knowing where to go with their futures at the moment. I think the previous speakers spelt it out clearly. They wanted training. They wanted skills training. They want youth programmes. They want the Youth Commission to do something about their problems. They want youth centres, where recreational and intellectual development opportunities are available in their townships, because they don't have money to travel to town and visit the museums, and so on and so forth, here.

Many of them left school at a very early age, and intelligent, interested, intellectually stimulated youth are walking around with standard five or standard seven education, with no one to recognise their potential. Other countries have increased the schooling available so that ex-combatants can go back to school and be educated with people of their own age, not sitting twenty- five-year-olds in the same classroom as fifteen-year-olds. They want proper adult education programmes whereby they can complete their schooling and go forward to fulfil their intellectual development.

I think that the demands are very simple and very practical, but much of the psychological relief would come from having these problems acknowledged, and having them on the debate and on the agenda.

115 The vital role of faith communities in the field of education – helping to nurture a democratic culture and becoming more directly involved in formal teaching – was emphasised at the faith community hearing in East London:

Mr Tom Manthata: Bishop, I'm not asking any new question. This has been raised by Brigalia when she was addressing the issue of poverty ... That is the issue of education and the moral decay. My simple question is: does the Anglican Church consider reviving or establishing schools at community level? Because that is where this country will begin to address the issue of moral decay. It is at that level that we can begin to address even issues of crime. Does the church begin to say we can revive church schools at community level?

Bishop Michael Nuttall: Chairperson, I think that what Mr Tom Manthata has raised is of enormous importance. I am not sure what the pattern is throughout the life of our church, but certainly, I think there is a desire to

move in this direction. We have recently, in the diocese that I come from, seen the establishment of half a dozen schools at local community level, initiated by parishes as a result of a synod resolution asking for exactly that to take place. Together with the foundation of two new bigger ventures than local community ventures, schools more like the ones that you have just mentioned. So we are following up on that tradition and the whole idea is to try and fill that vacuum that has existed ever since the Bantu Education Act came into being and we lost our schools for one reason or another as a result of that legislation and a sense of the need for the church to re-engage in a whole new creative way in the whole education process. And certainly, that will be one of the areas in which we will try to exercise our influence in regard to the spiritual and moral life of the nation. May I just add in that regard that for me in regard to moral reconstruction, one of the most crucial things as I see it is for people to be helped, young and older people alike, particularly the young, to be helped in this new dispensation of freedom in which we find ourselves to make responsible choices. There are some who seem to want to return to earlier tyrannies and censorship of the past. I say no. We need to accept the reality of the new atmosphere of freedom under which we now operate. But it lays upon us an even heavier responsibility to assist one another, and particularly the young, in the making of responsible choices and earning and living by those choices.

And so there is a new set of r's. We talked about the three r's of reading, writing and arithmetic. The three r's of rights, responsibilities and relationships. Rights with responsibilities exercised in the context of affirming relationships. That is where the making of responsible choices really begins to come in and have some impact. And certainly as part of that process we need to be engaging as much as we can with the schooling process.

116 At the special hearing on children and youth in Johannesburg, Mr George Ndlozi gave testimony on the activities of young people involved in self-defence units (SDUs) on the East Rand during the early 1990s. He insisted that "far from being a bunch of undisciplined comrades or the lost generation, SDUs were in many ways the backbone of defence in Katorus. If it were not for them, many of us would not be sitting here today." His submission and those of many of the other young people who testified at the hearing made it clear "that youth involved in SDU activities have suffered a loss that can never be replaced, their childhood".

117 He also sketched the extremely difficult conditions they faced and the challenges presented by their reintegration into society :

[At] that stage there was a lot of confusion. You didn't know what to do, you prayed and you thought your prayers – God is not there, prayers are not answered. You do everything, you cry, you do whatever, and there is no answer to the solution.

And at the end of the day when you heard someone has died, and you just smile or laugh and say oh, our comrade is gone.

And if one can understand that confusion, then one would be able to understand that the Commanders and other political leaders were in another state in which they sort of failed enough to concentrate on how to convince younger people from not getting involved.

And there was a situation where you had to choose in which way do you go. It is either you come on this side or you become on the other side, because you cannot be neutral in that area. It was not possible for you to be neutral. If the attacks were launched, you are also affected and your family would be killed.

So what I will say is yes, things went wrong and we will actually like to ask the Commission to make sure if it had powers, that in future younger people are not getting exposed to this kinds of things because at the end of the day they get a disease that is called post stress disorder, post-traumatic stress disorder, which if you look

back to some of them, they went back to school, but they can't cope any more. They can't cope and they come back and they just leave school. There are a lot of them in the township.

Some of them have made requests to the [Commission] that the [Commission] organise vocational training for them and some of them can't go back to schools, because when they left school they were about thirteen years and some of them left school when they were in standard six, and now they are today about twenty-one, some of them.

Some of the SDU and SPU [self-protection unit] members were incorporated into the police service. One never believed that these two groups will work, you know, without problems with each other. But through the series of discussions that took place amongst them, today the crime around that area is decreased looking at the police statistics. Although not all of them were incorporated, there were some projects that also came [into existence] and there are some security companies which trained other people around there to have certificates so that they could get jobs.

And there are a lot of youth groupings trying to formulate themselves into some kind of a club. For instance I can mention Ithembaletu, which is existing in Katlehong, trying to bring all the youth who were affected by the violence, together and think about things that they might do to try and develop the community, to try and restore a dignity of the youth, to try and sort of, restore culture of living because the most problematic thing is going to school.

Although we might say there are some of the people today who have decided to become criminals, but there are a very few. You can name them, there are about four, five. And the question of the community discussing issues, I think they can find a remedy to that situation.

118 And at the youth hearing in Cape Town on 22 May 1997, Mr Riefaat Hattas, a political activist since the age of fifteen, placed this challenge before the Commission and the youth of today:

These are only the comrades that ... worked close with me. There are thousands of other comrades; I call them the forgotten comrades. Nobody took notice of us; nobody took notice of them. I would like the [Commission] to remember those people and I hope one day all the street children that must still attend school and those people who are sitting here who is coming from high schools, you have a responsibility towards us to try to reach your full potential and you must make the most of your normal lives that you have, because we are not able to do it. We have been messed up... Please, I beg of you, to make the best of your lives. You owe it to us.

Towards national unity and reconciliation: bringing the veterans together

119 At the special hearing on compulsory national service in Cape Town, Commissioner Mary Burton placed the following difficult challenge on the agenda:

We heard from people who were opposed to conscription from the beginning or who, through their experiences, were brought face to face with things that changed their minds. But there are many, many citizens of South Africa who did their military service and who still view themselves as having fought a good fight, as having upheld the safety of the State, as having opposed communism in a broad sense and who are still part of our country and who have to be taken into account as we move into a process of reconciliation and unity. Their views also need to be part of the whole stream of coming together. And when we talk about where we go forward we have to be knowledgeable of that view as well.

So perhaps part of the broad reconciliation challenge that lies ahead of this country over many, many years is the bringing together of all the veterans and that is a very big task, not one that this Commission can handle by itself, but one which has to be faced in building national unity.

120 A few weeks earlier, at the special hearing on children and youth in Johannesburg, on 12 June 1997, Mr Christo Uys made a similar statement:

Reconciliation is, according to our understanding, embedded in respect and therefore must we respect the struggle that was referred to in front of the [Commission] today in evidence, but we also ask that our role should be respected. We also have victims, people who died in the struggle and eventual reconciliation can only come about if these people are also honoured together with the comrades who were honoured by means of a play today.

Dealing with the legacy of hatred, fear, guilt and revenge

121 Many testimonies serve as chilling reminders that the task of “transcending the divisions and strife of the past ... which left a legacy of hatred, fear, guilt and revenge” (Preamble to the Act) is far from complete. For example, a facilitator at the special hearing on children and youth in Durban gave this feedback from children’s testimonies and drawings:

122 She quoted from the testimony of a thirteen-year-old girl about the killing of her father six years earlier on the South Coast of KwaZulu-Natal:

That night my younger brother, my mum and myself went into the forest looking for our father, and then what I saw that night I have been carrying around with me ever since. My father had bullet wounds and stab wounds all over his body, and ever since that day I vowed to revenge my father’s death.

123 She said:

Another picture which I have here from an eight-year-old girl. She drew her father as a small or young man, and the mother being short, and when I asked the child why she is drawing the father short she said the reason she drew her father short it’s because the father was helpless, and they surrounded her father and they poured petrol on him and burnt him. What is very sad about this is that these children, most of them they know the people who did this, and those people are still alive and they see them every day. And another child, who is eight years old said, “I am just waiting for my revenge”.

Building a democracy where men and women can be at home

124 Ms Thenjiwe Mtintso said at the hearing on women in Johannesburg:

Chairperson, as the [Commission] wraps up its formal part of the work, as it publishes its report and as it breathes a sigh of relief for a job well done, we must know that the job continues. The mammoth task that still

lies ahead is the continuous and consistent struggle for justice and protection of human rights, especially gender justice and gender rights.

The frightening statistics of violence against women and children which has reached, in my own view, Chairperson, genocide levels, have to be addressed. We cannot hope that there is going to be yet another [Commission] to address that, because in these sessions we're backward looking. We've got to take the process forward; we've got to look in the now and the future.

We have just come out of this war. Part of the violence against women and children is because of that war. But part of that is the operation of patriarchy itself, because when male control and authority is in any way challenged or threatened, as it is being challenged and threatened every day in our country, it turns itself to the most violent forms. And with women and children, their bodies being used as, once again, the terrain of anger and struggle.

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 from the submission by Dr Sheila Meintjes, on behalf of the Centre for Applied Legal Studies, at the same hearing:

I think that what the [Commission] has done has been to open up ... a process which may well just be the tip of the iceberg. We call for further efforts and opportunities to be made for women to speak out. It might take ten

or twenty or thirty or even forty years for women to acknowledge their experiences as it did for the women in South East Asia or for the victims of the holocaust to acknowledge sexual abuse by Nazi camp commanders.

126

The following extract deals with the role of women in a particular church, but can also be seen as a clear challenge for all South Africans to pay more than lip service to the constitutional ideal of a society where men and women can participate fully, where *human rights* are respected:

Ms Joyce Seroke: *Bishop Michael, I would like to, through you, commend the CPSA [Church of the Province of Southern Africa] for coming to grips at last after a long and painful process of accepting women as priests in the church, but I would like to know what is the church doing to empower those women for meaningful participation with in the church?*

Bishop Michael Nuttall: *Chairperson, as you will know this is a fairly recent development within the life of our church. It goes back to 1992. Perhaps we should have made that decision long before but, like so many other churches in this respect throughout the world, we have been on a journey and all of us have had to come to a profound change of mind when we've come to the point of accepting women clergy should be as free to operate within the life of our church as men clergy. So, we've only been involved in this for the past five years. We now have something like twenty-three women clergy out of 120 within the diocese which I'm part of ... but there's still a very long way to go, and part of that long way to go is the need for the mindset to change because so many of us across the board, this is not a white or black phenomenon, but across the board, so many of us, particularly those of us who are male, but not only men, have got to make a major inner adjustment to this new reality within the life of our church. But as I said just now, I think that a new liberating process is underway for men and women alike in this process.*

Towards reconciliation at a community level

127 The following extracts from statements at the post-hearing programme in Oudtshoorn illustrate central aspects of the reconciliation process at a community level. Mr David Piedt, a community leader, reported:

So this was the place, the rural town in the Karoo, after the big march in August 1989 in Cape Town, where in September 1989 we mustered about 15 000 people in Oudtshoorn for the first big rural march. So in this town we decided on two things: the slogan "Submit or fight", because this was a very conservative place, extremely conservative, and the people in town had to make their choice early in the 'sixties: are we going to fight or are we going to submit? And the people took the alternative, and that is to fight back.

So, we headed for one hell of a confrontation. And after the change in the coming of the new Government and the freedom of the State President and everything, then people started to interact with one another. So what I am trying to say is that that phase of confrontation and conflict has passed in Oudtshoorn.

I spent four hours in a meeting yesterday with developers in Oudtshoorn... it went for a confrontation, but through means of interaction and negotiation we could reach some sort of an agreement and consensus.

So what I am trying to say is that this town is now on that way, and I am talking for the majority of people, and that includes white people, that there is a sincerity among the people: that we want to rebuild and reconstruct our town on a humanitarian basis, on the basis of human dignity, on the economic basis and on a social basis.

128 Mr Charles Narkin, representative of Western Cape Provincial Administration, Mental Health Services, said:

We had a meeting of about thirty people, nearly all of whom were from Oudtshoorn, and our mandate was to try and present a working programme that we can begin to implement with almost immediate urgency.

This group decided that they want to try and develop trauma services within their existing resources. There was an acknowledgement that the Truth and Reconciliation Commission cannot in the short term put up any reparation money. They cannot put up a lot of mental health resources. We must turn to the resources within Oudtshoorn and the resources within the Southern Cape.

So, the decision was that there would be two types of processes that will happen. First of all, the existing mental health workers will put the word out that ... people who have suffered from various forms of trauma [should] please feel that the health and the mental health services have an open door to receive them. And this would also possibly include people who are perpetrators, who are suffering potentially the traumas of having played that role. Maybe deliberating about seeking amnesty, coming out into the open, seeking forgiveness, so it is really an open audit.

They have been trained, but they will get further training around the very particular nature of politically motivated trauma, as well as all the other trauma they deal with, like child abuse, sex abuse, violence, which is clearly no less in Oudtshoorn than in other communities – and we are very concerned about that.

But in addition to the traditional mental health workers, the decision was made by the group – and there were a lot of people there who immediately volunteered to set up a cohort of volunteers. They are going to be trained by Dr Van Wyk's team and a supportive team led by myself from the Provincial Administration, where we are going to develop trauma work skills in this group of people, counselling skills, trauma skills, conflict resolution skills.

So, they are going to be armed with a set of skills that they can offer this community to ease some of the distresses and pains which are both chronic and acute. So, we are going to get going with training programmes, where these people, who are also the volunteers, will put the word out.

So, we want to just make a final message and a final statement to the community to say that put the word out that groups will be starting up. If people are suffering from trauma, if they are having all terrible symptoms and they cannot get their lives back on track, if they are having all kinds of problems which they feel are due to the traumatic events in their life, to feel that there is a supportive web being built up in this neighbourhood and in this community, by people in the community, and it will hopefully grow from strength to strength.

I am saying that we have a democratically elected municipality in this town. And that democratically elected municipality has got a task and the task of making sure that we play a major role in the reconciliation of our people in this country.

One of the major roles that we have to play and that you must play in that municipality is to make sure that you participate in the whole issue of reparations and the healing of our people in this town. Because if our people are not healed, you are not going to be able to have a community to lead at the end of the day. We must and we are compelled to play a role at that level.

I am saying this, and I know that I am saying this on behalf of the majority of people in this town of ours, and I know that I am saying that on behalf of the majority of the Councillors who are within the Council.

As I mentioned that it is our task. People who are here who for the past three days have been part of this whole endeavour. I think what we need to do now is to go to the other side and go and convince our brothers and sisters who are living in town and explain to them the importance of the Truth Commission and the importance of us coming together as a nation and the importance of us living together as brothers and sisters in the spirit of reconciliation, what that can do for our town.

There were people of the opinion that there can be no ways in which the people who were formally oppressed can reconcile within ourselves alone. We need to take our brothers and sisters in hand and bring them along with us. Even if that meant that we have to do that on a day to day basis and pursue and continue because it is very, very important for us to move together.

Let me further say that I hope that this is not the end of the whole process. That I hope that this is the first step towards healing and that with [the] step [taken] today we are going to form something concrete that is going to lead to us having a town that is healed.

Let me further say that, when I am saying these things, when I refer to the town I do not necessarily refer to the town council. I refer to the people of Oudtshoorn, to the community of Oudtshoorn. Together we can be able to build, to bridge the gap existing between us in this town. Together we can be able to make sure that our idea of reconciliation becomes a reality at the end of the day.

Some insights from a case study in Duduza¹⁵

130 It would be wrong to make broad generalisations from a case study of a specific community where the Commission held a single human rights violations hearing. However, this work by an independent researcher does contain a number of important signposts for other communities on the road to reconciliation.

Duduza is a black township that is part of the Greater Nigel Area. Nigel is a town on the East Rand (Gauteng) with neighbouring African, Indian and Coloured townships. The total population of the town is approximately 150 – 200 000. Over half of these people live in Duduza.

The publicity around the establishment and functioning of the Commission, as well as its operation within Duduza has, at the very least, forced people to examine their own understanding of what reconciliation and forgiveness means to them and their community. For some, this may be primarily an intellectual exercise – looking at existing divisions and formulating some ideas about what should be changed, at what a reconciled community would look like. For others, it is a much more personal reflection, involving feelings of hatred, guilt and fear. Thinking about reconciliation means thinking about a process of overcoming the psychological barriers that they have been living 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. Interpersonal conflicts were drawn into the political vortex and the dividing line between politics, criminal activity and interpersonal disputes became very indistinct.

These divisions are not resolved. People still mistrust each other. Victims still wonder if their neighbour or their councillor was the one who informed on them, or who spread the rumour about them being informers. People still wonder what secrets were still buried and how these secrets shape the operation of local politics. One example was a police officer, who is seen by many as implicated in past abuses, who is now a senior council employee. Many suspect that blackmail or other underhand deals are behind arrangements like these.

The political culture is also not liberated from the violent past. There is an increased sense of political tolerance, with people feeling more comfortable expressing support for opposition parties (rather than challenging the ANC internally). The present political leadership in the ANC is, however, alleged to have used intimidation in their fight for internal party control. New divisions are eclipsing those of the past, but they are still interwoven with the past. The emergence of new political parties (such as the United Democratic Movement) in the township draws on (and fans) suspicions that arose regarding past deeds in order to build a support base. Allegations of complicity with past abuses (both in terms of spying for the police or the use of violence directed at internal opposition) are common weapons in undermining support for one's political opponents.

Blacks and whites still live very separate lives. Some blacks have moved into the white suburbs of Nigel, but many don't feel particularly welcome. Racial incidents such as being barred from the health club or (as is commonly alleged) white Afrikaans schools still seem commonplace. Interaction between black and white councillors seems to have built a certain level of mutual trust and a sense of partnership, and this has been broadened through the operation of various council sub-committees. These initiatives have, however, only reached a very limited component of the respective communities. They are also seen as somewhat tentative gains that may easily be undermined by political campaigning before the next elections. They are relationships built on (and limited to) common interests in the social and economic development of the area. The parties have not talked openly about the past.

The attitudes of whites on the council towards reconciliation are built around the idea of a partnership between two communities. We are all in the same boat – we simply need to understand each other better and be more respectful of each other's culture. They see themselves as advocates of reconciliation among their own community which has to be coaxed into accepting the new status quo.

The Commission hearing was not attended by local whites. It can be assumed that many whites in the town (a traditionally conservative stronghold) saw some Duduza victims testifying at public hearings broadcast on television. Their attitudes, like most whites in South Africa, are a mixture of "we did not know – how can you blame us" or the common "let us rather forget about the past". Some see the Commission as an ANC witch-hunt that is trying to destroy the credibility of the previous government.

Reconciliation is not an event. People cannot simply one day decide that they want to forgive and forget. Most of the victims in this community are committed to a process of reconciliation. They are not necessarily demanding vengeance. They are, at the same time, not simply willing to move ahead as if nothing happened. They demand to hear the truth and to be given time to consider it. They are often not willing to forgive unless the perpetrators show remorse and some form of reparation is offered.

Many victims were understandably bitter about their suffering – while many are willing to engage in a process of reconciliation. The [Commission] has played a part in engaging victims in examining and articulating their needs within a reconciliation process. It has however not done enough in meeting these needs or in facilitating a process through which these needs could be met.

Being promised some form of reparation and being given the opportunity to go on stage and tell their stories was a very powerful experience for many victims. They felt that they now had a voice. But this momentum has to be sustained. The organisational base for them to continue to be heard has only materialised in very few areas. For the reconciliation process to be carried through to some conclusion requires a victim engagement process that gives them space to articulate and voice their concerns. The [Commission] provided for a moment of opportunity, rather than sustained mobilisation. Other processes that allow for victims' (and perpetrators') concerns and interests to be articulated and addressed need to be developed and sustained at community level. Khulumani, which was initially active in the community, was not able to sustain its activities due to financial constraints.

The violence experienced in this community had a wide range of dimensions, and inflicted deep damage on numerous social relations. While the main dimension of the conflict may have been between the black oppressed population and the state, this conflict was fought in various covert ways which undermined and co-opted sections of the population and created internal divisions that require dedicated attention. The young and the old, neighbours, different ethnic groups have been turned against each other. Different forms of suffering are given different levels of recognition and priority by the [Commission]. People were victimised in different ways and thus have different needs in terms of reparations and social and physical reconstruction. These different interests often compete with one another and can lead to new conflicts within the community. One important division is that between the population and the political structures. Victims particularly seem to feel alienated from the political system. They don't feel that their needs are taken seriously by any of the political leaders. In extreme cases, victims see the political structures as perpetrator structures (representing the interests of amnesty applicants within their ranks). Thus, when the [Commission] consults with the community via the political structures it means (from this perspective) that they are consulting with the perpetrators and not the victims.

A longer-term reconciliation initiative would need to take the consultation process two steps further. It needs to engage with less developed community structures or networks that do not have a formal voice. Particularly in a community with a history of intense conflict, certain interest groups may not have organised and mobilised, because of fear and/or because of lack of resources. Unless there is assistance for the articulation of these interests, the process will not reach all sectors of the community.

Past conflicts have not disappeared. They have simply taken a new form. In some cases, the conflict entails almost exactly the same issues as in the past; it is simply the way that people pursue their incompatible goals that has changed. This leads to new alliances and new forms of mobilisation of support. Problems in leadership-follower relations have emerged as political leaders attempt to build a support base that is not simply geared at protest politics and which is not sustained by mass mobilisation. The ability of leaders to facilitate

public participation processes is limited in this new era, and the public consequently feels that their elected leaders are out of touch or leave them in the dark.

New frustrations have thus emerged regarding old forms of representation, providing space for new political entrepreneurs to challenge the newly dominant political elite. Political entrepreneurs fan the resentments of the past to encourage suspicion and resentment of the existing local leadership. They draw in victims of past abuses (who generally feel neglected) as one element of their constituency.

The [Commission] process assisted in clarifying past conflicts characterising a limited period of our history. Future reconciliation initiatives must make the links between these divisions of the past and current community dynamics.

Victims are individuals with unique experiences and needs. Each victim has to go through a personal journey of dealing with the past. Similarly, each community has a unique history of conflict. There were common dimensions that happened all over the country, but the particular shape and intra-community dynamics took on many different forms. A reconciliation process needs to address these individual and community-specific histories.

One uniform national process is only capable of sketching a skeletal picture in broad terms. If left at that, it, in fact, is in danger of minimising the importance of dealing with particular issues when trying to squeeze the history of the community into [Commission] categories of meaning. A national process can draw attention to some of the dynamics and pressures that impact on a local community, but does not "explain" the local history. Communities need to be engaged in creating their own agenda for reconciliation, and designing processes that allow local stakeholders to drive the process. The role of the [Commission] can help provide general models to communities regarding how the issue of past human rights abuses can be pursued in much greater depth.

Victims are not ready to engage in a reconciliation process unless they know more about what happened. They often say they are willing to forgive, but they need to know who to forgive and what they are forgiving them for. A willingness to reconcile is dependent on people's ability to cope with and process their knowledge of what had happened. While the past remains hidden, a reconciliation process proceeds on very shaky foundations. The [Commission] has contributed to some of this revealing, but many individual victims are still in the dark about the details of their specific cases.

Victims need to feel that they are no longer in the vulnerable position that they found themselves in at the time of the victimisation. They need to feel that they are now safe from abuses and that if the threat of re-victimisation arises, their pleas for protection will be attended to. These fears are often shaped by local community circumstances rather than the national political situation.

Victims need to have done some personal work in working through what happened to them before they are ready to engage in a reconciliation process. They need to have stopped trying to run away from their memories and accept them as part of who they are. They should feel that their lives are no longer completely dominated by this experience. The availability of local, accessible mental health support services and victim support structures is crucial in facilitating this step.

Victims also need to perceive that there is a possibility that things could be different. They need to be able to imagine that society could change for the better, that the divisions of the past can be overcome, that people can co-exist without constant fear and hatred. A vision of a society that is based on different values of human interaction is essential in motivating people to take the risk of engaging in a reconciliation process.

Some of these issues (truth, empowerment, healing, and a vision of a new society) will never be completely resolved, and some will be extensively addressed by a reconciliation process. Before such a process starts, however, there needs to be some substantial progress in meeting some of these pre-conditions.

Reconciliation involves various stages of development and change. One essential step is dialogue between adversaries. The victim-oriented and perpetrator-oriented aspects of the Commission's work are broken into separate functions. Victims tell their stories in one forum and perpetrators in another. The interaction is thus often mediated purely by the media coverage of these events. While this may have been useful in providing safe space to engage them, or to maximise information gathering, the subsequent step of facilitating more direct dialogue still needs to be addressed.

For victims there is often a need to have personal interaction with the perpetrator. They want to be able to call that person(s) to account personally. They want to be able to relate their suffering and demand an explanation. Victims in other communities have reported a great sense of empowerment that goes with the ability to stand up to one's victimiser. Some perpetrators have also expressed a need to apologise to their victims. There is also a need to be able to humanise the relationship; to deny the categories and stereotypes that allowed the divisions of the past. The actual dialogue in Duduza has, however, not yet started.

Reconciliation and individuals: registering one's individual commitment

131 To coincide with the national Day of Reconciliation and to mark the second anniversary of the establishment of the Commission, four 'Registers for Reconciliation' were opened in December 1997, one in each of the regional offices.

132 The idea of such a register had been discussed informally among Commissioners and crystallised during a radio 'phone-in programme, when listeners expressed a need for some way in which to articulate the regret and contrition they felt for past wrongs. Announcing the Register, the Commission said:

It has been established in response to a deep wish for reconciliation in the hearts of many South Africans; people who did not perhaps commit gross violations of human rights, but nevertheless wish to indicate their regret for failures in the past to do all they could have done to prevent such violations; people who want to demonstrate in some symbolic way their commitment to a new kind of future in which human rights abuses will not take place.

We know that many South Africans are ready and eager to turn away from a past history of division and discrimination. Guilt for wrongdoing needs to be translated into positive commitment to building a better society – the healthiest and most productive form of atonement.

133 Within a short time, dozens of people had come to the Commission offices to sign the Register, and even more used the Internet website to convey their messages. Many letters that were written to the Commission were also attached to the Register. The oft-repeated theme was regret for the past, thankful recognition of the changes that had taken place, and commitment to making a useful contribution to the future. Some of the messages were accompanied by donations to the President's Fund for Reparations. Many asked for forgiveness. Many expressed gratitude for the opportunity "of admitting how we feel publicly at last", to use the words of one contributor.

134 Commissioners discussed the Register with many other organisations, in the hope that the idea would take root and not be regarded solely as a Commission project. They encouraged churches and all religious denominations to offer a similar opportunity to their members, creating appropriate ceremonies. They also proposed that other ways of

expanding the concept should be considered, possibly by municipalities where such a register might become a part of the history of the period of transformation in their region.

135 During such discussions, the challenging question was sometimes posed: "Is this Register not simply a way in which those who were privileged in the past can easily shed their guilt and feel that they have now done all that is required of them?" The answer is to be found in many of the entries themselves:

I can only say I chose not to know. I chose the safety of my own comfort over the pain of knowing... I raised my children with privilege, whilst those around me were deprived. I am so deeply sorry! And the opportunity to express this regret and offer apology does not unburden me. This privilege allows me to reach even further into my soul to express the remorse that I feel. It impels me to seek in my own small way to repair the damage to our people and our land caused not only by 'perpetrators', but also by us, the bystanders, in the tragedy of our past. It impels me also to rejoice in the present freedom to build a new and great South Africa. It's not too late – yes, I could have done more in the past, could have been more courageous. I regret that I didn't. But now there is a new opportunity to commit to this country... to build respect for human rights, to help develop the country, to make the ideals enshrined in the constitution real.

p EXAMPLES OF TRUTH AND RECONCILIATION 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 visits to places of pain where, in the company of local communities, liturgies of healing and cleansing will occur and symbolic actions will take place to facilitate reconciliation. Similarly, trauma workshops and workshops of repentance and restitution are available in our province to enable people bruised by a divided past to come together in a wholesome healing atmosphere in the presence of skilled facilitators which seem so essential to finding new hope for their lives... it's quite difficult to encourage people to participate in what is involved in that, but assisted by the insights and contribution of Father Michael Lapsley, we have engaged upon a process whereby people across the parish boundaries, as my brother Bishop was saying, have come together, normally in fairly small groups so that there can be an interchange of depth, have come together over a weekend to undertake an experience which involves actually telling one another stories. And out of that process of listening

to one another, finding a new measure of healing and then gathering all that together into an act of Eucharistic worship at the end of the weekend. These have been remarkable successful as a supplement if you like, something complementing our whole truth and reconciliation process in the nation.¹⁶

In the health sector: a mini-Commission at the Faculty of Health Sciences, University of the Witwatersrand

136 At the health sector hearing in Cape Town, Professor Trevor Jenkins of the Medical Faculty of the University of the Witwatersrand spoke of his institution's commitment to a "mini-TRC [Commission] process":

For the [Commission] to be effective, to be fully effective, requires that the processes be taken into the places where people live and work and interact. We need, in fact, a mini-[Commission] in our institutions, and we believe that this mini-[Commission] process has already been triggered within our faculty 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 then will the faculty be able to develop into a cohesive structure capable of producing well-trained health care professionals motivated to serve the South African community.

So, we can't really over-emphasise the importance of this submission being a beginning of a process which we are committing ourselves to pursue.

137 This commitment led to a formal announcement, on 5 May 1998, of a "programme of reconciliation" in the Faculty of Health Sciences at the University of the Witwatersrand in Johannesburg. The first element in this "internal reconciliation process" established by the Faculty Board is 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, the IRC will collect archival material, obtain written and verbal reports from any interested parties, and publish a final report 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 The following example of a truth and reconciliation initiative in the business community is based on a report in *Business Day* newspaper by Mzwandile Jacks, on 28 May 1998:

Hearings Disclose Dorbyl's "Racist Past"

In May 1998, industrial holding company Dorbyl released a report by eight independent commissioners appointed two years ago "to conduct truth commission-style hearings and expose the group's past to public and employee scrutiny". The report identified past racism as a factor which continued to have a negative effect on staff morale and showed a lack of trust of management. Many of the complaints heard by the commission related to alleged unfair labour practices. Dorbyl Chief Executive Bill Cooper, who joined the company in 1994, said the process of conducting hearings showed aspects of the group's past of which present senior management was unaware. It is reported that Mr Cooper said: "We also learnt that practices of the past were still rampant in some Dorbyl operations".

As a result of this process, the group is reported to be in the process of establishing a body that will develop and debate new corporate policy. Mr Ketan Lakhani, the convenor of Dorbyl's transformation process, stated that most employees were open to change. "We convinced people that the commission was not a witchhunt but an effort to make the company more productive."

142 An editorial in the Sowetan newspaper on 29 May 1998 responded 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.

p CONCLUSION

- 143 The work of the Commission dispels the “myth that things can be done with magic dust, to bring people together and
then they just start working together. There are stages, actually, in reconciliation.”**17** The following stages or signposts
on the reconciliation road have been highlighted by this chapter:
- 144 Reconciliation does not come easily. It requires persistence. It takes time.
- 145 Reconciliation is based on respect for our common humanity.
- 146 Reconciliation involves a form of restorative justice which does not seek revenge, nor does it seek impunity. In
restoring the perpetrator to society, a milieu needs to emerge within which he or she may contribute to the building of
democracy, a culture of human rights and political stability.
- 147 The full disclosure of truth and an understanding of why violations took place encourage forgiveness.
- 148 Equally important is the readiness to accept responsibility for past human rights violations.
- 149 Reconciliation does not wipe away the memories of the past. Indeed, it is motivated by a form of memory that stresses
the need to remember without debilitating pain, bitterness, revenge, fear or guilt. It understands the vital importance of
learning from and redressing past violations for the sake of our shared present and our children's future.
- 150 Reconciliation does not necessarily involve forgiveness. It does involve a minimum willingness to co-exist and work for
the peaceful handling of continuing differences.
- 151 Reconciliation requires that all South Africans accept moral and political responsibility for nurturing a culture of human
rights and democracy within which political and socio-economic conflicts are addressed both seriously and in a non-
violent manner.
- 152 Reconciliation requires a commitment, especially by those who have benefited and continue to benefit from past
discrimination, to the transformation of unjust inequalities and dehumanising poverty.

Minority Position

Submitted by Commissioner Wynand Malan

n INTRODUCTION

1

We were seventeen individuals appointed by the President to the Truth and Reconciliation Commission (the Commission). Although not representative of the South African society, we do come from different corners, so to speak, of our society. By definition, we had to have different understandings of our history and immediate past. We were differently exposed and therefore differently disposed. Even where we agreed on facts, their interpretation differed according to our various dispositions.

2

Because we see the world differently, in order to cope with it, we respond to it in different ways. We also represent a number of different value systems and empathise with other value systems. Simply stated, we understand some people better than we do others, and we relate better to some than to others.

3

At worst, we misrepresent each other. At best, we misunderstand each other, yet we are able to cope and live with each other. We do not necessarily love each other. We may 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 against my understanding of the political policy of reform, aiming at a democratic dispensation. This sense came about mainly as a result of multiple discretionary detentions without trial of my friends. In their experiences, I recognised some of Afrikaner history.

5

When I left the National Party in January 1987, it was with agony, with pain. At the same time, it was with relief. In an atmosphere of a holy war, I positioned myself as part of both system and struggle, promoting both the necessity and reality of national unity. When the liberation movements were unbanned and negotiations started, I left politics in the sincere belief that a constitutional settlement was inevitable. I had no particular interest other than the well-being of the organism that was South Africa. Asked whether I could understand the right-wing Afrikaner, I responded that I had been there. Such is my disposition, my baggage. I wear it without pride or shame.

n WHY A MINORITY POSITION?

6

The structure of the Commission was envisaged by the founding Act as an eighteen-month project with a clear three months to compile a report with recommendations to the President. No preparatory work was done. No infrastructure existed. No Commissioner was appointed because of any management expertise. We were all aware of the hugeness of the task and the urgency thereof. We hit the ground running. We did not plan our programme and scope of activities clearly. We initially agreed on an executive committee to plan and co-ordinate the Commission. For reasons that escaped my understanding, it was decided to abolish the executive on the grounds that it was *ultra vires* the Act. The deputy chair was mandated with overall planning and management responsibilities. In keeping with his responsibility, an outline for the report was prepared by a committee, with proposals for assigning different chapters to various authors, and the Research Department was given overall responsibility for its compilation. I had serious misgivings on both the principle and effect of submitting an outline for the report before we had reached a shared understanding of what we wanted to achieve, and before there had been some discussion on the analysis of data, which at that stage was in the early stages of being captured. The Commission accepted that discussion should precede drafts. A special meeting was arranged (facilitated by the head of Research and his staff) to discuss our understanding of the mandate and certain concepts and principles. This led to a process of drafts, lengthy discussions and positive interactions.

7

Our ever-expanding range of activities placed serious constraints on the time available. Meetings for discussion of the final report were often cancelled or reduced, yet we had to finish what we had set out to achieve. I give credit to the head of Research and his staff who tried their level best to facilitate discussions. Soon we fell back on a system of draft preparation followed by discussion, whilst at the same time working to meet the other requirements of the Act (victim findings, perpetrator findings, urgent interim reparation and amnesty hearings). Even reading of draft chapters became virtually impossible. We reverted to a committee system to read, discuss and recommend to the Commission the adoption of drafts. Of course, every Commissioner was entitled to attend and participate fully in any Committee discussion. However, since it was impossible even to read everything, the need to 'trust each other' became a recurrent theme. Of course we trust each other. But we can at best trust each other to reflect honestly our own narrow understandings and interpretations of information and data, not those of our fellow Commissioners. As I have already said, we all interpret facts to fit our various value systems.

8

As it is, various findings appear to me to display, if not a lack of understanding of, then certainly a lack of empathy with certain groups living within traditional or nationalistic value systems who were party to the conflict.

9

Furthermore, it became clear in plenary sessions for the adoption of the report that the discussions were based on the drafts, and the limited time for such discussion precluded any structural or philosophical change. The schedule for adoption and printing, determined by the lead times for editing by the Research Department and for the actual printing of the report, made any fundamental change impossible.

10

It followed that drafts virtually became final documents by default. Where already it had been impossible to read all, we now found it impossible even to check revised drafts, even though Commissioners had serious reservations on some of them. Speaking for myself and considering the sheer volume of this report, much of which I haven't read, it goes against the grain for me to endorse (or reject) what I am surely not prepared or able to defend after publication. I proposed a delay in finalising the report, with some support but ultimately without success. Publication will lead to some reaction that we might have been able to avoid.

11

We agreed that I should withdraw from plenary sessions to read as much as was possible and prepare a position within the body of the report. Even where I did not share the views expressed, I would comment for the sake of a clear and better understanding of such views.

12

I sincerely hope that we will be able to find a way to revisit this report in our supplementary report after completion of the amnesty process, and that this report can be viewed as preliminary. I hope damage will be limited. The public debate that will ensue will assist us. My signature attached to this report is my identification with the idea and process envisaged in the Act. It is not to be read as an endorsement of the content.

13

What follows should therefore be seen as an attempt to facilitate a debate, which is bound to continue, with the aim of further promoting the overarching goal of national unity.

n NATIONAL UNITY AND RECONCILIATION

14

National unity and reconciliation is to be understood as a single concept. Like the concept of the Truth and Reconciliation Commission, it is a single idea. To think or to argue that there is no national unity without reconciliation and no reconciliation without truth would be to imply that the Commission has to achieve or pursue its mandate in stages. This is not the structure of the Act. It is not in keeping with the spirit of the postamble to the interim Constitution. The postamble posits the Constitution as the foundation for transcending division and strife. The postamble is in a sense eschatological in its essence. It posits the unity which is to be achieved, nurtured and promoted amidst all the different views and understandings.

15

It is against this background that I make a few observations on the mandate, concepts and principles as discussed in the report.

n 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.

17

Religions, by their nature, are most often essentially dogmatic and absolutist. The juxtaposition of forces of light and forces of darkness, good and evil is inherent to religious thought. Who will not recognise this in the rhetoric of the conflicts of the past? The imposition of this framework on the political scene was probably the single greatest contributor to the escalation of the conflict through the Commission's mandate period. The Bible was used not as canon but as cannon. Most gross violations were committed, as has often been testified, because of a belief in the justness of one cause 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 take a moral-ethical approach, more by default than by design, and more so in its ongoing public statements than through its report. Publication of untested allegations rendered them public facts. It is widely believed, for instance, that the National Party government approved of a program to cause infertility to all black women by chemical means although, to the best of my knowledge, no corroborative evidence could be found and certainly no 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 historical evaluation of roles played by various actors. This is precluded by the moral-ethical approach. Whatever reservations people like FW de Klerk, Leon Wessels, Roelf Meyer and Pik Botha might have had, whatever the moral imperative might have expected of them, one can but imagine what might have happened had they for moral reasons chosen a different political course of action during the reign of PW Botha. It is debatable whether we would have had our democracy by now, and one can only speculate about potential further escalation of the conflict.

22

It would serve us well to reframe and shift from good versus evil to good versus bad, where clearly even good has different meanings. This would allow us to get away from the absolutist to a frame of evaluation of policy, away from right versus wrong, from black versus white, to shades of grey.

n TRUTH

23

Exaggeration is a natural consequence of human suffering. Often deponents were not present at the actual violations to which they testified and their stories were accounts of what they were told. They reflect oral history. They also reflect perspectives. Often deponents gave evidence in terms of their own understanding of what happened. Evidence was not tested. It was not intended to be tested. Except for a few statements, they were not even attested to under oath. Most deponents giving oral evidence, when taking the oath, made it clear that they would speak the truth "as they see it".

24

This resulted in yet another debate in public across value systems. Those with strong minds raised their voices and criticised the Commission for accepting statements as fact without due testing.

25

The same problem arose with respect to information obtained through amnesty applications. Applicants generally downplayed their own roles in abuses. Because of the wording of the Act, applicants structured evidence to construct an order. While every application had to be dealt with on its own merit, all too often deceased individuals were implicated. The Amnesty Committee is not obliged to make a finding on implicated persons and seldom does. Implication may be blatantly false. It may also be an honest perspective, especially where there is reliance on implied rather than an explicit order from a superior authority. The same circumspection must be applied.

26

The interposition of extracts of such testimonies in the body of the report – where it deals with what *actually* happened and not with perspectives and understandings – poses a problem. We may have contributed to intensifying the debate by making such interpositions. Awareness of this can ameliorate an otherwise useless and polarising debate on the work of the Commission and on our nation's past.

27

Even though the report offers a good exposition of different concepts of truth, especially of factual truth and narrative truth and then of social or interactive truth, the distinction is not sustained. In arriving at findings, all is accepted as evidence, an ingredient of the factual truth. If we ignore the frame of our various dispositions through which evidence reaches us, we lose the context of the multiplicity of truth, both in dimension and in perspective. Truth, reconciliation and national unity can only be understood within the concept of multiple truths. Our perspectives decide our realities. Different elevations of an object give different pictures. It is only by sharing perspectives, by accepting them as real, that we can develop some form of understanding. To pour history into a mould is to recreate the potential for conflict which our Constitution and politics since 1990 have largely removed. A shared understanding of our history requires an understanding of different perspectives, not the building of a new national myth. Presenting 'the truth' as a one-dimensional finding is a continuation of the old frame. Nothing changes, sometimes not even content.

28

There is no denying the role of racism in the conflict, but to acknowledge the perspective of a cold war, of the threat of international communism, of nationalism, and then to find that the motivating force was racism, is a negation of all the former, a contradiction in terms, an arrival at a single truth again, not in the least conducive to reconciliation and national unity.

n RECONCILIATION

29

Much has been made of the need to reconcile victims and perpetrators of gross human rights violations. However important this may be to individuals, the work and experience of the Commission has revealed how remote this ideal is, certainly as far as any significant numbers are concerned. Unfortunately, expectations of particular behaviour, determined by a religious frame, were once again imposed on communities seen 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, apologise to blacks and experience the liberation of their forgiveness. The religious paradigm is tendered as a solution for our ills. There is a call for representative confession, repentance and forgiveness. Experience shows that, despite "handsome apologies" by leaders in virtually every sphere of Afrikaner society, there are continued calls for an Afrikaner leader to stand up and apologise in order to experience the level and extent of black readiness to forgive.

31

National unity accepts different communities, accepts different cultures, accepts different value systems, accepts different religions, and even accepts different histories, provided there is some shared history. The work and activities of the Commission will certainly contribute to the further development of a shared history. However, such a history cannot be force-fed.

32

Reconciliation is built on a mutual understanding and acceptance of these differences and a capacity of people to manage conflict and live with others.

33

National unity and reconciliation calls for a commitment to share a future and for each, in his or her own way, to build towards that future. It calls for a commitment to respect law and the procedures and processes laid down by the Constitution. All of this already exists. It may be a fledgling, but it exists. It can only be enhanced.

34

If we can arrive at a position where we simply acknowledge the conflicts of the past (as required by the Act), recognising that there were perpetrators and victims of gross human rights violations in these conflicts, we will have advanced some way towards national unity. If we can reframe our history to include both perpetrators and victims as victims of the ultimate perpetrator – namely, the conflict of the past, we will have fully achieved unity and reconciliation and an awareness of the real threat to our future – which is a dogmatic or ideological division that polarises the nation instead of promoting genuine political activity. Somewhere down the line, we must succeed in integrating, through political engagement, all our histories, in order to discontinue the battles of the past. As with the negotiations that preceded the elections and the drafting of the Constitution, our understanding of history must accommodate all interpretations of the past. If we fail in this regard, we will fail to be a nation.

n AMNESTY

35

The provisions for amnesty in the interim Constitution came at the very end of the negotiations. They followed in the wake of provisions for first temporary and later permanent indemnity, sealing the negotiated settlement. They moved us away from strife and towards understanding, towards forgiveness (by the state) and away from vengeance. They endorsed our reconciliation and national unity after decades, centuries of strife. So we are faced with a paradox: The disclosure of sometimes horrendous deeds, crimes, gross violations of human rights, committed with political motive under an old order, to be followed by a joyous reintegration into society within a new order of the perpetrator of those self-same deeds. This is seeing both the deed and the doer and severing them from each other. This is part of restorative justice. This is part of the spirit of *ubuntu*. It is part of the restoration of the organism that is our nation South Africa.

Victims

36

There is a second leg to restorative justice as intended by the Act. This involves the state acknowledging violations committed against victims. The restoration of their dignity is to an extent an unhappy choice of words. It is a legal concept. Victims carried themselves with dignity, even when they broke down. In its deepest sense, human dignity cannot be bestowed on someone. The 'reforming' old order failed to understand that human dignity always exists. It cannot be bequeathed. It can only be acknowledged.

37

The process allowed victims to be reintegrated into society. In hearings, victims often approached the Commission almost in a foetal position as they came to take their seats and relate their stories. They told their stories as they saw them, as they experienced them, as they perceived what had happened to them. And as they left their seats, the image was wholly different. They walked tall. They were reintegrated into their community. They could re-assume their roles in society; they could manage themselves and the world around them again. They were healthy cells of the national organism. This too is restorative justice. This too is the spirit of *ubuntu*.

38

The challenge to our society is to receive the successful amnesty applicants joyously as an integral and healthy part of our society. It is also to acknowledge the (former) victims as healthy individuals with their own roles and the capacity to manage themselves.

39

Our natural responses are to maintain respectively aversion and pity – equally damaging to the individuals and to our nation.

n 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 many decades, of colonialism, which is concomitant with exploitation and disruption of cultures, customs and mindsets, and operated as a closed system without real access for indigenous people to the worlds and structures of the colonising powers;

b

The influence of British Empire politics, especially under Rhodes;

c

The reactive phenomenon of Afrikaner Nationalism, which created its own myths and history of an Afrikaner people dating back to their founding with the arrival of Jan van Riebeeck in 1652 (purely to facilitate trade), with a mission from God to evangelise Africa as His chosen people, seen as a parallel with Israel. Amnesty hearings of right-wing applicants showed ample evidence of remnants of this frame of mind, continuing right up to the end of the Commission's mandate period.

d

The depression of the 1930s, poverty and, more 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 Verwoerd of a change in policy, with a deepening of ideology, at the time of *uhuru* and decolonisation, and especially after the "Winds of Change" speech by Harold Macmillan, then British Prime Minister. Arguing that discrimination and domination were indefensible, the new policy introduced the concept of partition to create a framework of independent nations, superimposing the nationalistic perspective on African ethnic groupings. What is seldom appreciated is that it is virtually impossible for the ideological mind to view the world in a frame of reference other than its own. The system of ethnic nation states was perceived as a moral way out for the post-colonial ruling elite.

g

As with all ideologies, practice could not be made to fit theory. Those homelands that became independent found themselves with democratic constitutions conflicting with traditional value systems, with their hierarchies and customs. Conflict with existing and emerging democratic forces continued and escalated.

n APARTHEID'S SHIFT TO SECURITY RULE

41

Security legislation, initially adopted in the early 1960s, and vesting ever-increasing discretionary emergency powers, became institutionalised, both in South Africa and in the homelands.

42

By the late 1970s, it was clear to most in power that the policy framework was inadequate, that it was simply not working, and a policy of reform developed. The purpose of the new approach was clearly to attain stability and political accommodation, but there was no frame within which 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 its total exclusion of black Africans, led to spiralling conflict. The politics of the ruling party proved totally inadequate to deal with the demands flowing from the emergence of the United Democratic Front. Further emergency powers were conferred on the government.

45

From evidence that emerged during the life of the Commission, it is clear that activists were being abducted and killed under the protection of emergency legislation and regulations. This coincided with policy changes by the liberation movements with regard to legitimate targets, which led to attacks on community councillors, police, landmines, the killing of so-called collaborators generally and the phenomenon of necklacing. What fed on what during this stage of upward spiralling of the conflict will also remain a matter of opinion and debate.

46

The assassination of activists is distinguished from gross human rights violations committed in the name or on behalf of the liberation movements by its clandestine nature. It did not happen in the public domain of the ruling party's body politic. The sense of horror and even betrayal expressed by the support base of the National Party and most of its leadership and even by the body politic of the then system politics in response to the revelations, is a strong indication of a secret agenda or agendas. Neither the government nor the state or any of its operatives ever accepted responsibility for the assassinations.

47

Everything points to some measure of license given to or assumed by some within security and intelligence agencies. Actions by this establishment clearly militated against the efforts of (some) politicians of reform.

48

Amnesty applications have already shown the cover-up of some of these activities by superiors. The question of the (level of) involvement of politicians and senior officials is at issue. We failed to address this matter adequately. There 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 some agreement to treat former President PW Botha differently – not to involve him directly in the processes of the Commission. Consequently, vital understandings of his mind and his perceptions were lost to the Commission. His written responses to questions came too late for proper analysis and integration into our understanding of the conflicts of the past. Questions that needed to be asked were lost in the subsequent legal tussles.

51

Thirdly, the chickens of the myths of Afrikaner nationalism and Afrikaner unity came home to roost. There was very little understanding of the struggle experienced within the Afrikaner. The Afrikaner and the state were approached as a single entity. When the National Party was recalled to the Commission, FW de Klerk was asked to account for the commissioning of assassinations. As an active politician and symbol of the old order, he was seen as fair game. Collective cabinet responsibility under Botha was interpreted as the collective intent of his government.

52

We as Commissioners made the mistake of not looking for simplicity on the other side of complexity. We simply stepped into the trap created by the myths of Afrikaner nationalism.

53

It is extremely difficult to believe that some operatives could get away for so long without some kind of shielding by at least some of their superiors and at least some politicians in government. At the same time, it is not at all plausible to assume a grand conspiracy of all members of government and senior bureaucrats, let alone by the National Party or the Afrikaner.

54

The question of whether and where such a shield existed unfortunately remains unanswered. Further amnesty applications may shed some light on the subject, which could be included in the further report on completion of the amnesty process.

n THE PERIOD 1990 TO 1994

55

The period 1990 to 1994 is characterised in policy terms as one of negotiation towards a Constitution based on the principle of universal adult franchise. Even to suggest that the government had a secret agenda of human rights violations during this period would border on lunacy. To depict De Klerk as having had a double agenda or even, given his track record, of covering up, would be an injustice to him.

56

Gross human rights violations continued during this period, and may even have increased; though their nature changed. Conflict continues in parts of the country to this day, which strongly suggests that it would be an over-simplification to ascribe the conflicts of the past only to institutional structures.

n 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 of human rights organisations and the cause of a human rights culture in general by highlighting what is now trite international law.

60

The question is whether such an unqualified finding does not create a double-edged sword in terms of the objectives of national unity and reconciliation. While the endorsement of a position in international law may contribute to national unity, it can as easily be divisive if separated from its historical context. This was the subject 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 my notice that a fellow Commissioner has again formulated a proposal along these lines. The outcome is not yet known.

n ON VALUE SYSTEMS AND A HUMAN

RIGHTS CULTURE

66

I have been made aware again of the different value systems operating in different segments of our society. They transcend divisions of race, gender, ethnicity, religion and region, although some value systems seem to be more dominant in some communities than in others.

67

Conflict between value systems cannot be resolved through rigid and dogmatic enforcement of one at the expense of others. Often it cannot be resolved at all. Not only does the Constitution wisely account for this fact, but the political leaders of our country are also showing, in word and deed, great sensitivity to this reality. Such conflict can at best be managed. Paradigm shifts in value systems do not happen through debate but through exposure. In this sense, a value system is probably best described as a framework, a set of coping mechanisms, survival mechanisms for responding to your world as you see it.

68

Our Constitution, based on a democratic order, even entrenching human rights values, acknowledges the reality of traditional value systems and has regard for traditional leadership.

69

Democratic systems, for example, are by definition threatening to traditional systems, where leadership is determined by heredity and not by elections. Hierarchies are intrinsic to their existence. The concepts of merit, ethics and morality are very differently understood and judged.

70

The simultaneous operation of different value systems in society calls for wise systemic management if we want to promote a human rights culture at all. Of course, one can always measure another by one's own value system. Invariably the other will be found wanting.

71

Promoting a human rights culture does not mean, at least to my mind, the moral judgement of others, especially if they do not share your mindset. As I have often said in the immediate past, I find moralising, if not counter-productive to reconciliation and national unity, offensive to my taste.

72

The task of the Commission, amongst others, is to report on the motives and perspectives of perpetrators and on the perspectives of victims. The draft chapter prepared for the Commission on this subject addresses the issue with much understanding and empathy, but in a general way and without an analysis of data. Perspectives quoted are used as examples. As in many other instances, the author had to draw primarily 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.

n HUMAN RIGHTS CULTURE

74

Because of the subject matter of the Commission's task and the focus on gross human rights violations, it is natural to focus on so-called liberal human rights, to the extent that issues such as unemployment, poverty and illiteracy are seen merely as phenomena in our society. Both in our Constitution and in international human rights instruments, certain rights are acknowledged and extrapolated from these phenomena. All who promote a human rights culture need to understand that social rights are indeed rights. Social rights are not passive. They are not, as liberal human rights have been characterised, prohibitive. They are active. Historically, it is the responsibility of government to actualise these rights through its policies. The report does mention the need to address these phenomena for the sake of national unity and reconciliation. However, policy measures and action plans adopted by authorities are by definition threatening to the liberal mindset. It is therefore necessary to promote discussion in the more affluent liberal rights society of all races, genders and religions, to integrate these social rights into their perception of rights. This has always presented a crisis to such thinking. But crises deepened may trigger paradigm shifts, and what is foreign and threatening may thus become integrated. Where the private sector acknowledges these phenomena, they may become agendas for their resolution. This is the sigh of social rights protagonists. It is the culture underlying many of the speeches of government representatives. Can liberal society make it its agenda? If it does not do so, liberal human rights will remain an obstacle to the actualisation of social human rights.

75

The same approach can be adopted with regard to the so-called group rights of culture, language and self-determination, all integrated into society, with a view not to separation but to unity and reconciliation. As with traditionalism, the group phenomena

were also acknowledged by the fathers of our Constitution, both in the chapter on human rights and in its provisions for deliberations in the *Volkstaatraad*.

76

Managing these conflicting mindsets calls for a 'both and' approach, very seldom an 'either/or' approach. Our politicians presently have a good gut feel for this need. However much energy it may demand, we should be wary of making exclusive choices without optimum accommodation of basic value system needs.

77

Lastly, all human rights have to be translated into rules, into dos and don'ts. That is a function of law and regulation. We need to know in simple terms what we must and must not do. Law must then be enforced. And if people comply with the law and live within the law, they are better left alone. They do not have to be made to like it or to observe it for any other reason than the reasons they themselves may choose.

n RECOMMENDATIONS

Reparation and rehabilitation policy

78

I believe the individual reparation grant structured as cash payment to be unwise. It does not distinguish on the basis of either the harm suffered or the needs of individuals. While the expressed or implied purpose is that victims should be using such cash grants to take care of the needs flowing from the harm suffered, the real risk exists that other interests may weigh more. The argument that they should be free to choose how they use the grant sounds plausible at face value. It does not limit the risk, though, that real needs may become or continue to be a burden on the state. It does not take into account that a sizeable number of victims have not suffered any harm other than a wrongdoing or have since fully recovered, whether from emotional or physical suffering. On the other side, some individuals suffered immense physical or psychological harm, much of which is permanent, and these are in need of ongoing treatment. The individual grants to victims as reparation should not be used to address the much wider phenomenon of poverty. Injection of larger sums of cash into poverty-stricken communities may cause friction and eventually not benefit the individual as intended.

79

I recommend that government considers a formula that allows for a multi-layered approach on the basis of affordability to the state. The first leg can be a lesser cash grant to acknowledge the wrongdoing to every individual. It will affirm the finding of victim status. Second, government can render services for all ongoing needs of victims that resulted from the violations suffered. This will include all medical or appropriate psychological treatment and could also include measures such as special housing subsidies or subsidised loans for housing materials where the violation suffered involved the loss of housing. It could include exemption from school fees for children where the breadwinner was lost to the family. No clear data is available yet, but an analysis of application forms may be able to give an estimate of the cost to the state of such an approach. In short, a needs-based policy would be the best approach and an assessment can be made as to the ability of the state to provide necessary services. Priority access to specific services can be arranged simply through the issuing of some form of identification.

Gross violations of human rights committed outside the borders of South Africa

80

The amnesty applications elicited by the amnesty provisions in the founding Act were the main source of information on gross human rights violations committed, the main source of our knowledge of what actually happened. Most of our investigations followed up on this information. A source of frustration to the investigation unit and the Commission in general was the refusal by

some applicants or would-be applicants to disclose information on cross-border operations, because of the threat of extradition to and prosecution in other countries. In this regard, the provisions have failed the objective.

81

I believe that we cannot leave this issue unresolved. To 'allow the law to take its course' in this respect will spell disaster in capital letters. Most of these operations were carried out by operatives of the former South African Defence Force. Its senior officers, a large number of them now retired, attested to their loyalty to the country and its constitution. They have now accepted the new power realities brought about by the new Constitution. The South African National Defence Force is presently one of the major guarantors of stability in our country and is, by all accounts, is one of the more successful examples of integration and transformation in our society. It is one of our more disciplined instruments. Even a hint of persecution of retired and serving officers may result in a risk of major destabilisation.

82

It is recommended that the President urgently place the subject on the agenda of the Southern African Development Community for attention and resolution. I deliberately refrain from making any suggestions as to how this matter may be pursued further.

On amnesty

83

It is premature to make any specific recommendation regarding amnesty before completion of the process. However, I will fail my conscience if I do not comment on a matter of my own experience relating to some applications refused, for example (and only as an example), for some actions by members of self-defence units which would never have occurred had it not been for the nature of the conflict, yet which fall outside the ambit of the provisions of the Act. One cannot help but feel that many would never have been criminals and that the imprisonment of some such individuals does not serve the interests of either the individuals concerned or that of society as a whole. Where prosecutions are pending, the courts can still consider such factors when passing sentence. Where unsuccessful applicants are serving long-term sentences, it is a totally different story.

84

I struggled with the question of whether to refer to this matter before the completion of the amnesty process. Silence may, however, cause injustice to such persons, given a global perspective. I simply raise the possibility of an inter-departmental committee to consider the issue with a view to devising some kind of special parole procedure where appropriate.

The need for closure

85

Recommendations for the establishment of special units to follow up on the uncompleted work of the Investigation Unit, in particular to investigate gross human rights violations that resulted from the political conflicts on the past, should be resisted. Such action would militate against the spirit of understanding, the transcending of the divisions of the past, against bringing to close a chapter in our history. It would negate the spirit of the agreement that gave us our democracy. It is a very sensitive issue that requires great wisdom. It would be politically unfeasible to prosecute all those who committed gross human rights violations in the course of the liberation struggle and who failed to apply for amnesty. In consequence, the principle of even-handed treatment of perpetrators across the spectrum would be negated. One-sided prosecutions would send a message of amnesty first, Nuremberg second. The counter-argument is one of promoting a culture of impunity. It is as thin an argument as was the initial argument against amnesty. Criminal investigations of violations that do not stand the test of political motivation and thus fall outside the provisions of the Act may well proceed – should indeed proceed. Such investigations are, however, best left to existing structures

of state. We need to reach a stage where we can clear our desks of the past without having to clear our memory. We can certainly do without agendas of the past to keep us from forgetting.

Analysis of data, research and public discussion

86

A qualitative analysis of the data that has been collected, especially from victim statements and testimonies or through the amnesty process, would have made a very valuable contribution to a better understanding of our society and the underlying endemic risks of the conflicts of the past repeating themselves in different forms. Unfortunately, we have not been able to undertake such an analysis.

87

It is recommended that institutions of learning and research, the private sector and civil society promote research programmes aimed at qualitative analysis of the data. It is further recommended that special sponsorships be made available for research programs aimed at a better understanding of the interaction of the different conflicting value systems in our society, and the management of such interaction towards further promotion of national unity and reconciliation.

n ACKNOWLEDGEMENTS

88

At the outset, I accepted on principle the integrity of my fellow Commissioners. This was largely confirmed by my experience in practice, despite heavy argument and disagreement, sometimes ending in agreement. I have little doubt that other members will have had the same experience with their various colleagues. Some interpersonal relationships developed that I will always appreciate.

89

The chair of the Commission, Archbishop Tutu, has no equal when it comes to the acceptance of his *bona fides*, even where people may almost violently disagree with him. The value of the symbolism of his chairing the Commission cannot be overstated. I wish him health and peace.

90

Dr Biki Minyuku was to me a pillar of reassurance of control, with a work ethic, if matched, not surpassed.

91

Special thanks too, to the director of research, Professor Charles Villa-Vicencio, for stimulating personal interaction and debate and for his efforts to promote similar opportunities within the Commission. How he coped with the responsibility of the compilation of the report, I will never understand.

92

Lastly, my appreciation to the President for having appointed me to the Commission. It is an honour and a privilege. It is not often a pleasure.

Response of the Commission

to the Minority Position of Commissioner Wynand Malan

1

The Commission finds it regrettable that Commissioner Wynand Malan decided to withdraw midway through the process of discussion and drafting of the Commission's report and eventually to formulate a Minority Position. We regard it as a particular drawback that he declined the opportunity of debating its contents within the Commission, as happened with every other section of the report, or of exploring the possibility of incorporating his position within the appropriate sections of the report itself. Our regret lies in the fact that, by so doing, he deprived both himself and the rest of the Commission of the opportunity of benefiting from the wholesome process of debating and considering the issues raised in the Minority Position and their possible impact on the report. It should be mentioned that, in our experience, the entire report has been enormously enriched by this process of debate and the impact of many perspectives within the Commission. The Commission has, however, been steadfast in its commitment to creating the opportunity for all shades of opinions and views to be fully expressed within the context of the Commission's process as a vital part of its overall objectives. It is in this spirit that we approach the Minority Position expressed by Commissioner Malan.

2

It is informative to restate the provisions of sections 4(e) and (h) of Act 34 of 1995 (the Act) which guided the Commission in preparing its report :

4. Functions of Commission – The functions of the Commission shall be to achieve its objectives, and to that end the Commission shall –

(e) prepare a comprehensive report which sets out its activities and findings, based on factual and objective information and evidence collected or received by it or placed at its disposal;

(h) make recommendations to the President with regard to the creation of institutions conducive to a stable and fair society and the institutional, administrative and legislative measures which should be taken or introduced in order to prevent the commission of violations of human rights.

3

The general approach applicable to the work of the Commission, as set out below in the provisions of sections 36(1) and 36(5)(a) of the Act, was consistently followed by those Commissioners who prepared the report:

36. Independence of Commission –

(1) The Commission, its commissioners and every member of its staff shall function without political or other bias or interference and shall, unless this Act expressly otherwise provides, be independent and separate from any party, government, administration, or any other functionary or body directly or indirectly representing the interests of any such entity.

(5) Every commissioner and member of a committee shall–

(a) notwithstanding any personal opinion, preference or party affiliation, serve impartially and independently and perform his or her duties in good faith and without 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 Commissioner's Malan's observation that Commissioners "come from different corners, so to speak, of our society", we interpreted our statutory mandate as requiring us to rise above this subjective diversity and execute the duties imposed upon us professionally and strictly in accordance with our mandate, despite our subjective views on specific issues. Where there is an irreconcilable conflict between a Commissioner's statutory duty and the dictates of his/her conscience, the proper course would be to resign from the Commission. All Commissioners accepted this reality when they assumed office.

6

We deem it inappropriate to debate the host of personal opinions and subjective views set out in the Minority Position. These are strictly irrelevant to the report in view of the provisions of section 4(e) of the Act and, in any event, in many instances do not relate to the content of the report. We do, however, feel compelled to rectify a number of factual inaccuracies which tend to misrepresent the Commission process.

7

We accordingly proceed to deal with some of these instances.

8

It needs to be emphasised that the process of writing the report commenced during 1997 after full discussion and agreement was reached within the Commission on the approach to be followed. As much time as circumstances permitted was allowed and allocated to the report writing process which was always regarded within the Commission as being of vital importance. All of the Commissioners were compelled to create sufficient time within extremely busy schedules to engage in the report writing process. We are satisfied that sufficient opportunity was created for all Commissioners, if they so wished, to participate to the fullest extent possible in writing the report.

9

Appropriate structures and persons within the Commission were mandated to prepare drafts of various sections within the report to serve as a basis for discussion. These drafts were by no means binding on the Commission or any commissioner. In practice, the majority of these drafts were substantially re-worked from time to time in the light of the debates within the Commission.

10

We are accordingly satisfied that the report gives a full and comprehensive account of all the work and activities of the Commission up to the point of its publication, in accordance with our statutory obligations. There is no basis whatsoever for regarding the report as "preliminary" or subject to revisiting in any subsequent reports.

11

We find Commissioner Malan's characterisation of the testimony of witnesses in human rights violation hearings as largely influenced by exaggeration or in terms of their own understanding of what happened, to be impertinent and startlingly inappropriate. This attitude exhibits a total lack of appreciation of or sensitivity to the situation of victims of gross violations of human rights or the duties of the Commission as set out in section 11 of the Act, in particular to treat victims with compassion and respect for their

dignity. We dispute the allegation that “most deponents giving oral evidence, when taking the oath, made it clear that they would speak the truth ‘as they see it’ ”. This is an unfounded generalisation. Quite significantly, no details or examples are given to substantiate this sweeping statement.

12

All findings were made on duly corroborated evidence and were made only after all parties who were adversely affected had been given adequate opportunity to respond, and all responses have been duly considered. The suggestion that, in making findings, the Commission relied upon improper material as “evidence” and failed to maintain the distinction between various “concepts of truth” is based on a complete lack of understanding of the findings process. As mentioned earlier, Commissioner Malan chose to withdraw from participating in certain of the Commission’s activities concerning finalisation of the report.

13

We note the views expressed regarding the influence of religion upon the reconciliation debate. In view of the fact that this is not linked to the content of the Commission report, we refrain from responding to this aspect. However, to the extent that this might amount to an attempt to criticise the approach or personal views and beliefs of members of the Commission, or to articulate some imagined attack upon Afrikaner leaders, it is deplored.

14

These are some of the aspects that need to be placed in proper perspective. On the whole, it is our view that Commissioner Malan’s failure to participate fully in the report writing process resulted in some misunderstanding of, and a lack of information about, the process itself and the content of the report. Some of the views he expressed relate to drafts rather than to the final version of the report. Most of this could have been avoided through discussion 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 to state that, although we question the wisdom of the course of action decided upon by Commissioner Malan, we remain appreciative of his contribution towards the Commission process and of the fact that he has shared a challenging mandate with the rest of us, often under trying circumstances.

