

# Analysis of Gross Violations of Human Rights

## **INTRODUCTION**

- 1 The Committee on Human Rights Violations (the Committee) was established on 16 December 1995 at the first meeting of the Commission. It was composed of Archbishop Desmond Tutu (chairperson of the committee), Yasmin Sooka and Wynand Malan (vice-chairpersons), Alex Boraine, Mary Burton, Bongani Finca, Richard Lyster, Dumisa Ntsebeza, Denzil Potgieter and Fazel Randera.
- 2 At its first meeting, the Committee considered the appointment of ten additional committee members, as provided in the Promotion of National Unity and Reconciliation Act (the Act). Consideration was given to regional needs as well as the wish to ensure the broadest possible representation in terms of skills, culture, language, faith and gender. The following members were appointed to the Human Rights Violations Committee: Russell Ally, June Crichton, Mdu Dlamini, Virginia Gcabashe, Pumla Gobodo-Madikizela, Ilan Lax, Hugh Lewin, Yolisa (Tiny) Maya, Ntsikelelo Sandi, Joyce Seroke, and, in the final months, Mothofela Mosuhli.
- 3 The Committee met at an early date to discuss and begin to implement its duties and functions as laid down in the Act<sup>1</sup>. It was guided by the underlying principles of compassion, respect and equality of treatment in all its dealings with people who were to be defined as “victims of gross violations of human rights”.
- 4 Its first responsibility was to establish a mechanism by which the “complete picture” of gross violations of human rights was to be drawn. There were enormous expectations, from the public and also from within the Commission, that public hearings would be held which would expose a considerable part of this picture. It was even hoped that a first public hearing could be held as early as February 1996, but it soon became apparent that a great deal of preparatory work had to be done first. Looking back with the wisdom of hindsight from the perspective of July 1998, it is amazing that a public hearing was in fact achieved as early as April 1996.
- 5 Information had first to be gathered. A number of sources were available, with substantial documentation that could be accessed from organisations which had endeavoured to keep records of abuses that had taken place during the period under review. These were studied and augmented by submissions later received from such organisations. This information was invaluable for research purposes and was used for the corroboration of statements (although some difficulties were experienced, for example, with incompatible databases). At a later stage in the Commission’s life, a much debated resolution was taken to use these secondary sources for corroboration purposes only, and not for the identification of ‘victims’ for the purpose of reparations.

### **The public hearings**

- 6 Thus, the preparation and organisation of the first public hearing became the primary goal of the Committee in the first months. Together with the whole Commission, it had decided that particular emphasis would be

placed on hearing the experiences of victims of gross violations from the people themselves. It would seek out all such people, old and young, living in urban or rural areas, and provide a forum for many voices that had previously been silenced.

- 7 The first public hearing was held in East London in April 1996. The choice of a centre in the Eastern Cape was no accident, but a deliberate decision to focus attention on an area which had borne the brunt of some of the heaviest repression by the security forces of the previous government, in direct response to some of the most militant resistance.
- 8 The four days of hearing set a model for future hearings (later reduced to three days), and it is worth describing in some detail the planning and arrangements that took place.
- 9 The selected venue was the East London City Hall, an imposing Victorian-style building in the centre of the city. Stringent security measures had to be put in place, and were provided and maintained by the South African Police Services (as at all subsequent public hearings). Provision had to be made for the media. Food and accommodation had to be provided for the deponents and for at least some of their families who attended to support them. Transport had to be arranged, entailing heavy costs and considerable logistical difficulties, and interpretation services had to be arranged for simultaneous translation into all the languages to be used. The placing of tables for the witnesses and for Commission members received careful attention — witnesses were to take pride of place and there was to be no suggestion of their being ‘in the dock’ as in a court. They were also always to be accompanied by a Commission ‘briefer’<sup>2</sup> and, if they chose, by a family member or other supporter. The deponents were brought together during the weekend before the hearings in order to prepare them, and the Committee worked closely with members of the Reparation and Rehabilitation Committee in this process.
- 10 All the hearings were to have a ceremonial aspect: the chairperson’s opening remarks were often preceded by prayer, by the lighting of a memorial candle, by hymns or songs. When Archbishop Tutu presided, he wore his purple robes, lending his own special presence to the occasion. This religious aspect of the hearings was sometimes criticised, especially for its mainly Christian focus. It became clear, however, that this was not inappropriate in a country where a considerable majority of the population is Christian. In later hearings, when Archbishop Tutu himself was not present, other religious leaders were often asked to pray. Often, too, local community groups would introduce songs and ceremony (in the little country town of Hanover a choir sang a song composed specially for the Commission).
- 11 In East London, a special inter-faith ceremony was held the day before the hearing, and the hearing itself opened to a packed hall humming with anticipation.
- 12 The four days were extremely emotional and dramatic. The witnesses included the families of the well-known ‘Cradock Four’, community leaders assassinated in 1985; individuals and the families of those who were killed or injured in bombings carried out by revolutionary activists; and people who were detained, tortured, or victimised in other ways. Deponents were sometimes stoical, almost matter of fact, but others succumbed to tears or expressed their anger as they relived their experiences. The panel of commissioners and committee members was visibly overcome. The public sat silent and spellbound during the testimony, but was occasionally moved to angry murmuring. Tea and lunch breaks were marked by singing and chanting of political slogans.
- 13 The large media contingent included national and international representatives, and filled to overflowing the room provided for them. By the end of the week, awareness of the work of the Commission had burst upon

the newspapers, television screens and radio broadcasts in a way that began to change the perceptions of millions of people.

- 14 Thus was the pattern set for the many hearings of the Commission.<sup>3</sup> They were held in large cities or small rural towns, in city halls or educational institutions or church halls. They were made possible by the meticulous work and planning of the various logistical teams in the regions and by the assistance of many people in the local areas.

### **Preparations for the hearings**

- 15 The preparatory work began with the dissemination of information about the Commission and its work, followed by the gathering of statements and background information.
- 16 Preparatory discussions, during what was usually an eight-week cycle, often coincided with preparations made by the Reparation and Rehabilitation Committee to lay foundations for counselling and other assistance which could be obtained from local sources.

### **Public information**

- 17 Public meetings and workshops were held in each area selected for a hearing, organised with the assistance of local municipalities, faith organisations, non-governmental organisations (NGOs), civic bodies or any other appropriate grouping. Commissioners would explain the aims of the Commission and the way it would work, and would answer questions and attempt to allay fears or respond to criticism. Announcements would be made about the advent of statement taking in the area, and where statements could be made. The media and communications staff assisted with leaflets, banners and press releases.<sup>4</sup>

### **The gathering of statements**

- 18 The Commission devised a form, referred to as a 'protocol' or 'statement form', for recording the statements made to the Commission by people who believed they had suffered gross violations of human rights. It appointed and trained 'statement takers' to listen to the accounts related by such persons, and to record them in a manner which would facilitate their entry into the Commission's database.<sup>5</sup>
- 19 For thousands of people, statement takers represented their first and often their only face-to-face encounter with the Commission. They were selected for their ability to listen to the stories told by people in their chosen language, to distil the essential facts, and to record them in English (since for practical reasons this was the language the Commission had decided to use). Equally important was their ability to listen with empathy and respect, so that the interview itself became part of the therapeutic and healing work of the Commission. Interviews often took several hours, and involved both the deponent and the statement taker in an intense process of reliving anguishing experiences. Many deponents clearly found this to be a catharsis, but others were still bitterly angry or deeply wounded. Some were referred to supportive organisations for counselling and treatment.
- 20 The statement takers thus carried a heavy burden of responsibility and were the front rank of those who gathered the memories of the pain and suffering of the past. They themselves required support as the work took its toll on them, and the Commission made counselling and, if necessary, further therapy available to them.
- 21 Statement takers were based in each of the four regional offices of the Commission, and the public was informed about where to find them. They also moved out into surrounding areas, responding to requests or

to recommendations from the Research Department or other sources of information. Their numbers were increased by volunteers (who were also trained by the Commission) and at a later stage by a project of 'designated statement takers' drawn from community-based NGOs.<sup>6</sup>

- 22 In this way the Commission was able to fulfil its aim of reaching the widest possible number of people located across the entire country, making itself accessible to them, protecting their safety and privacy and allowing them to communicate in the language of their choice.

### **The selection of witnesses for public hearings**

- 23 After the statements had been taken and submitted to the information management team for entry onto the database, the Human Rights Violations Committee in the region would select a number of them for public hearing. The criteria used were:
- a the hearing should reflect accounts from all sides of the political conflicts of the past;
  - b the entire thirty-four-year mandate period should be covered;
  - c women as well as men should be heard, and the experiences of the youth should also be considered;
  - d finally, since not all the people of the area could be heard, there should be an attempt at least to provide an overall picture of the experience of the region so that all people could identify in some way with what was demonstrated.
- 24 Deponents making statements were always asked whether they would be willing, if invited, to testify in public. The majority of them were willing, even eager, and many were angry or disappointed if they were not selected. The exceptions were people who feared possible repercussions. In fact, it is noteworthy that there were not many such repercussions, and fears of intimidation or retaliatory attacks appear to have been largely unfounded. Where there was any such risk, the Commission's Witness Protection Programme was available.<sup>7</sup> The bomb threat made to the East London hearing was a sobering illustration of what might come, but such threats were not realised.

### **The bomb scare**

- 25 The first human rights violations hearing took place in a context that was very antagonistic to the work of the Commission with threats coming, presumably, from the right-wing sector. There was a determined effort to silence the voices of the victims and to stop the Commission from exposing the atrocities that had taken place in the past. It came as no surprise at all when a telephone call from the local police reported that they had been telephoned to warn of a bomb in the East London City Hall which could explode at any time. The consideration of the safety of the public and the victims' families in particular weighed heavily on the Commission, and the deliberations were adjourned as police came in with sniffer-dogs to inspect the hall. There was no bomb. This experience reinforced the Commission's concern that stringent security measures needed to be maintained.

### **Notice to alleged perpetrators**

- 26 Any alleged perpetrator named in a statement had to be given due notice that he/she was thus implicated and given an opportunity to respond. This led to one of the legal challenges to the Commission.

### **Legal challenge to the public hearing**

- 27 The first legal challenge to the Commission confronted it on the first day of the first public hearing in East London. The lawyers representing Mr Gideon Nieuwoudt *et al* demanded that the Commission must not hear the testimony of Mr and Ms Mthimkulu about the death of their son, Sipiwe Mthimkulu, a prominent student

leader who was detained and tortured several times, allegedly poisoned with thallium and who disappeared in 1982. The lawyers claimed that Mr Nieuwoudt had the right to be represented in a hearing and to defend his good name from being falsely implicated. They threatened to interdict the Commission from hearing Mrs Mthimkulu's testimony. The Commission finally conceded and requested Mr and Mrs Mthimkulu not to testify - to their great distress. This was the beginning of a number of court challenges faced by the Commission throughout its life. Mr Gideon Nieuwoudt *et al* subsequently applied for amnesty for the abduction and killing of Siphiwe Mthimkulu whose body they claimed they had burnt to ashes that they afterwards threw into the Fish River.

### **The impact of the Human Rights Violations hearings**

- 28 For the eighteen-month period during which they were a major part of the work of the Human Rights Violations Committee, the hearings became the public face of the Commission. They captured the imagination of the public and attracted both praise and criticism. The focus on the suffering of individuals and the reminders of the reconciling aspects of mourning and of forgiveness were in some cases a deterrent to people who were unwilling to come forward to make statements. Thus, political activists did not regard themselves as 'victims' who needed to weep or to forgive or be forgiven, but rather as participants in the struggle for liberation, who had known they would suffer for their cause.
- 29 Furthermore, deponents who had made statements but who had not been invited to testify in public felt in some way that they had been overlooked. It required a great deal of effort to assure them that their statements would be equally carefully investigated, and that they would receive equal attention from the Human Rights Violations Committee in terms of making findings in their case.
- 30 One of the significant features of the hearings was the simultaneous translation into any of the local languages being used. As the months progressed, the interpreters rapidly developed their skills and sensitive understanding. When the Commission ends, they will continue to be a valuable resource to the country. Nevertheless, the nature of the work meant that they absorbed a great deal of the pain and anger of the witnesses.
- 31 The public hearings took their toll on all members of the Commission - the staff involved and also the commissioners who served on the panels. Debriefing sessions were provided for those who wished to participate. The impact also spread more widely, to the journalists covering the process and to the wider society.
- 32 The public hearings were successful in two major aspects. They met one of the statutory objectives of the Commission, that of "restoring the human and civil dignity of such victims by granting them an opportunity to relate their own accounts of the violations of which they are the victims"; and, together with the public hearings of applications for amnesty, they revealed the extent of gross violations of human rights and made it impossible for South Africans ever again to deny that such violations had indeed taken place.

### **Other public hearings**

- 33 In addition to hearing testimony from victims of violations, the Committee held other public hearings, which allowed it to explore the motives and perspectives of the different role players. A mechanism for this was provided in the Act (from sections 29 to 32), empowering the Commission to require persons to appear before it at open or closed hearings for the purpose of establishing and gathering the facts.

- 34 The Commission interpreted this provision in the broadest sense and was able to establish forums for a variety of topics. Public hearings were held to enquire into the roles of the state, the liberation movements, the political parties and various different sectors of society. Investigative hearings were also conducted into events of particular significance - the Bisho massacre, the 'Trojan Horse' incident (in Athlone, Cape Town, on 15 October 1985), and others. Many more such hearings were proposed, but not all could be held, for lack of time. The purpose of these hearings was to enable the Commission to gain a deeper understanding of the complete context within which violations had been able to take place.
- 35 These hearings were structured differently from the individual victim hearings, where no cross-examinations took place. In the investigative hearings, people were *subpoenaed* to appear; they could be questioned by lawyers and victims, as well as by the commissioners and staff.
- 36 Where it was necessary, for investigative purposes, or to protect people who might be implicated, hearings were held *in camera*, but whenever possible they were held in open session. The Committee sought to be as transparent as possible. As an illustration of this, when the closed hearing into the Mandela United Football Club was challenged by the lawyers representing Ms Winnie Madikizela-Mandela and by the Freedom of Expression Institute, they were allowed to argue their case in public. The closed hearing still took place, but a subsequent open hearing was held.
- 37 Furthermore, the Commission held open hearings on specific topics which enabled it, and the public, to explore other key sectors of society and to understand the ways in which such gross violations were able to occur.<sup>8</sup>

### **The work behind the scenes**

- 38 The people who testified in public made up less than one-tenth of all the people who made statements. It is important to stress that all the statements received the same degree of attention by the Human Rights Violations Committee. In order to provide this attention, it became necessary to curtail the public hearings and focus on the mass of statements and on making findings in every case.

### **The processing of the information**

- 39 Once a statement had been registered on the database, the deponent was sent a letter of acknowledgement, thanking them for having made it, and giving the reference number to be used in the case of any enquiries.
- 40 Thereafter, each stage of the process (the corroboration, and later the finding) was captured on the database.<sup>9</sup>

### **Corroboration**

- 41 Each of the statements had to be investigated so that the Commission could be assured of its veracity. This task was carried out by the Investigation Unit and is fully described in its report.<sup>10</sup>
- 42 The Human Rights Violations Committee relied extensively on the team of investigators to obtain corroborative evidence to substantiate the statements it received. A great deal of this work consisted of seeking documentary evidence – court records, inquest records, police occurrence books, prison registers, hospital or other medical records. All too often, this was not available: either the normal passage of time or deliberate concealment had led to its being destroyed. When such material could not be found, either the deponents themselves or witnesses had to be tracked down and statements obtained from them.

- 43 Other difficulties stemmed from decisions to amend the statement form or 'protocol', which went through several changes, influenced both by evaluations of the early batches of statements and by the need to obtain information in a format which allowed for its standardisation and capture. At an early stage, it was decided to remove the demand for the statement to be made on oath, since there was a potential for error in the process of its being written down by the statement taker. At a later stage, it was decided to remove the portion providing for a general narrative and to focus instead on capturing multiple violations and many perpetrators. This may have made it easier to systematise the information, but it resulted in the loss of a potentially rich source of broader information which could have enhanced the corroboration process.
- 44 In a limited number of cases, no corroboration could be obtained, not even a statement from an eyewitness. For most of these, the Committee was reluctantly obliged to declare that it was 'unable to make a finding' and notify the deponent accordingly. Such deponents still had the right to revert to the Commission with any further arguments or documentation they could put forward. In other cases, details of date, place, event and perpetrators were sufficiently accurate and consonant with known incidents to allow a finding to be made on 'a balance of probabilities'.
- 45 In the final, overall national ratification of the findings made (see below), commissioners relied on the principle of inclusivity and concern for the victims, and endeavoured to reach positive findings whenever the circumstances allowed this, even where available information was extremely scanty.

### **Decisions on policy**

- 46 Before findings could be made, clarity was required on definitions and criteria.
- 47 The founding legislation spelt out the fairly circumscribed nature of human rights violations on which the Commission was to focus: "the violation of human rights through the killing, abduction, torture or severe ill-treatment of any person" emanating from the conflicts of the past and carried out or planned by any person acting with a political motive.<sup>11</sup> There were many challenges from outside the Commission about what this should include, and many debates within the Commission and the Human Rights Violations Committee.

### **Definition of 'gross violation of human rights'**

- 48 This definition limited the attention of the Commission to events which emanated from the conflicts of the past, rather than from the policies of apartheid. There had been an expectation that the Commission would investigate many of the human rights violations which were caused, for example, by the denial of freedom of movement through the pass laws, by forced removals of people from their land, by the denial of the franchise to citizens, by the treatment of farm workers and other labour disputes, and by discrimination in such areas as education and work opportunities. Many organisations lobbied the Commission to insist that these issues should form part of its investigations. Commission members, too, felt that these were important areas that could not be ignored. Nevertheless, they could not be interpreted as falling directly within the Commission's mandate.
- 49 The Commission recognised that these issues formed part of the broader context within which the specifically defined gross human rights violations had taken place. It sought to give attention to them by receiving submissions from a number of organisations that had been particularly concerned with these issues in the past.<sup>12</sup> These submissions made a valuable contribution to the section of the final report dealing with the broad context within which the gross violations of human rights took place, although they

could not be considered as victim hearings. They gave depth to the larger picture, but they still excluded individuals from recognition and from access to reparations, and many people remained aggrieved.

### **The definition of 'severe ill treatment'**

- 50 As the broadest category provided in the legislation, this was the one that required the most careful consideration. It became extremely difficult to decide exactly what constituted an act of sufficient severity to be included. As statements were received and studied, subtleties arose that influenced the thinking of members of the Committee. Some of the criteria employed are spelt out in the chapter on the mandate of the Commission (in Volume One), illustrating how international criteria deriving from the experiences of other countries were used as guidelines. Some decisions arose out of the workings of the committee itself.
- 51 For example, many accounts spoke of the effects on people of teargas used by the security forces. It would be impossible to say that teargas used in the legitimate control of an unruly crowd constituted a gross violation of human rights. Yet teargas canisters hurled into a hall or a church, or a small room or vehicle, could do serious damage to the health of a young child or elderly person. In such cases, where the damage could be assessed, it could be found that the person had indeed suffered a gross violation of human rights.
- 52 The discussion about how to decide whether combatants in the political conflict could be defined as victims of gross human rights violations continued for many months. The final decision is also described in the chapter on *The Mandate*.
- 53 Damage to property was another very difficult issue, on which the Committee postponed a decision for many months. Arson was a frequent allegation, and at first it did not seem to constitute a gross violation in terms of the Act. The more it was discussed, the more it was seen as a deliberate tool used by political groupings to devastate an area and force people to move away, the more it became necessary to consider it seriously. Eventually a decision was taken: arson would be considered as 'severe ill treatment' if it resulted in the destruction of a person's dwelling to an extent that the person could no longer live there. The motivation for this decision lay partly in the result - the displacement of the person - and partly in the psychological suffering of a person experiencing the total loss of home and possessions. (It did not make it any easier to have to decide that a person who lost cattle or vehicles, which might constitute their entire livelihood, did not qualify as a 'victim' of a gross violation).
- 54 The delay in arriving at this decision meant that, at earlier stages, people wishing to make statements about arson were turned away by statement takers, and in some areas it was impossible to get them back. In some regions, most notably KwaZulu- Natal, a list was kept and people were brought back into the process, but this happened very late and corroboration was extremely difficult.
- 55 Conflicts which were described as 'tribal disputes', or caused by 'witchcraft', might have seemed to fall outside the requirement of having a political motive in terms of the conflicts of the past, yet on closer investigation they frequently masked profoundly political issues.
- 56 Numerous statements referred to people who had 'disappeared'. In some cases, it was possible through investigations, through information obtained from the African National Congress (ANC) and the Pan Africanist Congress (PAC), or through applications for amnesty, to discover their fate. Some had gone voluntarily into exile and either been killed in combat or died under other circumstances; some had been abducted and killed; but for many others it was not possible to find out any more information.
- 57 Other difficult decisions arose from statements about detention, solitary confinement, and capital punishment. The decisions taken in this regard are also recorded in the chapter on *The Mandate*.



### **The process of making findings and notifying deponents**

- 58 Once all corroboration had been completed, the regionally based members of the Human Rights Violations Committee considered them and made 'pre-findings' in every case, deciding either that there was sufficient proof to find that a gross human rights violation had occurred, or that it had not. A 10 per cent sample of these pre-findings went through a national check, to ensure that regions were operating on the same criteria so that the findings would be uniform, and also to double-check for possible mistakes.
- 59 Again, all decisions were captured on the database, and complete registers were drawn up and referred to the Reparation and Rehabilitation Committee.
- 60 A Notification Unit was then established, which again brought together the work of the two committees. All deponents were notified by letter of the finding relevant to their statement, and very often it was necessary to notify additional victims who had been mentioned in the statement. When the finding was positive (that is, a decision was made that a gross violation had occurred), such persons were invited to complete and return the application form for reparations.
- 61 Some people were identified as victims through the process of amnesty – when they were mentioned by an applicant and a decision was taken by the Amnesty Committee. These were dealt with in the same way.
- 62 Where a 'negative' finding was made, deponents were also notified by letter and given information about the grounds on which the decision was made. These fell into five broad categories:
- a the event fell outside the mandate period of the Commission
  - b there appeared to be no political motive
  - c the violation was not sufficiently severe to qualify as a 'gross violation'
  - d the person killed or injured was a combatant on active duty
  - e there was insufficient evidence to allow a finding to be made.
- 63 Deponents were informed that, if they had additional information that might persuade the Committee to review the finding, they should submit it within a period of three weeks.
- 64 This introduced a new area of work in the last months of the Commission, where a Review Committee was established to deal with such appeals.

### **Findings concerning perpetrators**

- 65 All alleged perpetrators about whom findings were contemplated were sent letters in terms of section 30 (2) of the Act, giving them an opportunity to respond. Findings in these matters are covered in the chapters on the four different regions (in Volume Three).

### **Individual findings**

- 66 It was decided that every person found to have been a victim of a gross violation had the right to have their name and a brief account of the violation in the report of the Commission<sup>13</sup>.

# APPENDIX 1

## CODING FRAME FOR GROSS VIOLATIONS OF HUMAN RIGHTS

### • INTRODUCTION

The task of the Commission is to identify those people who suffered gross violations of human rights, defined as KILLING, ABDUCTION, TORTURE and SEVERE ILL TREATMENT. In addition to these four, there is a fifth category, the ASSOCIATED VIOLATION. This has not been defined as a gross violation, yet it is important for the understanding it provides of the context in which violations could and did take place. Each of the five categories has several sub-headings, which explain how the violation took place.

### The categories of Human Rights Violations

The table below shows the categories of human rights violations (HRV) with their definitions.

HRV CATEGORY	CODE	DEFINITION
Killing	KILLING	<p>A killing is when a person dies, in one of three ways:</p> <p>Assassination is killing of a <i>targeted person</i> by a person or group who <i>developed a secret plan or plot</i> to achieve this. A person is targeted because of political position.</p> <p>Execution is capital punishment (death sentence) imposed and carried out by a legal or authorised body such as court of law or tribunal. Victim is aware of death sentence. Perpetrators are the state, homeland governments, or security structures of political movements.</p> <p>Killing is all other deaths, including a killing by a crowd of people.</p>
Torture (for example, prisons, police cells, where while the individual is tied up or bound to	TORTURE	<p>Torture happens in <i>captivity</i> or in <i>custody</i> of any kind, formal or informal detention camps, private houses, containers, or any-something).</p> <p>Torture is usually used to get information, or to force the person to do something (for example, admit to a crime, or sign a statement), but it is also used for punishment, degradation, and systematic breakdown of an individual.</p> <p>It includes mental or psychological torture (for example, witnessing torture, or telling the person that their family is dead).</p>
Severe forms of inflicted suffering causing <i>extreme</i> bodily	SEVERE	<p>Severe ill treatment covers attempted killing and all ill-treatment and/or mental harm.</p> <p>It tends to take place outside of custody (for example, injury by a car bomb, or assault at a rally), but a person can be subjected to severe ill treatment in custody too (for example, a single severe beating, or tear gas in the cell).</p>

Abduction	ABDUCTION	Abduction is when a person is forcibly and illegally taken away (for example, kidnapping). It does <i>not</i>	mean detention or arrest. Arrest is not a gross violation of human rights (see <i>associated violations</i> ).
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If the person is never found again, it is a disappearance.

Associated	ASSOCIATED	These are not gross violations of human rights, but violation
are important for understanding the context of the		violation (for example, detention, harassment, framing,
		violating a corpse after death).

## The violation types

The tables below show the HRV categories and the types of violations within each.

KILLING	CODE	DEFINITION
Beaten description of part of body assaulted, if whip, plank, beat against wall).	BEATING	Beaten to death by being hit, kicked, punched, to death known (e.g. feet, face, head, genitals, breasts), or object used (e.g. sjambok, baton, gun, rifle, stick, specifying rope,
Burnt to death scalding, arson. This does <i>not</i> include 'necklacing'	BURNING	Killed in a fire or burnt to death using petrol, chemicals, fire, or petrol bombing.
Killed by poison, bleach or drain cleaner.	CHEMICALS	Killed by poison, drugs, or household substance, drugs or chemicals such as
Killed by water.	DROWNING	Drowned in a river, swimming pool, or even in a drowning bucket of
Killed by electrocution	ELECTRIC	Killed by an electric shock.
Killing by tribunal) such as the state, homeland state, or political	EXECUTE	Hanged or shot as decided by a formal body (court or death sentence party. It is the consequence of a death sentence.
Killed in an <i>not</i> a petrol bomb (see below). Explosives include	EXPLOSION	Killed by any manufactured explosive or bomb, but explosion dynamite, landmine, limpet mine, car bomb, hand grenade, plastic explosives, detonator, booby-trap, letter bomb, parcel bomb, special device (e.g. walkman).
Killed by as heat, cold, weather, exercise, forced labour.	EXPOSURE	Person dies after being subjected to extremes such exposure
Necklacing from burning, because it featured heavily	NECKLACING	Burnt with petrol and tyre. Necklacing is coded separately in the past. It is differentiated from, for example, setting alight with petrol or burning in a house.
Other type alive, strangling, tear gas, decapitation, disembowelling.	OTHER	All other methods of killing, including being buried killing
Petrol bomb falls in a category between burning and bombing, so, separately.	PETROL	Killed by a burning bottle of petrol. Petrol bombing BOMB like necklacing, it is useful to code it Also called Molotov Cocktail.
Shot dead pellets, rubber bullet.	SHOOTING	Shot and killed by live bullet, gunshot, birdshot, buckshot,
Stabbed to axe, scissors, spear (including assegai).	STABBING	Killed with a sharp object, such as a knife, panga, death
Suspicious Examples are: slipped on soap, jumped out of window, booby-	STAGED	Died in a <i>suspicious</i> suicide or fatal accident. suicide or accident fell down stairs, hanged oneself, car accident, trapped hand grenades or explosives, shot oneself.
Stoned to death	STONING	Killed with bricks, stones or other thrown missile.
Tortured to death	TORTURE	Tortured to death.

Unknown cause	UNKNOWN	Person is dead, but there is no further information.	of death
Killing involving boot of car, specifying type of vehicle involved (for	VEHICLE	Dragged behind, thrown out of, driven over, put in a example, car, train, truck, van, <i>bakkie</i> , Hippo, Casspir). <i>Not</i> a car bomb (see bombing)	vehicle

TORTURE	CODE	DEFINITION	
Torture by example, hit, kicked, punched), specifying part of stick, rope, whip, plank, beat	BEATING	Tortured by being beaten severely or for a long time body assaulted (for example, feet, face, head, genitals, breasts) and object used in the beating (for example, <i>sjambok</i> , baton, gun, rifle, against wall, or if the victim is pregnant or miscarries.)	beating (for
Torture by	BURNING	Burnt with cigarettes, or fire, for example.	burning
Torture with bleach or drain cleaner.	CHEMICALS	Tortured with poison, drugs, or household substance, chemicals	poison, drugs or such as
Torture by medical attention where there is serious injury or	DEPRIVE	Tortured by withholding essentials, such as food, or medical care while in custody).	deprivation need. (See associated violations for general lack of
Electric shock body part was shocked (for example, genitals,	ELECTRIC	Electric shocks administered to the body, specifying breasts, fingers, toes, ears, etc.)	torture which
Torture by heat, cold, weather, exercise, labour, noise, darkness, light), blind-	EXPOSURE	Tortured by subjecting victim to extremes such as extremes folding, confinement to small space, smells, immobilisation.	exposure to light (including flashing lights, blinding by
Psychological or degradation (includes (for example, telling the person that a loved one is participation	MENTAL	Tortured psychologically, mentally or emotionally, for use of excrement, urine, spit), insults, disinformation dead), threats, witnessing torture, forced in torture, exposure when washing or on toilet, threat	mental torture roulette), solitary confinement,
Torture by the body are partly or wholly cut, severed or broken,	MUTILATION	Torture involving injuries to the body where parts of specifying body part, for example, genitals, finger nails, ears, hair, etc.	bodily mutilation
		It includes amputation of body parts, breaking of pulling out nails, hair or teeth, scalping.	bones,
Other type (for example, snake, tortoise, baboon), use of vehicle.	OTHER	All other methods of torture, including use of animals	of torture
Torture by example, suspension, 'helicopter', tied up, hand-squatting, 'imaginary chair', standing on one leg,	POSTURE	Tortured by forcing the body into painful positions, for cuffed, stretching of body parts, prolonged standing, standing on bricks, uncomfortable position (includes pebbles in shoes), forced exercise, forced labour, blindfolding and gagging.	forced posture
Torture by weak point. (See elsewhere for electric or shock,	SEXUAL	Torture using the victim's gender or genitals as a abuse mutilation or beating.) It includes: slamming	sexual assault

		genitals or breasts in drawer or other device,	
		suspension of weights on genitals, squeezing genitals	or breasts, rape by
opposite sex, rape by same sex,		gang rape, forced sexual acts (e.g. oral sex, simulating	
		intercourse), introduction of objects into vagina or	rectum, sexual
abuse using animals, threats of rape,		touching, nakedness, sexual comments or insults,	
		sexual enticement, deprivation of sanitary facilities	for menstruation.
Torture by	SUFFOCATE	Torture by stopping a victim from breathing, for	suffocation
example by bag, towel, tube (wet or dry) over head,		drowning (head, whole body submerged), choking,	
		strangling, stifling, throttling, teargassing, burying alive.	
Unknown type	UNKNOWN	Tortured by an unknown method.	of torture

SEVERE ILL TREATMENT	CODE	DEFINITION	
Severely beaten kicked, punched, twisted, specifying stick, rope, whip, plank, wall), specifying if	BEATING	Badly or severely beaten, or beaten for a long period. part of the body (for example, feet, face, head, genitals, breasts), or object used (for example, sjambok, baton, the victim is pregnant.	Victim may be hit, gun/rifle,
Injured by necklacing or petrol bomb (See below),	BURNING	Injured by burning with fire, petrol, chemical, scalding, specifying body part if burning is localised.	burning but not
Injured by substance (for example, bleach or drain cleaner).	CHEMICALS	Poisoned or injured by poison, drugs, household chemicals	poison, drugs or
Injured in an Explosives include dynamite, landmine, limpet mine, detonator,	EXPLOSION	Injured by a bomb or explosives, but not petrol bomb. car bomb, hand grenade, plastic explosives, booby-trap, letter bomb, parcel bomb, special device (e.g. booby-trapped walkman).	explosion
Psychological treatment, for example by simulated execution (includes use	MENTAL	Severe psychological, mental or emotional ill ill treatment (includes Russian roulette), degradation of excrement, urine, spit), death threats, threat of torture.	or mental
Bodily body part, (for example, genitals, fingernails,	MUTILATE	Injured by having parts of body mutilated or damaged, ears, hair, etc.) Includes amputation of body parts, breaking of pulling out nails, hair or teeth, scalping.	mutilation specifying bones,
Necklacing	NECKLACING	Injured in an attempted necklacing.	
Other type of and including strangling, drowning, spreading	OTHER	All other types of severe ill treatment, describing ill treatment of disease.	severe method,
Sexually as a weak point, for example rape by opposite objects or substances into vagina or rectum, sexual	SEXUAL	All forms of attack on a person using their gender or or abused sex, rape by same sex, gang rape, forced sexual acts (e.g. oral sex, simulating intercourse), introduction of abuse using animals.	assaulted genitals
Injured in a pellets, rubber bullet, specifying body part	SHOOTING	Injured by being shot with live bullets, gunshot, birdshot, injured, if known.	shooting buckshot,

Stabbed or axe, scissors, spear (including <i>assegai</i> ).	STABBING	Injured with a sharp object, such as a knife, <i>panga</i> , sharp object	hacked with a
Injured in a	STONING	Person is injured by bricks or stones thrown at them.	stoning
Teargassed example, tear gas in a prison van or packed hall).	TEARGAS	Severe injury caused by teargassing in a confined space	(for
Suffocated for example by drowning (head, whole body teargassing, burying alive.	SUFFOCATE	Injury or ill treatment by stopping someone from submerged), choking, strangling, stifling, throttling,	breathing,
Unknown type	UNKNOWN	Severe ill treatment by methods that are unclear.	of severe ill treatment
Injury involving out of, driven over, put in boot of a vehicle, train, truck,	VEHICLE	Injuries caused by being dragged behind, thrown van, <i>bakkie</i> , Hippo, Casspir).	a vehicle specifying the vehicle (for example, car,

ABDUCTION	CODE	DEFINITION
Illegal and kidnapping), but found again, returned or released.	ABDUCTION	Forcibly and illegally taken away (for example, forcible
abduction associated violations).		It does <i>not</i> refer to detention or arrest (see
Disappearance	DISAPPEAR	Forcibly and illegally taken away and is never seen again.
exile and never returns. It <i>does</i> include people who (instead of		It does <i>not</i> include cases where a person goes into have disappeared for unknown reasons abduction, they might have run away or been shot
and buried). In this case, a finding will be made and as it is, or changed to Killing		the code will be left if the person was killed, or found to be out of the mandate of the Commission.

ASSOCIATED VIOLATIONS	CODE	DEFINITION
Beating includes once-off mild beating, specifying	BEATING	Person is beaten, but it is not a severe or prolonged beating. It if in custody or if victim is pregnant or miscarried.
Violation after burial, body mutilated or burnt or blown up,	CORPSE	Body of victim violated after death, for example by death improper funeral restrictions, funeral disruption, anonymous burial, mass grave.
Deprivation attention, food, water, sanitary facilities,	DEPRIVE	Deprivation of facilities or essentials, for example medical privacy, family visits.
Destruction of vandalism, theft, forced removal, eviction.	DESTROY	Includes violations such as arson, destruction, property
Financial blackmail, ruin of business.	FINANCIAL	Subjection to bribery, extortion, pay-off, ransom, impropriety
Framing false information is spread about the person,	FRAMING	Labelling as an informer, collaborator ( <i>impimpi</i> ) or criminal, or a smear campaign against the person is started.
Incarceration restrictions, banning, banishment, prison, informal	INCARCERAT	Includes police custody, detention, house arrest, or imprisonment prison.
Intimidation or threats, animals killed, visits, telephone calls, pointing of	INTIMIDATE	Intimidation or harassment by dismissal from work, harassment surveillance, boycott enforcement, firearms ( <i>not</i> in custody), threat of violence. It does not include vandalism or arson. These come under Destruction of Property.
Other type of released into hostile environment, released into	OTHER	All other types of associated violations, including associated violation unknown place, left for dead, rough ride, detention of family or loved ones.
Sexual rape, touching, nakedness, sexual comments or	SEXUAL	Person is sexually harassed. It includes: threats of harassment insults, sexual enticement, deprivation of sanitary facilities for menstruation.
Petrol bombing called Molotov Cocktail.	PETROL	Severely injured by a burning bottle of petrol. Also BOMB
Professional following: health professionals (including doctors, or ignore injuries, collaborate in torture, or conceal (magistrates,	PROFESS	Subjection to professional misconduct by one of the misconduct nurses, orderlies, clinicians, district surgeons, psychiatrists, psychologists and others) who neglect the cause of death or injuries; judiciary judges etc.) who ignore torture allegations, for example; police who neglect the case, ignore or tamper with evidence; lawyers who neglect the case, ignore or tamper with evidence, misappropriate funds or fail to hand over damages; businesses which collaborate with perpetrators.
Teargassed torture).	TEARGAS	Victim is teargassed, but not while in custody (see
Theft or stealing	THEFT	Money or possessions stolen from the victim.



## Glossary of Terms

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

A *panga* is a large knife with a flat blade (used for cane cutting).

An *assegai* is a spear, either short for stabbing or long for throwing.

A *bakkie* is a light truck or van with a cabin and open back.

Hippos and Casspirs are armoured personnel carriers.

A *sjambok* is a whip.

An *impimpi* is an informer or spy.

The 'helicopter' technique refers to a method of torture where a victim was suspended from the ceiling, with hands and feet shackled to a stick, and spun around.

The 'invisible chair' technique refers to a method of torture where a victim was forced to pretend to sit on a chair while being interrogated.

## • APPENDIX 2

### HRV HEARINGS

DATE OF HEARING 1996	VENUE
April 15 - 18	East London
April 22 -25	Cape Town
April 29 - 30	Johannesburg
May 02 -03	Johannesburg
May 07 - 10	Durban
May 21 - 23	Port Elizabeth
June 10 - 11	Kimberley (Northern Cape)
June 18 - 19	George (Southern Cape)
June 18 - 20	Umtata
June 24 - 26	Worcester
June 26 - 27	Port Elizabeth
July 02 - 04	Bloemfontein
July 08 - 12	Mmabatho
July 17 - 19	Pietersburg
July 22 - 26	Soweto
July 23 - 25	Pietermaritzburg
July 22 - 24	Queenstown
August 05 - 07	Peninsula (Helderberg/Tygerberg)
August 05 - 08	Sebokeng
August 12 - 16	Pretoria
August 12 - 14	Beaufort West
August 12 - 14	Port Shepstone
August 26 - 28	Uitenhage
August 29 - 30	Durban
September 02 - 05	Nelspruit
September 09 - 11	Bisho
September 11 - 12	Newcastle
September 23 - 26	Klerksdorp
September 23 - 24	Duncan Village (East London)
October 02 - 03	Uppington
October 03 - 04	Thohoyandou
October 07	De Aar
October 08	Hanover
October 09	Colesberg
October 08 - 10	Welkom

DATE OF HEARING 1996	VENUE
October 14 - 16	Paarl
October 21 - 23	Aliwal North
October 24 - 25	Durban
October 28 - 30	Alexandra
November 04 -06	Empangeni
November 11 - 14	Krugersdorp (West Rand)
November 18 - 19	Bisho (East London)
November 18 - 21	Pietermaritzburg
November 26 - 28	Cape Peninsula
November 26 - 28	Tembisa
December 02 - 05	Moutse
February 4 - 7	Duduza, Benoni, Katorus
February 10 - 11	Cradock
March 24 - 26	Lusikisiki
April 7 - 9	Grahamstown
April 8	Messina
April 9	Louis Trichardt
April 10	Tzaneen
April 17 - 18	Vryheid
April 28 - 30	Parys
May 6	Zeerust
May 7	Rustenburg
May 8	Mabopane
May 12 - 14	King William's Town
May 13 - 14	Durban
May 20 - 21	Cape Town
May 21	Piet Retief
May 22	Ermelo
May 22	Cape Town (Athlone)
May 23	Balfour
May 27 - 29	Mooi River
June 3 - 5	Witbank, Middelburg, Leandra, Ermelo, Piet Retief
June 9 - 11	Cape Town (KTC)
June 9 - 13	East London
June 12	Johannesburg (Children's Hearings)
June 17 - 18	Cape Town (Health Sector)
June 18	East London (Youth Submissions)
June 24	Bloemfontein (Children's Hearing)
June 24 - 26	Ladybrand
July 28 - 29	Johannesburg (Women's Hearing)
August 4 - 15	Durban (Caprivi Hearings)