

Report of the Chief Executive Officer and Chief Accounting Officer

p STATUTORY IMPERATIVES

- 1 The Promotion of National Unity and Reconciliation Act (the Act) provided for the appointment of a chief executive officer and outlined the obligations, roles, responsibilities and reporting relationships of this function. These included the obligation of the chief executive officer to act as the chief accounting officer of the Truth and Reconciliation Commission (the Commission) for the purposes of section 15 of the Exchequer Act (no 66 of 1975).
- 2 Section 36 (1) of the Act set out the clear intention that the Commission should be independent, stating that:

the Commission, its Commissioners and every member of its staff shall function without political or other bias or interference and shall 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.

- 3 The Act also provided for the establishment, development and nurturing of co-operative relationships between the Commission and, in particular, the Ministry of Justice and Ministry of Finance to help facilitate and/or expedite all legal and financial matters aimed at achieving the statutory objectives of the Commission.
- 4 The Chief Executive Officer was appointed to fulfil the above objectives and to provide leadership in managing the Commission.

p ORGANISATIONAL CHALLENGES

- 5 In order to ensure that work began as soon as possible after the appointment of the Commission, certain essential steps were undertaken. Through its vice-chairperson Dr Alex Boraine and two consultants, the Commission:
 - a contracted out some aspects of work and services to selected vendors without prior tenders or bids;
 - b developed a simple, 'flat' organisational structure;
 - c compiled job descriptions for staff that were immediately required;
 - d put together the rudiments of a staff salary structure based on the median salaries for public servants, the Public Service Commission's graded salary structure and the Patterson Job Evaluation Grades;
 - e procured the Commission's national and regional offices.

p MANAGEMENT CHALLENGES, OPERATIONAL DYNAMICS AND PRIORITIES

- 6 The organisation consisted of national and regional structures with complex reporting and accounting relationships. This required the appointment of dedicated and professional staff, drawn from a variety of political persuasions and backgrounds.

- 7 Because of the unique and critical nature of its work, the Commission was under continuous public scrutiny and pressure to ensure efficiency and effective management. In order to sustain its impact, it was also required to be transparent and accountable to the public.
- 8 On his appointment to the Commission on 1 March 1996, the chief executive officer defined the immediate, medium and long-term goals and objectives.

Action research and action learning

- 9 Given the short time span within which the Commission was required to complete its work, the chief executive officer adopted the strategies of research and action learning. Action research assisted with the analysis and synthesis of work, with a view to solving managerial challenges and problems. It also provided valuable lessons in transformation, development, principled leadership and participation.

Co-ordination and management

- 10 The co-ordination and management of strategic day-to-day operational activities were conducted through the standing committees of the Commission, its executive secretaries, portfolio heads and regional managers.
- 11 The management style focused on the delegation of work to competent professionals who reported to the chief executive officer on a regular basis. However, in the closing months, a more hands-on management style became necessary.
- 12 Overall, the focus was people-centred and aimed at meeting the needs and aspirations of staff within the context of the Commission's goals and objectives. Inevitably, however, the driving needs of the Commission took precedence.

Consolidation, streamlining and effective co-ordination of national and regional offices

- 13 By establishing a national and four strategically located regional offices, the Commission adopted a conscious strategy of diversification. Policies, operational procedures and programmes were developed at national office level, while implementation and refinement took place in the regional offices. Within this framework, it was necessary to maintain operational uniformity and integrity.
- 14 National and regional activities were co-ordinated through the portfolio heads, regional commissioners, convenors and managers.

Co-operative relationships

- 15 Through its regional offices, the Commission also entered into co-operative relationships and working partnerships with human rights non-governmental organisations (NGOs), faith communities and related grassroots and community-based organisations. International donors assisted in this process, principally by providing funding support for statement taking and the delivery of interim urgent reparations.
- 16 As mentioned above, the Act also provided for co-operative relationships between the Ministries of Justice and Finance to help facilitate and expedite legal and financial matters.
- 17 The spirit of co-operation within and beyond the Commission was expressed by the chairperson, Archbishop Tutu, whose example and counsel went a long way towards unifying the Commission and enabling it to relate to society.

Financial accountability

- 18 The chief executive officer was responsible for ensuring that the Commission was adequately resourced and that its obligations with respect to financial practices and reporting procedures were met. In order to ensure sound fiscal management, a director of finance and support services was given responsibility for refining the Commission's salary structure, preparing the Commission's revenue and expenditure forecasts and estimates, budgeting for funding proposals and preparing annual budgets for each year of the Commission's operation. In addition, monthly financial statements were prepared and presented at the meetings of the Finance Committee and the Commission.
- 19 The director of finance and support services was also delegated the tasks of preparing financial statements for the auditor and procuring the Commission's physical and movable assets.
- 20 Together with the chief executive officer, the financial director took responsibility for negotiating fiscal arrangements with the Audit Commission and the Ministry of Justice, in consultation with Ministry of Finance.
- 21 The Commission's statutory financial accountability remained, however, with the chief executive officer as chief accounting officer of the Commission.
- 22 Human resources were delegated to the human resources director.

Developing an integrated plan of action

- 23 In order to meet the statutory goals and objectives of the Commission within limited time and financial resources, controls were necessary. In order to identify its critical strategic activities, therefore, the Commission prepared an integrated action plan. Its purpose was to ensure that the Commission anticipated rather than reacted to the demands of its mandate.
- 24 This careful planning manifested itself in streamlined processes, programmes and activities, strategies, agendas and schedules of formal meetings and hearings, as well as in the Commission's ultimate staff roll out and close down plans.
- 25 The action plan also included methods whereby the Commission could communicate its ideas and strategies to portfolio heads and, through them, to staff members and stakeholders. However, when these strategies proved inadequate, a system of decision advisories was introduced.
- 26 The structure of the Commission was unique in that it incorporated and integrated the features of centralised, decentralised and organic types of organisations of differing sizes and complexities. In this context, the Commission, its standing committees and management system represented the structure of a learning organisation that allowed for the continuous devolution of power to middle management. Individual managers were empowered to make decisions and account for their respective portfolios, and they were able to evaluate, rationalise, streamline, classify and promote smooth functional relationships and reporting lines within a climate of mutual trust and respect.
- 27 The structure also aimed to ensure broad consultation and co-ordination across the spectrum of the Commission. This served to facilitate the team approach and helped in the resolution of issues and problems facing management. Such a structure was, by definition, task-orientated and highly interactive. It respected consultation as a means to accommodating creative and constructive tensions. According to this system, the team (and not the individual) was the source of power. Hence effective systems, learning organisations, national projects and policy planning processes could be redesigned by individuals according to their different functions.

- 28 Beyond the field of direct control there are, of course, other relationships that need to be taken into account – characterised by influence, power and the transactional environment. These matters required the constant attention of the chief executive officer.

Helping prepare agendas of Commission meetings

- 29 In order to keep and maintain proper records of the various processes, policies, decisions, programme activities and strategies of the Commission, it became necessary to request items, appropriate reports and documentation (on a monthly basis) in order to put together formal agendas for the Commission's business meetings.

Developing and streamlining the Commission's operational policies and procedures

- 30 Operational policies and procedures (such as financial controls, human resources policies and procedures) were developed and adopted in order to enhance the Commission's decision-making process and to ensure that such processes and activities were rationalised, anchored and undertaken within reasonable and clear guidelines. This allowed for better co-ordination of efforts to achieve the Commission's statutory objectives.

Ensuring that the Commission enjoyed maximum publicity

- 31 To achieve this objective effectively, the Commission developed and adopted a media and communications strategy whereby it::
- a developed strategic working partnerships with human rights and other community-based organisations;
 - b developed and distributed information booklets on the work and activities of the Commission's committees;
 - c developed an advertising campaign aimed at informing the public on the location of the Commission's national and regional offices. The campaign ran in various national and community-based newspapers with a view to reaching out to and communicating with a wider range of South African communities, readers and supporters.
 - d used the professional services of the media and communications departments to take advantage of the South African print, broadcast and electronic media and communicate its message through newspaper, television and radio.
- 32 The Commission also made use of its outreach activities (such as statement-taking workshops, think-tanks, planned and scheduled public hearings) to profile itself and its activities. The hearings became the public face of the Commission.

Safety and security

- 33 The goal was to ensure that the Commission's processes, activities and assets (human, intellectual and physical) were safe and secured.
- 34 This was achieved through the assistance and guidance of the Commission's national safety and security co-ordinators and the Safety and Security Functional Committee who together developed and implemented a safety and security plan on a national scale.
- 35 An assets register was created and periodically updated in preparation for the handover of the Commission's assets. As the Commission's programme ended, it created and adopted a second assets register to record

its intellectual assets – also required to be handed over in terms of the guidelines and regulations and the amendment of the founding Act.

p THE COMMISSION'S ADOPTED STRATEGIES

- 36 The chief executive officer took ultimate managerial responsibility for the execution of the work of the Commission's statutory committees. This included:
 - a Statement taking.
 - b Amnesty applications.
 - c Section 29 investigative enquiries.
 - d Submissions to the Commission.
 - e Research reports.
 - f Hearings.
 - g Meetings (of the Commission, its executives, its standing management and functional committees).
 - h think-tanks.
 - i Seminars, workshops and conferences.
 - j Designated statement takers.
- 37 The chief executive officer designated responsibility for the following areas of work, while taking overall responsibility for its execution:
 - a Research (the Research Department).
 - b Investigations (the Investigation Unit).
 - C Audits (both operational and financial).
- 38 The Commission also procured and trained data processors, information analysts, researchers, investigators and corroborators in data coding, capturing and analysis with a view to translating its collected data into usable information.
- 39 This information was used to refine its policies and procedures and to make appropriate decisions and findings.

■ AN OVERVIEW OF THE COMMISSION'S MANAGEMENT ACTIVITIES

- 40 The Commission's activities were guided by commissioners who were allocated to statutory standing and management functional committees.
- 41 At the tactical and administrative level, the Commission's activities were driven by the executive secretaries of the statutory standing committees and the portfolio heads, including four regional commissioners, convenors and managers, who accounted and reported directly and/or indirectly to the chief executive officer.

Operations and support services

- 42 Some critical aspects of the Commission's operations and support services included:
 - a Research activities, including a coding framework, background and political context, special projects and a summary of themes.
 - b Investigative work, including corroboration, human rights violations-related work, amnesty applications-related work, special investigations, disappearances and exhumations.

- c Deponent statements received by the Commission.
- d Amnesty applications received and dealt with to date.
- e The number of witnesses in the Commission's witness protection programme.
- f Hearings, think-tanks and workshops held by the Commission.
- g Records of the Commission's transcription services.
- h Data and information analysis, including coding framework, capturing, processing, analysis, cleaning.
- i Findings on gross human rights violations.
- j Victim status and enquiries.
- k Human resources-related activities, including staff profiles, staff complement, challenges by staff.
- l Financial activities, including forecasts, budget negotiations and allocations, audited financial statements.
- m Policies and operational procedures, including urgent interim reparation, reparation and rehabilitation policies and procedures, other operational policies and procedures.
- n Legal activities, including amendments and challenges.
- o Media liaison and communications.
- p Safety and security, including assets, information/intellectual assets register, processes, activities, and members of the Commission.
- q Psychosocial support services.
- r Audits, evaluations and appraisals, including programme activities, quality of work, staff performance, financial books and statements, progress to date.
- s Contracted services.
- t Support to the Commission, including Vodacom, NGOs and international donors.
- u Handing over of assets, including physical assets register, intellectual assets register, files, special reports and records.
- v Staff roll out and Commission close down plans.

p ANALYSIS OF SELECTED PROBLEMS ENCOUNTERED

'Grey' and contradictory areas in the Act

- 43 The Act was by no means perfect. While it purported to clarify intricate legal principles and relationships, it correctly left many moral principles undefined and implied. Thus, while many of the tough, hardcore decisions made by commissioners can be corroborated, some remain value-laden and can be defended only as value judgements by people of integrity.
- 44 The Act was also silent on a variety of practical issues, one of which was the relationship between the chief executive officer and the commissioners.
- 45 With regard to victims, the Commission was not able to implement decisions and could only recommend policies and procedures to Parliament and the President for implementation. However, the Commission could and did (via its Amnesty Committee) grant amnesties. This glaring contradiction in the founding Act led to sharp national and international focus and debates on a number of issues.

The roles and functions of the commissioners and portfolio heads

- 46 Owing to the short life of the Commission and the nature of its structure, there was a very thin line between the roles and functions of commissioners and portfolio heads concerning the formulation, development and

implementation of operational policies. This explains the structural overlaps and operational duplication that occurred.

Income and expenditure forecasts, budget negotiations and allocations

- 47 Because the Commission was without precedent, initial budgeting was based on broad estimates of what might be required. The initial amount allocated in the budget of the Department of Justice was not, therefore, based on any precedent and required ongoing adjustments.
- 48 The Commission, while of the utmost national significance, was only one of many critical national priorities requiring funding from the national fiscus. Like many other projects, therefore, the Commission was restricted by limited national resources. This resulted in drastic cuts to the budget which made it impossible to negotiate with staff, especially regarding salaries and the termination of contracts.

Bidding/tendering

- 49 Owing to the very short period in which it was required to complete its work, the Commission had no alternative but to move quickly from the outset. For this reason, the Commission decided (without going through the State Expenditure Regulations and the State Tender Board's required bidding procedures) to contract out certain aspects of its work (in particular, furniture, equipment and other services). This proved to be the only significant point on which the Auditor-General took issue with the Commission.
- 50 It also needs to be noted that the above decisions were made during the first three months of the Commission, before the chief executive officer and finance and support services director came on board. From that point on, the Commission adopted its own internal financial policies and controls procedures.
- 51 The Commission formally requested authorisation for the above expenditures and/or an exception from the State Expenditure regulations and/or the State Tender Board requirements. At the time of reporting, it had still not received a reply.
- 52 It was clear that both the State Expenditure regulations and State Tender Board procedures are extremely cumbersome and liable to act as hindrances for accelerated start-up and smooth functioning of any project of short duration. Thus, reasonable internally developed procurement policies and procedures need to be adopted to facilitate the fast pace, smooth operations and accountability of such short-term projects.

The Commission's adopted *modus operandi*

- 53 The Commission adopted a number of strategies to attain its objectives. As reported elsewhere in this report, these included the gathering of data, converting data into usable information, corroborating information received, research and investigation work and victim and perpetrator findings.

Safety and security

- 54 Given the nature and national significance of the Commission's work, the need for the appropriate safety and security of our Commission's processes, programmes, activities and members was of great importance. Thus, a risks and threats analysis was done on each of the commissioners when the Commission began work.
- 55 Based on this analysis, the chairperson, the vice-chairperson and one commissioner in the Durban Regional Office were initially afforded in-transit and static safety and security officers.
- 56 The need for effective safety and security was underscored when a bomb threat stopped the proceedings of the first victim-oriented hearing in East London on April 16 1996.

- 57 From then on, safety and security plans, arrangements and efforts before, during and after hearings were intensified, constantly reviewed and consolidated. This work was co-ordinated by the Safety and Security Functional Committee through two safety and security co-ordinators, assisted by the established nodal (liaison) point in conjunction and consultation with members of the National Safety and Security Department and the established on-site Joint Operations Commands (JOCs).
- 58 As other overt threats were directed at particular Commission members, further risks and threats analyses were performed. Consequently, in-transit safety and security officers were also afforded to the head of the Commission's Investigation Unit. Periodic patrols were also provided around the residential premises of the established at-risk and/or threatened members of the Commission.
- 59 Managing safety and security risks and threats and sustaining vigilance over time was dependent on the awareness and conscientiousness of those under threat, including the recording and reporting all manifestations of risks and threats they experienced.
- 60 One of the most difficult of the threats identified was that presented by leaks of critical and sensitive information - threatening the integrity of the work of the Commission. Whilst only commissioners and very few staff members handled very sensitive material, it became virtually impossible to establish the source of the many leaks that plagued the Commission.

p POSSIBLE LESSONS

National honour, privilege and forgiveness

- 61 It remains an honour and a privilege to have led the management of this extraordinary Commission.

Truth and reconciliation

- 62 Transformative change and development requires a unity of purpose, driven by collective will and commitment from the government of the day. This necessitates material and political commitment.

Respect for democratic values

- 63 While openness, transparency and accountability must at all times underscore the activities of projects of national significance, it is equally important to maintain a balance between the right to know and due process of law designed to protect alleged offenders. Within reasonable bounds, a Commission must respect the confidentiality of those who approach it, while using the media as a means to build and consolidate the new culture of human rights. This requires the media to show respect, professionalism and responsible journalism.

Partnerships

- 64 Given the depth and breadth of its work, the Commission realised early in its life that it would never have sufficient capacity to allow it to tackle its work and complete its mandate. Hence, in order to advance its causes, it established strategic alliances and partnerships with international donors and local human rights and other NGOs of repute.
- 65 Through partner NGOs, the Commission was able to reach out to a wider spectrum of both potential and declared victims of gross human rights violations. Through international donors, the Commission was able to strengthen its operational capacities.

Stewardship

- 66 Stewardship means placing service over self-interest and choosing responsibility over entitlement. It also means holding oneself accountable to those over whom one exercises leadership.

National assets

- 67 As a project of national significance, the Commission sought to broaden the capacities and widen the horizons of its staff members, as well as sharpening their skills. These become part of the human wealth of the broader society.
- 68 The Commission generated both physical and intellectual assets. The physical assets will be handed over to the Ministry of Justice. The intellectual assets will be transferred to the national archives. Indeed, commissioners and staff are encouraged to share their skills in ways that will enrich the nation.

Focus on debates

- 69 The Commission generated a range of national and international debates on human rights issues. The success of the South African transition is dependent on the continuation of these debates.

APPENDIX 1

p THE TRUTH AND RECONCILIATION COMMISSION FUNCTIONAL STRUCTURE

UPDATED AS AT 13 AUGUST 1998

APPENDIX 2

b NATIONAL HEARINGS, THINK TANKS AND WORKSHOPS

