

Regional Profile Natal and KwaZulu

● OVERVIEW OF THE REGION

The Territory¹

- 1 The province now known as KwaZulu-Natal lies on the eastern seaboard of South Africa, stretching up to Mozambique and Swaziland in the north and bordered by the Drakensberg mountains to the west. It covers a total area of 100 000 square kilometres. The area was originally populated by San hunter-gatherers and by Nguni-speaking peoples who moved down the East Coast of Africa in the eighteenth century and later coalesced into the Zulu nation.
- 2 English traders and hunters settled in the Port Natal (Durban) region in the early nineteenth century. In the mid-1800s, the province was annexed as an autonomous district of the Cape Colony and the British administration established the Native Reserve of Zululand between the Tugela River and Mozambique. Administration was based on Zulu customary law, set up in a way that allowed the colonial state to co-opt the institutions of chieftainship for its own purposes. Thus, Zulu chiefs became the administrators of the British settler government. Many chiefs gained their positions through loyalty to the white administration rather than through customary laws of genealogy.
- 3 With the formation of the Union in 1910, the systems of chieftainship were brought together under a centralised administration controlled by Pretoria. The Black (Native) Administration Act (No 38 of 1927) empowered commissioners to appoint and depose chiefs, and laid the rules for chiefs' succession, family relations and personal obligations. In 1951, the last of the representative institutions for blacks was abolished² and a local government system of tribal and regional authorities was set up within 'Bantu Authorities' (also known as 'Bantustans').
- 4 In 1970, the Zululand Territorial Authority (ZTA) was set up with Chief Mangosuthu Buthelezi as chief executive officer. In 1972, the ZTA was converted into the KwaZulu Legislative Assembly (KLA), with Buthelezi as the chief minister. The KwaZulu Constitution retained the colonial structures for regulating chieftainship, with chiefs appointed to their positions by the KwaZulu government. By now, the region's borders had changed substantially; KwaZulu consisted of disjointed fragments scattered throughout Natal. As with other homelands, the boundaries between Natal and KwaZulu were often marked informally by a river, a road or a mountain ridge. The land allocated to KwaZulu was largely barren and the soil degenerate compared to the generally fertile and productive farmland of Natal.

The people

- 5 KwaZulu and Natal together account for approximately one-fifth of South Africa's total population. The biggest population group is of African descent, of which 90 per cent is Zulu. About 90 per cent of the white population are English speaking. There is a sizeable Asian presence in Natal and a small section of the population is coloured.

The politics

- 6 Three main political groupings in the province have been identified for the purposes of this report:

The state

- 7 In Natal, this included the Natal Provincial Administration, the Department of Bantu Administration, the KwaZulu Government (including the KLA, local, regional, and traditional authorities and the KwaZulu Police or KZP) and structures in the security apparatus.

The Mass Democratic Movement (MDM)

- 8 This consisted of a loose alliance of organisations, most of which supported the political ethos of the African National Congress (ANC), and sometimes its military wing as well. These included organised labour, student organisations, the United Democratic Front (UDF) and its affiliates from the trade unions, Black Consciousness organisations, the Natal Indian Congress (NIC), the Congress of Traditional Leaders of South Africa (CONTRALESA), churches and church bodies, and non-governmental organisations (NGOs).

Those opposing the state from within state-created structures

- 9 Among these groups were Inkatha³ and its affiliates, working through the homeland and traditional structures.

● OVERVIEW OF VIOLATIONS

Violations reported

- 10 Close to half of all statements reporting gross human rights abuses received were from the KwaZulu-Natal region (figures for Free State included: see introduction to this volume). This makes the proportion of submissions relative to population almost four times higher for this province than for the rest of the country. It was noticeable that the KwaZulu-Natal submissions tended to have a lower number of violations per victim (1.4 compared to the national average of 1.8–2.0), reflecting the large number of ‘single incident’ violations, mostly political killings and arson attacks.
- 11 Most (63 per cent) of the deponents in KwaZulu-Natal were women – a significantly higher proportion than for other regions. In many cases, it was women who told the stories of families decimated by the political conflict in the province, with accounts of the loss or severe injury of male relatives. Fifty-four per cent of women deponents identified themselves as primary victims; while over 70 per cent of male deponents spoke of themselves as victims. The average age of deponents in KwaZulu-Natal was estimated at forty-three years.

Types of violations

- 12 The trends in gross human rights violations in Natal over the Commission's mandate period show a marked increase in severe ill treatment from 1984, rising sharply between 1988 and 1990, and again from 1992 until the national elections of April 1994. A similar trend is indicated for politically motivated killings. Severe ill treatment accounted for the highest number of reported violations, followed by politically motivated killings. Together these two categories made up the overwhelming majority of violations. Moreover, over half of all violations reported nationally in these categories occurred in KwaZulu-Natal. Forms of severe ill treatment included arson, assault, stabbing, incarceration, shooting, burning and destruction of property. The most common form of severe ill treatment occurring in Natal was arson, rising significantly in the 1983–89 period and increasing dramatically in the 1990s. Incidents of shooting also rose dramatically during these two periods. Most of the politically motivated killings in the province were by shooting. Fatal stabbings also showed a steady increase.

Victim categories

- 13 The statistics show that the victims of political killings were primarily males aged between thirteen and forty-eight years. This applies also to the victims of severe ill treatment until the 1990s, after which the victims were primarily female and between the ages of twenty-five and sixty years.
- 14 The statistics show that at least three times as many victims of severe ill treatment belonged to the ANC/UDF as to the IFP and other political groups. ANC supporters were also the overwhelming majority of victims of associated violations in all review periods. Reports of associated violations against Inkatha, the PAC and other organisations were recorded from 1976, and statistics showed a marked increase in the number of Inkatha members suffering associated violations during 1983–94.
- 15 The victims of acts of torture were also overwhelmingly male, between the ages of thirteen and forty-eight and predominantly ANC/UDF members and supporters. There were remarkably few reports of the detention and torture of Inkatha supporters.

Perpetrator groups

- 16 The evidence identifies the South African Police (SAP) as a dominant and consistent perpetrator group in three categories of abuse: torture, severe ill treatment and killings. Incidents of torture perpetrated by the police rose dramatically from 1984, peaking in 1986 and again in 1988. Statistics show that assault or beating was by far the most common form of abuse. Electric shocks were used increasingly and most frequently during the 1983–89 period, corresponding roughly to the years of emergency government.
- 17 Inkatha was identified as a major perpetrator of gross human rights violations from 1983. Incidents of killings attributed to Inkatha rose dramatically in 1989–90, peaking again in 1993. Acts of severe ill treatment attributed to Inkatha and later to the IFP rose steadily from 1983 and dramatically between 1989 and 1994.
- 18 The ANC was also identified as a perpetrator group. Incidents of killing attributed to the ANC rose steadily from 1983, peaking in 1989 and 1992. There was a corresponding rise in the number of acts of severe ill treatment attributed to the ANC. According to information before the Commission, the number of acts of severe ill treatment attributed to the ANC was roughly one third of the corresponding figure for the IFP.
- 19 Incidents of associated violations were attributed predominantly to the SAP, except in the period 1990–94 when the greatest number were attributed to the IFP. The SAP was identified overwhelmingly as the major perpetrator of acts of torture throughout.

Where did the violations occur?

- 20 In the earlier periods under review, most reports emanated from Durban and Pietermaritzburg and surrounding areas; but violations gradually spread further afield, particularly to the Natal Midlands and the small outlying towns. By the 1990s, the entire province, urban and rural, had been touched by the violence – particularly in certain areas which came to be known as ‘flashpoints’. Notably, the province’s white suburbs remained relatively untouched by the political conflict in the province, apart from acts of sabotage in urban centres and incidents of police brutality at police stations.
- 21 Statements were received from a broad cross-section of communities in the province, with the majority coming from the townships and rural KwaZulu (former ‘black areas’). While many people approached the Commission of their own accord with reports of violations, the Commission also deployed teams of statement takers across the province to gather a wide-ranging sample of evidence for a more complete view of the region’s history. Statement takers reported difficulties in gaining access to some areas, for example Inchanga, which had been the scene of political conflict during 1996–97, and other areas known to be strongholds of the IFP.

- 22 The Commission received a total of 19 143 reports of alleged human rights violations in the province, of which one quarter referred to politically motivated killings. NGOs, research institutes and monitoring bodies have estimated the actual number of politically motivated killings for the period to have been four times greater – between 18 000 and 20 000.
- 23 The antagonism of the provincial majority IFP to the work of the Commission inhibited many IFP supporters from coming forward to tell their stories. A resolution of the IFP annual general meeting in July 1995 stated categorically that the IFP would not participate in the activities of the Commission. In correspondence and at meetings, commissioners expressed their desire for the IFP to encourage its members to appear before the Commission. The IFP maintained its stance, raising several objections to the work of the Commission, in particular to what it described as the ‘partisan composition’ of the Commission and to the conducting of public hearings in the province. Its strong opposition to the Commission’s work was publicised in a newspaper advertisement in August 1997. In October 1997, however, the IFP agreed not to discourage its supporters who wished to come forward, in view of the fact that reparations could not be made available to victims who had not made statements to the Commission. The date for victims’ submissions was extended to 15 December 1997, and several thousand submissions were made following this decision, although very few of these were from IFP supporters.
- 24 The majority of reports of human rights violations in the region refer to the conflict between supporters of the IFP and the ANC-aligned supporters of the UDF. Fighting between the two parties developed into open conflict in the 1980s and climaxed in the pre-April 1994 election violence, often amounting to civil war.
- 25 The Commission received many more accounts of the political violence from UDF/ANC supporters, creating the impression that the violations suffered by the UDF/ANC outnumbered those suffered by Inkatha by five to one. The Commission was unable to establish the degree to which this disparity is a reflection of the IFP’s rejection of the Commission or a reflection of the actual experience of violations.
- 26 Similarly, reports of gross violations suffered by members of the former security forces (SADF, SAP and KZP) contributed less than 1 per cent of the total violations reported in KwaZulu-Natal. There is no doubt that members of the former security forces were victims of the political struggle in KwaZulu-Natal. Many were harassed and reviled; many became the targets of violent attack, and many were killed. These victims and their families did not come forward to tell their stories.

● 1960–1975

Historical overview of the period

- 27 Several factors converged at the beginning of 1960 to usher in a decade characterised by extreme repression and demoralisation in the political life of the nation. With the 1959 Bantu Self-Government Act in place, the Nationalist government embarked on a policy of ‘divide and rule’. The banning of the ANC and the Pan Africanist Congress (PAC) in April 1960 was an attempt to repress all forms of opposition, although non-violent and legal, in the country as a whole. In Natal, the decade was marked by the widespread imposition of restrictions, banning and banishment orders on individuals, arrests, detentions and police brutality, and by criminal prosecutions under the main pillars of apartheid legislation.
- 28 From the early sixties, the pass laws were the primary instrument used by the state to arrest and charge its political opponents. By the same token, it was mainly the popular resistance mobilised against those pass laws that kept resistance politics alive during this period. Africans in Natal incurred heavy fines for burning reference documents.

One of those fined was Chief Albert Luthuli, president of the ANC and 1960 Nobel Peace Laureate. Shortly before its banning, the ANC organised anti-pass law demonstrations in Durban, resulting in large-scale arrests and detentions. Protests against the Group Areas Act became another major feature of resistance at this time, particularly in areas where residents were under threat of removal.

Umkhonto we Sizwe

- 29 The ANC established a separate armed wing, Umkhonto we Sizwe (MK), in 1961 and developed an underground campaign to expose and counter state repression. The multi-pronged strategy included a propaganda campaign and student protest action in a number of black and English-medium universities. On 16 December 1961, MK launched Operation Mayibuye, a sabotage campaign directed mainly at government installations. This led to a large number of bannings, arrests and prosecutions, and the Commission heard several accounts of torture of detainees in Natal. Many operatives and activists were sentenced to jail terms for sabotage or for membership of the banned liberation organisations; many more were driven into exile. By the mid-1960s, the underground structures of the ANC had collapsed and formal opposition politics were at their most subdued.
- 30 After the Rivonia trial (1963–64) in which Mr Nelson Mandela and other members of the MK high command were tried, an attempt was made to reconstitute the high command, but all its members were subsequently arrested. The internal units of MK were in disarray, and any Natal operatives who were not in prison or on trial went into exile. About 800 MK cadres were in exile by 1965, undergoing training in Tanzania, Czechoslovakia, the Soviet Union and China under the command of Mr Joe Modise.
- 31 In 1967, MK cadres were sent into Rhodesia with Zimbabwe African People's Union (ZAPU) units in what was known as the 'Wankie Campaign'. The main MK unit (the Luthuli Detachment) was to forge a way to South Africa whilst another established a transit base in Sipolilo, Rhodesia. The South African security forces were invited into Rhodesia by the Smith government and launched a joint operation against MK-ZAPU units. These were the first cross-border actions against MK cadres from Natal. The Luthuli Detachment included well-known Natal MK cadres such as Mr Justice Mpanza from Groutville and Mr Daluxolo Luthuli⁴. Many of these cadres and their families later told their stories to the Commission.
- 32 In 1969, the ANC in exile established a Revolutionary Council to oversee all political and military work. Various attempts to send MK into South Africa, particularly into the rural areas, were thwarted when operatives were captured or killed, so there was very little MK activity in the late sixties and early seventies. The political landscape changed with the release of MK cadres such as Mr Harry Gwala, Mr Joe Gqabi and Mr Jacob Zuma from Robben Island starting in 1972 and with Mozambique's independence in 1974, giving MK a corridor into South Africa. MK units in Natal began to redevelop routes to their units in Swaziland.

Black Consciousness

- 33 Early in the 1970s, new forms of resistance and new challenges emerged internally. A number of new organisations, such as the (black) South African Students' Organisation (SASO) and the Black People's Convention (BPC), espoused the philosophy of Black Consciousness, which addressed the psychological oppression and the daily experience of racism of black people. The NIC was revived in 1971. While the movement rejected the exclusivist aspirations of Black Consciousness, it became an outspoken opponent of ethnic and racially-based government administration in both the province and the country, and was effective in raising political consciousness in the Indian community.

The KwaZulu National Assembly

34 Those in the Black Consciousness tradition expressed clear opposition to blacks operating within government-created institutions. This rejectionist position served increasingly to isolate people like Zulu leader, Chief Mangosuthu Buthelezi, who headed the Zululand Territorial Authority created in 1970 and its successor, the KLA. From these positions, he sought to advance his own political agenda as well as his opposition to both apartheid and a specific strand within the ANC. He became a thorn in the flesh of the National Party (NP) government, which tried by various means to unseat him. He made it clear to the central government that he would only consider accepting homeland 'independence' on condition that the territory was consolidated to include the new harbour of Richards Bay and all 'white' towns north of the Tugela.

D u r b a n s t r i k e s

35 The Durban strikes of 1973 marked a turning point in the history of political resistance in the province. With wages practically frozen for over a decade, the growing poverty in the cities – and therefore also in the rural areas where families depended on the wages of migrant breadwinners – led to strikes which affected 150 establishments and involved 60 000 workers during the first few months of 1973. The strikers were ultimately forced to back down, but they laid the foundations for a new labour union movement and for organised social resistance in other spheres of the anti-apartheid struggle. The General Factory Workers' Benefit Fund also opened the way for the organisation of workers in a number of industrial fields. This was an initiative of the Wages Commission, set up at the University of Natal in 1972 to research labour conditions and to provide workers with a vehicle to voice their grievances.

36 While most homeland leaders limited their concerns mainly to the citizens of their own territory, Chief Buthelezi, the most outspoken of these leaders in attacking the South African government, used the Durban strikes to voice the more general aspirations of Africans and to assert an ethnic, specifically Zulu, mode of resistance. The KwaZulu government supported the strikers' demands for increased wages and used the opportunity to demonstrate to the white authorities what collective action could achieve unless concessions were made to African people.

37 Towards the end of 1974, several Black Consciousness supporters were arrested in Durban in connection with the planning of *Viva Frelimo* rallies to celebrate the fall of Portuguese colonialism in Mozambique. Many members of Black Consciousness organisations fled the country. Some were detained and others were charged under the Terrorism Act No 83 of 1967.

I n k a t h a

38 In 1975, the Inkatha Cultural Liberation Movement (Inkatha) was revived, marking a new era in the province's political life. Its strategy and its future relationship with other opposition groupings were shaped by the Durban strikes as well as by the scholars' uprising of 1976 in Soweto.⁵

39 The formation of Inkatha had the approval of the ANC, because the new movement appeared to offer access to rural areas. Initially, Inkatha placed itself squarely within the political tradition of the ANC's founding fathers. However, Inkatha was later to operate uncontested on any scale within the space provided by the homeland policy and the state's repression of all other opposition.

Overview of violations

40 Torture and severe ill-treatment were the predominant form of gross human rights violations reported for this fifteen-year period: that is, torture 41%; severe ill treatment 38%; associated violations 11%; killings 7%; attempted killings 1%; abduction 1%.

- 41 All reported incidents occurred in the greater Durban and Pietermaritzburg areas. In the majority of cases, the victims were aligned to the ANC, the South African Communist Party (SACP) or were non-partisan. Most reported violations were attributed to members of the SAP.

State and allied groupings

Torture in custody

- 42 Many ANC and SACP activists spoke of detention and torture by the police during this period. The first reported case of torture through poisoning was received for this period. The Investigation Unit could not corroborate all statements as records had been destroyed. However, from information received, it appears that torture methods used by the police ranged from severe assault to forcing a victim to assume contorted and degrading positions. In some cases, it is believed that death resulted from torture suffered during detention.

The Case of Ethel Shabalala and Jerome Duma

SACP member Ms Ethel Sizile Shabalala [KZN/NN/004/DN], and her husband, ANC member Jerome Duma, both of Umlazi, were detained, interrogated and tortured repeatedly throughout the 1960s by members of the Security Branch. Shortly after Duma's release from detention on 30 August 1970, he died of renal failure believed to have been caused by the torture he suffered in prison. Shabalala said that when she was released from detention, she found that her house and its contents had been given to other people.

- 43 Members of SASO and BPC were tortured in detention following their arrest in September 1974 for the planning of Viva Frelimo rallies.
- 44 One of those arrested in Durban was Ms Bridgette Mabandla, employed at the time as a youth programme organiser for the South African Institute of Race Relations (SAIRR). Her husband, Mr Lindilwe Mabandla, had been arrested three days earlier. Ms Mabandla was in detention for five months and three weeks, during which time she was not permitted to see her five-month-old baby. She was allegedly tortured on a number of occasions by members of the Security Branch. Former Durban security policeman, Colonel ARC Taylor [AM4077/96] applied for amnesty for the torture of Mabandla and five others arrested at the same time: namely Mr Sathasivan Cooper, Mr Revabalan Cooper, Mr Lindani Muntu Myeza, Mr Nyangana Absalom Cindi and Mr Reuben William Hair. Taylor died on 11 November 1997, before his application for amnesty could be heard.
- 45 At the Durban hearing, the Commission heard that underground ANC cell leader Haroon Aziz [KZN/MR/013/DN] of Stanger was tortured following his arrest in 1975 under Section 6 of the Terrorism Act. He described the various forms of torture he suffered at the hands of the police, including a method that came to be known as the 'invisible chair'.

They used to make me sit on what they used to call an invisible chair. An invisible chair is you pretend to sit on a chair, but there's no chair there, and you hold your hands out and you flick your fingers. They interrogate you and you have to answer the questions. This invisible chair position was quite close to the wall, but I wasn't allowed to lean against the wall. In front of me, one of the special branch policemen used to hold a knife at my navel so as to prevent me from falling easily to the ground. And if they were not satisfied with the answers I gave, from time to time they would hit me on my penis, and sometimes squeeze it. It was very difficult to fall down because of the knife in front but eventually, when I fell, I was kicked and this kicking used to go on and I used to scream and shout and they used to laugh at me like mad hyenas.

- 46 In February 1975, Aziz was moved to the Pretoria Maximum Security Prison where he was kept in solitary confinement for four months. He was finally released without being charged.

- 47 ANC activist Leonard Mdingi [EC2150/97ETK], then aged fifty-five, was severely tortured by Durban security policemen in 1975 after being arrested for harbouring ANC cadres. During his week in detention he was assaulted, made to stand on one leg for long periods of time, and was wrapped in a cloth and put in dry ice for about five hours. He suffered internal injuries as a result of his torture.
- 48 Many others were arrested and tried, and some tortured, for leaving the country to undergo military training under MK.

The Case of Anthony Xaba

Mr Anthony Ndoda Xaba from Pietermaritzburg [KZN/PMB/002/PM], who left for training in Tanzania in 1963, was one of a large number of MK recruits arrested in Northern Rhodesia. Xaba told the Commission that they were tortured at Beit Bridge before being brought to South Africa to be tried for leaving the country unlawfully. Xaba was sentenced to ten years, which he served on Robben Island. On his release in July 1973, he was immediately placed under house arrest for five years.

One morning in November 1975, police surrounded Xaba's house, rounded up all six members of his family and took them to Loop Street police station in Pietermaritzburg. Xaba says he was taken upstairs where he was systematically assaulted, tortured and interrogated for two days. He was bleeding heavily and lost consciousness a number of times. His torture included being hung out of the window by his feet while the policemen swung him backwards and forwards and banged his head against the wall. His arm was broken in the process. At one point during the torture, he said he could hear the screams of his wife in the adjoining room. On his second day of torture, Xaba's hands were cuffed behind his back and he was suspended from the ceiling like "meat in the butchery".

The Case of Sipho Hamilton Kubheka

ANC Youth League member, Sipho Hamilton Kubheka [KZN/NNN/078/PM], told the Commission that he was detained and tortured on a number of occasions by the Pietermaritzburg Security Branch during 1975. He said he was subjected to severe mental torture and a month in solitary confinement, was stripped naked and assaulted. During his torture he was told that he had to turn against the ANC and be a state witness in the pending Gwala treason trial; if he refused to co-operate, he would be thrown off a moving train.

He did testify on behalf of the state during the above-mentioned trial and was then released.

- 49 Many activists were charged with furthering the aims of the banned ANC, SACP or PAC. Those charged and tried in the 1960s included Mr Albert Dlomo, [KZN/NM/ 228/DN] and Mr Griffiths Mxenge of the ANC; and Mr Shadrack Maphumulo, Mr Joseph Mdluli, Mr Rowley Arenstein, Ms Dorothy Nyembe and Mr MD Naidoo of the SACP. Several people fled into exile to avoid long prison sentences.

IN REVIEWING THE EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS PERPETRATED BY THE STATE IN NATAL DURING THIS PERIOD, THE COMMISSION FINDS THAT THE SAP ASSAULTED AND TORTURED DETAINEES AND OPPONENTS OF THE GOVERNMENT, ESTABLISHING A PATTERN OF ABUSE THAT INCREASED IN INTENSITY THROUGH SUBSEQUENT PERIODS. THESE ACTS AMOUNTED TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

Resistance and revolutionary groupings

S a b o t a g e

- 50 In December 1961, MK began a campaign of sabotage directed at government installations, especially communications and power installations. The military high command of MK had established regional commands and appointed trade union official Mr Curnick Ndlovu [AM5952/97] to head the Natal command. Other members of the Natal region included Mr Billy Nair [AM5613/97], Mr Ronnie Kasrils [AM5509/97], Ms Eleanor Kasrils [AM7725/97], Mr

Ismail Ebrahim, Mr Bruno Mtolo and Mr David Ndawonde. They reported to the Commander of MK, Mr Nelson Mandela, until his arrest in Howick in 1962, and thereafter to Mr Raymond Mhlaba.

- 51 The sabotage campaign began with an attempt on 15 December 1961 to bomb the Durban offices of the Department of Bantu Affairs [AM5509/97: R Kasrils]. Other acts included the November 1962 attempt to sabotage pylons in the Durban/ Pinetown area, the bombing of the Durban Post Office in December 1962 and the January 1963 attempt to sabotage telephone services in an industrial area of Durban. An African tax office, a beer hall and a section of railway line were also damaged by sabotage at this time.
- 52 In the 1964 'Spear of the Nation' trial, Billy Nair, Curnick Ndlovu and seventeen others stood accused of twenty-seven acts of sabotage in Natal, the possession of explosives and the recruitment of military trainees. Bruno Mtolo gave evidence for the state, allegedly at the behest of Mr Jan Daniel Potgieter, an amnesty applicant from the Security Branch's intelligence unit [AM5418/97]. Potgieter claims to have 'turned' many of the informers and/or *askaris* ['turned' guerrilla fighters] who assisted the Security Branch in Natal. Nair and Ndlovu were sentenced to twenty years, one was discharged and the rest were given sentences of five to fifteen years [AM5613/97: Billy Nair].
- 53 In response to the sabotage campaign, the General Laws Amendment Act (76 of 1962) created the offence of sabotage. Sabotage was loosely defined as "wrongful and wilful" acts designed to "obstruct, injure, tamper with or destroy" things such as the 'health and safety of the public' or the "supply of water, light, fuel or foodstuffs". The penalties ranged from a minimum five-year sentence to the death penalty.

Attacks on... collaborators.

- 54 Information from victims' statements and amnesty applications from former Security Branch members indicates that police torture aimed not only at extracting information from detainees but also at compelling individuals to 'turn' against the liberation movements and co-operate with the police instead. In many instances, the police were successful. Many individuals, formerly loyal members of the banned liberation organisations, became police informers under threat of torture or death, or turned state witness against their colleagues in an effort to avoid prosecution themselves.
- 55 Informers and 'collaborators' became targets of attack. The case of Leonard Nkosi illustrates how one-time heroes of the liberation struggle came to be hunted for betraying their own colleagues to the Security Branch.

The Case of Leonard Nkosi

Mr Leonard Nkosi left South Africa in 1963 to undergo military and political training with MK. He was a leader and allegedly a renowned sniper in the Wankie Campaign. He was captured by the Security Branch in 1967 and it is believed that he worked as an askari and later joined the Security Branch. In his application for amnesty, Mr Jan Daniel Potgieter [AM5418/97], a member of the Security Branch intelligence unit, revealed that Nkosi had been compelled to turn state witness against his former colleagues.

Daluxolo Luthuli [AM4057/96] claims that it was Nkosi who assisted in his December 1967 arrest in a sting operation in Messina. Nkosi subsequently testified against him and Luthuli was sent to Robben Island. Nkosi also testified for the state against other members of the Luthuli Detachment, including Mr James April who was tried in the Pietermaritzburg Supreme Court [CT00428/OUT].

On 9 September 1977, shortly after testifying against Harry Gwala and nine others in the 1976–77 treason trial in Pietermaritzburg, Nkosi was assassinated. Security Branch amnesty applicants told the Commission that Nkosi was shot dead and his wife injured with a single shot from a Tokarev and that ANC member Reverend Stanley Msibi (now deceased) was implicated in Nkosi's death [AM3686/96]. The ANC claimed responsibility for the assassination in its second submission to the Commission.

THE COMMISSION FINDS THAT MEMBERS AND SUPPORTERS OF THE ANC WERE RESPONSIBLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS ARISING OUT OF THE SEVERE ILL TREATMENT AND KILLING OF SO-CALLED 'COLLABORATORS' – INDIVIDUALS PERCEIVED TO BE WORKING FOR THE SAP IN A WAY THAT WAS DETRIMENTAL TO THE RESISTANCE MOVEMENTS, AND THAT SUCH ACTS FORMED A PATTERN OF ABUSE FOR WHICH UNKNOWN MEMBERS AND SUPPORTERS OF THE ANC ARE HELD ACCOUNTABLE.

● 1976–1982

Historical overview of the period

- 56 The political life of the province during this period was marked by attempts by Inkatha to consolidate its regional power base. By the late 1970s, Inkatha's membership had swelled substantially. Chief Mangosuthu Buthelezi described Inkatha as the "largest and best organised Black constituency"⁶ ever seen in South Africa.
- 57 At a national level, the 1970s were shaped by the events and consequences of Soweto 1976. While it took some time for the full impact to be felt in Natal, the focus of opposition shifted decisively to a new generation and brought about an age divide that was to have far-reaching consequences for traditional relationships between old and young.
- 58 The 1976 Soweto uprising produced a wave of popular protest in the province and generated the beginnings of youth and student polarisation. Student organisations such as the South African Students' Movement (SASM) and the junior wing of the Congress of South African Students (COSAS) confirmed their policy of rejecting all government-created institutions and foreign investment, bringing them into conflict with Inkatha policy. The opposition of Inkatha and the KwaZulu government to the school-based protests deepened existing tensions between political groups and organisations in the province.
- 59 By April 1980, the national campaign of students against overcrowding in schools, lack of equipment and books and lack of student representation had spread to KwaMashu, north of Durban. Boycotting pupils in KwaMashu defied Chief Buthelezi's calls to return to school, resulting in clashes between pupils and Inkatha supporters. Altogether thirty-six KwaZulu and Natal schools were affected by the school boycotts of 1980 and 1981. These boycotts allegedly led to an increased exodus of youth from the country to join the ANC.
- 60 In the first few years after the revival of Inkatha in 1975, the ANC regarded Chief Buthelezi as an important ally inside the country.⁷ Buthelezi himself stated repeatedly that Inkatha was based on the ideals proposed by the ANC's founding fathers in 1912. In these early years, the external mission of the ANC maintained contact with him and encouraged their supporters back home to join Inkatha.
- 61 However, emerging differences of opinion and strategy between Chief Buthelezi and the ANC leadership in exile began to cause tensions between the two organisations. While the ANC called for sanctions and disinvestment and advocated an armed struggle and protest politics, Chief Buthelezi opposed these methods, arguing that the demise of apartheid was best brought about through constituency-based politics, focusing on evolutionary (rather than revolutionary) change. Opposition to apartheid, he believed, was best located within the structures of the state. The ANC failed to mobilise its supporters to give effect to Chief Buthelezi's strategy. According to Oliver Tambo, this was due to "the understandable antipathy of many of our comrades towards what they considered as working within the bantustan system".⁸
- 62 Matters came to a head at a London meeting between Chief Buthelezi and the ANC leadership in exile in October 1979. Chief Buthelezi expressed his disagreement with the ANC's strategy of the armed struggle and its belief in revolutionary change. He claimed that the ANC in exile no longer had a mandate from the masses. The masses, he said, had given up on waiting for the exiled ANC to liberate them militarily and were now seeking liberation through

constituency politics. Chief Buthelezi accused the ANC's external mission of being hypocritical and of having deserted black South Africans.⁹

63 Chief Buthelezi interpreted the ANC's motives for the meeting as a desire to make Inkatha an internal wing or surrogate (and therefore an inferior subsidiary) of the ANC. He, for his part, went to the meeting to make a claim for political independence:

*Inkatha is a political phenomenon of considerable magnitude and the ANC will be faced with having clearly to endorse the Inkatha position.*¹⁰

64 The meeting resulted in the severing of ties between the ANC and Inkatha. The ANC described the meeting as a failure. Former IFP national council member Walter Felgate, on the other hand, described it as 'good news'. In his view, Chief Buthelezi had shown the ANC that he had the necessary support and could go it alone.¹¹ Following the meeting, relations between the ANC and Inkatha deteriorated rapidly. In its submission to the Commission¹², the IFP said, "from then onwards Inkatha was singled out as an enemy".

65 Inkatha moved to consolidate its position in the province by relying increasingly on 'traditional' authority for control. Additional powers granted by the state consolidated its power base and control over the population. The 'Inkatha syllabus' entered the educational system; rents and transport became sources of revenue for the KwaZulu government and townships came under the control of KwaZulu. Townships earmarked for incorporation became centres of conflict. The KZP came into being, initially to serve as a state guard to protect KwaZulu government officials and property. Chief Buthelezi, as both chief minister and minister of police, soon called for greater powers and more resources for the KZP.

66 In the meanwhile ANC youth, now in the front lines of resistance to the government and in a situation of increasing political rivalry with members and supporters of Inkatha, were making more militant demands of their own leaders.

67 A war of words erupted between the two movements. The ANC, having failed to make Inkatha the vehicle for its organisational inroads into the important rural constituencies, now embarked on a propaganda onslaught against Chief Buthelezi and Inkatha. As the battle lines were drawn, Chief Buthelezi turned to and received support from the state security apparatus and Inkatha found itself part of the state's strategic response to 'the total onslaught' by the liberation and resistance movements.

68 During this period, the security forces adopted a more proactive strategy in dealing with the liberation movements. Reports and allegations of the torture of political detainees increased steadily and became more widespread. Abductions and political assassinations were also reported.

69 Following the national outcry over deaths in police custody, the security forces began to consider other ways – such as assassination – to silence their opponents. Military combatants of the banned ANC and PAC were often the 'faceless victims' of assassination by the security forces, their identity frequently unknown by their killers or their own units. The Commission had the task of matching the names of those who disappeared against names submitted by amnesty applicants who knew only the travelling names or *noms-de-guerre* of those they had killed. Former members of fragmented MK units, who had operated on a need-to-know basis with few written records, could not always assist the Commission in this task.

70 Combatants were not the only victims, however. Human rights activists, academics and ideological leaders engaged in legitimate opposition to the state's policy of apartheid were also targeted for attack. Assassination became a way of silencing and removing those who could not be charged with criminal offences, even within the broad parameters of the security legislation at the time.

71 Deaths in custody during this period were characterised by a marked discrepancy between official police explanations and independent forensic evidence. In the main, the police claimed that deaths in detention were caused by suicide,

by accidental events or in the course of attempted escape. The Commission heard that, in some cases, inquest rulings appeared to support the police version of events, clearly at odds with the other available evidence.

- 72 More treason trials were held in this period. In 1976, Mr Harry Gwala and nine others were charged under the Terrorism Act. Two of the accused said that they had been kidnapped in Swaziland and tortured. In several other treason trials held in the province in the late 1970s, activists were charged with planning to undergo military training and encouraging others to do so. Mr Isaac Zimu and three others, tried in 1977, and Mr Timothy Nxumalo, Nqutu teacher Vusumuzi Lucas Mbatha and others, tried in 1978, all claimed that they had been tortured in various ways while in detention.

Overview of violations

- 73 As in the previous period, torture and severe ill-treatment were the dominant forms of violation reported to the Commission: that is, severe ill treatment 33%; associated violations 19%; torture 29%; killing 12%; abduction 7%; attempted killings 1%.
- 74 From information received, it emerged that the principal victims were ANC-aligned opponents of apartheid, including school activists. The increase in killings reflects the inclusion of political assassinations. The first reported Natal cases of abduction by security forces from a neighbouring state occurred in 1976. This period also saw an increase in acts of sabotage by MK. The overwhelming majority of acts of severe ill treatment recorded for the period were committed by the SAP, followed by those attributed to Inkatha and to the ANC. A small number of similar violations was attributed to other political organisations and to the KZP.
- 75 The overwhelming majority of acts of torture recorded for the period were attributed to the SAP.
- 76 The overwhelming majority of associated violations were attributed to the SAP, followed by Inkatha. A small number of similar violations were attributed to the ANC and to the KZP. The majority of killings recorded for the period were committed by members of the SAP, followed by those attributed to the ANC and to Inkatha. Killings were also attributed to the KZP.
- 77 Violations occurred over a wider area, although still largely concentrated around Durban and in the Midlands. A number of violations were also reported in Northern Natal (Madadeni, Msinga, Vryheid, Nkandla), on the lower South Coast (Gamalakhe, Port Shepstone), and on the North Coast (Empangeni).

State and allied groupings

Torture in custody

- 78 Several ANC and PAC members told the Commission that they were severely tortured in detention during this period. Several of these were involved in the 1976 treason trial in which Harry Gwala and nine others stood accused on charges relating to recruiting military trainees and getting them out of the country, and communicating with exiled ANC members in Swaziland. During the course of the trial, six of the accused filed summonses against the Minister of Police for failing to respond to their damages claims in respect of the torture they suffered.

The Cases of Joseph Nduli and Cleopas Ndlovu

Former security police member Colonel ARC Taylor [AM4077/96] applied for amnesty for the abduction and torture of Mr Joseph Nduli and Mr Cleopas Ndlovu, both accused in the 1976 Gwala treason trial. With the assistance of Amnesty International, the Commission obtained statements taken from Nduli and Ndlovu¹³ in exile by the United Nations, in which they alleged that they were abducted from Swaziland on 25 March 1976

by Durban Security Branch members and taken to Island Rock, Sodwana Bay, for questioning. They were both allegedly tortured.

Nduli alleged that he was immersed in the sea, subjected to electric shocks while being suspended from the neck, and beaten. Ndlovu alleged that he was blindfolded for thirteen days while his neck and wrists were tied with rope. He was made to stand for long hours and subjected to electric shocks.

Taylor stated that Ndlovu and Nduli were abducted by members of the Security Branch and Riot Unit at the Swaziland border and taken to a base at Island Rock. Taylor stated that Ndlovu and Nduli were assaulted with open hands and fists and one of them was kicked. They were also deprived of sleep.

The Case of Zephaniah Lekoane Mothopeng

The Commission heard that PAC member Zephaniah Lekoane Mothopeng [JB04279/01GTS0W] suffered torture at the hands of unknown security policemen while in the Pietermaritzburg prison for his involvement in the 1976 Soweto uprising. During his torture, a policeman placed a sharp knife on his head and gently beat the knife down with the palm of his hand. He was also forced to lie on ice, and was placed in a sack and spun around in the air. With his hands and feet shackled to a stick, Mothopeng was suspended from the ceiling and spun around. This became known as the 'helicopter technique'.

79 In reviewing evidence of gross human rights violations perpetrated by the state in Natal during this period (1976–82):

THE COMMISSION FINDS THAT THE SAP MADE WIDESPREAD AND ROUTINE USE OF ASSAULT AND SEVERE TORTURE AS PART OF A SYSTEMATIC CAMPAIGN TO SILENCE AND SUPPRESS OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT. THE TORTURE AND SEVERE ILL TREATMENT OF AN UNKNOWN NUMBER OF SUCH PERSONS CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

Deaths in custody

80 The Commission conducted investigations into the deaths in custody of several ANC and PAC members, including Mr Aaron Khoza of the PAC and Mr Hoosen Haffajee, Mr Bayempini Mzizi and Mr Joseph Mdluli of the ANC. An investigation into these and other cases was hampered by the destruction of records and by the fact that some of the detainees were moved to prisons far from their homes and interrogated by persons unknown to them or their families. In all cases, however, family members alleged that the victims had died in custody at the hands of the police. As with other recorded deaths in police custody, there was a marked disparity between the official police version and other evidence of the events leading to these victims' deaths.

The Case of Aaron Khoza

PAC member Aaron Khoza was detained in Krugersdorp on 9 December 1976, along with Mr Johnson Vusumuzi and Mr Ivan Nyathi. He was subsequently moved to Pietermaritzburg prison, where he died on 26 March 1977. On 12 July 1977, an inquest magistrate found that Khoza had committed suicide by hanging. Advocate Harry Pitman, appearing for the family, said the evidence of the prison authority was conflicting and the investigation unsatisfactory. Aaron Khoza's widow, Ms Alletta Maki Khoza told the Commission [JB04458/03WR] that her husband was detained in November 1976 for underground activities and was held for 106 days. She said that she did not believe that he committed suicide as his face was scarred, showing that he had been severely assaulted.

Nyathi remained in Krugersdorp and was admitted to hospital on 2 February 1977 after allegedly falling out a window at Krugersdorp police station¹⁴.

The Case of Joseph Mdluli

ANC member Joseph Mdluli died in detention on 19 March 1976, just a day after his arrest in connection with the 1976 Gwala treason trial. Four security policemen were charged with culpable homicide, namely Mr Frederick Van Zyl, Colonel ARC Taylor, Mr Mandlakayise Patrick Makhanya and Mr Zabulon Ngobese. In their

trial they claimed that Mdluli had tried to escape and had fallen over a chair. A pathologist presented evidence disputing the police version. All four accused were acquitted on 25 October 1976, the fifth day of the trial. The presiding judge said there was insufficient evidence to connect them directly to the death. He called for further investigation.

In March 1979, Mdluli's widow [KZN/KM/999/DN] sued the state in a civil court and accepted an out-of-court settlement of R28 616.

Before his own death in November 1997, Colonel Taylor was subpoenaed to appear before the Commission and questioned about this incident. He submitted a written representation in which he told the Commission that he had been acquitted in this matter and had nothing to add. No other witnesses could be traced.

The Case of Hoosen Haffajee

Dr Hoosen Mia Haffajee, a 26-year-old dentist at Durban's St George V hospital, died in detention at the Brighton Beach police station on 3 August 1977. The inquest magistrate found that he had committed suicide by hanging. Evidence before the Commission, however, suggested that Haffajee [KZN/NG/006/DN], may have died as a result of torture. He was allegedly found hanging by his trousers from the grille of his cell door at the Brighton Beach police station less than twenty hours after his arrest.

At the inquest in March 1977 [No. 951/77], two of the Security Branch policemen who effected the arrest and interrogation of Haffajee, Captain James Brough Taylor and Captain PL du Toit, denied that they had tortured him during interrogation. The pathologist's report stated that the death was consistent with hanging. However, it also stated that Haffajee had sustained multiple injuries and that some sixty wounds were found on his body, including his back, knees, arms and head. The inquest magistrate found that Haffajee had died of suicide by hanging and that the injuries were unconnected and collateral to his death.

In a statement to the Commission, former Security Branch policeman Mohun Deva Gopal said that he was present whilst Haffajee was interrogated, assaulted and tortured. He said that Haffajee was stripped naked and Captain Taylor initiated the assault by slapping and punching him when he refused to divulge any information. Later, Captain Du Toit joined in. As the day wore on, the assault became more violent. Although they continued until midnight, Haffajee refused to divulge any information.

The next morning Taylor told Gopal that Haffajee was dead. Du Toit later called them into his office and told them they had to prepare their stories for the inquest. He was told to say that Haffajee had tried to escape and in so doing, had hit his body on the car. Gopal told the Commission that he does not believe that Haffajee committed suicide, as he was very strong psychologically.

Dr DH Biggs, who was employed by the Haffajee family, reported on the unusual marks observed on the body of the deceased and found that he could duplicate the lesions found on the body by compressing the skin with an implement similar to that used to compress lead seals onto string or wire.

Captain James Taylor was subpoenaed to appear before the Commission. He denied all allegations of assault and continued to maintain that, at the time of his death, Haffajee was in the custody of members of the uniformed branch. Taylor did not apply for amnesty in this regard.

THE COMMISSION FINDS THAT THE SAP MADE ROUTINE USE OF ASSAULT AND SEVERE TORTURE AS PART OF A SYSTEMATIC CAMPAIGN TO SILENCE AND SUPPRESS OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT. THE ACTS OF SEVERE ILL TREATMENT PERPETRATED BY MEMBERS OF THE SAP CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS. IN SOME INSTANCES, THESE UNLAWFUL ACTS RESULTED IN THE DEATHS OF DETAINEES. THE SAP IS HELD ACCOUNTABLE FOR THESE GROSS VIOLATIONS OF HUMAN RIGHTS.

C o v e r t S e c u r i t y B r a n c h a c t i v i t y

- 81 A number of prominent community leaders and activists were targeted for attack during this period. Many of these attacks were attributed to the covert operations of the security police.

The Case of Fatima Meer

Durban academic Ms Fatima Meer's home was petrol-bombed in 1977. Meer had been the target of another attack the previous year, when a caller knocked at the door and started firing when it was opened. A visitor, Mr Zwelihle Ngcobo, was injured in the shooting [KZN/FM/001/DN]. The gunman was never identified, but was seen driving off in a green minibus.

The Case of Harold Strachan

Shortly after this incident, an unknown person fired on Mr Harold Strachan at his home in Durban. Strachan pursued the gunman, who managed to escape in a vehicle registered to the Durban City Council. In the ensuing court case, evidence was led to the effect that the vehicle had not left the Council property on the night in question and the accused was acquitted. The night before judgement was handed down, shots from an automatic firearm were again fired into the Strachan home. The gunman was seen fleeing in a green minibus.

- 82 A green minibus was also seen outside Dr Richard Turner's home on the night he was killed, in January 1978 (see below). The Commission established that Bureau of State Security (BOSS) operative Martin Dolinchek was in possession of a green minibus at the time. Turner was the first white activist and academic to be assassinated.

The Case of Richard Turner

University of Natal political scientist Dr Richard 'Rick' Turner [KZN/KP/001/DN] was fatally shot soon after midnight on 8 January 1978 at his home in Bellair, Durban. Turner was centrally involved in the development of the trade union movement and had been involved in establishing the university-based Wages Commission in 1972.

In March 1972, Turner's home had been firebombed. In 1973, Turner was banned along with seven NUSAS members and placed under surveillance by the BOSS. In December 1973, his car tyres were slashed and the engine damaged while the vehicle was parked in front of his house. In 1976, the Durban Security Branch bugged his telephone. A week before the assassination, the Security Branch's surveillance was suddenly terminated on orders from police superiors.

An examination of the police investigation into Turner's death, as well as new information which surfaced during the Commission's investigations, led to the conclusion that the police themselves suspected the involvement of the state apparatus in the assassination and sought to obstruct the investigation. In a section 29 hearing of the Commission, Brigadier Christiaan Earle, the original investigating officer, said he believed that Turner was killed by "people who were part of the security forces and that they wanted to protect this and not have it known". He told the Commission that his investigations into the killing led him to suspect the involvement of BOSS operative, Martin Dolinchek. Dolinchek's pistol was sent for ballistic testing but no other investigation into Dolinchek took place.

Earle and his immediate superior, Major Christoffel Groenewald, told a section 29 hearing of the Commission that they believed the investigation was being obstructed when Groenewald and his superior, Brigadier Hansen (now deceased), were called to Pretoria and instructed not to waste time investigating Dolinchek, because there was no proof of his involvement in the killing. Both expressed the view that Dolinchek had been responsible for the killing.

Former Vlakplaas Commander Eugene de Kock reported that one of his informants, former BOSS member Piet Botha, told him that Dolinchek had killed Turner and that Dolinchek's brother-in-law, Mr Von Scheer, drove the getaway vehicle.

When Dolinchek was interviewed by the Commission, he handed over a number of BOSS reports prepared by himself or the regional representative of BOSS, most of them concerning Turner. However, he denied having been involved in the killing. A former BOSS member told the Commission he believed BOSS was behind the killing and may have set it up to look like the work of Scorpio, a right-wing group based in Cape Town but suspected to have been active in Natal as well. He named former BOSS agent, Mr Phil Freeman (now deceased), as a person possibly responsible for Turner's death. Whoever was responsible for this death, the probabilities overwhelmingly favour the view that he was killed by a member of BOSS or the SAP. The investigation into Turner's death was one of the most exhaustive carried out by the Commission. All documents are contained in the Commission's archives.

- 83 Among the MK operatives targeted for assassination during the period 1976–82 was 'MK Scorpio', killed in Northern Natal in 1980.

The Case of Oupa Ronald Madondo, aka MK Scorpio

The Commission received information about the death in April 1980 of a Soweto-based MK operative, believed to be Mr Oupa Ronald Madondo but known as 'MK Scorpio'. Madondo was detained for several months. A number of Security Branch operatives from various police stations were drawn together and instructed to kill him.

He was allegedly sedated heavily and taken to Jozini, in Northern Natal, where he was shot three times. His body was then blown up with explosives allegedly provided by Security Branch policemen in Pietermaritzburg. Mr Gert Schoon [AM5006/97], Mr Schalk Visser [AM5000/97], Mr Donald Gold [AM3686/96], Mr Des Carr [AM5008/97] and Mr Johan Martin van Zyl, aka 'Sakkie' [AM5637/97] applied for amnesty in respect of this incident.

- 84 One of the major assassinations during this period was that of prominent Durban attorney and long-time anti-apartheid activist Griffiths Mxenge on 20 November 1981. This was one of the first cases where the target was known to be an activist and not associated in any way with the military operations of MK.

The Case of Griffiths Mxenge

On 20 November 1981, Mr Griffiths Mxenge¹⁵ was found dead at a cycling stadium at Umlazi. Three Vlakplaas operatives namely Commander Dirk Coetzee and askaris Almond Nofemela and David Tshikilange were charged and convicted of the killing. Two former Durban security policemen, Brigadier Johannes van der Hoven and Colonel Andy Taylor, were also charged with the killing but were acquitted. Mr Brian Ngqulunga, an askari who was involved in the killing, was himself killed shortly after testifying to the Harms Commission. Vlakplaas policeman Joe Mamasela publicly admitted having helped to plan the killing but did not apply for amnesty as he was acting as state witness for the Transvaal Attorney-General in the official probe into police involvement in 'third force' activities.

Coetzee, Nofemela and Tshikilange applied for amnesty for Mxenge's killing.

Coetzee told the Commission that Brigadier van der Hoven, then divisional commander of the Durban Security Branch, approached him and told him to "make a plan with Mxenge", which Coetzee understood to mean that he was to make arrangements to kill him. He was told that the security police had been unable to bring any charges against Mxenge, who had become a 'thorn in their flesh'. Coetzee said that Van der Hoven had told him to make it look like a robbery.

Colonel Taylor briefed Coetzee regarding Mxenge's movements and Joe Mamasela was brought down to assist in planning and executing the operation. Former head of the Security Branch's Section C, Mr Willem

Schoon [AM5006/97], was also informed of the planned operation. Although he did not apply for amnesty for Mxenge's killing, Schoon claimed knowledge of it in his amnesty application.

Coetzee said he put together a hit squad that included Nofemela, Tshikilange, Mamasela and one Mr Ngqulunga who was from the Umlazi area and knew the vicinity well. Coetzee took charge of the general planning and arranged details such as obtaining strychnine to poison the Mxenge's four dogs. The details of the actual killing were left to the four members of the squad he had appointed.

Nofemela told the Commission that the four men intercepted Mxenge on his way home from work on the evening of 20 November 1981. They dragged him out his car and took him to the nearby Umlazi stadium where they beat and stabbed him repeatedly. Nofemela told the Commission that Mxenge had resisted his attackers fiercely until he was struck on the head with a wheel spanner. He fell to the ground, and the stabbing continued until he was dead. They disembowelled him and cut his throat and ears. Then they took his car, wallet and other belongings to make it look like a robbery. Mxenge's vehicle was later found, burnt and abandoned near the Golela border post between South Africa and Swaziland.

On 15 May 1997, Coetzee, Nofemela and Tshikilange were found guilty of killing Mxenge. Both Van der Hoven and Taylor were acquitted. At the request of the Commission's Amnesty Committee, sentencing was postponed until the Committee had reached a verdict on the applications. On 3 August 1997, the three men were granted amnesty in respect of Mxenge's killing.

In making its finding, the Amnesty Committee said that, although there "may be some doubt" as to the identity of those who ordered the assassination, there was no doubt that Coetzee had acted on "the advice, command or order of one or more senior members of the Security Branch ... On the evidence before us we are satisfied that none of the applicants knew the deceased, Mxenge, or had any reason to wish to bring about his death before they were ordered to do so. We are satisfied that they did what they did because they regarded it as their duty as policemen who were engaged in the struggle against the ANC and other liberation movements. It is, we think, clear that they relied on their superiors to have accurately and fairly considered the question as to whether the assassination was necessary or whether other steps could have been taken. We feel it is perhaps necessary for us at this stage to place on record our strong disapproval of the conduct of the police in this regard. That is in arranging for the assassination of an attorney who was doing no more than his duty in providing adequate representation for persons facing criminal charges ...".

THE COMMISSION FINDS THAT MEMBERS OF THE SECURITY BRANCH OF THE SAP WERE RESPONSIBLE FOR COVERT OPERATIONS SPECIFICALLY TARGETING POLITICALLY ACTIVE AND OUTSPOKEN CIVILIAN OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT, AND ENGAGED IN UNLAWFUL ACTIVITIES WHICH RESULTED IN THE INTIMIDATION, INJURY AND, IN SOME CASES, DEATH OF THE VICTIMS.

Resistance and revolutionary groupings

85 In this period, security trials relating to organisational activities outnumbered those relating to violent action by resistance movements. People were tried for community and labour mobilisation, membership of the banned resistance movements, recruitment to banned organisations or military training, and the possession of banned literature. However, an increased number of sabotage attacks were reported across the whole province. In February 1977, Mr Thembinkosi Sithole and Mr Samuel Mohlomi, both from KwaMashu, were charged with taking part in 'terrorist activities' and for attempting to leave the country for military training. They were also charged and convicted of arson in respect of firebomb attacks at KwaMashu schools in October 1976.

86 Skirmishes between guerrilla fighters and members of the security forces were also reported in this period. In one such skirmish near Pongola in November 1977, a guerrilla fighter was killed and a policeman injured. In December

1977, ANC guerrilla fighter, Oupa Ronald Madondo, was caught by the police in the Pongola area. An ANC commander, thought to be Mr Toto Skhosana, was killed in the clash. Police recovered two scorpion pistols, ammunition and three grenade detonators. Madondo was convicted under the Terrorism Act in an Ermelo court in March 1978 and killed by members of the Security Branch in April 1980 (see above).

87 A number of acts of sabotage were reported. The ANC claimed responsibility for some of these.¹⁶

● 1983–1989

Historical overview of the period

88 In KwaZulu and Natal, this period was dominated by conflict and violence that reached the proportions of a civil war in some areas. Political allegiances were crucial in the conflict, with lines sharply drawn between the supporters of Inkatha and the supporters of the ANC-aligned UDF, which was formed in 1983 to co-ordinate protest against the new Constitution and the proposed Tricameral parliament. The conflict manifested itself in all spheres of political life in the province and was felt particularly in educational institutions and in the workplace.

The Ongoye Massacre

On 29 October 1983, four students and an Inkatha supporter were killed and many others injured in a clash between students and a group of approximately 500 Inkatha supporters at the University of Zululand (Ongoye), south of Empangeni.

The clash was triggered when students opposed an attempt by Inkatha leader, Chief Mangosuthu Buthelezi, to use the campus for a ceremony to commemorate the death of King Cetshwayo. Attackers broke down locked doors behind which students were hidden, dragged them out and assaulted and stabbed them with traditional weapons.

This event, known as the 'Ongoye massacre', was another decisive turning point in the relations between Inkatha supporters and those aligning themselves with the banned ANC.

89 In the labour field too, the conflict between the two movements took organisational form through the formation of the Congress of South African Trade Unions (COSATU) in 1984, and the counter-formation by Inkatha in 1985, with substantial state funding, of the United Workers Union of South Africa (UWUSA).

90 The SAP and other security personnel were frequently and directly involved in political violence in the province. Security and public order policing became characterised by a failure to apprehend known criminals, poor investigations and active collusion of the police with one side of the conflict. The most obvious case of security force collusion is that of the Trust Feed massacre on 3 December 1988 (see below).

91 The state's National Security Management System (NSMS), with its web of local Joint Management Councils (JMCs), was fully operational by mid-1985. Inkatha members became members of JMCs by virtue of their positions in township councils, tribal authorities and the KwaZulu civil service.

92 In August 1983, the 1982 Black Local Authorities Act came into effect, imposing local black town councils on a number of townships. In line with its policy of countering apartheid from within the system, Inkatha moved quickly to gain control of these councils. At that time, national opposition to black local authorities, to homeland governments and to traditional leaders was on the increase, and emerging extra-parliamentary opposition groups strenuously opposed the creation of these town councils which were perceived to be dominated, if not controlled, by Inkatha.

- 93 Through the NSMS, the South African government planned to win the war against the ANC and its affiliates, not through military might but through destabilisation. The government was sensitive to international opinion and, to avoid images of white policemen assaulting and shooting at black demonstrators, it sought to delegate repression to counter-revolutionary forces with black faces. A wide range of such surrogates emerged, including vigilantes, warlords, gangsters, hit squads, auxiliary forces, *agents provocateur* and moderate black organisations. The strategy was thus to cast the political conflict in the country as 'black-on-black' violence. For this to work, the involvement of the state had to be secret.
- 94 Furthermore, during the PW Botha era, the state perceived the primary threat to national security to be external. Its counter-revolutionary strategy was therefore based on pre-emptive intervention beyond the country's borders in both defensive and offensive actions. By 1985, when the situation inside the borders had entered a revolutionary phase, the state began to apply its principle of counter-revolutionary warfare internally. Revolutionary opponents of the state became 'legitimate' targets for attack. The enemy included not only armed cadres of the liberation movements, but trade unionists, activists and sympathisers. Moderate black leaders and organisations had to be co-opted to combat the revolutionary threat. A wide range of support, including military training and finance, was given to moderate black organisations, including Inkatha, as exemplified by the Caprivi training initiative (see below).
- 95 As conflict developed in the form of attacks, revenge attacks, sieges and assassinations, each side blamed the other for the violence sweeping the province. Each accused the other of collaborating with the apartheid government to bring about violence and mayhem.
- 96 Death threats against Chief Buthelezi prompted the Inkatha leader to claim that the ANC was out of touch with the realities of the country and served the interests of the state by fomenting dissent. The security establishment was well placed to feed the rumours of assassination with evidence gleaned from informers, from ANC propaganda and from its own unsubstantiated beliefs. Chief Buthelezi's response was to turn to the South African government for assistance to combat the ANC/UDF. These appeals led to the clandestine training of some 200 Inkatha members by the Special Forces arm of the South African Defence Force (SADF) in the Caprivi Strip in Namibia (see below).
- 97 By 1988, some of the principles of the state's security thinking could be seen reflected in security force operations, particularly in the use of auxiliary forces such as special constables and surrogate forces such as vigilante groups. The Commission heard reports of vigilante groups operating side by side with members of the security forces. Both perceived the same enemy, and were perceived as the same enemy. Security Force members who testified before the Commission spoke of the various ways in which the security forces had collaborated with Inkatha in attacks on the UDF. This included warning Inkatha supporters of impending attacks, disarming ANC supporters, arming Inkatha supporters, transporting Inkatha attackers and standing by while Inkatha supporters attacked people.
- 98 Whereas vigilante formations often started out simply as local suppressers of petty crime and school-related unrest, as the political battle lines sharpened in the early 1980s they became the shock troops of politically aligned warlords. They engaged in a variety of criminal and lethal activities, even recruiting from criminal gangs. The vigilantes' initial targets were community structures, groups and individuals campaigning for the dismantling of homelands and black councils. Later the targets became less specific and vigilante tactics switched to indiscriminate terrorising of township communities.
- 99 Opposition to the government's authority structures (including traditional chiefs and urban town councillors) was perceived as rebellion. Once chiefs and councillors came to realise that their survival in office depended on neutralising the militant opposition, their involvement in the violence was almost inevitable. Some chiefs, therefore, became known as 'warlords'. The Commission received evidence of collusion between the security forces and Inkatha warlords.

- 100 The Commission heard evidence that some members of the ANC also behaved like warlords, gathering strongmen about them, intimidating people and directing acts of violence. This was particularly so in the Natal Midlands towards the end of the 1980s, where charismatic ANC leaders like Harry Gwala rose to prominence and offered a rallying point for UDF/ANC supporters who had been exposed to and engaged in the political conflict for some time.
- 101 Towards the end of this period, the UDF adopted a campaign to make the townships ungovernable. Educational institutions and trade unions became key sites of revolutionary activity. School boycotts and strikes were transformed into scenes of violent conflict and bloodletting. At the Kabwe Conference¹⁷ in June 1985, the ANC took a decision to drop the distinction between 'hard' and 'soft' targets. This resulted in an increase in the killing and maiming of civilians in MK sabotage operations where targets held only a tenuous link to the state and its institutions.
- 102 The period 1983–89 is remarkable for the emergence of organisations and associations in a rising tide of opposition to the imposition of local authorities and the incorporation of certain areas into KwaZulu. Such organisations included residents' and ratepayers' associations and rent action committees. There was also an increase in the number of NGOs set up to promote social justice and democracy in all arenas of civil society. Many of these organisations, based chiefly in Durban and Pietermaritzburg, ran on a non-profit basis and were supported financially by churches and other donor organisations. Many became affiliates of the UDF in 1983, although some later withdrew from active participation when the political situation in the province became more sharply polarised in the later 1980s.

Overview of violations

- 103 This period was dominated by conflict between the UDF and Inkatha, the key sites of which were conflict in Durban townships resisting incorporation into KwaZulu; struggles surrounding the imposition of black local authorities; clashes between members of UWUSA and COSATU affiliates, and offensives by 'Caprivi trainees'.
- 104 There were allegations of partiality and brutality in the KZP, which grew during this period from small guard units to a fully-fledged police force in control of policing a number of extremely volatile townships. Violations were also attributed to the special constables and the SAP Riot Units.
- 105 Most reported violations pertained to acts of severe ill treatment, followed by killings: thus, severe ill treatment 51%; killing 26%; associated violations 7%; torture 10%; abduction 3%; attempted killing 3%.
- 106 By far the majority of reports of severe ill treatment were attributed to Inkatha. The number of acts attributable to Inkatha was double the number attributed to the police and more than three times the number attributed to the ANC. The number of reports of torture in this period rose to five times that of the previous period. The overwhelming majority of these acts were attributed to the SAP. The majority of reports of associated violations that occurred in the province during this period were attributed to the SAP, followed by those attributed to Inkatha. A small number of similar acts were attributed to other parties and organisations, namely, the ANC, the UDF, the KZP and the SADF.
- 107 The urban areas in the province were the worst affected by the spiralling conflict during this period. Affected areas were Durban and surrounds; Pietermaritzburg and surrounds; the Natal Midlands (Mphophomeni, Mpumalanga (township), Hammarsdale, Camperdown, Greytown), and Northern Natal (Paulpietersburg, Newcastle, Osizweni, Hlobane, Vryheid). The North Coast, South Coast and KwaZulu interior were still relatively quiet.

State and allied groupings

Detentions and harassment

- 108 Individuals affiliated to human rights organisations during this period told the Commission that they were subjected to constant harassment, intimidation, surveillance and detention by the security police.

- 109 For the most part, these organisations were based in the main urban centres of the province and functioned to promote social justice and democracy in all arenas of civil society. Diakonia in Durban and the Pietermaritzburg Agency for Christian Social Awareness (PACSA) in Pietermaritzburg worked to promote social awareness in the churches. The Black Sash and paralegal organisations such as the Legal Resources Centre (LRC) and Lawyers for Human Rights (LHR) offered basic legal advice and support to ordinary people. The End Conscription Campaign (ECC) monitored developments in military conscription and offered advice to conscripts. Some organisations were set up to offer careers advice to school leavers and to address the problems of inequity in the educational arena. Others were set up in response to crisis situations brought on by intensified police repression and the repeated imposition of rule by emergency. Among these were the Detainees' Parents' Support Committee and the Education Crisis Committee.
- 110 These and other NGOs often worked shoulder to shoulder in joint social campaigns: calling for the release of political prisoners, the lifting of states of emergency, the withdrawal of troops from the townships, the abolition of the death penalty, the lifting of restrictions on the media and the free flow of information.
- 111 Diakonia took up residence at the Ecumenical Centre in Durban when it was established by the mainline churches in 1983 to provide office and meeting space for religious and other organisations committed to building peace and justice in the province. It soon became the object of intense scrutiny and surveillance by the Security Police. Former tenants told the Commission that they endured constant harassment by the security police and worked under the perpetual threat of police raids, detention and arrest. In 1985, the library housed at the Centre was severely damaged in a firebomb attack. No perpetrators were ever identified or brought to book.
- 112 Several individuals working for these organisations were detained during the 1980s, among them Mr Paddy Kearney [KZN/SELF/084/DN] and Ms Sue Britton [KZN/SELF/083/DN] of Diakonia and Mr Richard Steele [KZN/SELF/084/DN] and Ms Anita Kromberg [KZN/SELF/091/DN] of the ECC, who were all detained in 1985 under Section 29 of the Internal Security Act No 74 of 1982. Kearney, who was held in solitary confinement for seventeen days, told the Commission that his arrest coincided with a heavy police crackdown on the UDF and preceded the August 1985 death of Ms Victoria Mxenge and the destruction of the Gandhi settlement at Inanda outside Durban (see below). He said that the detentions were part of a police attempt to create the impression that the UDF was responsible for most of the violent conflict in the province and that UDF activists were being severely dealt with.
- 113 On 12 June 1986, over twenty people were detained in Pietermaritzburg under Section 50 of the Emergency regulations.¹⁸ Peter Kerchhoff [KZN/SELF/088/DN] was held for ninety-seven days, of which thirty-two were in isolation. He reported that this group of detainees had been informed that they were being taken out of circulation on the re-imposition of the state of emergency (which had been lifted in March) and ahead of the Soweto Day tenth anniversary on 16 June.
- 114 Detainees told the Commission that they were arrested and detained following police raids on their homes and offices in the early hours of the morning. They were held for periods ranging from fourteen days to over three months. They reported that, while they did not experience physical abuse while in detention, they were subjected to many hours of questioning about the activities of their organisations and to periods of solitary confinement. Kerchhoff spoke of the psychological pressures which were brought to bear on the detainees through interrogation and solitary confinement, particularly as regards their families:

Generally detainees were coping but the problem was communicating this to those on the outside. The harassment of detainees' families made the situation much more difficult for them. They were without support and vulnerable to abusive, threatening and hoax telephone calls.

115 Kromberg told the Commission that her police interrogators tried to extract information about the work of the ECC in an attempt to validate their suspicion that this and other organisations based at the Ecumenical Centre had operational ties with the banned ANC and its military arm MK. This perception persisted throughout the 1980s and was eventually adopted by the IFP.

116 In a section 29 hearing of the Commission, former IFP National Council member Walter Felgate said that it was a time:

in which you really [did] believe that, for example, Diakonia here in Durban was the hot seat from which MK people operated. You hated Diakonia, and Diakonia was also fair game for whatever.

117 Mr Felgate said that this belief in the existence of an MK operating infrastructure at the Ecumenical Centre was one of the factors behind the recruitment of up to 200 Inkatha youth for paramilitary training in the Caprivi in 1986 (see below). He conceded that their information about the involvement of Diakonia and other Ecumenical Centre organisations in MK activities was unsubstantiated.

Deaths in custody

118 Numerous reports of torture and deaths in detention were received, particularly from the Newcastle area. Newcastle was an MK gateway to Swaziland and Mozambique and the Security Branch intensified its operations in Newcastle in an attempt to obstruct the movement of operatives in and out of the country. It was also a centre of strong student and union resistance. A number of student activists and unionists were detained and tortured by members of the Newcastle Security Branch during 1986 and 1988 [KZN/FS/205/NC, KZN/FS/203/NC]

119 Deaths in custody were also reported from other urban centres, amongst them, Mr Ephraim Thami Mthethwa [KZN/ZJ/146/DN, KZN/NG/020/DN], who died on 25 August 1984 in the Durban Central Prison after 165 days in custody awaiting trial on charges relating to his alleged attempts to leave the country for military training. Mthethwa was alleged to have committed suicide by hanging himself with his tracksuit jacket. He was twenty-three years old at the time.

The Case of Bongani Cele

Lamontville UDF activist Bongani Cele [KZN/NG/031/DN] was constantly harassed by the police in 1987 and went into hiding. Police approached his brother S'khumbuzo [KZN/NNN/094/PM], assaulted him and forced him to point out where Bongani was hiding. Bongani was taken into detention. Later police brought Bongani, heavily chained, to his house to point out where he had allegedly hidden weapons. On 9 July 1987, his family was informed that he had been shot dead by police officers allegedly acting in self-defence. According to the police, Bongani had attempted to pull a pin from a grenade. However, the post mortem report indicated that Bongani had been shot in the back at very close range while his feet and hands were chained. No one was ever prosecuted in connection with the death.

THE COMMISSION FINDS THAT THE SAP MADE ROUTINE USE OF ASSAULT AND SEVERE TORTURE AS PART OF A SYSTEMATIC CAMPAIGN TO SILENCE AND SUPPRESS OPPONENTS OF THE SOUTH AFRICAN GOVERNMENT. THE ACTS OF SEVERE ILL TREATMENT PERPETRATED BY MEMBERS OF THE SAP CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS. IN SOME INSTANCES, THESE UNLAWFUL ACTS RESULTED IN THE DEATHS OF DETAINEES. THE SAP IS HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS RELATED TO THESE ACTS.

Public order policing

120 The introduction of an auxiliary force of special constables during this period was seen as a means of bolstering the work of the SAP in combating the rising militancy of the UDF in the province's townships. It was also part of a

strategy employed by the state to remove 'white faces' from the front line of public order policing of the conflict brewing between Inkatha and the UDF at the time.

- 121 At a section 29 hearing, the Commission heard that former SAP Captain Brian Mitchell, based in the Natal Midlands, understood the special constables to be a vital element of the state's strategy. Mitchell described the special constables as the 'third force' in the Midlands area; their sole purpose was offensive deployment against UDF supporters and for the support and assistance of Inkatha.
- 122 In 1988, some 300 Inkatha recruits were trained and deployed as special constables in the Pietermaritzburg area. The Commission has established from sworn testimonies of former special constables that Inkatha membership appeared to be a criterion for selection in Natal. Inkatha officials and *indunas* (headmen) assisted in recruiting the young men and endorsed their applications. Mr William Basil Harrington [AM0173/96], a member of Riot Unit 8, told the Commission that he worked closely with special constables and that those based in Pietermaritzburg had their applications for employment signed by Inkatha leader, Mr David Ntombela.
- 123 This drawing of special constables from the ranks of Inkatha supporters confirmed the open collaboration of the state security forces with the activities of Inkatha. In Natal, the special constables constituted a convenient and effective striking force for the state and for Inkatha against the UDF alliance. Between 1988 and 1989, special constables played a role in bolstering Inkatha in the greater Pietermaritzburg area, particularly in the Edendale Valley, KwaShange and other sections of Vulindlela.
- 124 In January 1988, the first batch of Natal recruits, numbering approximately 300 Inkatha supporters, was taken for special constable training at the SAP's Koeberg base in the Western Cape. The batch included 130 'Caprivi trainees' who had already received secret offensive training by the SADF's Special Forces in 1986. During their training at Koeberg, they were shown gruesome videos of burning houses and brutally slain people and were told by their instructors, one of whom was Warrant Officer Rolf Warber of the Pietermaritzburg Security Branch, that the scenes were typical of ANC/UDF violence against innocent Inkatha members, their 'brothers and sisters'. Special constables testified that they cried openly at the sessions and were urged to kill UDF people on their return to Natal. After six weeks of training, the special constables were attached to SAP Riot Units and deployed in the Pietermaritzburg and Mpumalanga areas where the UDF was gaining the upper hand. Many special constables were sent to guard Inkatha officials and traditional leaders and became involved in vigilante and hit squad activities.
- 125 Former 'Caprivi trainee' and special constable Brian Gcina Mkhize [AM4599/97], told the Commission at the Caprivi hearing:
- Mr [MZ] Khumalo told us that our task is to infiltrate the Special Constables, to go and get deployed with the Special Constables who work in Pietermaritzburg. While in 'Maritzburg, we will be able to further our aims to hit directly at the ANC.*
- 126 At the same hearing, Mr Daluxolo Luthuli said of the special constables:
- As they were police, they knew very well that they have to work under the instructions of the IFP, for example, killing people who were UDF members. They were doing that while they were police and they were not taking instructions from police ... they were taking instructions directly from the IFP.*
- 127 The special constables deployed in the townships around Pietermaritzburg soon became associated with acts of extreme criminal brutality. In the first year of their deployment in the Pietermaritzburg area, 137 special constables had their services terminated. Of these, 102 deserted their posts and the remainder was dismissed as a result of criminal charges that were brought against them.
- 128 Former Security Branch Divisional Head for Pietermaritzburg, General Jac Buchner, conceded at a section 29 hearing that the special constables, far from assisting the SAP in maintaining law and order, had in fact contributed to the

problem of political violence. Senior Riot Unit officer, Daniel Meyer, told the Commission at the 'Seven Day War' hearing that:

I don't think it's a state secret that Special Constables was one of the single biggest mistakes made by the police in KwaZulu-Natal.

- 129 He conceded that the special constables had not been deployed under proper control and that Riot Unit members operating with special constables engaged in serious criminal acts.

THE COMMISSION FINDS THAT AN AUXILIARY FORCE OF SPECIAL CONSTABLES WAS TRAINED AND THEN DEPLOYED IN AND AROUND PIETERMARITZBURG IN 1988–89, AND THAT THIS FORCE BECAME INVOLVED IN VIGILANTE ACTIONS AND OTHER CRIMINAL ACTS, INVOLVING KILLINGS AND ACTS OF SEVERE ILL-TREATMENT, TARGETING MEMBERS AND SUPPORTERS OF THE UDF UNDER THE DIRECTION OF MEMBERS OF THE RIOT SQUAD OF THE SAP. THE SAP IS HELD ACCOUNTABLE FOR THE VIOLATIONS ARISING FROM THE ACTIVITIES OF THE SPECIAL CONSTABLES.

- 130 The special constables were deployed to the Pietermaritzburg-based Riot Unit 8, a unit that had already gained notoriety during the latter half of the 1980s for its active collusion with Inkatha supporters in the political conflict. The unit was headed by Major Deon Terreblanche (now deceased), described by General Jac Buchner as a 'military man' who was very close to Inkatha.¹⁹ Terreblanche was named by Brian Mitchell as the mastermind behind the Trust Feed massacre (see below). He was also named by Daluxolo Luthuli as having provided arms and ammunition to Inkatha, particularly in the Mpumalanga township.

- 131 Former special constable Nhlanhla Philemon Madlala [AM0174/96] was deployed in Mpumalanga, guarding the homes of various Inkatha leaders. He told the Commission that during the day they would go on patrols (by foot or in lorries) with the Riot Unit. When they came across UDF members they would assault them and tell them to join Inkatha. When they shot someone they would report it to the commander, Sergeant Willem de Wet, who in turn reported it to Terreblanche. Terreblanche would instruct them that they should continue with the killing. At sunset they would return to the homes they were guarding.

- 132 Mr William Basil Harrington [AM0173/96], a member of Riot Unit 8 from 1988 until his arrest in 1991, told the Commission at the 'Seven Day War' hearing that he was told to keep a home-made firearm in his vehicle at all times in case he accidentally shot somebody dead. He should then plant this firearm on the person to make it look like a case of self-defence. Harrington said that, as a result of their working in close association with the Inkatha-supporting special constables, the Riot Unit members naturally sided with Inkatha:

The Specials were all Inkatha members and supporters, and the ANC and UDF were shooting at us. They hated us and the Specials hated them, and I hated them because I nearly died on several occasions as a result of their actions. For that reason, I saw myself as on the side of Inkatha. I was taught by the NP and the chiefs in the Riot Unit that the ANC/UDF alliance was our enemy, that they were terrorists, and as a policeman it was my duty to combat terrorism. The war between us and the ANC was very severe, was intense. To combat terrorism I allied myself with Inkatha....

I often came upon groups of Inkatha Specials, about between ten and twenty people, at night, where they were on their way to specific areas to attack an ANC home. I then thought it a good idea to convey them in my own vehicle and to take them to such a house or area. I never specifically took part in these raids myself, because my objective was to stand back, to keep my distance, to prevent ANC supporters from running away from this area.

- 133 Another former special constable attached to Riot Unit 8, Mr Nelson Shabangu [AM3676/96], made twenty-six statements to the Commission in which he implicated members of Riot Unit 8 and the Port Natal Security Branch in as many as fifty killings and several acts of torture. These were just the incidents that Shabangu said he was able to recall clearly. Shabangu was a member of a special sub-unit established in 1989 to help the CID with arrests. The

sub-unit, under the command of Sergeant Willem de Wet, was disbanded in January 1990 following community pressure.

- 134 De Wet's unit worked in a large area that included Pietermaritzburg and surrounds, Mpumalanga, Richmond, Greytown, Mphophomeni, Inchanga, Table Mountain and Bulwer. They worked in a clandestine way, using pseudonyms and vehicles with false/changed registration numbers. They generally operated at night and wore civilian clothes and balaclavas when engaged in a covert operation. While the unit injured and killed indiscriminately at times, they targeted mainly UDF activists, who they interrogated, tortured and/or killed. Methods of torture included electric shocks to the body with a dynamo taken from a telephone, suffocation with a car tube, and the 'helicopter treatment' described earlier.

ARISING FROM THE NUMEROUS ALLEGATIONS MADE AGAINST HIM, AND IN TERMS OF SECTION 30 OF THE ACT, THE COMMISSION MADE FINDINGS OF MORE THAN SIX COUNTS OF SEVERE ILL TREATMENT, MORE THAN TWENTY COUNTS OF KILLING, SIX COUNTS OF CULPABLE HOMICIDE, TEN COUNTS OF ACCESSORY TO KILLING, TWO COUNTS OF ATTEMPTED KILLING AND TWO COUNTS OF DEFEATING THE ENDS OF JUSTICE AGAINST SAP SERGEANT WILLEM DE WET.²⁰ DE WET IS HELD ACCOUNTABLE FOR THE PERPETRATION OF THE GROSS HUMAN RIGHTS VIOLATIONS ARISING FROM THESE UNLAWFUL ACTS.

- 135 The Trust Feed massacre of 1988 provides a window into the operations of the special constables and the SAP in the Midlands during the late 1980s.

The Trust Feed Massacre

In the early hours of 3 December 1988, gunmen opened fire on a house in the Trust Feed community, near New Hanover, killing eleven people and wounding two. In October 1991, seven serving and former members of the SAP stood trial on eleven counts of murder and eight of attempted murder. The accused were Captain Brian Mitchell, Station Commander at the New Hanover police station at the time of the massacre, Sergeant Neville Rose and Captain Jakobus van der Heever (both of the SAP), and four former SAP special constables, Mr Kehla Ngubane, Mr Thabo Sikhosana, Mr Dumisani Ndwane and Mr David Khambule.

Brian Mitchell, his colleague Sergeant George Nichas and two Security Branch members, together with the Inkatha leader in the area, Mr Jerome Gabela, were involved in setting up the Inkatha-aligned Landowners' Committee in opposition to the largely UDF-supporting Trust Feed Crisis Committee. Gabela was also, at the time, in the ad hoc employ of the Security Branch as an informer on trade union members at the bakery where he worked in Greytown.

At a meeting at the Inkatha headquarters in Edendale in August 1988, attended by Terreblanche, Mitchell, David Ntombela, Gabela and two other Inkatha members, an attack on the Trust Feed area was planned for December 1988, involving members of Inkatha and special constables. After a police 'clean-up' operation to disarm and round up UDF suspects, the police would withdraw, leaving Inkatha members and the special constables to launch an attack on UDF members.

On 29 November, Constable Willem de Wet brought four special constables to New Hanover police station. They wore civilian clothing and lodged with Mr Gabela, who provided them with firearms. On the following day, Captain Van der Heever arrived to run the operation from the police and Riot Unit side. He requested Mitchell to assist in 'sweeping' the area after the operation, picking up used shells (doppies) and removing evidence. On 2 December, about thirty to forty policemen rounded up known UDF members, videotaped them all and detained them under state of emergency regulations. The police were then withdrawn from the area. At midnight, Mitchell, who had been drinking heavily, went to see how the operation had gone, accompanied by two police reservists. Disappointed that only a building had been burnt and no one had been killed, he instructed the special constables to attack and burn the shop of Mr Faustus Mbongwe, chair of the Crisis

Committee, and to attack a particular house. These instructions were carried out, and the doppies disposed of in a long-drop toilet at Gabela's house.

In the attack on the house, which became known as the Trust Feed massacre, eleven people were killed. The victims had been attending a night vigil following the death of a relative. The deceased were Mr Mseleni Ntuli, Ms Dudu Shangase [KZN/KM/728/PM], Mr Zetha Shangase, Mr Nkonyeni Shangase, Mr Muzi Shangase, Ms Filda Ntuli, Mr Fikile Zondi [KZN/KM/735/PM], Ms Marita Xaba [KZN/KM/736/PM], Ms Sara Nyoka [KZN/KM/706/PM], Mr Alfred Zita and Mr Sisedewu Sithole. Ms Ida Hadebe and Ms Nomagoli Zulu were injured. None was a member of the UDF.

Following the massacre, Mitchell reported to Major Deon Terreblanche who was the first senior officer at the scene, joined by acting Greytown District Commander Davies and Brigadier Marx who, according to Mitchell, knew of the special constables' involvement in the attack. When the two police reservists who had accompanied Mitchell volunteered information to the investigating officer, Mitchell informed senior officers of the Security Branch in Pretoria. He was told not to worry. Indeed, he told the Commission that he had never worried that he might be arrested, and was sure the evidence would be covered up.

At an informal inquest into the deaths of the massacre victims at New Hanover, the magistrate found that Mitchell and the special constables were all involved in the killings.

Warrants of arrest were issued for the special constables but were never circulated or sent to the criminal record register in Pretoria. Almost immediately after the massacre, the special constables were taken into hiding by certain senior KZP and Inkatha officials. They were hidden for some time at the Mkhuze camp (which fell under the command of KZP Captain Leonard Langeni) and continued to receive their salaries. Later they were taken to the KZP barracks in Ulundi, and then to the homes of various Inkatha-supporting chiefs. In 1990, they were assisted in joining the KZP.

In July 1991, SAP Captain Frank Dutton took over the investigation of the case. He traced the addresses of the special constables and was able to arrest two of the four: Khambule, who was in Mpumalanga using a false identity document, and Ndwalane who was in hiding at the home of an Inkatha-supporting Chief Khawula on the South Coast. Both were still serving KZP members. They both made full admissions of guilt. Mitchell was arrested on the 2 August 1991 in Mooi River, despite being warned by colleagues of his impending arrest. Immediately after this, General Van der Westhuizen, Colonel Langenhoven and Captain Kritzinger from Pretoria were sent to Natal, ostensibly to assist with the investigation. It soon became clear to Dutton that they had been sent to obstruct the work and prevailed on the Attorney-General to remove them from the case. Captain Dutton traced the other two special constables via the then Commissioner of the KZP, General Jac Buchner, who arranged for them to be delivered by Langeni from their hiding place at Mkhuze within days. In his section 29 hearing, Buchner confirmed the cover-up and conspiracy in Trust Feed, claiming the involvement of not just one or two individuals, but many.

JMC records seized from the Wartburg police station during the investigation implicated Mitchell in the creation of the Trust Feed Landowner's Committee as a STRATCOM project.

In court, Mitchell, the special constables and Mr Jerome Gabela changed their evidence to exonerate Captain Van der Heever. However, Van der Heever was implicated in Mitchell's amnesty application. During the trial, it became evident that the special constables were to take full responsibility for the massacre. They demanded separate legal representation, which set about exposing the role of Mitchell's command. By this time, Mitchell could not implicate his senior officers without revealing his earlier perjury.

In his judgement, Mr Justice Andrew Wilson called for a full, open inquiry into the matter of SAP cover-up and rejected a departmental investigation. He questioned, amongst other things, the actions of General Van der Westhuizen and his two officers, the promotion of Mitchell despite knowledge of his complicity, and other areas where the police failed to investigate. He also questioned the readiness of the Commissioner of Police to authorise the employment of senior counsel to assist a police officer who, on the face of it, appeared to have acted improperly.²¹

THE COMMISSION FINDS THAT ELEVEN PERSONS – MR MSELENI NTULI, MS DUDU SHANGASE, MR ZETHA SHANGASE, MR NKONYENI SHANGASE, MR MUZI SHANGASE, MS FILDA NTULI, MR FIKILE ZONDI, MS MARITA XABA, MS SARA NYOKA, MR ALFRED ZITA AND MR SISEDEWU SITHOLE – WERE KILLED AND TWO PERSONS – MS IDA HADEBE AND MS NOMAGOLI ZULU – WERE INJURED ON 3 DECEMBER 1988 IN AN ARMED ATTACK PERPETRATED BY SPECIAL CONSTABLES OF THE SAP AND COMMANDED BY OFFICERS OF RANK IN THE SAP.

THE COMMISSION FINDS THAT SENIOR INKATHA MEMBER DAVID NTOMBELA ATTENDED THE AUGUST 1988 MEETING AT MARAWA HOUSE IN PIETERMARITZBURG, WITH THE LATE SAP MAJOR DEON TERREBLANCHE, FORMER SAP CAPTAIN BRIAN MITCHELL AND THREE INKATHA MEMBERS, MR JEROME GABELA AND TWO OTHERS. AT THIS MEETING, AN ATTACK ON THE TRUST FEED AREA NEAR NEW HANOVER WAS PLANNED TO TAKE PLACE IN DECEMBER 1988, INVOLVING MEMBERS OF INKATHA AND SPECIAL CONSTABLES OF THE SAP. DETAILS OF THE ATTACK WERE DISCUSSED AT THE MEETING BY NTOMBELA, TERREBLANCHE AND GABELA. ON 3 DECEMBER, THE PLANNED ATTACK TOOK PLACE, RESULTING IN THE BURNING OF A NUMBER OF HOUSES AND BUILDINGS, THE DEATHS OF ELEVEN PEOPLE AND INJURY TO TWO OTHERS.

THE COMMISSION FINDS THAT MR DAVID NTOMBELA'S ACTIONS CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS: CONSPIRACY TO KILL, ATTEMPTED KILLING, KILLING AND ARSON.

THE COMMISSION FINDS THAT, ON 3 DECEMBER 1988, SGT WILLEM DE WET TRANSPORTED A NUMBER OF SPECIAL CONSTABLES OF THE SAP TO TRUST FEED NEAR PIETERMARITZBURG, IN THE KNOWLEDGE THAT THESE SPECIAL CONSTABLES WOULD LATER THAT NIGHT UNDERTAKE AN UNLAWFUL ATTACK ON RESIDENTS OF TRUST FEED. DE WET FAILED TO TAKE STEPS TO PREVENT THE ATTACK FROM TAKING PLACE AND FAILED TO BRING THIS UNLAWFUL INCIDENT TO THE NOTICE OF THE APPROPRIATE AUTHORITIES. THE COMMISSION FINDS THAT DE WET IS AN ACCESSORY TO THE KILLING OF ELEVEN PEOPLE AT TRUST FEED ON THE NIGHT OF 3 DECEMBER 1988 AND THAT HIS ACTIONS CONSTITUTE A GROSS VIOLATION OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE ACTIONS OF SGT NEVILLE ROSE CONSTITUTE A GROSS VIOLATION IN THAT HE WAS AN ACCESSORY AFTER THE FACT TO THE KILLING OF THE PERSONS WHO DIED AT TRUST FEED, AND DEFEATED THE ENDS OF JUSTICE BY FAILING TO TAKE ANY STEPS TO ENSURE THAT THE PERSONS RESPONSIBLE WERE CHARGED AND PROSECUTED.

THE COMMISSION FINDS THAT THE ACTIONS OF THE THREE OFFICERS WHO WERE APPOINTED TO ASSIST POLICE OFFICER FRANK DUTTON IN THE INVESTIGATION, NAMELY GENERAL RONNIE VAN DER WESTHUIZEN, CAPTAIN KRITZINGER AND COLONEL LANGENHOVEN, CONSTITUTED GROSS HUMAN RIGHTS VIOLATIONS IN THAT THEY ATTEMPTED TO DEFEAT THE ENDS OF JUSTICE BY DELIBERATELY HAMPERING AND ATTEMPTING TO COVER UP THE INVESTIGATIONS INTO THE KILLING AND ATTEMPTED KILLING OF THE PERSONS ATTACKED AT TRUST FEED ON 3 DECEMBER 1988.

THE COMMISSION FINDS THAT GENERAL MARX, THEN HEAD OF THE CID SERVICES IN NATAL, DEFEATED THE ENDS OF JUSTICE BY ADVISING MITCHELL, WHEN HE ADMITTED COMPLICITY IN THE TRUST FEED KILLINGS, THAT THE INCIDENT WOULD BE COVERED UP. MARX'S ACTIONS AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH HE IS HELD ACCOUNTABLE.

Covert Security Branch activities

- 136 The Commission received numerous reports of disappearances of family members, some of whom were thought to have left the country to join MK or the ANC in exile. In other cases, family members suspected that Security Branch members or *askaris* may have abducted them. The Commission's Investigation Unit was able to solve a number of these cases, and in some instances succeeded in exhuming the remains of those who had been killed. The following represent some of the cases of disappearances that were successfully solved by the Commission.

The Case of the Chesterville Four

Vlakplaas operatives killed four members of the Chesterville Youth Organisation in an undercover operation using askaris in May/June 1986. The deceased were Mr Russell Mngomezulu, Mr Muntuwenkosi Dlamini, Mr Russell Mthembu and Mr Sandile Khawula. In the November 1989 inquest into the deaths of the four men, a Durban magistrate found that the police, who had fired between sixty-seven and eighty-eight rounds at the victims, were acting in reasonable self-defence. Vlakplaas operatives Willie Nortje [AM3764/96], Izak Daniel Bosch [AM3765/96] and Colonel Eugene de Kock [AM0066/96] applied for amnesty in respect of these four killings.

The Case of the Quarry Road Four

On 7 September 1986, members of the Security Branch in Quarry Road, Durban, killed four men believed to be part of an MK cell in Durban: Mr Blessing Mabaso, Mr Thabane Memela, Mr Percival Luvuyo Mgobhozi and Mr Mbongeni Zondi. A quantity of illegal weapons was found in the vehicle in which the four deceased were travelling. The police claimed the four deceased were responsible for an attack on a home in KwaMashu on the previous day as well as an AK-47 and hand-grenade attack on a home in Umlazi on 22 August 1986, in which Ms Evelyn Sabelo [KZN/NM/209/DN], wife of Inkatha member Winnington Sabelo, was killed and her four children injured.

Durban inquest magistrate, Mr F M Vorster, found that police were justified in killing the four men. In spite of their exoneration by the inquest magistrate, three members of the Security Branch applied for amnesty for 'defeating the ends of justice' in respect of the killing of the Quarry Road Four, declining to furnish further detail of their roles in this incident.²²

The Killing of Ntombi Khubeka

In May 1987, a group of C-Section Security Branch members from Vlakplaas and the Natal Security Branch from Durban were allegedly responsible for the death of MK member Ms Ntombi Khubeka, who was allegedly involved in liaison between the local and external units of MK.

The Security Branch members had information that a locally trained ANC combat unit was operating in KwaMashu and Inanda. Ms Khubeka was alleged to be responsible for stashing weapons, accommodating external operatives and gathering intelligence on possible targets. Two of her brothers were at the ANC headquarters in Lusaka.

In May 1987, she was abducted by Vlakplaas askari Jimmy Mbane and taken to Winkelspruit where she died under interrogation by members of the Security Branch. They buried her body at Inanda Newtown.

The Commission's investigation unit exhumed her body and found that she had a gunshot wound at the back of her head²³. [JB03477/02 Police Station]. The family implicates Durban Security Branch members Vusi Myeza and 'Sikheshekheshe' Ntombela in her killing. Warrant Officer Basson is now deceased.

Colonel ARC Taylor [AM4077/96, now deceased], Captain HJP Botha [AM453/97], Lieutenant Sam du Preez [AM4130/96], Sergeant LG Wasserman [AM4508/96], Mr CA van der Westhuizen [AM4388/96], Mr Zola 'Jimmy' Mbane [AM8066/97], MD Ras [AM5183/97], Captain Adrian David Baker [AM5284/97] applied for amnesty.

The Killing of Phila Portia Ndwandwe, aka MK Zandile

Ms Phila Portia Ndwandwe, otherwise known as 'MK Zandile', [KZN/NNN/ 018/DN], was the acting commander of MK activities between Natal and Swaziland and was responsible for the infiltration of ANC cadres into Natal. She was also believed to have given orders for a number of violent MK actions in Natal, including the killing of Durban Security Branch policeman, Warrant Officer Sokhela, in August 1986.

Ndwandwe was abducted from Swaziland by Durban Security Branch members Lieutenant Sam du Preez, Sergeant Lawrence Wasserman, Colonel Andy Taylor, Mr J A Steyn and Mr J A Vorster in October 1988 and taken to their farm or 'safe house' at Elandskop, outside Pietermaritzburg. She refused to co-operate with the police.

The police officers, lacking admissible evidence on which to prosecute her, decided to kill her. Her body was buried on the Elandskop farm and was exhumed by the Commission.²⁴

The Killing of Jameson Ngoloyi Mngomezulu

Swaziland-based MK commander, Jameson Ngoloyi Mngomezulu [KZN/NNN/340/EM], was abducted from his home in June 1985 and taken to Piet Retief where he was assassinated by members of Vlakpaas and the Jozini Security Branch. Gert Schoon [AM5006/97], Paul van Dyk [AM5013/97], Almond Nofemela [AM0064/96], Colonel Eugene de Kock [AM0066/96], Johannes Koole [AM3748/96] and askari Mr Thapelo Johannes Mbelo [AM3785/96] applied for amnesty for the abduction and/or killing of Mngomezulu. Other Vlakplaas members were named as participating in the operation, but did not apply for amnesty.

The Killing of Stanley Bhila

MK member Stanley Bhila [KZN/NJ/004/DN] was acquitted in the Durban trial of Dudu Buthelezi and nine others in February 1987. The ten trialists were accused of involvement in thirteen attacks in the Durban area. Security Branch members suspected that Bhila was also involved in a fatal bombing at Amanzimtoti in December 1985 (see below).

On 18 February 1987, days after his acquittal, he was abducted and killed by members of the Durban and Vlakplaas Security Branches, on the instruction of Colonel Andy Taylor.

The following members of the Durban Security Branch and Vlakplaas unit of the SAP have applied for amnesty: Mr Frank McCarter [AM4063/96], Mr Adrian Rosslee [AM4378/96], Sergeant L G Wassermann [AM4508/96], Mr Izak Daniel Bosch [AM3765/96] and Colonel Andy Taylor [AM4077/96].

The Killing of Dion Cele

MK member Dion 'Charles' Cele (real name Mzimela), based in Swaziland, was involved in smuggling arms to South Africa. He was also allegedly responsible for a number of explosions in the country and for recruiting cadres for internal and external training.

Cele was abducted from Manzini, Swaziland, in July 1987 by Security Branch members Sergeant Lawrence Wassermann and Mr Hentie Botha, with the help of an unknown informer, and taken to a house in the eastern Transvaal for questioning. When he refused to co-operate he was taken to the Security Branch farm at Elandskop, Natal. His hands were tied and a bag was forced over his head. He was hit with a heavy piece of wood on the head and finally shot in the head.

The following security policemen have applied for amnesty for the abduction and killing of Cele: Sergeant LG Wassermann [AM4508/96], Colonel Andy Taylor [AM4077/96], Mr H J P Botha [AM453/97], Mr J A Vorster [AM4390/96], Mr J H S Labuschagne [AM5005/97] and Mr A E Verwey [AM5018/97].

The Killing of Phumezo Nxiweni

Mr Phumezo Nxiweni²⁵ was a student at the University of Natal Medical School. He was arrested in February 1987 in connection with two explosions in Durban during 1985. The first was a limpet mine explosion at the XL tea-room on 19 June 1985 in which seven people were injured; in the second incident a bomb exploded at the Spar Foodliner in St George's Street, Durban.

In May 1986, Nxiweni was one of ten accused in the Dudu Buthelezi trial in connection with thirteen attacks committed in the Durban area. He was acquitted in February 1987. Security Branch members also suspected Nxiweni of involvement in the fatal Amanzimtoti bombing in December 1985 (see below).

In November 1988, Nxiweni was abducted and taken to the Security Branch farm at Verulam for interrogation, where he was killed and buried.

Seven Security Branch members applied for amnesty in respect of the killing of Nxiweni: Mr H J P Botha [AM453/97], Mr J A Steyn [AM453/97], Mr J A Vorster [AM4390/96], Lieutenant Sam du Preez [AM4130/96], Colonel ARC Taylor [AM4077/96, deceased], Mr C van der Westhuizen [AM4388/96], and Sergeant LG Wasserman [AM4508/96]

The Killing of Bhekayena Raymond Mkhwanazi

Mr Bhekayena Raymond Mkhwanazi, [KZN/FS/121/DN], known by his MK name 'Tekere', left the country in 1984 after being harassed by the police. According to the amnesty applications of a number of Security Branch members, 'MK Tekere' was caught while on a mission to place bombs in the Durban area. He was abducted and taken to the Security Branch farm at Elandskop, where he was killed.

The following members of the SAP have applied for amnesty: Lieutenant-Colonel JA Vorster [AM4390/96], Colonel ARC Taylor [AM4077/96], Mr S du Preez [AM4130/96] and Mr LG Wasserman [AM4508/96].

The Killing of Mxolisi Penwell Khumalo, aka 'MK Mubhi'

MK operative Mxolisi Khumalo aka 'MK Mubhi' was killed on 30 July 1988 at Pietermaritzburg in an incident in which, according to the police, a hand grenade in Khumalo's possession exploded.

The Commission conducted a special investigation into Khumalo's death following allegations contained in a statement made by a retired member of the Greytown Security Branch, a Warrant Officer Gwala. Gwala alleged that Pietermaritzburg and Greytown Security Branch members, notably Sergeants Simon Makhaye, Thulani Kleinboo, Zimu and Mzolo, were responsible for Khumalo's death. He told the Commission that Khumalo was deliberately lured to a place in Sobantu where he was killed⁶.

Khumalo's mother, Ms Joyce Ntombiyise Khumalo, told the Commission that her son went into exile in 1986. In July 1988, he came to see her at home. About two to three months later, she heard that her son might have been killed in a bomb blast at Magogo soccer field in Sobantu.

Sergeant Simon Makhaye was subpoenaed to appear before the Commission in terms of section 29 of the Act. He told the Commission that he had been present at the time of Khumalo's death, accompanied by Sergeants Kleinboo, Zimu and Mzolo. He said they had obtained information about an MK operative in the area and had found Khumalo, who was allegedly known to Zimu. According to Makhaye, the four policemen tried to arrest Khumalo, but he reached for a grenade in his pocket and a struggle ensued. Makhaye stepped away to avoid the explosion. Kleinboo allegedly shot Khumalo, who threw the grenade at Zimu, injuring him slightly in the explosion.

Commission investigators established that neither the Mountain Rise police station nor the Pietermaritzburg mortuary had any record of Khumalo's killing. It was later discovered that Khumalo's remains had been buried in a pauper's grave at the Mountain Rise Cemetery on 8 August 1988, under the name of 'Thembilile Gladman Sithole'. The inquest report number handed to the Commission concerned a pedestrian accident in Edendale that bore no relation to either Khumalo or one Thembilile Gladman Sithole.

The Commission arranged for Khumalo's remains to be exhumed. This was done on 11 May 1998. State pathologist Dr Steve Naidoo attended the exhumation and conducted a thorough examination of the remains. He told the Commission that, although there had been some erosion of the bone matter in view of the normal

passage of time, the skeletal frame was largely intact. Bone fragmentation found at the base of the skull was consistent with a gunshot wound to the head. Dr Naidoo said that there was no evidence that would indicate an injury by hand-grenade explosion.

In his Section 29 hearing, Sergeant Makhaye indicated that Sergeant Zimu knew Mr Khumalo, yet the police claimed that his true identity could not be established and he was buried under false documentation. Although no inquest was held, documentation from the former Security Branch states that an inquest was finalised.

IN REVIEWING EVIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS PERPETRATED BY THE STATE IN NATAL AND KWAZULU DURING THIS PERIOD, THE COMMISSION FINDS THAT THE SECURITY BRANCH OF THE SAP ENGAGED IN UNLAWFUL COVERT ACTS RESULTING IN THE DISAPPEARANCE AND TORTURE, AND IN MANY SUCH CASES, THE DEATHS OF POLITICAL ACTIVISTS OPPOSED TO THE SOUTH AFRICAN GOVERNMENT. THE COMMISSION FINDS THAT IN SOME CASES POLITICAL ACTIVISTS WERE DELIBERATELY KILLED BY MEMBERS OF THE SAP. THE SAP IS HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS REFLECTED BY THESE ACTS.

C o n t r a - m o b i l i s a t i o n

- 137 The early 1980s saw a steady increase in groups of vigilantes who used terror to quell the growing revolt among rural youth against the old order. By and large, vigilantism was closely allied to the South African government's institution of homeland administrations and black local councils. In many areas, and particularly with the rise of radical anti-apartheid opposition in the early 1980s, those associated with these structures often found themselves isolated and reviled, particularly by radical youth. They started to defend their interests (and sometimes their very lives) through the formation of vigilante 'armies' drawn from the more traditionalist and uneducated of the local population.
- 138 Vigilante activities appeared to have the support, both covert and overt, of the security forces. A review of the evidence, based on *affidavits* submitted to the Commission by amnesty applicants Mr Shabangu, Mr Harrington and Mr Madlala, enabled the Commission to confirm the findings of the Human Rights Commission, that the security forces colluded with Inkatha vigilantes in the following ways:
- a Through acts of omission: staying away from the scene of vigilante attacks, or arriving excessively late; not responding to forewarning of attacks; not countering, deflecting or dispersing attackers; not charging or prosecuting attackers, and refusing to accept charges laid by injured parties; failure to solve murders, even when evidence was readily available; failure to remove weapons from vigilante bases;
 - b Through acts of commission: indiscriminate attacks on township dwellers with tear gas, guns, rubber bullets, etc.; dispersing, arresting or detaining township dwellers and removing their means of defence; escorting and even transporting vigilante groups to and from scenes of attack; collaboration in the planning and execution of attacks and in the identification and targeting of specific individuals; provision of weapons and other materials to vigilante groups; training and funding of vigilante groups²⁷.
- 139 In 1982, residents of the Lamontville township in Durban South formed the Lamontville Rent Action Committee to oppose rent increases announced by the Port Natal Administration Board (PNAB). In early 1983, similar committees from several PNAB-administered townships (for example, Hambanathi and Chesterville) came together to form the Joint Rent Action Committee (JORAC). Besides opposing rent increases, JORAC also opposed plans, already underway, to incorporate a number of PNAB townships into KwaZulu.
- 140 A vigilante group calling itself the 'A-Team' was formed to counter support for JORAC in Lamontville and Chesterville, both of which, along with Clermont and Hambanathi, had been identified for incorporation into KwaZulu. The conflict and violence which beset each of these areas for the next four years was to some degree centred around those involved in the incorporation question, including councillors and vigilantes.

The Killing of Harrison Dube

On 25 April 1983, Lamontville councillor and JORAC chairperson Mr Harrison Msizi Dube was shot dead after returning from a JORAC meeting. Dube's death sparked outrage. His community went on the rampage, attacking councillors' homes and buildings belonging to the PNAB and killing three alleged police informers. The violence quickly spread to the Chesterville township.

In Lamontville, five people, including the Inkatha-aligned mayor, Mr Moonlight Gasa, were arrested on 22 June 1983 in connection with Dube's killing. All five were subsequently convicted of the murder. Mr Vakuthethwa Yalo, Mr Ebenezer Mngadi and Mr Julius Mngadi were sentenced to death (later commuted to life imprisonment). Mr Bangu Mbawula was sentenced to eight years' imprisonment and Mr Moonlight Gasa to twelve years' imprisonment [KZN/DQ/001/DN; AM1334/96].

- 141 In Chesterville, JORAC members and supporters were targeted for attack by an Inkatha-supporting and state-sponsored vigilante group set up in the township in 1983/4, also known as the 'A-Team'. The group was based in Road 13. Statements made to the Commission alleging human rights abuses by the A-Team refer to incidents between 1985 and 1989. These included at least ten killings, several cases of attempted murder and severe ill treatment and arson attacks.
- 142 The picture painted by witnesses at the Commission's public hearings in Durban was that the A-Team established a reign of terror in Chesterville over a number of years. They took over Road 13, illegally occupying houses and burning surrounding houses in order to make a safe area for themselves. They also allegedly brought in Inkatha youths from other townships to bolster their power base. Their sole aim was to target members of youth and other UDF-linked organisations. This they did with the active complicity of the SAP, including the Riot Unit and the Security Branch.
- 143 In his amnesty application, former Durban Riot Unit member Frank Bennetts [AM4059/96] gave evidence of the extent of Security Branch involvement in and collusion with members of the A-Team. At a section 29 hearing, he described the A-Team as:
- A group of Inkatha supporters who were acting in their capacity, or so I believed, in assisting the police in the curbing of the growth and support of groups and organisations opposed to the government and the order of the day.*
- 144 According to Bennetts, the A-Team assisted the Riot Unit by identifying alleged UDF activists to be detained and passing on other information to the security forces. In return, the Riot Unit offered them protection by putting extra patrols into their street and escorting them in and out of the township. Bennetts told the Commission that, despite good cause to do so, A-Team members were never detained under the emergency regulations. Had the police done so, he said, the violence in Chesterville would have been reduced "by 99.99 per cent". In his words, the A-Team "wrecked half the township". Nevertheless, the Riot Unit openly and blatantly sided with the gang, perceiving them as a legitimate ally in their struggle against the UDF.
- 145 Bennetts alleged that the A-Team was started by a military intelligence agent employed by the Natal Provincial Administration as the township manager to oversee the administration of Chesterville. He denied that the Riot Unit paid them or provided them with weapons. However, he had good reason to believe that either the military or the security police provided them with monetary and logistic assistance (firearms, petrol bombs and ammunition). He said further that "in all likelihood" some of the atrocities committed by the A-Team were planned by some unit of the security forces.

THE COMMISSION FINDS THAT, AT THE BEHEST OF SEVERAL UNNAMED INKATHA-SUPPORTING TOWN COUNCILLORS AND UNNAMED MEMBERS OF THE SAP, VIGILANTE GROUPS WERE ESTABLISHED AND BECAME ACTIVE IN SEVERAL TOWNSHIPS IN THE PROVINCE FROM 1983.

THE COMMISSION FINDS THAT THE A-TEAM, ACTIVE IN LAMONTVILLE AND CHESTERVILLE DURING 1983–4, WAS RESPONSIBLE FOR UP TO TEN KILLINGS AND AN UNKNOWN NUMBER OF ACTS OF ATTEMPTED KILLING, SEVERE ILL TREATMENT AND ARSON, TARGETING MAINLY UDF SUPPORTERS AND CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH UNKNOWN MEMBERS OF THE A-TEAM ARE HELD ACCOUNTABLE. MEMBERS OF THE SAP UNLAWFULLY SUPPORTED THE ACTIVITIES OF SUCH GROUPS AND ARE HELD ACCOUNTABLE FOR THE VIOLATIONS ARISING FROM THE ACTIVITIES OF THE A-TEAM.

The Killing of Philemon Khanyile

Chesterville community leader Philemon Khanyile was stoned and burnt to death in his car by an angry crowd of residents when he attended the funeral of Mr Harrison Dube. The crowd had been led to believe that he was a police informer. Khanyile was a member of JORAC and a teacher at the Chesterville High School.

Bennetts told the Commission that the Riot Unit had deliberately framed Khanyile as an informer. Bennetts and a colleague had visited Khanyile's sister and handed her an envelope containing R500 in cash, which they asked her to give to her brother.

- 146 According to Bennetts, this tactic was used on numerous occasions. Another tactic used by Riot Unit members was to pick up an activist, keep him for half an hour, and then take him along to uncover a firearm they already knew about. This would be done in full view of the community. The Riot Unit members would then release the activist, who would in all probability be labelled as an informer and possibly be killed. Bennetts admitted at his section 29 hearing that “a hell of a lot”, “a couple of hundred” people had been framed in this manner, and that “quite a few” had died as a result: “I’d say about five. But a lot just vanished, never to be seen again.”

The Killing of the Mdluli Family

On 8 January 1987, the A-Team petrol-bombed and burnt down a number of houses belonging to UDF supporters. Mr Musa Mdluli [KZN/GW/006/DN; KZN/SELF/113/DN], a Chesterville resident, was at work when he received a phone call telling him that members of the A-Team were attacking his house. He rushed home to find his five children inside the burning house. One of them (Nokwazi, aged twenty-five years) was already dead. Three other children died in hospital. They were Bongzi (5), Brenda (2) and Sithabile (6 months). A-Team member Bheki Mdlalose was sentenced to twenty-seven years’ imprisonment for his part in the attack (Durban hearing).

- 147 Bennetts said that, in 1987-88, some members of the A-Team moved out of Chesterville and operated from a house in Umlazi and Ntuzuma. The Riot Unit would escort them into Chesterville, where they would carry out a ‘hit’, after which they would be escorted out again. The community came to fear and hate the Riot Unit because of its demonstrated partiality towards the A-Team. Bennetts told the Commission:

We were shot at on a regular basis. We had wires put up, telephone wires, washing-line wires put up just at the perfect height that an oke [guy] could come round a corner and take a shot at the police van. Jump out and chase him. He runs round the corner. He knows where the wire is. He put it there. He would duck and take you out in the throat. I had soldiers there with throats almost cut off with wires.

It became a war in Chesterville, if I can call it that, involving numerous little parties, no one actually maintaining some sort of control as to what was going on. You had the UDF/ANC conflict on the go. You had the police – the Riot Unit in there and the army. I’m talking about your – just your down to earth, uniformed guy who was there to go and patrol. They were getting shot at on a regular basis. Every road in that location basically, bar [Road] Two, is a dead-end road. Drive in there some time and try and turn a row of two or three Casspirs around. Guarantee you’ve got things thrown at you.

The situation for us as the members working inside there came to the point there when you went to work tonight you didn’t know whether you were going home tomorrow. You just had no idea ... We became

hardened to the extent that eventually it just didn't matter whether that person burning lived or died. It didn't matter what side he was on. My interest there was to go home tomorrow morning and that was it.

- 148 In KwaMashu, the *AmaSinyora* gang, a group of Inkatha-supporting vigilantes based in K Section, KwaMashu, north of Durban, was set up in 1987 to oppose UDF-aligned activists in the township. The gang was allegedly responsible for attacks on many non-aligned residents of the township and was described as carrying out a reign of terror from the late 1908s through to 1991, resurfacing temporarily in 1994.
- 149 In 1991, one of the founder members of the *AmaSinyora* gang, Mr Bheki Mvubu, made an *affidavit* to the LRC in which he implicated himself in burning at least eight to ten houses and in participating in attacks in which about forty UDF supporters were killed. All these took place in KwaMashu K Section. During house raids, the relatives of UDF supporters were sometimes killed. Another founder member, Mr Dumisani Zondo, a member of the SADF, allegedly assisted in training the gang members and supplying weapons and ammunition.
- 150 According to information handed to the Commission, the group was supported by the KZP stationed at KwaMashu. Detective Zondi, now deceased, of the KwaMashu KZP, was the father of one of the *AmaSinyora* members and allegedly kept the group informed of complaints laid against them at KwaMashu police station. Another KwaMashu KZP member, Mr Khetha Shange, also worked with the *AmaSinyora*, providing them with bullets and occasionally joining in attacks.
- 151 According to Bheki Mvubu, in 1988 the *AmaSinyora* gang was introduced to Lindelani IFP leader Thomas Shabalala (see below), who supplied them with three shotguns and several boxes of bullets and praised their activities. They met with him several times to request money, guns and ammunition.
- 152 In January 1988, the *AmaSinyora* began collecting 'protection money' from residents of K Section. The gang began reporting to the local councillor and Inkatha chairman in K-Section, Mr Zwane, who took control of the 'protection money'.
- 153 According to Mvubu, the KZP stopped charging the *AmaSinyora* members for killings or other criminal activities once they joined Inkatha. For example, Mvubu was arrested after killing a young UDF supporter by the name of Jomo in mid-1989. He and a few others were still standing around the corpse when the KZP arrived. They were all arrested and taken to the police station, where they denied the killing. They were released after about four hours and dropped off in K Section.
- 154 The LRC received *affidavits* from up to twenty KwaMashu residents in which allegations of serious criminal activity were made against the *AmaSinyora* and the KZP. The LRC noted:
- As a result of the perceived bias and non-responsive attitude of the KZP, most victims of AmaSinyora attacks have stopped reporting incidents to the KZP. On several occasions, K Section residents have attempted to secure the assistance of the SAP, either in the form of immediate protection or investigative action and arrests. Invariably the SAP have refused all requests on the basis that as KwaMashu falls in KwaZulu, the SAP have no jurisdiction to operate in the area.*²⁸
- 155 Mvubu said that, to his knowledge, no *AmaSinyora* members were convicted as a result of KZP investigations. In July 1990, a joint SAP–KZP investigation team launched an investigation into the activities of the *AmaSinyora*, which resulted in a few arrests and convictions.
- 156 According to the LRC and the Human Rights Commission²⁹, the *AmaSinyora* were implicated in 291 attacks in 1989–90, including approximately 100 killings. During the same period, approximately 400 homes in K Section were abandoned.

- 157 During 1989, the *AmaSinyora* joined up with one Mr Shozi, an Inkatha leader from Z Section, Umlazi, who allegedly provided them with weapons from time to time and used some of the stronger *AmaSinyora* members to fight for him in Umlazi, transporting them in his vehicle and accommodating them in his Umlazi home.
- 158 The term 'warlord' first came into common currency in the late eighties as an analytical, though initially pejorative, description of a number of 'vigilante' and Inkatha leaders who had risen to prominence in the growing party conflict in the province. It is believed that the appellation was first used by academics involved in unrest monitoring, and was soon taken up by the media. This suggests that the term strove to denote something more than simply a leader in violent activities, seeking to describe the nature of the relationship of such leaders to other forces in society.
- 159 In the KwaZulu-Natal context, a warlord is a powerful local leader who gets and keeps political power in an area by paramilitary or military force and who has an ambiguous or only nominal allegiance to a higher authority. During the period under review, this authority was usually Inkatha but also, in a sense, the police, who represented the central government and demonstrated its tolerance of such unofficial local or district 'government'. The warlord tends to gather a group of professional strong-arm men around him and pay for their services by extracting fees, fines and protection money from the local populace. Though self-interest and the acquisition of personal wealth often play a strong role in the seizure or maintenance of the warlord's power, political allegiance plays a significant role in his rise to power.
- 160 The Commission heard that some ANC leaders also behaved in a warlord-like way. Mr Harry Gwala, the Natal Midlands ANC leader, gained considerable notoriety as a warlord, though he did not derive particular material benefit from his position of authority. Gwala's popularity with the militant ANC youth in the area derived from the uncompromisingly aggressive line he took towards Inkatha leaders and members. At an ANC rally in April 1992, Gwala said he would not discourage people from attacking IFP warlords: "Make no mistake", he said, "we will kill [Inkatha] warlords".³⁰
- 161 Gwala gathered around himself a group of 'strongmen' who intimidated and threatened people who clashed with him within the ANC and SACP. On occasion, he ordered assassinations, though they were not always carried out³¹. He had the charisma associated with warlords and his confrontational leadership style resonated with ANC supporters in the Natal Midlands who had borne the brunt of Inkatha and police attacks for years.

THE COMMISSION FINDS THAT MR HARRY GWALA, NOW DECEASED, FUNCTIONED AS A SELF-STYLED ANC WARLORD IN THE GREATER PIETERMARITZBURG AREA, AND THAT HE ESTABLISHED SELF-DEFENCE UNITS IN THE AREA UNDER HIS CONTROL. GWALA'S POLICIES AND PUBLIC UTTERANCES ACTIVELY FACILITATED A CLIMATE IN WHICH GROSS HUMAN RIGHTS VIOLATIONS COULD TAKE PLACE. THE COMMISSION FINDS THAT IN CALLING FOR THE KILLING OF PERSONS OPPOSED TO THE ANC, GWALA INCITED HIS SUPPORTERS TO COMMIT GROSS VIOLATIONS OF HUMAN RIGHTS, INCLUDING KILLING, ATTEMPTED KILLING, SEVERE ILL-TREATMENT AND ARSON, FOR WHICH HE IS HELD ACCOUNTABLE. THE ANC CONSISTENTLY FAILED TO REPROACH, DISCIPLINE OR EXPEL GWALA FROM ITS RANKS, AND THEREBY ENCOURAGED A CLIMATE OF IMPUNITY WITHIN WHICH GWALA CONTINUED TO OPERATE. TO THIS EXTENT, THE ANC IS ALSO HELD ACCOUNTABLE FOR THE PREVIOUSLY MENTIONED VIOLATIONS.

- 162 Former ANC leader Sifiso Nkabinde of Richmond also gained notoriety as a warlord for the considerable power he wielded in the area after he led a violent and successful campaign to defeat Inkatha opponents. He soon became a leading ANC figure in the province, though tainted by allegations of complicity in the killing of some ANC youth leaders in Richmond and, in 1996, of three Indian policemen. In April 1997 he was exposed as a long-serving police agent and expelled from the ANC.
- 163 Mr Thomas Mandla Shabalala is representative of the urban warlords who controlled the numerous informal squatter settlements and shacklands ringing the city of Durban. He became the foremost warlord in the Durban region as the self-styled community councillor and self-proclaimed Inkatha mayor of the squatter settlement of Lindelani. He was

reportedly elected spokesperson for the community at a residents' meeting in 1984, went on to chair the local Inkatha branch and later become the KLA member for Lindelani, and a member of Inkatha's Central Committee.

- 164 Shabalala set up what he called a 'community guard force' in Lindelani, which was paid for by an informal house 'tax' of R3.00 exacted from every household. He also exacted fees for Inkatha membership cards, school funds, site rental, school teachers and other taxes and rents. In 1988, he owned a fleet of taxis, the only butchery and bottle store in Lindelani, and a development business.
- 165 Shabalala's community guards – described as *amabutho* [a military regiment] – were soon armed with licensed weapons and engaged in attacks on neighbouring areas and on UDF supporters within Lindelani. Many attacks in the early 1980s were related to attempts by KwaZulu to incorporate areas such as Hambanathi and Lamontville into the KwaZulu homeland. The first major attacks by large groups of men took place in August 1985 in response to large-scale unrest in the Durban area, initiated by a COSAS schools boycott. Shabalala himself allegedly led a 300-strong group that attacked the memorial service for assassinated Victoria Mxenge in August 1985, killing seventeen people.
- 166 Vigilantes seized control of Ntuzuma, KwaMashu and Umlazi and continued with increasing intimidation and sporadic conflict for months thereafter. The latter half of 1989 saw about 300 people killed in the townships surrounding Durban.
- 167 Shabalala was also alleged on numerous occasions to have intimidated, assaulted, tortured and killed opponents.

The Case of Belinda and Simon Mfeka

On 26 May 1986, Ms Belinda and Mr Simon Mfeka obtained a temporary interdict against Shabalala because he had threatened them for not paying their Inkatha, Inkatha Women's Brigade, UWUSA and community guard dues. Within an hour of the granting of the interdict, a group of a hundred people arrived to demolish the Mfeka's three-roomed brick house.

- 168 The Commission heard several claims from victims that they had been forcibly taken to Shabalala's house where they were questioned and assaulted, and where some were held in what became known as 'Shabalala's jail'.

The Case of Sibusiso Nkabinde

On 20 May 1989, Mr Sibusiso Nkabinde [KZN/FS/130/DN] was taken forcibly from his home to Shabalala's house where he was assaulted by two persons acting on Shabalala's instructions. Shabalala himself pushed a barrel of a rifle into the back of Nkabinde's head. Nkabinde continued to be assaulted in Shabalala's presence and heard unknown people deciding that he should be killed and his body burnt. He escaped and the following day his house in Lindelani was burnt down.

The Case of Victor Madele

During September 1985, Mr Victor Madele of Lindelani was forcibly taken to Shabalala's house where he was questioned about his activities and held in a locked room for about two weeks against his will. At the end of this period of imprisonment, he was again forcibly brought before Shabalala, who assaulted him by stabbing him in the right eye with a fork.

The Commission heard that Madele was forcibly taken from his home to Shabalala's house on four more occasions in 1988: on 6 June, after which Madele reported the matter to the KwaMashu police station [CR 47/6/1988]; on 19 June; on 1 December 1988, and again ten days later. He reported the matter to the SAP at CR Swart Square in Durban.

The Case of Seven KwaMashu Youth League Members

In 1987, Shabalala was implicated in the killing of seven KwaMashu Youth League members. He was acquitted at a trial in August 1989, but two of his personal bodyguards, Mr Emmanuel Khanyile and Mr Wilfred Phewa, were convicted.

On 25 April 1988, Mr Lindelani Jabulani Msimango, Mr Innocent Mzo Ndlovu, Mr Bheki Gcabashe [KZN/NNN/041/DN] and others were walking near Lindelani when two vehicles stopped near them and a number of men, including Thomas Shabalala, armed with guns and traditional weapons, got out and fired at the group, severely injuring Msimango. The men chased, attacked and killed Gcabashe and attacked and severely injured Ndlovu. Shabalala was arrested for the shooting of the sixteen-year-old Gcabashe, but was released on bail and later acquitted.

The Case of Nkosinathi Mjoli

On 17 June 1990, Thomas Shabalala assaulted Mr Nkosinathi Musa Mjoli at an Inkatha rally at the King Zwelithini Stadium at Umlazi. Mjoli was wearing a T-shirt with the slogan 'Workers demand a living wage', and Inkatha supporters believed him to be a supporter of a COSATU-affiliated union and referred to him as a member of the amaqabane [comrades]. At the end of the rally, Shabalala instructed Inkatha supporters to kill Mjoli who was subsequently stabbed to death in the toilets of the stadium.

- 169 Shabalala had a presence of armed men in many different parts of the region and was believed to have been involved in conflict in North Coast areas including Eshowe, Mandini, Esikhawini and Ngwelezana. By the end of the 1980s, he controlled a large area around the informal settlement of Lindelani. He continued to exact fees from residents³² and it is alleged that some of the proceeds went into his personal business ventures. In spite of the accumulation of evidence against him, Shabalala has remained seemingly immune to police action.

THE COMMISSION FINDS THAT THOMAS MANDLA SHABALALA IS ACCOUNTABLE FOR GROSS HUMAN RIGHTS VIOLATIONS OVER AN EXTENDED PERIOD IN LINDELANI AND ELSEWHERE IN KWAZULU-NATAL. HE FOSTERED AND FACILITATED A CLIMATE IN WHICH OTHERS UNDER HIS LEADERSHIP COMMITTED GROSS HUMAN RIGHTS VIOLATIONS.

- 170 When David Ntombela of Mncane in Vulindlela became the *induna* of KwaMncane, the money he collected from people for a 'co-operative store' allegedly went into building his own store. Ntombela became known for spearheading attacks against UDF supporters who had begun to infiltrate the Elandskop area towards the end of 1987.

The Case of the Mkhize Family

The Commission heard that, on the night of 9 October 1987, Ntombela, his brother and six other men went to the home of Mr Mandla Mkhize at Zondi's store, an area in his region. They were looking for Mkhize's sons, COSATU members Mangethe and Muntu. They were out but their mother, Ms Maqhikila Angelica Mkhize, was at home with three children. According to one of the children, Ntombela then shot and killed the mother with a small handgun and the men killed one of the daughters, Petronella.

The inquest magistrate found in 1989 that it was possible that David Ntombela and five others "were in some way responsible for the deaths". To this day, the case has not gone to trial.

- 171 On 31 January 1988, David Ntombela was among a number of people who addressed a large Inkatha rally at Mpumuza in Sweetwaters. Witnesses allege that he said: "Anyone who does not want to belong to Inkatha should be killed". He said he would go to each of the Chiefs' areas and kill those who were not Inkatha. He reportedly asked permission of the Chiefs to stop the meeting so that he could lead the people out and drive the UDF and COSATU from the area. After this meeting, an attack was launched on the township of Ashdown, assisted by the police.³³
- 172 The Commission heard that Ntombela enjoyed a good relationship with senior members of the police and that units of the riot police were often seen at his home. Evidence given at the Commission's hearings in Pietermaritzburg in 1996 and at a 1997 amnesty hearing in Edendale indicates that Ntombela was in regular contact with the police and worked with them in the recruitment, administration and payment of special constables. In April 1997, it was revealed that Ntombela, along with ANC leader Sifiso Nkabinde, had been a long-time police informer and agent.

- 173 Mr Abdul Awetha of Imbali was described as representative of the urban town councillor-type of warlord. Awetha gained prominence through his opposition to the rise of youth resistance in the 1980s. As the pressure on the black township councils increased, he began to gather a number of unemployed strongmen around him. He also built up a lucrative patronage system through the granting of housing sites and trading licenses. He is said to have used false promises of access to houses to get people to join Inkatha. Awetha played a prominent role in much of the conflict in and around Imbali during this period. He is alleged to have been involved in procuring weapons with the help of security police.
- 174 In 1985, vigilante groups clustered around Imbali town councillors were reported to be going from house to house demanding that all UDF, AZAPO and Imbali Civic Association members be handed over to them. A number of attacks, assaults and acts of intimidation took place. Awetha was one of three people arrested on 9 June 1992 in connection with the death of Mr S'khumbuzo Ngwenya, who chaired the Imbali ANC branch (see below). However, charges were dropped when the state's key witness refused to testify after allegedly being threatened. Awetha has not been prosecuted for the violence in which he is alleged to have been involved or for his corrupt behaviour as a town councillor.

THE COMMISSION FINDS THAT ABDUL AWETHA COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS IN THE NATAL MIDLANDS REGION FOR WHICH HE IS ACCOUNTABLE .

- 175 Recent police investigations and court proceedings have unearthed much evidence of the involvement of the highest levels of the state's security apparatus in the paramilitary training of Inkatha-supporting recruits for deployment against the UDF/ANC in townships and other areas around the province.
- 176 In the face of rising militancy in the UDF, the chief minister and minister of police in the KwaZulu government, Mangosuthu Buthelezi, expressed the embattled position of Inkatha supporters on the ground as follows:
- I hardly need to emphasise that we need to be placed in a far better position to defend our property and the lives of our people from those kinds of attacks. We do not intend to be sitting ducks ... In fact, I believe that we must prepare ourselves not only to defend property and life but to go beyond that and prepare ourselves to hit back with devastating force at those who destroy our property and kill us.*
- It will be a sad day when brother has to defend himself against brother. This is exactly what we will be forced to do if these kinds of incidents escalate.³⁴*
- 177 According to a secret State Security Council document³⁵, the Inkatha Central Committee decided during 1985 "that the whole of KwaZulu and Natal must be turned into a so-called 'no-go area' for the UDF, regardless of the consequences".
- 178 In late 1985, Chief Buthelezi was alerted to alleged MK plans to assassinate him and turned to the government and SADF for assistance. His requests, as detailed in various military intelligence and State Security Council documents, included the training and deployment of a VIP guard unit, an intelligence structure, a KwaZulu army, the authority to issue firearm licenses, and a paramilitary force. In a Section 29 Hearing of the Commission, former IFP National Council member Walter Felgate recalled discussions in which he had specifically advised Chief Minister Buthelezi of the need for a defensive and pre-emptive capacity for Inkatha. What was envisaged, he said, was a 'strike capacity' for the IFP, not purely a defensive group to look after KwaZulu government VIPs and property.
- 179 One of the outcomes of these deliberations was the clandestine paramilitary training of some 200 Inkatha supporters by the SADF in the Caprivi, Namibia, during 1986, known as Operation Marion. The 'Caprivi trainees' returned to KwaZulu and Natal in September 1986, after six months of special forces training which, they were told, was to equip them to destroy the UDF/ANC. The 'Caprivi trainees' were variously deployed around the province: some to the KLA Protection Unit, some to Inkatha constituency offices and some to KZP stations. The trainees were required to make

themselves available to local Inkatha leaders as well as to undertake the training of Inkatha youths in the areas where they were deployed.³⁶

- 180 The role of the 'Caprivi trainees' came under the spotlight in the Durban Supreme Court during the so-called 'KwaMakhutha trial'³⁷ of 1996. The Court found that Inkatha members trained by the SADF in the Caprivi were responsible for the killing in January 1987 of thirteen people, mostly women and children, in an AK-47 attack on the home of UDF leader Mr Bheki Ntuli, in the KwaMakhutha township south of Durban [KZN/MR/031/DN].
- 181 The Commission decided that a hearing should be held to hear testimony from and permit cross-examination of those witnesses whom the state had failed to call in the KwaMakhutha trial. Witnesses included Caprivi trainees as well as their political commissar, Daluxolo Luthuli, and an SADF expert on counter-revolutionary warfare. Evidence was also presented by a Special Forces amnesty applicant who had trained the recruits in the Caprivi.
- 182 The Commission has made a comprehensive finding concerning Operation Marion. It is contained in a lengthy document which includes the full reasons for the finding and which can be found in the State Archives. The main features of the finding are as follows:

IN 1986, THE SADF FORCE CONSPIRED WITH INKATHA TO PROVIDE INKATHA WITH A COVERT, OFFENSIVE PARAMILITARY UNIT (HIT SQUAD) TO BE DEPLOYED ILLEGALLY AGAINST PERSONS AND ORGANISATIONS PERCEIVED TO BE OPPOSED TO OR ENEMIES OF BOTH THE SOUTH AFRICAN GOVERNMENT AND INKATHA. THE SADF PROVIDED TRAINING, FINANCIAL AND LOGISTICAL MANAGEMENT AND BEHIND THE SCENES SUPERVISION.

ACCORDING TO GENERAL MAGNUS MALAN, THE STATE SECURITY COUNCIL SANCTIONED ALL STEPS TAKEN UP TO AND INCLUDING THE LIEBENBERG REPORT. THERE IS A CONSIDERABLE VARIANCE BETWEEN THE TRAINING CONTEMPLATED IN PARA 24. C.I, AND II OF THE LIEBENBERG REPORT AND THE ACTUAL TRAINING RECEIVED. IT CANNOT BE ASSUMED THAT IT WAS AT THIS STAGE THAT THE HIT SQUAD ACTIVITIES WERE FORMULATED.

IT IS CLEAR FROM THE MILITARY DOCUMENTS OF 16 APRIL 1986 THAT GENERAL MAGNUS MALAN, CHIEF BUTHELEZI AND ADMIRAL PUTTER HAD TO FINALISE THE NATURE OF THE TRAINING AND THE DEPLOYMENT OF THE TRAINEES BEFORE THE END OF THE BASIC TRAINING. MALAN CONFIRMED A MEETING WITH CHIEF BUTHELEZI ON 17 APRIL. JAN ANTON NIEUWOUTD OF SADF SPECIAL FORCES CONFIRMED THAT HE WAS SENT TO THE CAPRIVI TO UNDERTAKE TRAINING BY GENERAL GROENEWALD WHO FELL UNDER PUTTER. THIS WAS THE TIME OF THE CONSPIRACY AND THE PARTIES REFERRED TO WERE THE CONSPIRATORS.

TRAINING IN THE CAPRIVI STRIP INCLUDED *INTER ALIA*, THE FOLLOWING FEATURES;

- THE USE OF THE SPECIAL FORCES AS INSTRUCTORS;
- THE USE OF SOVIET WEAPONS;
- THE USE OF HEAVY DUTY WEAPONS SUCH AS MORTARS AND RPG7S;
- THE USE OF EXPLOSIVES, LANDMINES, AND HAND GRENADES;
- TECHNIQUES IN HOW TO CARRY OUT ATTACKS WITHOUT LEAVING CLUES AND TACTICS ON HOW TO AVOID ARREST, DETENTION AND INTERROGATION AT THE HANDS OF THE POLICE;
- ATTACKS ON HOUSES WITH THE AIM OF KILLING ALL THE OCCUPANTS.

PERSONS INVOLVED IN GIVING THE TRAINING AND PERSONS RECEIVING TRAINING TESTIFIED THAT THEY WERE GIVING AND RECEIVING TRAINING IN ORDER TO ENGAGE IN THE UNLAWFUL KILLING OF PEOPLE.

MALAN CLAIMED TO HAVE REPORTED BACK TO THE STATE PRESIDENT PW BOTHA AFTER THE ABOVE. THE PRESIDENT MUST THUS HAVE APPROVED OF THIS DECISION.

MZ KHUMALO OF INKATHA WAS THE LINK BETWEEN THE HIT SQUAD, THE SADF AND CHIEF BUTHELEZI. BRIGADIER MATHE OF THE KZP WAS THE PERSON WHO ISSUED FALSE POLICE APPOINTMENT CERTIFICATES TO CAPRIVI TRAINEES. KHUMALO AND MATHE WERE CHIEF BUTHELEZI'S CO-CONSPIRATORS.

THE SADF MEMBERS RESPONSIBLE FOR CARRYING OUT MALAN AND GROENEWALD'S INSTRUCTIONS AS TO THE NATURE OF THE TRAINING IN THE CAPRIVI MUST HAVE KNOWN THAT THEY WERE CREATING A HIT SQUAD. (COLONEL JJ JACOBS, COLONEL JA NIEUWOUDT, CAPTAIN. JP OPPERMAN, SERGEANT A CLOETE AND COLONEL AM BLAAUW AND OTHERS NOT IDENTIFIED).

THE SADF MEMBERS (MORE, VAN TONDER, VAN NIEKERK, COLONEL MA VAN DEN BERG, THE PERSON KNOWN TO LUTHULI AS MAJOR POLBERRY, CLOETE AND OPPERMAN) WHO OPERATED MARION IN 1987 AND BEYOND, AND CAPTAIN BOTHA AND THE LATE MAJOR DEON TERREBLANCHE OF THE SAP'S ISU MUST HAVE KNOWN OF LUTHULI AND KHUMALO'S ATTACKS AND AIDED AND ABETTED THEM TO AVOID PROSECUTION.

WITH REGARD TO THEIR ATTEMPTS TO ENSURE THAT CAPRIVI TRAINEES WHO HAD BEEN ARRESTED OBTAINED BAIL AND WERE REMOVED, SAP GENERALS SMIT AND VAN DER MERWE MUST HAVE AT LEAST ATTEMPTED TO DEFEAT THE ENDS OF JUSTICE.

THE SADF'S FINAL WITHDRAWAL FROM THE PROJECT WAS NOT AN ACT OF DISASSOCIATION BUT AN ATTEMPT TO AVOID ITS OWN INVOLVEMENT FROM BEING EXPOSED.

WHEN IT WITHDREW, IT FAILED TO PUT A STOP TO MARION'S UNLAWFUL ACTIVITIES, PAVING THE WAY FOR FURTHER ACTS OF VIOLENCE TO BE COMMITTED. THE ESIKHAWINI HIT SQUAD AND OTHER ACTIVITIES OF THE TRAINEES SHOULD BE SEEN IN THIS LIGHT.

INSOFAR AS IT WAS STRONGLY ARGUED THAT THE COMMISSION SHOULD ACCEPT HUGO J'S FINDINGS THAT THE TRAINING WAS LAWFUL AND THE EVIDENCE OF THE ACCUSED THE FOLLOWING SHOULD BE NOTED:

- THE TRIAL WAS BASED PRIMARILY ON ONE INCIDENT;
- ALTHOUGH A GENERAL CONSPIRACY CHARGE WAS ADDED SHORTLY BEFORE THE COMMENCEMENT OF THE TRIAL, NO EVIDENCE WAS LED TO SUPPORT IT;
- NONE OF THE WITNESSES BEFORE THE COMMISSION TESTIFIED AT THAT TRIAL (COLONEL ROCKY WILLIAMS, GCINA MKHIZE, ZWELI DLAMINI, JAN ANTON NIEUWOUDT AND DALUXOLO LUTHULI);
- HUGO J WAS CRITICAL OF THE FAILURE TO CALL A MILITARY EXPERT AND TO LEAD DETAILED EVIDENCE AS TO THE NATURE OF THE TRAINING;
- HUGO J FURTHERMORE FOUND THAT LUTHULI, VAN DEN BERG AND BLAAUW SHOULD HAVE BEEN CALLED;
- THE CUT OFF DATE OF THE CONSPIRACY CHARGE EXCLUDED SOME OF THE MOST INCRIMINATING MARION DOCUMENTS;
- THE ACCUSED IN THE CRIMINAL TRIAL WERE VERY POORLY CROSS EXAMINED AND NONE OF THE FACTORS WHICH THIS COMMITTEE HAS RELIED ON WERE CANVASSED WITH THEM. MANY OF THE EXTRACTS FROM THE TRIAL WHICH ARE REFERRED TO HEREIN EMERGED FROM THE ACCUSED'S EVIDENCE-IN-CHIEF OR FROM QUESTIONS BY THE JUDGE.

CONSEQUENTLY, THE COMMISSION FINDS THAT THE GROSS VIOLATIONS OF HUMAN RIGHTS COMMITTED IN CONSEQUENCE OF OPERATION MARION WERE PART OF A SYSTEMATIC PATTERN OF ABUSE THAT ENTAILED DELIBERATE PLANNING ON THE PART OF THE FORMER STATE, THE KWAZULU GOVERNMENT AND THE INKATHA POLITICAL ORGANISATION. THE BASIS FOR ACCOUNTABILITY FOR SUCH VIOLATIONS ON THE PART OF THE FOLLOWING INDIVIDUAL MEMBERS OF SUCH ORGANISATIONS IS SET OUT IN ABOVE AND FALLS WITHIN THE DEFINITION CONTAINED IN SECTION 1(IX) (A) AND /OR (B) OF ACT NO. 34 OF 1995. THE INDIVIDUALS REFERRED THERETO ARE:

- MR PIETER WILLEM BOTHA, FORMER STATE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA;
- GENERAL MAGNUS ANDRE DE MERENDAL MALAN, FORMER MINISTER OF DEFENCE SOUTH AFRICAN GOVERNMENT;
- DR M G BUTHELEZI , FORMER CHIEF MINISTER OF THE KWAZULU GOVERNMENT AND PRESIDENT OF THE INKATHA POLITICAL ORGANISATION;
- GENERAL PIETER HENDRIK GROENEWALD, FORMERLY OF THE SADF;
- VICE ADMIRAL ANDRIES PETRUS PUTTER, FORMERLY OF THE SADF;
- MELCHIZEDEC ZAKHELE KHUMALO, FORMERLY PERSONAL ASSISTANT TO PRESIDENT OF INKATHA;

- GENERAL S M MATHE, FORMERLY OF THE KWAZULU POLICE FORCE;
- SIEGFRIED BHENGU, FORMERLY EXECUTIVE COMMITTEE INKATHA;
- MANGAQA MNCWANGO, FORMERLY EXECUTIVE MEMBER INKATHA YOUTH BRIGADE;
- CAPTAIN LEONARD LANGENI, FORMERLY OF THE KZP;
- COLONEL JAN ANTON NIEUWOUDT, FORMERLY OF THE SADF;
- LT COL GERHARDUS MARIO JACOBS, FORMERLY OF THE SADF;
- COL H M BLAAUW, FORMERLY OF THE SADF;
- CAPTAIN JOHAN PIETER OPPERMAN, FORMERLY OF THE SADF;
- SGT ANDRE CLOETE, FORMERLY OF THE SADF;
- COLONEL JOHN REEVES MORE, FORMERLY OF THE SADF;
- GENERAL CORNELIUS JACOBUS VAN TONDER, FORMERLY OF THE SADF;
- COLONEL CORNELIUS JOHANNES VAN NIEKERK, FORMERLY OF THE SADF;
- COLONEL MICHAEL ADRIAAN VAN DEN BERG, FORMERLY OF THE SADF;
- COLONEL LOUIS BOTHA, FORMERLY OF THE SOUTH AFRICAN POLICE;
- GENERAL JOHAN VAN DER MERWE, FORMERLY OF THE SOUTH AFRICAN POLICE;
- GENERAL SEBASTIAN JACOBUS JOHANNES SMIT, FORMERLY OF THE SOUTH AFRICAN POLICE.

183 The Commission heard that, in October 1986, approximately fifteen to twenty 'Caprivi trainees' were told to report to the police station in the township of Mpumalanga, outside Durban. Although they never underwent any KZP training, screening or tests and never filled in any KZP application forms, the trainees were issued with KZP certificates appointing them to the rank of detective constable. They were also issued with official police firearms, which they were allowed to take home with them. Most of them were sent to guard the homes of chiefs [amaKhosi], *indunas* and councillors in the areas surrounding Pietermaritzburg. Each trainee was expected to identify local Inkatha youth and train them in weapon handling and combat skills.

184 The SAP policed the Mpumalanga township until February 1989, when policing was handed over to the KZP. Under the guise of official law enforcement agents, the 'Caprivi trainee' constables engaged in large-scale hit-squad activities in the Pietermaritzburg/Mpumalanga area for two years, directing their attacks against perceived UDF/ANC members.

185 Mr Zweli David Dlamini [AM3685/96] was part of the group assigned to the Mpumalanga police station. He was issued with a false KZP appointment certificate, a 7.65mm pistol and ammunition. Dlamini spoke of the activities of the trainees in the Mpumalanga area at a special Commission hearing on Caprivi Training:

Dlamini: *At night if there was a chance, we will go out to hit or attack the UDF people.*

Question: *And what prompted you to carry out these attacks, you and these others?*

Dlamini: *We were trained and we knew that we were trained to kill only. There wasn't anything that we knew. Our enemy, the UDF, was operating in those areas where we were working, therefore if you happened to meet a UDF member you have to shoot.*

186 Members of the local KZP station aided the operatives by transporting them to and from the scene of attacks, warning them of possible ANC attacks and providing them with firearms. Certain members of the Pietermaritzburg Security Branch, Riot Unit 8 and Military Intelligence also assisted in the provision of weapons.

187 At the same hearing, former political commissar and commander of the 'Caprivi trainees', Daluxolo Luthuli [AM4075/96], described the role of the 'Caprivi trainees' in Mpumalanga as follows:

During the day the Caprivians worked as police, go out of the police station, do their raids. However, in the evening they have to take off their uniform and get involved in the struggle. When I refer to 'struggle' I mean it's getting themselves to do what they were trained to do in Caprivi.

188 Luthuli applied for amnesty in respect of his involvement in the conflict in Mpumalanga during this period. He told the Commission:

During this period, there were literally hundreds of incidents where attacks were launched against UDF people, property or homes. It is impossible for me to record the extent of these attacks. The comrades responded by attacking us with equal vigour. A state of war existed between us. I often played a command role in directing our attacks. I did the following: arranged for arms and ammunition; distributed arms and ammunition; gathered fighting men; chose people who would lead the attacks and different aspects of the attacks; decided on the strategy of an attack; decided on the target or area to be attacked.

After the attack, I arranged for injured persons to be medically treated by sending them to clinics or hospitals; collected firearms and ammunition and stored them safely; arranged our defensive structures and strategies; reported back to the planning committee through MZ Khumalo.

The Summertime House Attack

Luthuli gave information about an attack on a UDF meeting at a house named 'Summertime' in Unit 1 South Mpumalanga on 18 January 1988. About 300 people were gathered at the house for the meeting. Luthuli did not participate in the attack himself but sent a group led by Mr Phumlani Xolani Mshengu [AM4075/96] and including Mr Sbu Bhengu, members of the Inkatha youth and other 'Caprivi trainees'. According to Luthuli:

"Phumlani Mshengu and Sbu Bhengu were armed with two of our AK-47 rifles. The Inkatha Youth members were also armed with whatever arms we were able to lay our hands on. The group approached the house and commenced firing on the people who were there. From there they went on and attacked other houses. They destroyed approximately eight houses and killed about nine people." [AM 4075/96]

The Commission established that the deceased included Mr Mfanafuthi Gasa, Mr Kinathi Mabhida, Mr Musa Khoza, Mr Thomas Mncwabe, Thomas's brother and a man identified only as 'Rolla'. People in the area told the Commission that an estimated 200 people were injured during this attack.

Former UDF member John Mazwazwa told the Commission that on the day before the meeting at Summertime house, he and other UDF members had expressed concern for the safety of the school children because the new school term was about to begin. Mr Katiza Cebekhulu, who came from the area, was called in because of his claim earlier that he had a police connection who could protect the UDF against an Inkatha attack. At the Summertime house meeting the next day, Cebekhulu allegedly undertook to telephone the police to tell them of the gathering and to ask them to patrol the area. Within two minutes of Cebekhulu's departure, the attack began.

The attack was registered at Hammarsdale police station under CR184/01/ 88. The Commission was unable to locate this docket either at Hammarsdale or Mpumalanga. However, it was established that attacks on other houses and people in the area on the same night were listed under Hammarsdale CR182/01/88 to CR202/01/88. Of these, eight dockets were missing. In none of these cases was there a prosecution.

- 189 The activities of the 'Caprivi trainees' extended also to the freehold township of Clermont, north-west of Durban. In the early 1980s, Clermont was one of the townships identified for incorporation into the KwaZulu homeland. The campaign for incorporation was led by leading Inkatha member Bekizizwe Samuel Jamile, then KwaZulu Deputy Minister of the Interior and a resident of Clermont.

The Case of Aubrey Nyembezi

The Clermont Advisory Board, a representative body elected by ratepayers in the township in September 1982, opposed incorporation. The Board was chaired by prominent Durban attorney Aubrey Nyembezi and composed of mainly UDF-aligned businessmen and advocates.

In October 1985, three weeks before scheduled elections for the Advisory Board, Nyembezi's home was set alight whilst he and his wife were inside. The couple survived but their house and its contents were destroyed. Jamile contested the October 1985 election and was defeated. Nyembezi was returned to his position on the newly elected Board, together with Advocate Vuka Shabalala, Mr Zazi Khuzwayo and Mr Emmanuel Norman Khuzwayo.

- 190 During February 1987, Jamile, together with Inkatha-supporting Chiefs Khawula and Lushaba, were attacked with a petrol bomb in Clermont. Jamile blamed members of the Clermont Advisory Board and allegedly instructed hired hit men to kill members of the Board.

The Attempted Killing of Cornelius Delani Sikhakane, Johannes Sibongumusa Luthuli, Khayelihle Ndlovu, Nkosinathi Sithole and Themba Msimango

During April 1987, Jamile instructed Mr Vela Mchunu and another 'Caprivi trainee' to kill UDF members Cornelius Delani Sikhakane, Johannes Sibongumusa Luthuli, Khayelihle Ndlovu, Nkosinathi Sithole and Themba Msimango who were opposed to the incorporation of Clermont into KwaZulu and had used abusive language to Jamile the previous day. Jamile instructed Msizi Hlophe [AM1779/96] to guide the two attackers to a particular house, where they opened fire on the victims. Cornelius Sikhakane and Johannes Sibongumusa Luthuli were injured in the attack.

The Killing of Bhekuyiswe Khumalo

On 5 April 1987, at Mamba Valley Riverside in the Inanda District, Jamile unlawfully and intentionally killed Mr Bhekuyiswe Khumalo, and attempted to kill Mr Thokozile Shabalala. In 1991 Jamile was convicted in the Durban Supreme Court of murder and received the death sentence, later commuted to life imprisonment.

The Killing of Zazi Khuzwayo

During April 1987, Jamile instructed Daluxolo Luthuli to kill Mr Zazi Khuzwayo [KZN/MM/997/DN], a member of the Clermont Advisory Board. Luthuli instructed Sbu Bhengu and 'Caprivi trainees' Phumlani Xolani Mshengu, Alex Sosha Khumalo [AM4027/96] and Vela Mchunu, who carried out the attack on 9 May 1987. Jamile's son, Hlakaniphani Jamile, transported the hit men to and from the scene. Clermont youth Msizi Hlophe [AM1779/96] pointed Khuzwayo out to the assassins.

Hlophe, Luthuli [AM4075/96] and Khumalo [AM4027/96] applied for amnesty in respect of their role in killing Khuzwayo.

The Killing of Pearl Tshabalala

In October 1987, Jamile instructed Daluxolo Luthuli to kill Ms Pearl Tshabalala, a prominent businesswoman and member of a women's organisation which supported the Clermont Advisory Board. Tshabalala was the wife of board member Vuka Tshabalala. Luthuli instructed four 'Caprivi trainees', including Mr Alex Sosha Khumalo and Mr David Zweli Dlamini, to assist him in the killing. Jamile instructed Mr Msizi Hlophe [AM1779/96] to guide the group as they were not familiar with Clermont.

On 15 October 1987, the men fired several shots at Ms Tshabalala's moving vehicle outside her business premises in Clermont. She survived the attack. On the evening of the 10 February 1988, Pearl Tshabalala was shot dead in front of her five-year-old child as she was leaving her business in Clermont [KZN/MM/992/DN].

The Case of Obed and Zuzwe Mthembu

On 21 February 1988, Mr Obed Mthembu and his wife Zuzwe survived an attempt on their lives. Obed Mthembu, who chaired the North Coast Chamber of Commerce, was opposed to incorporation and had delivered a speech at Pearl Tshabalala's funeral just four days earlier.

The Case of Nicholas Mkhize

Taxi owner Nicholas Mkhize was killed on 15 July 1988. He, too, was a prominent businessman opposed to incorporation. He was shot dead by Mzisi Hlophe [AM1779/96], who was later convicted for this murder.

The Case of Emmanuel Khuzwayo

On 28 February 1988, Jamile instructed a 'Caprivi trainee' to kill UDF supporter Emmanuel Norman Khuzwayo, who was also opposed to the incorporation of Clermont into KwaZulu. Again, Jamile asked Mzisi Hlophe [AM1779/96] to accompany the assassin as a guide. Khuzwayo was killed on the same day.

- 191 In 1991, Jamile and Hlophe appeared in court facing fifteen charges, including five counts of murder, seven of attempted murder, and three of incitement to murder. In the indictment, Jamile was accused of being involved between 1987 and 1989 in the killing of UDF-associated persons opposed to the incorporation of Clermont into KwaZulu. Two 'Caprivi trainees' who were implicated during the trial, Zweli Dlamini and Vela Mchunu, were hidden by the KZP until it was over. Owing to the inability of the police to trace these two suspects and other witnesses, Jamile was convicted on only two counts: one of murder and one of attempted murder. Hlophe was convicted on two counts of murder. Jamile was sentenced to life imprisonment but was released in terms of the Indemnity Act of 1992. He had served just one year of his sentence. Hlophe was granted amnesty by the Commission in 1996.

THE COMMISSION FINDS SAMUEL JAMILE ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS OF CAPRIVI TRAINEES IN CLERMONT TOWNSHIP.

Resistance and revolutionary groupings

S a b o t a g e a n d b o m b i n g s

- 192 In April 1984, Mr Anamalai 'Daya' Rengasamy and Mr Leelavathi Rengasamy were killed and approximately twenty people were injured in a car bomb explosion on the Durban Esplanade. Less than a fortnight later, on 13 May 1984, there was an RPG-7 attack on the Mobil Oil Refinery, Durban. In an ensuing shoot-out at the refinery, four insurgents and three bystanders were killed. The Security Branch claimed that the four dead men could be linked to the fatal car bomb explosion on the Esplanade, as well as other attacks over the previous two years.
- 193 On 12 July 1984, five people were killed and twenty-seven injured in a car bomb explosion on Bluff Road, Durban. Mr Oliver Tambo asserted that the bomb had been intended for a military convoy and condemned the bombers for being "inexcusably careless" by causing civilian casualties.

Amanzimtoti Bombing

Five people were killed and over sixty injured in a bomb explosion on 23 December 1985 in a shopping centre at the upper South Coast seaside town of Amanzimtoti. The limpet mine had been placed in a refuse bin outside the Sanlam shopping centre. Most of the victims were holidaymakers doing last minute Christmas shopping.

Mr Sibusiso Andrew Zondo (19) was arrested in connection with the bombing in February 1986. Two other MK members thought also to have been involved in the bombing, Mr Phumezo Nxiweni (20) and Mr Sipho Stanley Bhila (31), were subsequently executed by the police (see above).

The state's main accomplice witness in the case, a Mr Mofokeng, told the court that he provided the limpet mine and accompanied Zondo to the shopping centre. Mofokeng claimed that the explosion was in retaliation for the South African security forces' raid on Maseru, Lesotho four days earlier, in which nine people were killed.

Zondo, who admitted his role in the bombing, was convicted and given five death sentences. He was executed on 9 September 1986.

Mr Cornelius Smit, whose son Johan died in the explosion, told the Commission that he saw his son as a martyr whose death had helped usher in the new South Africa [JB00193/02/PS]. Other victims of the explosion who made statements to the Commission included Mr Ian Shearer [KZN/NNN/522/DN] whose wife, Anna, had been killed and Ms Hluphekile Nkabinde [JB0020/03VT] who was taking her employer's son, Willem van Wyk [JB00207/03VT], for a walk when the bomb exploded, killing the child and injuring her [KZN/NG/010/DN].

In her statement to the Commission, Zondo's mother said that Zondo had told his parents when he was in matric that he would leave the country when he finished school, as he was 'fed up with the system'. His parents never saw him again, but he contacted them briefly a week before his arrest. She said that people leaving his memorial service in KwaMashu were attacked and two children killed. Zondo's brother was seriously assaulted and subsequently suffered from epilepsy, which finally led to his death (Durban hearing).

The Magoo's Bar Bombing

On 14 June 1986, three people were killed and about sixty-nine injured in a car bomb explosion at Magoo's Bar on the Durban beachfront. The operation was carried out by Mr Robert McBride, Ms Greta Apelgren and Mr Matthew le Cordier. McBride was convicted of the killings and sentenced to death three times for the bombing. His sentence was later commuted to life imprisonment and he was released in terms of the Record of Understanding in 1992. Apelgren was acquitted on all counts. Le Cordier gave evidence for the state and escaped prosecution. All three applied to the Commission for amnesty.

At his section 29 hearing, McBride revealed that he had been instructed by his MK commander in Botswana, Mr Aboobaker Ismael, to choose a military target for a car bomb attack. He said that he had conducted a reconnaissance exercise to ascertain that the bar was frequented by off-duty military personnel. However, cross-examination revealed this exercise had been conducted in an extremely amateurish and naïve manner. His claim that the Magoo's bar was targeted because it was believed to be a rendezvous for SADF members could not be substantiated. None of those killed or injured had any link to the military or the SAP.

Newcastle Magistrates' Court Bomb

Twenty-four people were injured in two bomb explosions outside the Magistrates' Court in Newcastle on 11 November 1986. SAP Sergeant Vusimuzi Kunene [KZN/KM/642/NC] lost both legs in the explosions.

In August 1987, MK combatants Thuso Tshika, Basil Sithole, Patrick Nkosi and Abraham Mathe faced charges of terrorism in connection with these explosions and others, including a grenade and small arms attack on 10 October 1986 at Osizweni KZP station, in which one KZP officer was injured.

The first three accused were convicted and sentenced to prison terms on Robben Island. Mathe was acquitted.

A t t a c k s . o n . . c o l l a b o r a t o r s .

The Killing of Ben Langa

Student activist Ben Langa was killed by MK members in Edendale, Pietermaritzburg in June 1984, on suspicion of being a police informer. Mr Clarence Lucky Payi [ECO855/96STK] and Mr Mashayini Sipho Xulu were sentenced to death for the killing. They were executed on 7 September 1986.

Payi's mother told a Commission hearing in Durban in May 1997 that after her son's execution she received death threats and fled her home.

Escalation of conflict

- 194 The assassination of Durban attorney, Ms Victoria Mxenge (see below) marked a pivotal point in the further polarisation of Inkatha and the UDF. After the event, conflict quickly spread to other townships around Durban, Pietermaritzburg and surrounding areas. The Commission heard that, in the months leading up to Ms Mxenge's death, the security forces had made a public show of cracking down on UDF-aligned activists in an attempt to create the impression that the UDF was the main force behind the political violence in the province. The security forces were often seen to be standing by and refusing to intervene in clashes between the UDF and Inkatha supporters. In other reports, the police were alleged to be actively supporting Inkatha in the conflict.
- 195 The conflict spread also to the factory floor. After the strike and killings of COSATU members in Mphophomeni in 1986 (see below), local conflict and violence in and around Pietermaritzburg intensified dramatically. By the early nineties it was being referred to as 'the Midlands war' (see below).

The killing of Victoria Mxenge and its aftermath

The assassination of Victoria Mxenge

At the time of her death, Ms Victoria Mxenge was an executive member of the UDF. To date there have been no prosecutions in connection with her killing. The Commission received submissions from two independent sources. Both named a former Security Branch operative, Mr Bongani Malinga, as Mxenge's assassin. According to the ANC's second submission to the Commission, Mr Marvin Sefako (alias Bongani Raymond Malinga) from Hillcrest, Durban, was recruited by the Security Branch. His handler was Brigadier Pieter Swanepoel. Malinga allegedly confessed to the ANC that he had killed at least five people, including Ms Victoria Mxenge, saying:

"[NAME DELETED] shot her five times on the chest but she never fell; whereupon I followed her with an axe and chopped her next to her dining room door."

Malinga also allegedly participated in the attack on the memorial service for Victoria Mxenge (see below).

Malinga's case was heard by the ANC's People's Tribunal in Lusaka on 7 May 1990. In addition to the killings, he was found guilty of a number of other 'offences' including 'collaborating with the enemy' to infiltrate the ANC with the intention of killing MK Chief of Staff Chris Hani and MK Commander Joe Modise.

A former ANC member and later head of the Returned Exiles Committee, Mr Patrick Mncedisi Dlongwane [AM8028/97], told the Commission that, while he was detained at the ANC's Quatro camp, he had shared a cell with one Bongani Malinga who claimed he had assassinated Victoria Mxenge. According to Dlongwane, Malinga was killed by ANC members in 1991.

The Umlazi Cinema Massacre

A memorial service for Victoria Mxenge was held in the Umlazi Cinema on 8 August 1985. There was a large contingent of police and soldiers outside the cinema. During the service, hundreds of men armed with assegais [spears], knobkierries [clubs] and firearms burst into the cinema and began stabbing and shooting randomly.

Terrified mourners jumped over the cinema balcony to escape the attackers. Witnesses alleged that the attackers included Inkatha vigilantes recruited from the adjacent shack settlements and from Lindelani, north of Durban. Soldiers and police were allegedly present but took no action to prevent the attack. Seventeen people died in the incident.

David Sponono Gasa [KZN/NNN/229/DN], Chairperson of the Umlazi Residents' Association, had led the memorial service. He told the Commission at the Durban hearing that Inkatha and KLA members Winnington Sabelo (now deceased) and Thomas Shabalala led the attackers, who stabbed and fired on the mourners.

THE COMMISSION FINDS THAT UNKNOWN INKATHA SUPPORTERS ATTACKED MOURNERS ATTENDING A MEMORIAL SERVICE FOR SLAIN UDF MEMBER, MS VICTORIA MXENGE, AT THE UMLAZI CINEMA ON 8 AUGUST 1985, RESULTING IN THE DEATHS OF SEVENTEEN PEOPLE AND THE INJURY OF TWENTY OTHERS. THE DEATHS AND INJURIES ARISING FROM THIS ATTACK CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH UNKNOWN SUPPORTERS OF INKATHA ARE HELD RESPONSIBLE. WHILE WITNESSES NAMED AT LEAST TWO PROMINENT INKATHA LEADERS WHOM THEY ALLEGED TO HAVE LED THE ATTACK ON THE UMLAZI CINEMA, THE COMMISSION IS UNABLE TO MAKE A FINDING AGAINST THESE LEADERS. THE ORGANISATION (INKATHA) DID NOT SANCTION OR REBUKE THOSE INVOLVED AND DID NOT DISSOCIATE ITSELF FROM THE VIOLENCE.

The Attack on David Gasa

Victoria Mxenge's funeral was held in King Williams Town in the Eastern Cape, on 12 August 1985. A few days later, David Gasa's home was attacked and burnt.

A mass funeral for the people killed in the Umlazi Cinema attack was held on 23 October 1985. That same day a busload of Inkatha supporters attacked Gasa's home a second time. The attackers were allegedly led by Mr Winnington Sabelo (now deceased). Gasa was out at the time of the attack but his wife and mother-in-law were home.

The attack resulted in the death of his mother-in-law one week later. Six months later, his wife developed hypertension and died.

The Killing of Jacob Dlamini

Mr Josiah Dlamini [KZN/ZJ/037/DN] was the owner of the Umlazi Cinema and made it available for the memorial service. His son, Jacob, was subsequently killed by Inkatha members in Lindelani. Josiah Dlamini told the Commission:

"Jacob was at Lindelani Station. He was about to take a taxi home. As he was still at the station, he saw Inkatha Freedom Party. He was asked as to what he was waiting for, and they started assaulting him at that point. He tried to plead with them and he told them that his father was very well known. He mentioned my name. That's when they decided they should kill him because they said I had organised a night vigil for Mrs Mxenge. He stayed for four days at the hospital, and thereafter he died. He had been assaulted and he had injuries all over his body."

- 196 Large-scale violence erupted in Umlazi after Mxenge's killing. A State Security Council document compiled in March 1989³⁸ described the killing of Victoria Mxenge as the turning point in the conflict in Natal and KwaZulu:

The murder of Victoria Mxenge, a radical lawyer from Umlazi, on 1 August 1985 – for which the UDF blamed Inkatha and the SAP – was the biggest contributory factor to the [subsequent] violent conflict between the UDF and Inkatha, especially in the Durban area. Large-scale unrest continued until March 1986 and even the state of emergency (June 1986) could not inhibit the sporadic violent incidents. From January 1987 the situation systematically deteriorated and the focal point of the unrest (especially since September 1987) moved to the Pietermaritzburg area.

Zulu/Pondo conflict

- 197 The violence in Umlazi spread to the neighbouring Umbumbulu district, approximately twenty kilometres south of Durban. In December 1985 and January 1986, intense conflict broke out between Zulus and Pondos living in Umbumbulu, particularly in KwaMakhutha and Malukazi. By the end of January 1986, approximately 120 people had been killed and 20 000 people displaced from their homes in and around the township of KwaMakhutha.
- 198 The conflict was often referred to as 'tribal clashes' or 'faction fighting' and was attributed to intense rivalry for land, water and jobs. The ethnic nature of the conflict supported the state's contention that political conflict in the province was 'black on black', and helped play down the failure of the security forces to intervene in a way that might have limited the scale of the suffering and loss.
- 199 According to researchers³⁹, Durban's squatter population grew from around half a million in 1979 to 1.3 million in 1985. This influx exacerbated the struggle for access to basic resources such as water, land and employment. Amongst those making their way to the city were thousands of Pondos streaming in from the Pondoland area of the Transkei in search of employment. Easily distinguishable from Zulus as a group, they were resented for encroaching on scarce resources. Land was allocated informally by powerful local figures and councillors controlled the scarce water supplies. Certain tribal leaders favoured Pondos, resulting in the establishment of Pondo enclaves.
- 200 In December 1985, the head of the Umbumbulu tribal authority, Chief Bhekizitha Makhanya, allegedly insisted that all Pondos living in KwaMakhutha without his permission should leave and return to the Transkei. The KwaZulu representative for Umlazi, Mr Winnington Sabelo (now deceased), also allegedly warned of more bloodshed if the Pondos did not leave.⁴⁰ The Transkei administration, however, supported the Pondos' refusal to leave the area.
- 201 Serious fighting broke out between Zulus and Pondos at Malukazi, Umlazi, on Christmas Eve of 1985, resulting in sixty-four deaths and up to forty-seven serious injuries. Reportedly, approximately 2 000 Zulus formed into *impis* and attacked 3 000 homes in the area.⁴¹ On 21 January 1986, a Pondo man was killed near Isipingo Rail. Two days later, some 500 Pondos staged a revenge attack on the home and shopping centre of the KwaZulu representative for Umbumbulu, Mr Roy Mbongwe. About 1 000 Zulu supporters arrived and there was a gun battle on the road between Umbogintwini and KwaMakhutha. The police arrested 553 Pondo warriors and confiscated truckloads of weapons. They were held overnight, charged with public violence and released on a warning. In the meanwhile, several Zulu supporters marched on KwaMakhutha where they looted and set fire to homes belonging to Pondo people. Between 4 000 and 10 000 shacks were razed. Police failed to disperse the attackers. The following day, the charred remains of bodies were found in the burnt-out buildings. It is estimated that forty-five people were killed that day. Estimates of the number of Pondos who fled KwaMakhutha that day range between 20 000 and 40 000 – some back to the Transkei while others sought refuge in and around Durban, hiding in the bush and in disused railway coaches.
- 202 The Pondo settlement at Malukazi, a few kilometres further south, was also affected by the Zulu–Pondo clashes. On 27 January 1986, the Pondo–Zulu conflict spread to Magabheni on the Natal South Coast. The number killed since December rose to 113. On 10 March 1986, the conflict spread to the factory floor at Umbogintwini AECI factory when about 900 Zulu workers downed tools in protest against management's decision to rehire Pondo workers who had fled the violence.

THE COMMISSION FINDS THAT THE POLITICAL AND ETHNIC CONFLICT WHICH BROKE OUT IN THE UMBUMBULU DISTRICT IN DECEMBER 1985 AND JANUARY 1986 CLAIMED THE LIVES OF UP TO 120 PEOPLE AND RESULTED IN THE DISPLACEMENT OF SOME 20 000 PEOPLE FROM THEIR HOMES IN AND AROUND THE TOWNSHIP OF KWAMAKHUTHA. THE COMMISSION FINDS THAT CONFLICT BROKE OUT IN THE CONTEXT OF DEMANDS AND THREATS MADE BY AN INKATHA MEMBER OF THE UMBUMBULU TRIBAL AUTHORITY THAT PONDOS LIVING IN THE AREA SHOULD RETURN TO THE TRANSKEI.

Destruction of the Gandhi settlement, Phoenix

- 203 In August 1985, the settlement established by Mahatma Gandhi in 1904 at Phoenix, outside Durban, was destroyed by fire and looting in violent clashes between Indians and Zulu nationalists. Gandhi's house – known as *Sarvodaya* [for the welfare of all] was also destroyed. The settlement was a symbol of non-racialism, self-reliance and peace in South Africa. It was here that Gandhi formulated his philosophy and technique of *satyagraha*, the form of non-violent struggle that eventually led India to independence.
- 204 The then curator of the settlement, Mr Richard Steele, told the Commission that the conflict was sparked off by the killing of Ms Victoria Mxenge in Umlazi and the rapid escalation of violent clashes between supporters of Inkatha and the UDF. He said that Indians and Africans had been living together harmoniously for fifty years. At the time that conflict broke out, Indian families and traders came under a series of sustained attacks which were, according to Steele, "led by modern-day Zulu warriors wielding sticks and spears, shouting slogans to the effect that Indians must leave because this is all Zulu land".
- 205 Forty-seven Indian shops were looted and razed by fire and 500 Indian families forced to flee. Other buildings destroyed included the Kasturba Gandhi Primary School. Steele noted that residents from a nearby informal settlement were seen stripping the buildings of materials for use on their own houses. Twelve wood-and-iron houses belonging to Indian families on the settlement were burnt by Indian vigilantes who wanted to deny Africans the use of any building materials. Steele said that the police did little to intervene in the attacks as the government had already given these families and traders notice to leave Inanda, in terms of the Group Areas Act.
- 206 Attackers broke into and looted the Gandhi Memorial Library and Museum, *Sarvodaya*, Gandhi's original house and the house built in 1944 by Gandhi's son, Manilal. Steele, who was present at the time, said he saw someone leaving the Museum with a paraffin lamp that Gandhi had used while at Phoenix. He went up to him and, through an interpreter, explained that the lamp should not just be in one person's house, but should be available for all people to see, because of the kind of person Gandhi was. The lamp was returned. Steele was able to rescue most of the books from the library and a few other items of no apparent use to the looters. Following the ransacking of the settlement, however, most of the buildings were reduced to smouldering ruins.

THE COMMISSION FINDS THAT THE SETTLEMENT ESTABLISHED BY MAHATMA GANDHI AT PHOENIX, OUTSIDE DURBAN (INCLUDING A LIBRARY, A MUSEUM, A HOMESTEAD AND OTHER BUILDINGS) WAS DESTROYED IN AN ARSON ATTACK BY UNKNOWN SUPPORTERS OF THE INKATHA MOVEMENT IN AUGUST 1985. IN THE SAME INCIDENT, FORTY-SEVEN SHOPS OWNED BY INDIAN TRADERS WERE BURNT DOWN AND 500 INDIAN FAMILIES WERE FORCED TO FLEE THE AREA. THE MULTIPLE ACTS OF ARSON AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH UNKNOWN SUPPORTERS OF THE INKATHA MOVEMENT ARE HELD RESPONSIBLE.

Clashes in the workplace

- 207 Clashes between COSATU-affiliated workers and UWUSA members were also reported during this period. One of the first clashes between UWUSA and a COSATU affiliate occurred at the Hlobane colliery, near Vryheid, one month after UWUSA was launched in mid-1986. Eleven miners were killed and 115 others injured in clashes between NUM and UWUSA on 6 June 1986.

The Hlobane Colliery Incident

Tensions developed at the Hlobane collieries in 1985 when management and the mineworkers, members of NUM, deadlocked over wage negotiations. This led to a three-day strike. KwaZulu Minister of Welfare, Prince Gideon Zulu, who addressed the workers at the invitation of management, called on them to join the Zulu union which, he said, was to be launched in the near future.

On the day of the UWUSA launch at Kings Park, Durban, in May 1986, NUM members at Hlobane decided to work. Those who attended the rally reported that they were advised to leave NUM and join UWUSA.

Management formally recognised the new union, alienating members of NUM, who accused management of promoting the idea that COSATU (and therefore, NUM) was for Xhosas and UWUSA for Zulu mineworkers.

On 6 June 1986, miners went on strike after a shop steward was dismissed. They gathered in the company hall to attend a meeting with management. At about 09h00, two busloads of Inkatha supporters from Nqutu, Nongoma and Ceza arrived. They were seen talking to the mine security personnel and police who had been called in to monitor the strike, then they allegedly began attacking the strikers in the hall. The police and mine security officials allegedly assisted the Inkatha attackers.

Eleven people died and at least 115 were injured in clashes as the workers attempted to escape the hall. Many Xhosa miners lost their jobs as a result of this incident and had to return to the Transkei (Newcastle hearing). In May 1987, the Pietermaritzburg Supreme Court granted NUM members at the colliery an interdict restraining UWUSA members from assaulting them [KZN/FS/200/NC].

THE COMMISSION FINDS THAT ELEVEN MINERS WERE KILLED AND 115 OTHERS INJURED BY UNKNOWN INKATHA SUPPORTERS IN CLASHES BETWEEN NUM AND UWUSA MEMBERS AT THE HLOBANE COLLIERY, NEAR VRYHEID, ON 6 JUNE 1986, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH UNKNOWN SUPPORTERS OF THE INKATHA MOVEMENT ARE HELD ACCOUNTABLE.

- 208 The township of Mphophomeni, near Howick in the Natal Midlands, was built in 1985 when black residents were forcibly removed from Howick into the boundaries of KwaZulu. Most of the residents were employed at the British Tyre and Rubber (BTR) Sarmcol factory, part of the British-based Dunlop Group.

The Sarmcol Strike

In 1985, Sarmcol workers went on strike in support of demands for recognition of their union, the Metal and Allied Workers Union (MAWU). Management claimed the strike was illegal and, in March 1985, fired all 970 workers.

Virtually the entire township population was without employment and COSATU established a co-op to assist the fired workers. Local, regional and international pressure was applied to have the workers reinstated.

Management employed replacement workers, mainly Inkatha supporters, whom the strikers resented as scabs.

The strike-breakers initially stayed on the factory premises for their own protection and later commuted from distant Inkatha strongholds. Although Mphophomeni was administered by KwaZulu, it had become a UDF-dominated area and Inkatha supporters were forced to move out to neighbouring KwaHaza and KwaShifu.

On 5 December 1986, Inkatha held a rally in the Mphophomeni community hall attended by approximately 200 Inkatha supporters, mainly Youth Brigade members. On leaving the hall, they spread out throughout the township, assaulting residents and damaging property. Four prominent MAWU members, Mr Phineas Sibiya [KZN/SW/001/PN], Mr Micca Sibiya, Mr Simon Ngubane [KZN/NN/117/PM] and Ms Flomena Mnikathi [KZN/NN/117/PM] were abducted and forced into the community hall, where armed men in KZP uniforms questioned and assaulted the union members. They were then bundled into a car and driven towards Lions River. Though shot and injured, Micca Sibiya managed to escape. The charred bodies of the remaining captives were found the following day.

A formal inquest (Howick Inquest 13/88) into the killing of the three MAWU members found nine known Inkatha members responsible for the killings. Despite the inquest finding, no one has been charged for these killings to date. One of those named was Mr Vela Mchunu, a 'Caprivi trainee'. In order to prevent Mchunu from testifying at the inquest, KZP Captain Leonard Langeni and Chief Minister Buthelezi's personal assistant, Mr MZ

Khumalo, arranged for him to be hidden at the Mkhuze camp. In 1987, Sarmcol signed a recognition agreement with UWUSA, the Inkatha-aligned trade union, set up in opposition to COSATU.

In March 1998, thirteen years after the initial strike, the Appeal Court ruled in favour of the 970 dismissed strikers. The Court found that BTR Sarmcol was, to a large extent, to blame for the strike and that management had “snatched at the opportunity” to dismiss the workers, which it had done in “an unfair and over-hasty manner”. In his judgement, Judge Pierre Olivier stated that the BTR Sarmcol’s “real desire” had been to get rid of the union and its members. The mass dismissal had been followed by a careful policy of selective re-employment to ensure that the union and its workers did not return to the factory floor.

THE COMMISSION FINDS THE KILLING OF PROMINENT TRADE UNIONISTS IN MPHOPHOMENI TOWNSHIP BY MEMBERS OF INKATHA AND THE KZP SET IN MOTION A LENGTHY PERIOD OF POLITICAL CONFLICT RESULTING IN WIDESPREAD GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH INKATHA AND THE KZP ARE HELD ACCOUNTABLE.

The Midlands war

- 209 After the strike and killings of COSATU members in Mphophomeni in 1986, local areas in and around Pietermaritzburg became increasingly polarised. The tribal areas surrounding Pietermaritzburg had been strongly Inkatha-supporting, governed by Inkatha-supporting *amaKhosi* and *indunas*. However, in the latter part of the 1980s, many young people began rebelling against tribal authorities and openly expressing sympathy with the UDF. Many adults also renounced their Inkatha membership. Inkatha was in retreat in the Vulindlela Valley. Rumours spread that chiefs and *indunas* had fled for their lives.
- 210 During 1987, as a result of their waning support, Inkatha embarked on a substantial recruitment drive in the Edendale and Vulindlela valleys, bordering on Pietermaritzburg. They were assisted by a number of ‘Caprivi trainees’ who had been deployed in the area from late 1986. UDF supporters vigorously resisted Inkatha’s attempts to make inroads into their areas. The conflict escalated dramatically from 1987 and came to be referred to as the Midlands War.
- 211 At around this time, some 300 Inkatha recruits were trained and deployed as special constables in the greater Pietermaritzburg area in order to bolster the presence of Inkatha, particularly in the Edendale Valley, KwaShange and other sections of Vulindlela. Conflict initially broke out in the Edendale Valley (which included Imbali, Ashdown, Caluza, Harewood) and then spread into the Vulindlela valley. Strong allegations have emerged of collusion between Inkatha and the SAP in attacks on UDF supporters. UDF members were detained in their hundreds while, at most, a handful of Inkatha supporters were detained.
- 212 So intense was the fighting in the township of Imbali during the latter half of the 1980s that a foreign journalist likened it to Beirut. Statements made to the Commission indicate that, with perhaps one exception, a few prominent Inkatha supporters were repeatedly implicated in violent crimes in the township.
- 213 In 1983, the South African government attempted to impose a local town council on Imbali in terms of the new Black Local Authorities Act.⁴² This brought tension between Inkatha, which sought to gain control of the new town council, and UDF supporters and community residents who actively resisted the imposition of the government’s local authority structure. In October 1983, at council elections in Imbali, only three of the six seats were contested, and 248 votes cast. Patrick Pakkies was elected as mayor and councillors included Jerome Mncwabe and Abdul Awetha (see above).
- 214 Pietermaritzburg Security Branch member, Warrant Officer Rolf Warber, was frequently named in statements made to the Commission in connection with harassing and intimidating non-Inkatha supporters in Imbali. During the Trust Feed Trial (see above), evidence emerged to the effect that Warber had assisted in the purchase of twenty-four

revolvers on behalf of Inkatha members in Imbali in 1988. Three of those for whom he bought firearms were implicated in murder cases. They were Mr Abdul Awetha, Mr 'Skweqe' Mveli and Mr Toti Zulu.

THE COMMISSION FINDS THAT PIETERMARITZBURG SECURITY BRANCH MEMBER ROLF WARBER DELIBERATELY AND UNLAWFULLY, AND IN BREACH OF STANDING SAP REGULATIONS, INCITED SPECIAL CONSTABLE TRAINEES, ON THEIR DEPLOYMENT IN NATAL, TO ATTACK AND KILL MEMBERS OF THE UDF. THE COMMISSION FINDS THAT, AS A RESULT OF SUCH TRAINING AND INCITEMENT, THE TRAINEES DID IN FACT ENGAGE IN UNLAWFUL ACTS INCLUDING KILLING. SUCH ACTS CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH WARBER IS HELD ACCOUNTABLE.

The Case of Vusumuzo Khambule

The vice-president of the Imbali Youth Organisation during the 1980s, Mr Vusumuzo Khethokwakhe Khambule [KZN/NNN/290/PM], told the Commission that he was repeatedly intimidated and harassed by both the Special Branch and Inkatha members in Imbali during the 1980s.

In 1984, Khambule was detained, tortured and interrogated by members of the Security Branch. On his release, the police attempted to recruit him as an informer. In 1986, both his house and car were petrol-bombed and destroyed by Inkatha members Dika Awetha, Mandla Madlala (now deceased) and one other. Also in 1986, he alleged, Inkatha supporter Thu Ngcobo (now deceased) attempted to poison him at his workplace. He further alleged that Awetha tried to run him over.

To his knowledge, there have been no prosecutions in relation to any of these incidents.

The Case of Hansford Shangase

Mr Hansford Thabo Shangase [KZN/PMB/210/PM], a UDF supporter, was attacked by Inkatha supporters at the Imbali sports ground during an inter-school sports meeting on 17 July 1986. The attack left him unconscious and in hospital for a year. He remained paralysed and confined to a wheelchair.

Shangase told a Pietermaritzburg hearing of the Commission that shortly after his discharge from hospital, he was attacked again, this time while defenceless in his wheelchair. He said:

"I was discharged in hospital in 1987. When I was outside the main road next to my house was always crowded with these people. They used to scream at me and tell me that, 'Are you still here? Are you still here? We will come after you.' And I just didn't take them into consideration, I kept on staying at home. And then one day they came by a combi [minibus]. Two guys got off. And in that combi there were also policemen, and they came to me and they said they are here to fetch me because they need me from the police station. So when I asked them, 'Whose combi is this?' one guy took a gun out and shot at me next to my mouth, my cheek, and at my back. After that, I was admitted in hospital. That was the end of the story because there was no case afterwards. I was discharged from hospital. I went back home."

Shangase told the Commission that the group of Inkatha supporters and KZP included Toti Zulu and Wasela Awetha, aka Sean Hoosen Awetha.

The Case of Busisiwe Paulina Mbeje and Others

Around November/December 1987, 'Caprivi trainees' Zweli Dlamini and Trevor Nene were posted to guard Councillor Jerome Mncwabe (now deceased) at Imbali. While they were there, fighting broke out in the area. Mr Daluxolo Luthuli arrived at Mncwabe's home with additional support in the form of more 'Caprivi trainees' (Mr Alex Sosha Khumalo, Mr Sbu Bhengu, Mr Phumlani Xolani Mshengu, Mr De Molefe, Mr Thulani Vilakazi and one other).

As they arrived it appeared to them that a large UDF group was about to attack Mncwabe's house. Luthuli and his men decided to attack first and approached the group, Luthuli shouting instructions to the trainees. They

started by throwing stones and then fired shots, which were returned by the UDF group. The shooting carried on until a police helicopter arrived.

By that time, the attack had moved about 800 metres from Mncwabe's house into a cemetery. According to Dlamini, about ten people were shot dead and many others injured. The Commission was unable to confirm these figures.

However, it is believed that Ms Busisiwe Paulina Mbeje was one of those killed during this incident. Mbeje's grandmother, Ms Lorra Msimango, told the Commission that Paulina was killed on 30 December 1987 at the Sinathing cemetery, together with other children, by Jerome Mncwabe and his Inkatha supporters. She told the Commission that these Inkatha supporters were not from the area and were thought to have been brought in by Mncwabe for the purpose of attacking the UDF.

Others who were injured in the attack include Ms Bongile Mbeje, Mr Simangaliso Mkhathshwa and Ms Sibongile Mabuza.

Alex Sosha Khumalo [AM4027/96], Daluxolo Luthuli [AM4075/96] and Zweli Dlamini [AM3685/96] have applied for amnesty in respect of this incident.

- 215 Following this attack, the 'Caprivi trainees' under Luthuli gathered at Mncwabe's house and planned several counter-attacks. Together they made petrol bombs that they then used in an attack on the home of a UDF supporter. According to their amnesty applications some people died in the attack, others were injured and the house was badly burnt.

The Case of the Ndlovu Family

On 21 May 1989, the Imbali home of COSATU shop steward Ms Jabu Ndlovu [KZN/MPN/001/JB] was attacked by well-known Imbali Inkatha supporters, including Mr Jerome Mncwabe, Mr Thulani Ngcobo, Mr Michael Thu Ngcobo and Mr Sichizo Zuma, who were seen knocking at the Ndlovu's door. Jabu's husband, Mr Jabulani Ndlovu, who opened the door, was shot fifteen times.

The attackers then set the house alight. One of the Ndlovu's two daughters, Khumbu, tried to escape, but was shot and forced back into the burning house. Jabulani died at the scene. Jabu and her daughter both died later as a result of their burns.

In August 1989, Thulani Ngcobo, Mr Petros Ngcobo and Mr Fredrick Mhlaluka, all of Imbali, were charged with the killings of Jabu, Jabulani and Khumbu Ndlovu. They were denied bail. In a separate hearing, Jerome Mncwabe was also charged with the three murders. He was granted bail of R750.

Mncwabe was killed in May 1990. Michael Thu Ngcobo was killed on 1 January 1990. His killing led to the acquittal of his brother, Petros, who told the court in August 1990 that Michael Thu had often borrowed his gun, which had been ballistically linked to the killings of the Ndlovus. Petros Ngcobo told the court that he knew nothing of the attack on the Ndlovus and others for which he was charged. The judge accepted this evidence and Ngcobo was acquitted. No further convictions have followed.

● 1990–1994

Historical overview

- 216 The political transition to democracy in South Africa, heralded by the unbanning of the ANC and the release of Nelson Mandela in February 1990, was marked by a renewed escalation of civil strife in the province. One of the major

expressions of this was the so-called 'Seven Day War' in the lower Vulindlela and Edendale Valleys south of Pietermaritzburg at the end of March 1990 (see below).

- 217 In July 1990, Inkatha was formally constituted as a political party – the IFP –and embarked on recruitment campaigns in KwaZulu and Natal. At the same time, many UDF activists and affiliates were engaged in open political campaigning as members of the now unbanned ANC.
- 218 The political climate in the province during this period was characterised by a gross political intolerance and growing enmity between the ANC and the IFP. This was particularly true of areas known to be party strongholds, where efforts to establish freedom of political activity and association often resulted in violent clashes and forced dissenting individuals to flee with their families. The battle for territorial control led to frequent and widespread outbreaks of conflict and violence in the province. Tens of thousands of people were affected by the violence, suffering death, injury, maiming, bereavement and displacement on a large scale.
- 219 Youth were in the front line on both sides of the conflict. While whole families were drawn into the violence, the evidence before the Commission indicates that most of the casualties of war were in the thirteen to twenty-four years age group, followed by the twenty-five to thirty-six years age group. The traditional notions of the relationship between old and young had shifted perceptibly. Many parents told the Commission that the political conflict had mobilised their children beyond the reach of the parental protection they needed. *Ukuhlonipha* [respect], the cornerstone of African cultural and social life, had broken down substantially.
- 220 Parents and elders living in the tribal areas had had little if any exposure to the ANC and/or UDF and chose to stay with what they knew – the IFP. As a result, many families were divided along generational lines. Some parents disowned their children; others were attacked for failing to control their children and allowing them to join the ANC. As a result, many young people took to living in the forests and bush. They were unable to attend school for fear of being attacked.
- 221 While two sides were clearly perceptible in the political conflict and violence, allegiances were at times complex and ambiguous. Inkatha had an independent existence and support base, but was seen by the state as an essential ally in its attempt to withstand ANC/UDF resistance. At least one ANC leader who rose to considerable power and prominence in the Midlands was later exposed as an informer for the security police and became associated with the activities of a prominent Inkatha warlord in the area.
- 222 The theory of a 'third force' involved in the unfolding conflict was often used to explain and analyse events in this period. The term, however, came to carry a multiplicity of meanings. ANC president Oliver Tambo had used it earlier to label non-ANC opposition groups, especially those associated with Black Consciousness and Africanism. By the mid- to late-1980s, it came to be used in the province to refer to various activities that seemed to fall outside the conflict between the ANC and Inkatha. At times, it was used to refer to activities with chains of command running all the way up to ministerial or even presidential level. At others, it referred to the local police who took sides in incidents involving Inkatha and the ANC. It was even used to explain purely criminal activity. Amnesty applicant Captain Brian Mitchell said that the special constables deployed in the Midlands in the late 1980s were the 'third force', created by the SAP and deployed specifically to destabilise UDF areas and kill UDF supporters.
- 223 The Commission received reports of partisanship and intolerance displayed by traditional leaders, IFP-supporting township councillors and the KZP, preventing the ANC from making inroads into their areas. Indeed, the first ever ANC gatherings to be permitted on the North Coast (in Ngwelezane and Esikhawini) were in March 1993, some three years after the organisation's unbanning. At worst, ANC supporters became the targets of violent attack.
- 224 In 1990, an amendment to the Natal Zulu Code of Law virtually legalised the carrying of dangerous weapons and the arming of the *amaKhosi*. The Chief Minister's department could issue G-3 semi-automatic rifles to chiefs and

headmen for the protection of KwaZulu government property, thereby circumventing normal weapons licensing regulations. State functionaries were able, by way of permits, to issue these weapons to 'tribal policemen' or 'community guards'. By law, these weapons were to be used to protect KwaZulu government buildings and property. However, evidence points overwhelmingly to the fact that they were also used in clashes between ANC and IFP supporters.

- 225 Evidence has also emerged that the IFP was receiving arms and ammunition from right-wing organisations and sections of the security forces. Statements made to the Commission by both victims and perpetrators contain many allegations of SAP and security force complicity with IFP supporters. In July 1991, a *Weekly Mail* investigation revealed that the security police had secretly funded Inkatha rallies held in November 1989 and in March 1990 to the tune of R250 000. The government admitted to the allegations and said that secret funding to Inkatha had ceased after March 1990. This was disproved in November 1991 when the *Weekly Mail* published evidence that security police had funded an IFP rally in Umzumbe (South Coast) in January 1991. The security police admitted to funding this rally.
- 226 By the beginning of the 1990s, the conflict had spread to rural areas which – apart from some 'faction fighting' – had escaped much of the political turbulence and violence of the preceding decades. The political struggle was taken to the rural areas by unionised workers and youth. Many of the rural youth had attended township schools where they were exposed to the ANC and to political activism. Back home, they directed attacks at IFP-supporting chiefs and local councillors whom they labelled as non-representative, non-democratic and, in some cases, corrupt. They questioned the decision-making processes under the tribal system and developed a general disrespect for and rejection of tribal officials. Violence was perceived as a way to replace autocratic tribal institutions with democratic structures.
- 227 IFP-supporting chiefs who lost their lives in the conflict included Chief J Ndlovu from Ixopo, Chief Duma from Donnybrook, Chiefs Memela and Molefe, both from Bulwer and Chiefs Nyela Dlamini and Majozi, both from Richmond. The IFP's submission to the Commission lists more than twenty *indunas* (headmen) who died in political conflict.
- 228 In 1990, three IFP residents of Mahwaqa ward, Mtwalume (South Coast), successfully secured a court interdict restraining their chief, Bhekizizwe Luthuli, and his supporters from threatening, intimidating, destroying their properties or engaging in any unlawful attacks on any persons resident in Mahwaqa ward [Case no 3046/90]. In their *affidavits*, Chief Luthuli was cited as the main aggressor who mobilised and led his *amabutho* to attack their homes on 3 March 1990 – leading to the destruction of more than 200 houses belonging to ANC supporters. Chief Luthuli was alleged to have ordered his people to kill all UDF children in his area. He was also alleged to have led armed men in three consecutive attacks at Mahwaqa between 23 and 25 March 1990, in which eleven people were killed.
- 229 On 14 September 1991, the ANC and IFP were party to the signing of the National Peace Accord, binding themselves to adopt certain procedures and to change the strategies and tactics currently employed by their supporters. In practice, however, the Peace Accord did little to change the situation.
- 230 The Peace Accord made provision for the establishment of "voluntary associations or self-protection units in any neighbourhood to prevent crime and to prevent any invasion of the lawful rights of such communities" (clause 3.7.1). It stated unequivocally that "all existing structures called self-defence units shall be transformed into self-protection units" (clause 3.7.6) and that "no party or political organisation shall establish such units on the basis of party or political affiliation, such units being considered private armies" (clause 3.7.2). In reality, neither of these clauses was adhered to. The ANC continued to use the term 'self-defence unit' (SDU) to describe its paramilitary, community-

based 'defence' units, while the IFP adopted the term 'self-protection unit' (SPU) in place of previous terms such as tribal policemen or community guards.

- 231 ANC-aligned SDUs emerged in the mid-1980s following a decision by the external mission of the ANC to become more involved in internal politics. The SDUs underwent formal paramilitary training under MK, primarily outside South Africa's borders. Informal training was conducted in a number of local communities as well as in the Transkei. The ANC gave arms and assistance selectively to areas hardest hit by violence, such as the Transvaal and Natal. The SDUs also drew upon community resources to arm and sustain themselves. The Commission heard that arms were also procured for some ANC-aligned union leaders. Amnesty applicant Alexander Erwin⁴³ [AM6091/97] told the Commission that in 1988 he was in command of a defence operation for NUMSA leaders in the province. Weapons procured under his command were used in offences committed in various places around the province.
- 232 The SDUs were most organised in the townships/urban areas. They were composed largely of radicalised youth, many of whom had abandoned their education and chosen to rebel against their elders and the local authorities. The militaristic and highly politicised nature of the SDUs bred a culture of violence and lawlessness, which was especially harmful to impressionable township youth. This led to many of the SDUs turning into criminal gangs. In some Natal communities, the SDUs became uncontrollable and unaccountable to the residents. Internal divisions and conflict became a feature of SDU activity, particularly in rural communities where the ANC was less organised.
- 233 In September 1993, the IFP and KLA embarked on what was to be the biggest training project of IFP supporters yet. The SPU training project was based at the Mlaba camp near Mkhuze in Northern Natal. By April 1994, over 5 000 IFP supporters had received so-called self-protection training at the Mlaba camp (as well as at the Emandleni-Matleng camp).
- 234 By mid-1993 the province had become a jigsaw puzzle of party political strongholds and 'no-go' areas. Townships and tribal authorities were divided into ANC and IFP sections. Arson attacks, involving the widespread burning of houses, became a means of forcing residents to flee their homes, thereby facilitating the consolidation of a party stronghold. The incidence of such attacks increased dramatically in the period leading up to the national elections in 1994, affecting the lives of hundreds of thousands of people. The Commission heard evidence to the effect that supporters of the IFP were overwhelmingly responsible for pursuing this means of eradicating their opposition.
- 235 Mr Fred Kockett, a journalist who spent five years reporting on the Natal violence, described it as follows⁴⁴:
- In the townships, people are confronted with violence at every turn. On their way to work, at work, in the city, at home, at play, at weddings, [at funerals and night vigils], at community meetings, in their beds at night. Life in the townships, never normal under Apartheid, was now very abnormal. Coping with threats or the death of a friend had become as habitual for residents of the townships as it was for people in suburbia to lock their front door security gates when they left home each day.*
- 236 These conditions remained unchanged until a few days before the April 1994 national elections when the IFP, which had maintained a policy of non-participation, agreed to contest the elections.

Overview of violations 1990 – May 1994

- 237 More cases of severe ill treatment and politically motivated killings were reported to the Commission for this period (1990-1994) than for any other. This accounts for the apparent decline in numbers of acts of torture reported for the period. The statistics show the following: severe ill treatment 58%; killing 32%; associated violations 3%; attempted killing 3%; torture 2%; abduction 2%.
- 238 Statistics drawn from evidence before the Commission show that the overwhelming majority of acts of severe ill treatment and politically motivated killings were attributed to members and supporters of the IFP. The great majority

of reported cases of severe ill treatment were attributed to supporters of the IFP. While the number of reported acts of torture was substantially lower for this period, by far the majority of these acts were attributed to members of the SAP. The majority of associated violations reported in the province for this period were attributed to supporters of the IFP, followed by those attributed to the SAP. A substantial number of associated violations were attributed to supporters of the ANC.

Police misconduct

Riot Unit Activities

239 Mr William Basil Harrington [AM0173/96], a member of Riot Unit 8 from 1988–91, told the Seven Day War hearing that:

When the ANC was unbanned, I never went to a lecture or anything like that which would explain to me that they were no longer regarded as terrorists. I continued my war, because the ANC war against myself and us showed no signs of abating. For that reason I did not stop taking Inkatha members in small groups to areas at night, and for that reason I assured the safety of the Inkatha members and supporters by accompanying them to certain areas, and for that reason also I allowed the special constables to fire shots at ANC people from my vehicle whilst we were busy performing patrols, and for that reason I wanted to chase away the ANC when the ANC people and Inkatha wanted to attack each other.

240 Special constable Nhlanhla Philemon Madlala [AM3432/96], who was based with Riot Unit 8, told the Commission that the Riot Unit sold guns to the IFP/Inkatha in Greytown (around 1990).

SAP Murder and Robbery Unit

The Killing of Simon Msweli and Michael Mthethwa

Two well-known ANC members in KwaSokhulu were killed by a member of the Empangeni SAP Murder and Robbery unit in August 1992. Former Detective Warrant Officer Hendrik Jacobus Steyn [AM0069/96] was sentenced to eighteen years' imprisonment for the killing of Mr Simon Bongani Msweli (24) and Mr Michael Mthethwa. He has applied for amnesty.⁴⁵

During the early hours of the 14 August 1992, the SADF (SADF) surrounded the house where Msweli and Mthethwa had spent the night. A battle ensued, the details of which are not certain. Witnesses allege that the two men were dragged into a nearby SAPPI forest where they were viciously assaulted. It appears that the SADF then loaded the two men into their vehicle, allegedly to take them to hospital. The SADF vehicle was intercepted by Steyn who dragged the men out of the vehicle and shot them both dead.

In his amnesty application, Steyn, an IFP member, said that he felt it was necessary to 'eliminate' the two men in order to stabilise the area:

"Sedert die persone se dood is daar, na wat verneem word, geen onrus meer nie" [from what one hears there has been no more unrest since the person's death].

At the Empangeni hearing, Simon Msweli's mother, Ms Josephina Msweli [KZN/MR/205/EM], said:

"I think they were assaulted until they died because we couldn't even identify him. His eyes had been gouged out. He was never shot. He was tortured. He was violated. He was also mutilated. We could not identify him. I only identified him through his thumb. There was a certain mark on his thumb."

- 241 After the ANC was unbanned in 1990, the KZP made efforts to frustrate the movement's attempts to gain political ground in KwaZulu. Residents of some townships, notably KwaMashu, KwaMakhutha and Esikhawini, went so far as to describe the KZP as inflicting a reign of terror in their areas. A number of KZP members gained particular notoriety for killing people perceived as UDF/ANC sympathisers. They appeared to be immune from prosecution. Two examples are Detective Constable Sipiwe Mvuyane from Umlazi, who allegedly claimed to have killed "more than twenty but not more than fifty people", and Constable Khethani Shange from KwaMashu.
- 242 Calls for the disbanding of the KZP gained momentum during 1990, with a national stay away and countrywide marches. In March 1990, 15 000 residents of KwaMakhutha protested against the presence of the KZP and handed over a memorandum of grievances against the local KZP. In April, over 50 000 Umlazi residents marched and handed over a memorandum calling for the immediate withdrawal of the KZP. In June, Madadeni residents marched to the KZP station and demanded the removal of the KZP from the township.
- 243 Many successful interdicts and restraining orders were brought against the KZP during the early 1990s.
- 244 During 1992, the KZP was investigated by the Wallis Subcommittee of the Goldstone Commission, recommending that certain KZP members should be suspended and/or investigated. This was not followed up.
- 245 In late 1993, three members of a KZP/IFP hit squad operating in the Esikhawini township near Richards Bay were arrested. In February 1994, the then Commissioner of the KZP, Major-General Roy During, admitted to the Transitional Executive Council (TEC) that he knew of the existence of hit squads within the KZP. He resigned a few months later.
- 246 The Wallis Subcommittee of the Goldstone Commission stated:
- The fact that there is incompetence of this magnitude in a police force having a responsibility for policing one of the most sensitive areas of the country in the run-up to the elections due to take place on the 27 and 28 April 1994, is of itself a cause not only for grave concern but a cause for steps to be taken to remedy that situation.*
- 247 The KZP took over policing of the KwaMakhutha township (in the Umbumbulu district, south of Durban) from the SAP in June 1986. Within the first three weeks, residents filed more than twenty *affidavits* of assault by KwaMakhutha KZP members, some of which led to successful prosecutions. In October 1989, a large group of women in KwaMakhutha met with the Umlazi station commander to complain about the KwaMakhutha KZP.

The Killing of Raphael and Winnie Mkhize

Two UDF activists, Mr Raphael and Ms Winnie Mkhize [KZN/NN/022/DN], were killed in an attack on their KwaMakhutha home in the early hours of 9 March 1990. Their son, Duduzi Mkhize, was wounded. In May 1990, eight people, including four KZP members, were arrested in connection with the killings, namely Constables Patrick Mbambo (25), Wellington Mncwango (26), Mohande Whu and Cyril Ngema (27). They were released on bail.

- 248 Constable Cyril Ngema, a 'Caprivi trainee', subsequently disappeared, failing to appear in court on 21 January 1991. A warrant for his arrest was issued two days later. The investigating officer, Jacobus Willem Bronkhorst of the SAP Detective Branch, said that the KZP told him that Ngema had left the KZP. For over two years Bronkhorst searched unsuccessfully for Ngema, making inquiries at the KZP Headquarters in Ulundi, the KwaMakhutha police station and the KZP Murder and Robbery Unit, as well as to Captain Hlengwa.
- 249 Eventually in late 1993, Bronkhorst traced Ngema to Pongola and arrested him. Ngema was on duty as a policeman at the time of his arrest.

The Case of Mkhanyiseni Mngadi

Two of the KZP police officers who had been arrested in connection with killing the Mkhizes – Mr Wellington Mncwango and Mr Mohande Whu – were convicted in January 1992 in connection with the attempted murder of KwaMakhutha community leader Mkhanyiseni Eden Mngadi [KZN/NNN/556/DN]. Mngadi, the secretary of the KwaMakhutha Peace Committee, was shot three times in a 02h00 attack on his home on 13 March 1990, just four days after the killing of Raphael and Winnie Mkhize.

250 Following the killing of the Mkhize couple and the attempt on Mr Eden Mngadi's life, a general stay away was called for the 14 March to call for the withdrawal of the KZP from KwaMakhutha. More than 15 000 KwaMakhutha residents marched to the KZP station and handed over a memorandum to Colonel Cele of the KwaMakhutha KZP. The memorandum listed incidents that had taken place during the first two weeks of March 1990: not responding to emergency calls; insulting and assaulting residents and conniving with warlords who were accommodated at the police barracks; disrupting funeral vigils; failing to take action against vigilantes; constantly raiding the homes of UDF members.

251 In April 1990, two SAP members living in KwaMakhutha made a successful, urgent application to the Supreme Court for an order restraining the KZP from attacking any person in KwaMakhutha. One of these, an SAP member of thirty-two years' service, Detective Sergeant Joseph Kabanyane [KZN/KM/508/DN], told the Supreme Court:

The KZP in KwaMakhutha have shown themselves to be a completely partial force who seem to be incapable of maintaining law and order in the area. Repeatedly they have been seen to be actively supporting one group in their actions against township residents. Through their conduct in attacking and shooting residents at random and for no apparent reason, they have shown themselves to be highly reckless and are a real danger to the livelihood and wellbeing of local residents.

252 Kabanyane himself had twice been assaulted by KZP members when he attempted to intervene in unprovoked attacks on ANC-supporting residents.

253 In 1990, the International Commission of Jurists (ICJ) released a report entitled 'Signposts to Peace' in which they said:

In areas like KwaMakhutha, where there is the clearest possible evidence of misconduct, the KZP must be suspended from duty and be replaced by the SAP.

254 Detective Constable Siphiwe Mvuyane joined the SAP in 1986 and transferred to the KZP in 1987-88. He was stationed at the Umlazi police station known as G Police Station (see above). In a report published in June 1992, the LRC listed nineteen killings in which Mvuyane was implicated in Umlazi between February and September 1992.⁴⁶

255 Mvuyane was suspended from the KZP in mid-1992, pending the outcome of criminal investigations against him. He was shot dead in May 1993. At the time of his death, he was facing fifty criminal charges, including the killing of ANC activists. From statements made to the Commission, Mvuyane was found to be the perpetrator of at least twelve gross human rights violations, including nine killings. All the incidents occurred in the period 1990–92.

The Attack on the Bhengu Family

The KwaMakhutha home of UDF/ANC supporters David and Maria Bhengu [KZN/NNN/013/DN] was attacked on 19 January 1990, allegedly by KZP and IFP members including Mvuyane. Maria and their two children, Siphelile and Hlengwa, were shot dead. David Bhengu survived by escaping through the window. The house was looted.

The Killing of Austin Zwane

A school pupil, Austin Zwane [KZN/NN/006/DN], was shot dead in his Lamontville home on 7 August 1990 by a group of four KZP members, led by Mvuyane. After killing Zwane, the policemen forced his friends to load his

body into the police van. Mvuyane himself was shot dead the day before the case was to be heard (Durban hearing, 9 May).

- 256 Mr Mfanafuthi Khumalo [KZN/NN/026/DN] told of being shot by Mvuyane in Umlazi on 26 April 1992, when he was sixteen years old. Khumalo was sleeping over at a friend's home when Mvuyane and a colleague came looking for him. Mvuyane told the other youngsters to leave and remained behind with Khumalo.

[Mvuyane] said to me I should sit on the sofa, and I asked him what he wanted from me. He said I should not ask him any questions, I must just sit on the sofa. And I moved from the bed and I went to sit on the sofa. As I was sitting there he started insulting me. He abused me verbally and he started hitting me on the chest. When I asked him the reason why he was hitting me he did not answer me. He just asked me where I was shot before. I said on the knee. As I was still answering him he shot me on my other knee. He said to me he knew that I didn't die due to gunshots.

Then he gave me a knife and he said I should kill myself. And I have five wounds. I stabbed myself because he was pointing a gun at me, telling me to kill myself. And I threw the knife down and I told him that I was not able to kill myself. Then he continued to shoot me. He shot me on the right arm.

I stayed there from 4 o'clock in the morning. He did not take me to the hospital. Then I realised that I should just pretend as if I was dead, because I realised that if he saw that I was not dead he was going to continue shooting me. I pretended that I was dead, and I was bleeding profusely. He left me there, believing that I was dead.

- 257 Khumalo's mother told the Commission what she found when she arrived in the shack in which he had been shot:

When I got to the scene where the whole thing took place, the scene of crime, I found him lying down on the sofa in blood, a river of blood. I just heard him talking, whispering, saying, "Come in. Come in, I am still alive". Siphwiwe [Mvuyane] was not there, but there were some other policemen there.

He showed me the bullet holes, and I told him that ... I am not going anywhere, and he started shooting me. He shot me all over on the chest. He was shooting me from very close, from a very close distance. He insisted that I should go home. I refused.

I asked, "Why are you keeping this child here? He was shot at 4.00 am. and now it's around six, but you are still keeping this child here." ...

Siphwiwe came with the station commander ... I think he had gone to fetch him. I said to him, "Oh, we are so happy because you are not going to die. Why would you kill this child so brutally like this?" He said, "Oh, this dog is not dead. I thought it is dead." I said to him, "Oh, you intended to kill him?"

I said to the station commander, "Please take this child to the hospital", and the station commander was just quiet and standing there. He was just standing there looking at me so timidly.

Eventually the policemen put Khumalo in their car and drove to the police station, where they left him in the car with the windows closed and the heater on. His mother found him there an hour later.

Khumalo was admitted to the Prince Mshiyeni hospital approximately five hours after he had been shot. He has since undergone six operations and still does not have the use of his right arm.

Four days after the shooting, the Supreme Court granted an interim interdict preventing Mvuyane from assaulting, threatening or intimidating Khumalo [Case No 2853/92].

- 258 From statements made to the Commission, KZP Constable Khethani Shange was found to be the perpetrator of at least six gross human rights violations, including two killings. All are related to incidents that occurred during 1990.

The Gumede Night Vigil Attack

In April 1990, Shange shot and killed KwaMashu ANC activist Themba Gumede.

At the night vigil for Gumede, a group of about twenty-five people dressed in KZP uniforms arrived. They ordered the mourners to lie down and opened fire on them, injuring three people.

On 29 May 1991, Shange was convicted of killing Gumede and attempting to kill three mourners at the vigil. He was sentenced to twenty-seven years' imprisonment. In passing judgement the presiding judge, Mr Justice Gordon, said that Shange appeared to 'revel in his reputation as a hit man and the fear that this instils in others'.

Shange was released after serving just nine months of his sentence, allegedly due to an error by the Ministry of Law and Order. He was re-arrested in February 1998 on a number of charges, including murder.

259 The Commission has made a comprehensive finding regarding the KZP, in which it is described, *inter alia*, as a highly politicised force, openly assisting the IFP – by omission and by active participation – in the commission of gross human rights violations, as well as being grossly incompetent.

THE COMMISSION FINDS THAT THE KZP, FROM THE PERIOD 1986 TO 1994, ACTED IN A BIASED AND IMPARTIAL MANNER AND ACTED OVERWHELMINGLY IN FURTHERANCE OF THE INTERESTS OF INKATHA, AND LATER THE IFP, IN THE MANNER SET OUT BELOW.

THE KZP DISPLAYED BLATANT BIAS AND PARTIALITY TOWARDS IFP MEMBERS AND SUPPORTERS, BOTH THROUGH ACTS OF COMMISSION, WHERE THEY WORKED OPENLY WITH INKATHA, AND THROUGH ACTS OF OMISSION, WHERE THEY FAILED TO PROTECT OR SERVE NON-IFP SUPPORTERS.

THE KZP WAS RESPONSIBLE FOR LARGE NUMBERS OF POLITICALLY MOTIVATED GROSS HUMAN RIGHTS VIOLATIONS (KILLINGS, ATTEMPTED KILLINGS, INCITEMENT AND CONSPIRACY TO KILL, SEVERE ILL-TREATMENT, ABDUCTION TORTURE AND ARSON), THE VICTIMS OF WHICH WERE ALMOST EXCLUSIVELY NON-IFP MEMBERS.

OFFICERS OF THE KZP WERE INVOLVED IN COVERING UP CRIMES COMMITTED BY IFP SUPPORTERS AND KZP MEMBERS. COVER-UP PRACTICES BY KZP OFFICERS RANGED FROM:

- NEGLECTING BASIC INVESTIGATIVE PROCEDURES;
- DELIBERATELY TAMPERING WITH EVIDENCE;
- ENSURING THAT KZP AND IFP SUSPECTS IN POLITICAL VIOLENCE MATTERS WERE CONCEALED OFTEN FOR VERY LENGTHY PERIODS IN KZP AND SADF CAMPS;
- ISSUING FALSE POLICE CERTIFICATES AND IDENTITY DOCUMENTS TO MEMBERS OF THE IFP WHO WERE INVOLVED IN POLITICAL VIOLENCE, IN ORDER TO PREVENT THEIR ARREST AND CONVICTIONS AND TO FACILITATE THEIR CONTINUED CRIMINAL ACTIVITIES;
- TAKING PART IN KILLINGS AND PURPORTING TO INVESTIGATE THE VERY MATTERS IN WHICH THEY HAD BEEN INVOLVED AS PERPETRATORS.

AS SET OUT ABOVE, THE KZP IS ACCOUNTABLE FOR THE MANY POLITICALLY MOTIVATED GROSS VIOLATIONS OF HUMAN RIGHTS THAT WERE PERPETRATED BY ITS MEMBERS. THE KZP IS ALSO ACCOUNTABLE FOR THE MANY POLITICALLY MOTIVATED GROSS HUMAN RIGHTS VIOLATIONS PERPETRATED BY MEMBERS OF THE IFP, AS A RESULT OF THE KZP'S FAILURE TO ACT AGAINST SUCH IFP MEMBERS, THEREBY CREATING A CLIMATE OF IMPUNITY WHICH FACILITATED THE COMMISSION OF SUCH GROSS HUMAN RIGHTS VIOLATIONS.

IN CONCLUSION, THE COMMISSION FINDS THAT, ALTHOUGH THERE WERE HONOURABLE EXCEPTIONS TO THE FOLLOWING GENERAL STATEMENT, IN THAT SOME MEMBERS OF THE KZP DID CARRY OUT THEIR DUTIES IN AN UNBIASED AND LAWFUL MANNER, THE KZP GENERALLY WAS CHARACTERISED BY INCOMPETENCE, BRUTALITY AND POLITICAL BIAS IN FAVOUR OF THE IFP, ALL OF WHICH CONTRIBUTED TO THE WIDESPREAD COMMISSION OF GROSS HUMAN RIGHTS DURING THE PERIOD REFERRED TO ABOVE.

Security Branch activities

260 Evidence before the Commission shows a dramatic fall in the number of reported violations, overt and covert, on the part of the Security Branch during this period. This is believed to be due to the state's counter-revolutionary strategy

of using surrogate forces to deflect attention from the role of its own security forces in the civil conflict which, by now, had gained a momentum of its own. However, the Commission did hear of several extra-judicial killings of MK operatives, including the following:

The killing of Mbuso Shabalala and Charles Ndaba

MK members Charles Ndaba [KZN/NN/076/DN] and Mbuso Shabalala [KZN/NNN/138/PS] were both involved in Operation Vula.⁴⁷ Both were abducted by Durban Security Branch members on 7 July 1990. The Security Branch claimed that Ndaba was one of their informers and was arrested by mistake by members who did not know this. He helped them to arrest Mbuso Shabalala.

After the Security Branch had taken Ndaba and Shabalala into custody, the government announced that any Operation Vula operatives that were under arrest would not be prosecuted.

Not wanting to release the two men, the Durban Security Branch members decided to kill them, which they did on 14 July 1990. The bodies were dumped into the Tugela River mouth.⁴⁸

The killing of Goodwill Sikhakhane

Mr Goodwill Mbuso aka Neville Sikhakhane (born 1961) [KZN/MR/011/DN] was a former ANC member who had undergone military training with MK in Mozambique, Zambia, Tanzania and Swaziland. On his return in 1989, he apparently surrendered to the police. He began working as an askari with the Natal Security Branch, under Colonel Andy Taylor.

At some time during 1991, certain members of the Security Branch decided that Sikhakhane was a threat to the security of their operations. According to Taylor, Sikhakhane was "not a very efficient member ... the information he supplied created the impression that he did not try too hard". He was seen in Swaziland on a number of occasions while on leave, creating the suspicion that he might be working for the ANC as a double agent.

The order to kill Sikhakhane was issued from the highest ranks of the Security Branch in the region. Steyn instructed Andy Taylor to use 'outside' people to do the job. Taylor thereupon requested Eugene de Kock from Vlakplaas to carry out the killing.

A few days later Taylor met with Vlakplaas operatives Willie Nortje, 'Duiwel' Brits and 'Blackie' Swart and put them up at the Lion Park Hotel outside Pietermaritzburg. Local Security Branch member Larry Hanton was sent to assist the Vlakplaas members in getting hold of Sikhakhane. Vlakplaas operative Willie Nortje carried out the assassination in Greytown on 21 January 1991.

According to Nortje, the order to kill Sikhakhane came from Mr Engelbrecht, the commander of C Section. Colonel Eugene de Kock was convicted in 1996 for the killing of Sikhakhane.⁴⁹

Civil conflict

Violence stemming from the unbanning of the ANC

261 A number of incidents of violence occurred during celebrations to mark the release of Nelson Mandela from prison. These incidents were more common in KwaZulu areas than in Natal. Incidents directly related to Mr Mandela's release were reported in KwaMakhutha, KwaMashu, Umlazi, Folweni, KwaNdengezi, Ntuzuma and Mpumalanga.

262 The Commission received several reports of deaths as well as arson attacks, four of which were IFP homes, one ANC and two non-partisan. In Ntuzuma, north of Durban, ANC supporters celebrating the release of Mr Mandela on 11

February burnt down the house of IFP supporter, Nomchule Gowane [KZN/KCD/073/DN]. ANC and Inkatha supporters clashed in Ntuzuma for the rest of the month.

The Killing of Phillip Gasa

On 17 February 1990, Inkatha-supporting Ntuzuma councillor Phillip Muzikayise Gasa [KZN/GM/087/DN] was stabbed to death by unknown ANC supporters. His wife was threatened by the attackers and was forced to flee.

The Seven Day War

- 263 From the 25–31 March 1990, the communities in the lower Vulindlela and Edendale Valleys, south of Pietermaritzburg, were subjected to an armed invasion by thousands of heavily armed men from the rural, Inkatha-supporting areas higher up in the valleys. Over seven days, 200 residents in the lower valley were killed, hundreds of houses looted and burnt down and as many as 20 000 people forced to flee for their lives. The communities most seriously affected were Ashdown, Caluza, Mpumuza, Gezubuso, KwaShange, and KwaMnyandu.
- 264 In the late 1980s, communities in the Edendale and lower Vulindlela valleys were pro-UDF/COSATU, whilst those living in Upper Vulindlela tended to be more rural, traditional and pro-Inkatha, living under Inkatha-supporting chiefs and *indunas*. Most UDF supporters who had initially lived in the upper Vulindlela area had fled down to Edendale by 1989. People living in the upper parts were obliged to travel through lower Vulindlela and Edendale to get to Pietermaritzburg and frequently had shots fired or stones thrown at them by the UDF supporters. The tension between the two areas increased dramatically with the unbanning of the ANC and the release of Mr Mandela in February 1990.
- 265 During February and March 1990, buses carrying commuters from the Vulindlela area were stoned by young UDF and ANC supporters as they drove through Edendale, damaging buses and injuring passengers. Some deaths were also reported.
- 266 At a meeting at King's Park Stadium, Durban, on Sunday 25 March 1990, Mr David Ntombela addressed a gathering of Inkatha supporters and warned that, should buses passing through Edendale be stoned again, steps would be taken against the culprits, that is, UDF and ANC supporters in that area. That afternoon, buses carrying Inkatha rally-goers travelled through Edendale and were again stoned, injuring passengers and damaging the buses. Roadside skirmishes were reported between the Inkatha supporters and Edendale residents. At least three people were killed, including UDF supporters Sihle Brian Zondi and his aunt Ms Grace Gabengani Zondi, at the Mabeza store [KZN/FS/258/PM].
- 267 The next day, Monday 26 March, Inkatha supporters from Vulindlela could not get to work in town because no buses were running on that route. Mr T Mbanjwa from Caluza told the Commission at the Seven Day War hearing that he saw a group of well-armed men descending from the hill:

And as we were still confused as to what was happening, it was apparent that we had to run for our lives because we heard some gunshots, and some people were attacked with pangas and assegais, as well as traditional weapons. And the community tried to get together in order to prevent the attacks, but it was very difficult because we were not armed and we were fighting against people who were armed with traditional weapons as well as ammunition, live ammunition.

But the most deluding thing was that the police would come, and instead of arresting the perpetrators or the attackers they would shoot at the residents and they would throw teargas canisters at the residents. This went on for quite some time.

- 268 The scale of the attack intensified dramatically the next day. Large groups numbering up to 2 500 men from the Inkatha-supporting Sweetwaters and Mpumuza areas descended into the lower Edendale Valley. The men were armed with traditional weapons as well as firearms. Residents came under heavy fire and many houses were burnt and looted. In a revenge attack on residents of Payiphini, Mpumuza by UDF supporters later that night, one person was killed and nineteen homes set alight.
- 269 On Wednesday 28 March 1990, David Ntombela held a meeting of Inkatha supporters at his house in the Elandskop area, after which he instructed a member of the SAP Riot Unit to pick up a large group of special constables in a police vehicle and take them to Gezubuso. Ntombela then instructed the constables to proceed on foot with a large group of armed men to KwaShange, and instructed a member of the Riot Unit to follow the group in his vehicle.
- 270 Father Tim Smith, a Catholic priest posted to Elandskop (upper Vulindlela) in 1983, described that day's events to the Commission as follows:
- Early on Wednesday, the call went out by loud-hailer that all people, men and women, were to gather at David Ntombela's house for a meeting with someone from Ulundi. Someone who was there told me that when she arrived, the women were told to go inside the house, take off their clothes and turn them inside out and put them back on again. When they came out of the house, there was a large gathering of warriors, together with some trucks and lorries ... the trucks had their registration plates covered with sackcloth. The warriors were sprinkled with intelezi (traditional medicine to protect them from harm) and then moved off to attack soon after dawn.*
- Soon we began to hear reports of the invasion of the valley. The areas of Gezubuso, KwaShange and KwaMnyandu were worst hit. About thirty-five people were killed, nearly 150 huts were set alight and people fled down into the eSigodini valley.*
- 271 At KwaShange, the special constables and the group of armed men attacked residents and killed fifteen people,⁵⁰ looted and set fire to an unknown number of houses and drove away cattle belonging to residents of that area. Ntombela instructed a member of the SAP Riot Unit who was present not to interfere with what was going on at KwaShange.
- 272 The household goods removed from residents' houses in KwaShange were loaded onto the vehicle used by the Riot Unit and taken to Ntombela's house. Cattle taken from residents were driven to Ntombela's house. According to Father Tim Smith:
- Many witnesses saw David Ntombela directing the attacks, together with Chief Shayabantu Zondi, Induna Guvaza Khanyile, Lolo Lombo and others. Many said the police were helping the warriors with transport and ammunition ...*
- In the late afternoon, we began to see the impis returning. Some who came on foot brought stolen cattle with them; others were carrying furniture, TV sets and clothing. Mr Ntombela was apparently displeased with all the looting saying: "You went to kill, not to steal!"*
- 273 Edendale resident Edmund Zondi told the Commission that he saw KwaZulu Government trucks offloading Inkatha men who then began attacking people and cattle, burning and looting homes in his neighbourhood. He packed fifteen people into his small Ford Escort, and they fled to relatives in Imbali:
- If I can tell you, maybe you will not believe it, because it can only take five people, but the whole family fitted into the car that particular day. I even put some of the children just underneath or next to the pedals, the driving pedals.*
- 274 Since then he has never been able to return to his home.

275 The Midlands Crisis Relief Committee (an organisation set up to deal with the aftermath of the Seven Day War) also received reports that the attackers were transported in vehicles which included about twenty trucks owned by the KwaZulu Department of Public Works, with obscured KwaZulu Government number plates.

276 Democratic Party member Radley Keys and *Natal Witness* journalist Khaba Mkhize chartered a plane and flew out over the Vulindlela and Edendale valleys on Wednesday 28 March:

By mid-morning we were airborne and flying towards Vulindlela. The sight that confronted us was one of a war zone. Scores of houses were burning and the sky was filled with the smoke of burning thatched roofs. We witnessed large groups of men and boys moving through the area. There were a number of dead, or what seemed to be dead, bodies lying on some on the roads and paths ... Over Vulisaka and KwaShange and KwaMnyandu there was devastation and mayhem.

The police helicopter approached our plane and ordered us out of the area. We refused the pilot permission to leave, and instructed him to inform the police to refer to his minister. They attempted to threaten us but we held firm and continued our flight ...

As yet, the police were the only force in attendance and that is exactly what I mean, they were attending and not preventing the wholesale destruction and killing.

277 Thursday 29 March 1990 saw little respite in the attacks from up the Valley. Mr Edmund Zondi described the events of this day:

[They] came on a Thursday, that is on the twenty-ninth. They got there and they killed a woman who had just given birth. They also killed the new-born baby. Even the elderly people who could not run away were killed. It was quite a terrible situation. It was like something from a horror movie.

278 Late on Thursday night, Father Tim Smith was disturbed by a knock at his door. Young people from Songozima had come to report attacks at Khokhwane, very close to the mission. Father Smith went to collect police from Boston and they set off to investigate:

When we arrived at Khokhwane we could see four homesteads burning on the hillside. We went slowly into each one with the policemen. In the first three we found no one alive or dead and presumed that they had had enough time to escape. But in the fourth one, which was well known to me, we found people.

In the main building, we discovered the old man, father of the household, together with several of his grandchildren. He took a long time to come out from his hiding place, he was so shocked. When he did, he told me: Baziqeda izingane zami [They have finished off my children].

He took us to a back bedroom of the house and there lying on the floor was one of his daughters, Emmerentia. She had shotgun wounds in her chest and was obviously dead. Lying underneath her was a small child whom at first I took to be dead also. Then I noticed that the child was breathing. I reached down and lifted the child from beneath his mother and he was indeed alive. He turned out to be Sihle, her son of four years. When his mother was shot through the window she must have fallen backwards and trapped the child under her. He must have been like that for more than an hour before we got there.

Then we went into the last hut in the yard which was burning furiously. There beneath the bed was the body of Celestina, another daughter. She had been shot and set alight and there was nothing we could do for her. I decided that it would be better if all the survivors slept at the mission ...

After this, my own future at Elandskop was no longer secure. There were various threats and the following week I was moved.

279 Friday, 30 March, was considerably quieter. On Saturday, 31 March, large groups of Inkatha supporters were again seen, gathering at the homes of Chief Ngcobo and David Ntombela. However, only sporadic incidents occurred during the day.

280 Witnesses, victims and violence monitors have made allegations of active police complicity in the attacks. They claimed police fired on ANC residents without provocation. They alleged that policemen were seen transporting the Inkatha attackers and then standing idly by while they attacked people and burnt houses. They also alleged that special constables participated in the attacks. These allegations were confirmed by a former Riot Unit member and two former special constables who testified before the Commission of their involvement in the Seven Day War.

281 Former Riot Unit 8 member William Harrington [AM0173/96] told the Commission that he was on duty during the Seven Day War. He said that Riot Unit members fired on ANC people without provocation, and that off-duty special constables joined Inkatha supporters in the violence:

What I do remember about the Seven Day War is that I started working on a certain day and thirty-six hours later I went off duty. I remember that many houses and shops were burnt down. There were many refugees. Many of the special constables didn't even report for duty at the unit. I noticed some of them in the areas in which I worked. They would have gone to acknowledged Inkatha chiefs' homes, or larger Inkatha groups, and it was these groups of between 50 and 100, sometimes larger, who were responsible for burning down homes ... At this stage my vehicle crew started firing at groups of ANC people without reason. I authorised it because I was told or commanded that we should do that. It was a radio message which I received. Firing would of course not be permitted against the Inkatha groups because there were special constables in these groups. I myself gave one or two belts [of ammunition] to the special constables who were part of these groups running around.

282 Former special constable Nelson Shabangu [AM3676/96] was also on duty when the fighting broke out. He told the Commission that he was directed to take his Riot Unit vehicle to pick up a group of special constables living in the valley. He then drove this group to the outskirts of KwaShange where he, together with other members of his Riot Unit, stood by and watched as the special constables attacked, burnt and looted houses at KwaShange. The special constables then returned with stolen property, which they loaded onto the police vehicle to be taken to Mr Ntombela's home. Cattle which had been stolen from the residents of KwaShange were also driven to Mr Ntombela's home. Shabangu told the Commission that a big party was held at Ntombela's house later, to which the police were invited. At this party they braaied the meat of cattle they had stolen.

283 Another former special constable, Mr Nhlanhla Philemon Madlala [AM3432/96], was not on duty on 27 March 1990 so he fought on the side of the IFP. He told the Commission that he was amongst the group of Inkatha supporters and special constables who gathered at Ntombela's home before descending into the valley to attack (Seven Day War hearing, 19 November 1996).

284 SAP spokesperson Director Daniel Meyer, who was on duty during the Seven Day War, was questioned regarding the role of the SAP during the war:

Did you ever during the Seven Day War disarm the Inkatha people?

No, I didn't. I don't know whether other policemen did so.

Why did you not do it?

There could be many reasons for that. On that specific day we were so busy – I am now talking about the Tuesday. I just had to run from one scene to the other to attend incidents of shooting.

You were so busy that you could not disarm the people who were going to kill other people and burn their houses. You were busy doing what? You were running up doing what, if you could not disarm the people who were going to take lives of the people?

I hear you, Chairperson ...

Are you surprised that the UDF people hated you, as you have just said yourself?

No, I am not surprised. I am not surprised, especially not after all the evidence that I have listened to ...

My last question, and it's probably an unfair question to ask you, but I am going to ask it. If the violence on that scale had happened in a white area, you wouldn't have tolerated that at all, surely?

During those times more than likely no, we wouldn't.

285 The Reverend Mr Nsimbi from Edendale criticised the police for being negligent and indifferent. He spoke of how bodies were left to decompose in the streets for days before the police collected them. He told the Commission:

I think it will be my grandchildren who will see the Canaan land. I think I will die here, here in this wilderness.

286 The SADF was also criticised for its apparent absence during the Seven Day War. Witnesses alleged that the SADF was deployed in the valley only in mid-April, once the fighting had passed.

287 In accordance with the law, the SADF was only deployed in support of the SAP during the Seven Day War. At a joint planning committee meeting between SAP and SADF officers, a decision was taken to deploy the Defence Force resources on the lower Edendale Road to ensure that the road to Pietermaritzburg stayed open. Throughout the week, Defence Force personnel (approximately 100 men) and six military vehicles did not venture beyond Edendale Road. Brigadier Swanepoel, the Commanding Officer of the Pietermaritzburg-based Group 9 at the time of the Seven Day War, told the Commission that he had realised that the situation was bad. He said that he had contacted the SADF headquarters requesting more troops and calling for urgent "intervention on a senior level". The additional troops, four companies from the Transvaal, arrived in mid-April 1990.

288 By the end of the week, an estimated 20 000 people had been displaced from their homes. Most, if not all, of these people had lost everything they ever possessed. No disaster relief was forthcoming from the government. It was left to churches and humanitarian organisations to attempt to provide relief and assistance. Most of these people have not returned to their homes to this day. Father Tim Smith described to the Commission the lasting, devastating effects of that violent week:

Drive out to Edendale past Esigodini up the hills to KwaMnyandu, KwaShange and Gezubuso. There, in a band of land about four kilometres wide, you will still see the effects of destruction of that week of March 1990: houses and shops burnt to the ground, schools abandoned, weeds growing in fields and up through the insides of dwellings where a few years ago thousands and thousands of people lived.

289 Several witnesses told the Commission that it was not accurate to call these seven days a war, because the word 'war' implied a battle of equals, whereas the overwhelming majority of the victims were from one side. They were caught unawares and many were totally defenceless and unable to fight back. The victims were those who were unable to run away fast enough – women, children, pensioners and the sick. Survivors called it an armed invasion, a political cleansing.

290 Reflecting on the events of March 1990, Father Smith had the following to say:

After all these attacks and murders we tried to obtain some justice but without success. We tried the police; we tried to hire lawyers; we tried the press. I even had an hour's interview with the deputy attorney-general of this province. We failed.

After all that, it seems to me that the people, the ordinary people, have been failed by the organs of government. Indeed, it seems that the criminal justice system had almost completely broken down.

In not a single case that I have mentioned, from the murder of Angelica Mkhize and her daughter in 1987 up to the deaths of scores of people in the Seven Days War in 1990, has there been a prosecution. No one has been found guilty for all the murder, the arson, the damage to property, the theft, the intimidation, the assaults that have taken place in Vulindlela. It is little wonder that the province has experienced so much carnage, when the perpetrators know that they will never be caught and the victims know there will never be justice.

- 291 Mr David Ntombela was invited to make a public submission at the Seven Day War hearing. Initially he agreed but on the actual day he refused to testify. His attorney read out a statement on his behalf in which he claimed that the Commission in its present form was biased and would not give him a fair hearing. He also claimed that he had not been given sufficient time to prepare for the hearing and had not been able to obtain copies of statements implicating Ntombela in the violence. Some months later, the court found in favour of Ntombela and the Commission was obliged to provide Ntombela with all statements in which he had been detrimentally implicated.
- 292 The full findings of the Commission on the event which became known as the Seven Day War are recorded elsewhere in the Commission's report. In summary, they are as follows:

THE COMMISSION FINDS THAT FROM 25–31 MARCH 1990, THE COMMUNITIES IN THE LOWER VULINDLELA AND EDENDALE VALLEYS, SOUTH OF PIETERMARITZBURG, WERE SUBJECTED TO AN ARMED INVASION BY THOUSANDS OF UNKNOWN INKATHA SUPPORTERS, AND THAT DURING THIS WEEK OVER 200 RESIDENTS OF THESE AREAS WERE KILLED, HUNDREDS OF HOMES LOOTED AND BURNT DOWN AND AS MANY AS 20 000 PEOPLE WERE FORCED TO FLEE FROM THEIR HOMES. THESE ACTS CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS, AND UNKNOWN MEMBERS OF INKATHA ARE HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT UNKNOWN YOUNG UDF AND ANC SUPPORTERS WHO STONED AND ATTACKED VEHICLES PASSING THROUGH EDENDALE WERE RESPONSIBLE FOR STARTING THE VIOLENCE THAT DEVELOPED INTO THE SEVEN DAY WAR.

HAVING REGARD TO THE TOTALITY OF THE EVIDENCE GIVEN TO THE COMMISSION, THERE IS NO DOUBT IN THE MIND OF THE COMMISSION THAT SUPPORTERS OF INKATHA WHO TOOK PART IN THE MASSIVE, WELL CO-ORDINATED ARMED ATTACKS ON TUESDAY 27 TO FRIDAY 30 MARCH MUST BEAR OVERWHELMING RESPONSIBILITY FOR THE CRIMINAL ACTS, INCLUDING KILLING, SEVERE ILL-TREATMENT AND ARSON, WHICH TOOK PLACE DURING THAT WEEK. IT IS A FINDING OF THE COMMISSION THAT THE PROVOCATION TO WHICH SOME RESIDENTS OF VULINDLELA HAD BEEN SUBJECTED DID NOT REMOTELY JUSTIFY THE NATURE OF THE RESPONSE THAT WAS METED OUT TO THE RESIDENTS IN THE VALLEY BELOW THEM.

THE COMMISSION FINDS THAT THE SPECIAL CONSTABLES WERE DELIBERATELY ESTABLISHED AND TRAINED TO ASSIST INKATHA AGAINST THE LATTER'S POLITICAL ENEMIES AND THAT SPECIAL CONSTABLES, ACTING ALONE AND IN CONCERT WITH RIOT UNIT 8 OF THE SAP, REGULARLY COMMITTED SERIOUS UNLAWFUL ACTS IN ORDER TO SUPPORT AND ASSIST INKATHA, IN THE PERIOD PRIOR TO AND DURING THE SEVEN DAY WAR. SUCH ACTS INCLUDED THE KILLING OF FIFTEEN PEOPLE AT KWASHANGE, NAMELY MR MOSES ZUMA, MR ISRAEL ZUMA, MS ROSE MTOLO, MS AGNES SIBISI, MR MBUZANE NGUBANE, MR GEORGE ZONDI, MR KHABEKILE NGUBANE, MR NKANKABULA NGUBANE, MR ABEDNIGO MKHIZE, MR MZOMUHLE MANJWA, MR MFANAFUTHI NGUBANE, MR DOMINICA NCGOBO, MR MZIKAYIFANI MTOLO, MR MAKHOSONKE PHAKATHI AND MR MFULATHELWA MAKATHINI. THE SAP ARE HELD ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS INVOLVED IN THESE KILLINGS BY UNKNOWN SPECIAL CONSTABLES DEPLOYED IN THE AREA.

THE COMMISSION FINDS THAT THE GROSS HUMAN RIGHTS VIOLATIONS INVOLVED IN THE EVENTS OF 28 MARCH 1990 TOOK PLACE ON THE INSTRUCTIONS OF MR DAVID NTOMBELA AND THAT NTOMBELA IS HELD ACCOUNTABLE FOR THESE, INCLUDING KILLING, ATTEMPTED KILLING, CONSPIRACY TO KILL, SEVERE ILL-TREATMENT AND ARSON.

THE COMMISSION FINDS IMPROBABLE THE EVIDENCE OF DIRECTOR DANIEL MEYER THAT THE POLICE ACTED IN AN IMPARTIAL AND UNBIASED MANNER AND DID EVERYTHING POSSIBLE TO PREVENT LOSS OF LIFE AND DAMAGE TO PROPERTY. ELEMENTS OF THE SAP RIOT UNIT 8, BOTH AT A SENIOR LEVEL AND AT THE LEVEL OF THE SPECIAL CONSTABLES ATTACHED TO THE UNIT, DELIBERATELY ACTED, BY OMISSION AND COMMISSION, TO ASSIST AND FACILITATE ATTACKS BY INKATHA SUPPORTERS ON NON-INKATHA RESIDENTS DURING THE SO-CALLED SEVEN DAY WAR. THEY FURTHERMORE DELIBERATELY FAILED TO DEPLOY THE SADF IN THE CONFLICT AREAS, IN ORDER TO GIVE FREE REIN TO INKATHA FORCES IN THEIR ATTACKS ON NON-INKATHA RESIDENTS. THE COMMISSION FINDS THAT THE ACTIONS OF THE RIOT UNIT CONSTITUTED GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD RESPONSIBLE.

THE COMMISSION FINDS THAT THE POLICE INVESTIGATION INTO DEATHS OCCURRING DURING THE SEVEN DAY WAR WAS WHOLLY INADEQUATE. WHILE OVER A HUNDRED PEOPLE WERE KILLED IN THE EVENT, NO ACTION WAS TAKEN TO CARRY OUT A SPECIAL INVESTIGATION OR ENQUIRY INTO THE MATTER. IT IS THE FINDING OF THE COMMISSION THAT, GIVEN THE HIGHLY POLITICAL ROLE OF THE POLICE AT THE TIME, THE FACT THAT THIS EVENT WAS NOT COMPREHENSIVELY INVESTIGATED INDICATES, ON BALANCE, A DELIBERATE COMMISSION, RATHER THAN MERE NEGLECT OR DERELICTION OF DUTY ON THE PART OF THE SAP, IN ORDER TO PREVENT THOSE RESPONSIBLE FOR COMMITTING VIOLATIONS FROM BEING BROUGHT TO JUSTICE.

THE COMMISSION FINDS THAT UNKNOWN OFFICIALS OF THE KWAZULU GOVERNMENT MADE AVAILABLE GOVERNMENT VEHICLES TO ASSIST INKATHA MEMBERS IN THEIR UNLAWFUL ATTACKS ON NON-INKATHA COMMUNITIES. IN THAT THE KZP KNOWINGLY PARTICIPATED IN AND THE KWAZULU GOVERNMENT OFFICIALS FACILITATED THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS, THE COMMISSION HOLDS THESE UNKNOWN MEMBERS OF THE KZP AND KWAZULU GOVERNMENT ACCOUNTABLE FOR SUCH VIOLATIONS.

Hit - squad Activity

- 293 Hit-squad activity became widespread in KwaZulu and Natal during the 1990s. From information received by the Commission, it would appear that the hit-squad operations undertaken by the 'Caprivi trainees' and other political networks were predominantly supportive of the IFP, drawing in officials of the KwaZulu government and police force, as well as senior politicians and leaders of the party. As such, hit-squad members had access to KwaZulu Government resources such as vehicles, arms and ammunition. A measure of protection from prosecution was gained through the collusion of the KZP and the SAP with the activities of hit networks.
- 294 The killing of two activists in New Hanover in 1990 and the case of the Esikhawini-based hit squad led by Mr Brian Gcina Mkhize provide two examples of the operation of the many hit-squad networks that existed in the region during this period.

The Killing of Vusi Ngcobo and Bonowakhe Gasa

During 1990, a Roman Catholic priest from the Wartburg area, Reverend Garth Michelson, wrote a letter to the then Minister of Law and Order, Mr Adriaan Vlok, in which he expressed his concern that there was a police hit squad operating in the Mbava area, near Wartburg. His concerns were raised following the killing of two UDF activists, Mr Vusi Ngcobo and Mr Bonowakhe Gasa [KZN/HG/922/NY], in Mbava on 6 January 1990. Vlok responded to Michelson's letter on 30 July 1990 as follows:

"Further to my letter dated 14 February 1990 I wish to advise you that a thorough investigation is being conducted by the SAP. Investigations instituted have proved that so-called hit squads do not exist in the SAP. This is a far-fetched figment which exists only in the imaginations of certain individuals, organisations, etc. and has no foundation whatsoever."

The two activists, Ngcobo and Gasa, had been shot and left to die in a mealie [corn] field in Swayimane on 6 January 1990. Witnesses said that the killing was carried out by one white and three black men wearing light blue shirts similar to the SAP uniform. The four men had been seen arriving at the home of KwaZulu Member of Parliament Thanduyise Psychology Ndlovu in a yellow police van and then proceeding from Ndlovu's home in a white Crusade with a private registration number.

An informal inquest held in 1991 found that 'persons unknown' were responsible for the deaths. A second inquest was held in May 1995. The inquest magistrate, RA Stewart, found that former special constable Welcome Muzi Hlophe (aka 'BigBoy' Hlophe), SAP Lance Sergeant Peter Smith, KwaZulu government driver Abraham Shoba and a fourth unknown man were prima facie directly responsible for the killings. He also found that the original investigating officer, Major Joseph van Zyl, was an accessory to the killings and recommended that an investigation be opened with a view to a possible conviction of Van Zyl. He further found that the then Secretary of the KwaZulu Legislature, Mr Robert Mzimela, KwaZulu employee Z Mkhize, and then head of the

KLA Protection Unit Major Leonard Langeni had been implicated in a cover-up operation. (Mzimela and Langeni were both involved in the operations of the Esikhawini hit squad – see below.)

On receipt of the inquest findings, the Natal attorney-general, Mr Tim McNally, declined to prosecute any but Hlophe and Smith. He further failed to pursue any investigations in respect of the other findings made by the inquest court. Hlophe and Smith were subsequently acquitted in the Pietermaritzburg Supreme Court.

THE COMMISSION FINDS THAT THE INVESTIGATION INTO THE KILLINGS WAS ATTENDED BY A SYSTEMATIC COVER-UP BY MEMBERS OF THE SAP, INCLUDING THE GIVING OF FALSE AND MISLEADING EVIDENCE AND THE REFUSAL BY THE POLICE AND KWAZULU GOVERNMENT WITNESSES TO ANSWER NUMEROUS QUESTIONS AT THE SECOND INQUEST. A HIGH-RANKING POLICE OFFICER ENGINEERED SUCH A COVER-UP BY REMOVING A STATEMENT FROM THE INVESTIGATION DOCKET AND BY DISPOSING OF THE PROJECTILE REMOVED FROM THE HEAD OF THE DECEASED MR GASA. TWO KWAZULU GOVERNMENT OFFICIALS AND A HIGH-RANKING KZP OFFICER FACILITATED THE PLACING OF A GOVERNMENT EMPLOYEE WITH NDLOVU IN ORDER TO ASSIST NDLOVU IN DEALING WITH THE 'TROUBLEMAKERS' IN THE AREA, AND ATTEMPTED IN THE SECOND INQUEST TO COVER UP THE ROLE OF SAID EMPLOYEE IN THE KILLING.

THE COMMISSION FINDS THAT THE DECEASED WERE KILLED BECAUSE OF THEIR PERCEIVED AFFILIATION TO THE UDF AND THAT THE KILLING WAS PLANNED BY A LOCAL INKATHA LEADER AND PERFORMED WITH THE COLLUSION OF THE MEMBERS OF THE SAP AND THE KZP, AS EVIDENCED BY THE COVER-UP WHICH FOLLOWED THE KILLING.

- 295 In the Esikhawini area, near Richards Bay, politically motivated violence between supporters of the ANC and the IFP erupted and escalated in 1991. The township was predominantly ANC-supporting and the IFP were losing support. J2 section of the township was considered an IFP stronghold and was regularly attacked by ANC supporters. At a certain stage, local Inkatha leaders approached the Inkatha leadership in Ulundi because they were concerned that they were losing the struggle against the ANC in the township.
- 296 In 1991, as a result of these concerns, Daluxolo Luthuli summoned Gcina Brian Mkhize [AM4599/97] to a meeting in Ulundi. Mkhize was a 'Caprivi trainee' who had joined the KZP and was posted to the Esikhawini Riot Unit in 1990. The meeting was held at KZP Captain Leonard Langeni's office in Ulundi early in 1991. At the time, Langeni was the officer commanding the then KLA Protection Unit. Others present at the meeting were Luthuli, Prince Gideon Zulu (then KwaZulu Minister of Pensions), Mr M R Mzimela (then Secretary of the KwaZulu Legislature), and Mr MZ Khumalo (then personal assistant to Chief Buthelezi).
- 297 Mkhize told the Commission that he was told at this meeting that "the time had arrived to use the skills acquired at the Caprivi". He was instructed to take action against the ANC in Esikhawini. It was the intention of those present that unlawful means would be employed against the ANC. He was told to work directly with the Mayor of Esikhawini, Mr BB Biyela, and IFP councillor Ms Lindiwe Mbuyazi and to report directly to Langeni and Luthuli. Mkhize was told to gather reliable people to assist him.
- 298 Initially, the plan was that he would join with Inkatha youth who were already attacking ANC-dominated areas. He worked with, amongst others, Mr Nhlakanipho Mathenjwa, Mr Lucky Mbuyazi and Mr Siyabonga Mbuyazi. Captain Langeni arranged for Mkhize to collect weapons for these illegal activities from Mr Thomas Buthelezi, a 'Caprivi trainee' based at Port Durnford.
- 299 The youth were unable to halt the ANC attacks on Inkatha members, and reported this to Langeni and Luthuli. In the subsequent months, the composition and operations of the hit squad were discussed at a number of other meetings in Ulundi and Esikhawini and a decision was made to form a more sophisticated hit squad. Those proposed were Mr Romeo Mbuso Mbambo [AM4598/97], a KZP member, Mr Israel Hlongwane [AM4600/97], who had been involved with Luthuli in the violence in Mpumalanga, and Mr Zweli Dlamini [AM3685/96], a 'Caprivi trainee' who had also been involved in violence in both Clermont and Mpumalanga. KZP Constable Victor Buthelezi and at least two other 'Caprivi trainees' were also included in the hit squad. Not all members of the hit squad participated in every attack.

- 300 Mkhize was the leader of the group and generally took instructions from Captain Langeni. Ms Mbuyazi and Mayor BB Biyela were aware of their activities and, in specific instances, provided actual support to their operations. Others who were sometimes involved included Prince Gideon Zulu from Eshowe, Chief Mathaba from Nyoni and Mr Robert Mkhize from Empangeni.
- 301 Ms Mbuyazi arranged with the District Commissioner, Brigadier Mzimela, for Mbambo to be transferred to the Detective Branch where he would be in a position to cover up the crimes of IFP supporters and prevent their arrests. Robert Mkhize was already a member of the Esikhawini Internal Stability Unit (ISU) and his instructions were to ensure that patrols would be kept away from where Inkatha was planning to attack. Mbambo's instructions were to ensure that cases against the hit-squad members were not properly investigated, by destroying evidence and making misleading entries in the police dockets. The hit squad was to carry out attacks on those nights when Mbambo and Mkhize were on duty and therefore able to carry out these instructions.
- 302 Between 1991 and August 1993 (when Mbambo was arrested by members of the SAP), the hit squad killed an unknown number of people in the Esikhawini area and was also responsible for a number of killings and attempted killings elsewhere, particularly in the Sundumbili/Nyoni, Mandini and Eshowe areas. Prominent Inkatha-aligned officials gave ongoing direction and logistic support (such as weapons, ammunition, vehicles, accommodation and finances). This applied both at the local level (Mr BB Biyela, Ms Mbuyazi, Chief Mathaba, Brigadier Mzimela) and at a regional level (Captain Langeni, Daluxolo Luthuli, Prince Gideon Zulu, Mr MZ Khumalo). A number of hit lists were compiled at meetings with the IFP leaders. The targets were all ANC leaders, members or sympathisers. The hit squad was responsible, *inter alia*, for the following killings: Mr Naphtal Nxumalo, Mr Nathi Gumede, Mr April Taliwe Mkhwanazi, Sgt Dlamini, Sgt Khumalo, Mr John Mabika, and four young MK members killed at a *shebeen*. In addition to targeting particular individuals for assassination, the hit squad carried out dozens of random attacks on *shebeens*, bus stops, buses and streets where ANC supporters were known to gather. On some nights, the hit squad would carry out two or three attacks on different targets; sometimes they would drive around a section of the township known to be an ANC stronghold, looking for people to attack. After every hit, Mkhize would report back to Langeni, either personally or telephonically, to keep him informed of all their operations.

The Killing of April Taliwe

Ms Zanele Cecilia Taliwe [KZN/NG/006/EM] told the Commission about the killing of her husband, April, on 19 April 1992. Mr April Taliwe was a shop steward of a COSATU-affiliated trade union and was employed at the Mondi paper mill in Richards Bay. He was also an active member of the ANC.

Prior to his death, he had received a number of threats. On the morning of his death, he told his wife that, if he died, she should know that Gcina Mkhize would be one of the suspects. Mkhize, Mbambo and Dlamini all implicated themselves in the killing. According to Mkhize, Major Langeni gave the instruction for the killing and Mayor BB Biyela provided the vehicle. Mbambo told the Commission that Luthuli, Langeni and MZ Khumalo congratulated him and expressed their pleasure over the killing when he reported back to them.

The Killing of Sergeant Khumalo

Sgt Khumalo, a KZP member stationed at Esikhawini, was killed on 8 May 1992 by members of Gcina Mkhize's hit squad. Khumalo had been identified for assassination because he was suspected of being an ANC member and of leaking details of dockets to the local ANC leadership. He was killed with the approval of Captain Langeni (Amnesty applications of Gcina Mkhize [AM4599/97] and Romeo Mbambo [AM4598/97; KZN/NNN/507/EM]).

The Killing of Sergeant Dlamini

Sgt Dlamini, a KZP member stationed at Esikhawini, was shot dead on 19 June 1993 by Israel Hlongwane, who was accompanied by Romeo Mbambo, Mthethwa and Gcina Mkhize.

In 1995 Mkhize, Mbambo and Hlongwane were all found guilty in the Durban Supreme Court of killing Dlamini. According to the amnesty applications of the three convicted men, Dlamini was identified for assassination by the local IFP leadership because he was supplying the Goldstone Commission with information regarding the hit-squad activities in Esikhawini. He was also thought to be an ANC supporter as he was allegedly selling ANC T-shirts.

Both Mbambo and Mkhize alleged that KZP District Commissioner, Brigadier Mzimela, assisted in covering up their involvement in Dlamini's killing by tampering with the murder weapon.

In passing judgement on the matter, Mr Justice Van der Reyden said that the court had heard evidence that could only be described as 'disturbing' regarding the initial investigation of Dlamini's death. Van der Reyden said that it would be improper for the court to make specific findings in regard to the initial investigation without giving the other parties an opportunity to reply. He therefore chose to refer the allegations concerning the alleged cover-up to the Minister of Safety and Security for investigation.

The Case of Sam Nxumalo

Members of the Esikhawini-based hit squad led by 'Caprivi trainee' Gcina Mkhize gave details of a conspiracy to murder the local ANC leader, Mr Sam Nxumalo. They allege that KwaZulu Cabinet member, Prince Gideon Zulu, summoned them to a meeting at his home. Those present were Zulu, Gcina Mkhize, Romeo Mbambo, Daluxolo Luthuli, Robert Mzimela, Chief Calalakubo Khawula, Captain Langeni, Chief Biyela, and Mr Nyawuza (Prince Zulu's driver). Zulu told them that he wanted the hit-squad members to kill Nxumalo.

The hit-squad members were provided with a car from the Chief Minister's department and Mkhize, Mbambo, Dlamini and Hlongwane drove to the Eshowe Hospital on the appointed day. Nxumalo appeared to have been warned of the planned attack, because when he saw the operatives he telephoned the SAP who arrived within minutes. The operatives left, deciding to return later. When they returned that night, the hospital was full of policemen, so they postponed the proposed attack.

- 303 In his evidence to the Commission, Mr Israel Hlongwane admitted his involvement in several killings and attempted killings in the Sundumbili area during 1992 and 1993. He alleged that local IFP leaders provided him with a list of the names of people they wanted him to kill. There were about fifteen names on the list. Hlongwane's victims include Mr Siduduzo Cedric Khumalo (an ANC scholar whom he shot dead on 31 October 1992), Mr Sipho Thulani Xaba (also known as 'Gindinga', ANC leader at Odumo High School), Mr Themba Mkhukhu and Mr Mncedisi Kalude (two scholars from the Tugela High School shot dead on 7 August 1993), Mr Daludumo Majenga (shot dead on 29 March 1993) and Mr Canaan Shandu (a COSATU official).

The Killing of Bheki Mzimela

Mr Bheki K Mzimela, an induna located in Chief Mathaba's area of Nyoni, was alleged to be sympathetic towards the ANC because he supported the ANC's call for a ban on the carrying of traditional weapons. Mathaba enlisted the help of the Esikhawini-based hit squad led by Gcina Mkhize to kill Mzimela. Three members of the hit squad, namely Mkhize, Zweli Dlamini and Israel Hlongwane, together with Jerry Mdanda and a man identified only as Dumisani, went to Induna Mzimela's home on the night of 23 March 1992 and shot him dead [Amnesty application of Mkhize and Hlongwane].

304 Mkhize, Mbambo and Dlamini were arrested by the SAP (rather than the KZP) in 1993, following pressure from the Goldstone Commission and Advocate Neville Melville, the police reporting officer. Brigadier Mzimela, Captain Langeni and others attempted to prevent the arrest of Mkhize and Mbambo.

305 In 1994, hit-squad members, Mbambo, Mkhize and Dlamini were convicted of a number of crimes carried out by the squad. In mitigation of sentence, the three argued that the hit squad had been set up by senior IFP, KwaZulu Government and KZP members based in Ulundi and Esikhawini. Accepting their evidence in mitigation, the presiding judge, the Honourable Mr Justice Van der Reyden, said that when the trial commenced he was taken aback by the appalling standard of investigation by the KZP. Later he had realised that, what he had taken for incompetence, was a deliberate design to cover up. He said that the three accused could not have acted alone and called for:

a full investigation into the alleged involvement of those persons identified by the accused as the masterminds and puppet masters behind the Esikhawini hit squad.

306 In 1994, the Investigation Task Unit (ITU) was mandated to investigate the allegations of the three accused in the Mbambo matter. In June 1996, the ITU presented a comprehensive report to the Natal Attorney-General, Mr Tim McNally, in which they recommended the prosecution of eight IFP/KZP/KwaZulu Government officials: Prince Gideon Zulu, Mr M R Mzimela, Major M L Langeni, Mr Robert Mkhize, Ms Lindiwe Mbuyazi, Chief Mathaba, Mr BB Biyela, and Brigadier C P Mzimela. In the report the ITU argued that:

Eight of the individuals identified by the accused [in the Mbambo matter] are suspects in the present cases. All three accused are state witnesses in the present matter. They were the 'foot soldiers' who executed a programme of murder and destruction at the behest of powerful individuals who by virtue of their positions have been protected from detection. These persons utilised their position in the government and police, the very institutions which were meant to uphold law and order, to facilitate a murderous hit-squad network. Such a network, or form thereof may very well persist today. In so doing, the individuals involved have undermined the rule of law and have contributed substantially to the state of lawlessness and violence that is seen in many parts of KwaZulu-Natal today. These persons continue to occupy key positions of power and influence within the regional government and police. The investigation, as directed by the Supreme Court ruling in the Mbambo matter, has been aimed at exposing and bringing to justice those behind the hit squad ('the suspects'). It is imperative that those who manipulated and used young operatives, who believed that they were acting with impunity, be prosecuted as vigorously as the operatives have been.

307 The Attorney-General declined to prosecute any of the suspects in the case on the grounds that there were discrepancies between statements made to the ITU by the key witnesses and statements they had previously made to the Goldstone Commission and the SAP. The ITU argued that these discrepancies were easily explained by the fact that, in the earlier statements, the witnesses were still covering up their personal involvement as well as that of their superiors. Despite the discrepancies there was sufficient evidence, including objective evidence, to press charges against the suspects.

308 To date, none of the Esikhawini hit squad's hierarchy nor any of the other operatives have been prosecuted.

IN RESPECT OF THE ESIKHAWINI HIT SQUAD, THE COMMISSION FINDS AS FOLLOWS:

IN 1991, POLITICALLY MOTIVATED VIOLENCE BETWEEN SUPPORTERS OF THE ANC AND INKATHA ERUPTED AND ESCALATED IN THE ESIKHAWINI AREA OF THE KWAZULU NATAL NORTH COAST.

INKATHA LEADERS APPROACHED THE INKATHA CENTRAL AUTHORITY IN ULUNDI BECAUSE THEY WERE CONCERNED THAT THEY WERE IN THE PROCESS OF LOSING THE STRUGGLE.

DALUXOLO LUTHULI, WHO HAD BEEN APPOINTED POLITICAL COMMISSAR OF THE CAPRIVI TRAINEES DURING THEIR TRAINING IN THE CAPRIVI STRIP, SUMMONED GCINA MKHIZE, A MEMBER OF THE KZP BASED AT ESIKHAWINI AND A MEMBER OF THE GROUP WHICH HAD BEEN TRAINED BY THE SADF IN CAPRIVI, TO A MEETING IN ULUNDI.

THE MEETING WAS ATTENDED BY THE ABOVE-MENTIONED PERSONS AS WELL AS CAPTAIN LANGENI OF THE KZP BASED AT ULUNDI WHO HAD HAD A LONG TERM ASSOCIATION WITH LUTHULI AND THE CAPRIVI GROUP, ROBERT MZIMELA, THE SECRETARY OF THE KWAZULU LEGISLATURE, PRINCE GIDEON ZULU, THE MINISTER OF PENSIONS, AND MZ KHUMALO, THE POLITICAL ASSISTANT TO CHIEF MINISTER BUTHELEZI.

AT THIS MEETING, GCINA MKHIZE WAS INSTRUCTED TO TAKE ACTION AGAINST THE ANC IN ESIKHAWINI. IT WAS THE INTENTION THAT UNLAWFUL MEANS WOULD BE EMPLOYED AGAINST THE ANC. MKHIZE WAS TO PERFORM THESE ACTS IN CONSULTATION WITH MS LINDIWE MBUYAZI AND MR BB BIYELA. BOTH WERE LOCAL INKATHA LEADERS AND MR BIYELA WAS THE MAJOR OF ESIKHAWINI. HE WOULD ALSO TAKE INSTRUCTIONS FROM CAPTAIN LANGENI AND DALUXOLO LUTHULI.

INITIALLY THE PLAN WAS THAT HE WOULD ASSIST THE INKATHA YOUTH CARRY OUT ATTACKS IN ANC DOMINATED AREAS. HE WORKED WITH, *INTER ALIA*, THE FOLLOWING YOUTH MEMBERS: NLANIMPU MATENJWA, LUCKY MBUYAZI AND SYABONGA MBUYAZI.

CAPTAIN LANGENI ARRANGED THAT WEAPONS FOR THESE ILLEGAL ACTIVITIES WOULD BE SUPPLIED BY A CAPRIVI TRAINEE BASED AT PORT DURNFORD, THOMAS BUTHELEZI.

THE YOUTH WERE UNABLE TO PREVENT THE ANC FROM CONTINUING LAUNCHING ATTACKS ON INKATHA MEMBERS.

THIS WAS REPORTED TO LANGENI AND LUTHULI BY MKHIZE AND THE DECISION WAS TAKEN TO FORM A MORE SOPHISTICATED 'HIT SQUAD'. MKHIZE WAS NOT PREPARED TO USE THE CAPRIVIANS BASED AT ESIKHAWINI AS SUGGESTED BECAUSE THEY WOULD NOT BE TRUSTED TO REMAIN SILENT ABOUT THE PROPOSED OPERATION OR WERE UNRELIABLE.

MKHIZE PROPOSED THAT KZP COLLEAGUE ROMEO MBAMBO BE APPOINTED AS A MEMBER OF THE HIT SQUAD. HE WAS ACCEPTED AFTER AN INTERVIEW WITH LUTHULI, LANGENI AND MZ KHUMALO. HE WAS GIVEN THE ASSURANCE THAT HE WOULD NOT BE ARRESTED FOR ANY OF HIS ACTIVITIES AND THE MANNER IN WHICH THE HIT SQUAD WOULD OPERATE WAS DISCUSSED IN DETAIL. PRIOR TO THE MEETING, MBAMBO HAD MET WITH MS MBUYAZI WHO HAD SUPPORTED HIS INVOLVEMENT IN THE ENTERPRISE.

LUTHULI APPOINTED THE FOLLOWING TWO MEMBERS WHO FORMED PART OF THE HIT SQUAD:

- ISRAEL HLONGWANE WHO HAD BEEN INVOLVED WITH LUTHULI IN THE VIOLENCE IN THE HAMMARSDALE AREA. HE WAS ACCOMMODATED AT THE HOME OF THE MAYOR, MR BB BIYELA.
- ZWELI DLAMINI, A CAPRIVI TRAINEE AND VETERAN OF THE PIETERMARITZBURG/ HAMMARSDALE VIOLENCE. HE WAS ACCOMMODATED AT THE HOME OF MS MBUYAZI.

OTHER MEMBERS OF THE HIT SQUAD INCLUDED: CONSTABLE VICTOR BUTHELEZI, JOYFUL MTHETHWA (A CAPRIVI TRAINEE), CONSTABLE P S NDLOVU (A CAPRIVI TRAINEE).

NOT ALL MEMBERS PARTICIPATED JOINTLY IN EACH AND EVERY UNLAWFUL ATTACK.

MKHIZE WAS, HOWEVER, THE LEADER OF THE GROUP AND, IN THE MAIN, TOOK INSTRUCTIONS DIRECTLY FROM CAPTAIN LANGENI. MS MBUYAZI AND MR BB BIYELA WERE AWARE OF THEIR ACTIVITIES AND IN SPECIFIC INSTANCES PROVIDED ACTUAL SUPPORT TO THEIR OPERATIONS. LESS FREQUENT CO-CONSPIRATORS INCLUDED PRINCE GIDEON ZULU, CHIEF MATHABA FROM NYONI AND ROBERT MKHIZE FROM ESIKHAWINI.

PRIOR TO THE COMMENCEMENT OF THE HIT SQUAD ACTIVITIES, MS MBUYAZI ARRANGED WITH THE DISTRICT COMMANDANT BRIGADIER MZIMELA THAT MKHIZE BE TRANSFERRED TO THE INTERNAL STABILITY UNIT AND MBAMBO TO THE DETECTIVE BRANCH. THE REASON FOR THIS WAS THAT THE COMMANDER OF THE FORMER UNIT WAS SUSPECTED OF SYMPATHISING WITH ANC MEMBERS IN THE AREA, AND ARRESTING INKATHA YOUTH MEMBERS FOR ACTS OF VIOLENCE BUT NOT MEMBERS OF THE ANC. MKHIZE WAS REQUIRED TO ENSURE THAT PATROLS WOULD TAKE PLACE AWAY FROM WHERE THE INKATHA YOUTH WAS DUE TO ATTACK. MBAMBO WAS TO ENSURE THAT CASES AGAINST THE YOUTH WOULD NOT BE INVESTIGATED PROPERLY. IN THIS REGARD, HE WAS REQUIRED TO DESTROY EVIDENCE AND MAKE MISLEADING ENTRIES IN POLICE DOCKETS. HE ACTED IN A SIMILAR MANNER WHEN THE HIT SQUAD ITSELF OPERATED.

MBAMBO ALSO PROVIDED TRAINING TO THE INKATHA YOUTH IN WEAPONS AND ATTACKING TECHNIQUES. THIS TRAINING BORE THE APPROVAL OF MS MBUYAZI, BB BIYELA AND CELANI MTHETHWA WHO ALSO MADE WEAPONS AVAILABLE.

MEETINGS AT WHICH HIT SQUAD ACTIVITIES WERE DISCUSSED AND/OR PLANNED WERE HELD AT MR BB BIYELA'S HOME, MS MBUYAZI'S HOME AND THE NHLANGANANI HALL, ALL SITUATED AT ESIKHAWINI, AS WELL AS AT THE INKATHA OFFICE AT EMPANGENI AND THE HOME OF PRINCE GIDEON ZULU AND CAPTAIN LANGENI'S OFFICE, BOTH AT ULUNDI.

MR BB BIYELA, MR CELE FROM THE KWAZULU GOVERNMENT OFFICES IN ULUNDI AND PRINCE GIDEON ZULU MADE VEHICLES AVAILABLE FOR HIT SQUAD ACTIVITIES. HEARSAY EVIDENCE SUGGESTS COMPLICITY ON THE PART OF MZ KHUMALO AND ROBERT MZIMELA IN THIS REGARD.

THE HIT SQUAD WAS, *INTER ALIA*, RESPONSIBLE FOR THE FOLLOWING ELIMINATIONS.

- ON THE INSTRUCTION OF CAPTAIN LANGENI, THE KILLING OF MR APRIL TALIWE (MKHWANAZI), AN ANC MEMBER SUSPECTED OF SETTING UP SDUS AND SUPPLYING ARMS AND AMMUNITION.
- ON THE INSTRUCTIONS OF CAPTAIN LANGENI, AN ATTEMPT TO KILL MR WELCOME MTHIMKULU, AN ANC MEMBER WHO WAS WINNING POPULAR SUPPORT AWAY FROM INKATHA.
- THE KILLING OF MR NATHI GUMEDE, AN ANC MEMBER WHO HAD LAID A FALSE CHARGE AGAINST ROMEO MBAMBO. THIS KILLING WAS APPROVED OF BY CAPTAIN LANGENI, DALUXOLO LUTHULI AND PRINCE GIDEON ZULU.
- ON THE INSTRUCTION OF PRINCE GIDEON ZULU AN ATTEMPT TO KILL A MALE NURSE BY THE NAME OF NXUMALO IN ESHOWE.
- A RANDOM ATTACK ON A BUS IN AN ANC DOMINATED AREA AFTER SHOTS WERE FIRED DURING THE COURSE OF AN INKATHA RALLY. THIS WAS INSTRUCTED BY PRINCE GIDEON ZULU WITH THE APPROVAL OF MRS MBUYAZI AND MR BB BIYELA.
- WITH THE APPROVAL OF CAPTAIN LANGENI, THE KILLING OF SGT KHUMALO, A COLLEAGUE AND AN ANC SUPPORTER, WHO WAS TRYING TO EXPOSE THE HIT SQUAD'S ACTIVITIES.
- A RANDOM ATTACK ON AN ANC DOMINATED AREA IN ORDER TO AVENGE THE MURDER OF A COLLEAGUE, CONSTABLE DANCA, IN A HAND-GRENADE ATTACK. THIS WAS PLANNED AT THE HOME OF MS MBUYAZI IN HER PRESENCE AND THAT OF CHIEF MATHABA.
- THE KILLING OF SGT DLAMINI FOR THE SAME REASONS AS SGT KHUMALO.
- ON THE INSTRUCTIONS OF CHIEF MATHABA, THE KILLING OF A DISLOYAL *INDUNA* IN NYONI AND AN ATTEMPT, IN THE SAME AREA, TO KILL A COSATU MEMBER BY THE NAME OF JALI.

THE ARREST OF GCINA MKHIZE, ROMEO MBAMBO AND ISRAEL HLONGWANE WAS NOT BY THE KZP BUT BY THE SAP FOLLOWING PRESSURE FROM THE POLICE REPORTING OFFICER AND THE GOLDSTONE COMMISSION.

IN RESPECT OF BOTH GCINA MKHIZE AND ROMEO MBAMBO, AN ATTEMPT WAS MADE TO PREVENT THEM FROM BEING PROSECUTED.

IN THE CASE OF GCINA MKHIZE:

- BRIGADIER MZIMELA ARRANGED FOR HIS TRANSFER OUT OF ESIKHAWINI ONCE HE HAD COME UNDER SUSPICION.
- THEREAFTER HE WAS TAKEN TO CAPTAIN LANGENI BY DALUXOLO LUTHULI AND OTHERS IMMEDIATELY PRIOR TO HIS ARREST IN ORDER FOR ARRANGEMENTS TO BE MADE FOR HIM TO GO INTO HIDING. AT A CERTAIN STAGE DURING THESE ARRANGEMENTS, ROBERT MZIMELA WAS PRESENT.
- WHEN HE REFUSED TO GO INTO HIDING, HE WAS ADVISED TO COMPILE AN ALIBI.

IN THE CASE OF ROMEO MBAMBO:

- MAJOR MCHUNU AND BRIGADIER MZIMELA MADE SEVERAL SUGGESTIONS AS TO HOW THE INVESTIGATIONS SHOULD BE SABOTAGED BY TAMPERING WITH BALLISTIC EVIDENCE.
- MBAMBO WAS ALLOWED TO CHOOSE WHERE HE WISHED TO BE DETAINED AND ALLOWED TO TRAVEL INTO TOWN TO DRAW MONEY FOR BAIL.

- MAJOR MCHUNU RECOMMENDED BAIL OF R500 BE GRANTED AND, WHEN THIS FAILED, HE, BRIGADIER MZIMELA AND AN ATTORNEY (NOW DECEASED) BY THE NAME OF GABELA ARRANGED FOR HIM TO APPEAR BEFORE A COURT NOT IN SESSION FOR BAIL TO BE GRANTED.

IN THE SUBSEQUENT SUPREME COURT TRIAL, MR JUSTICE VAN DER REYDEN COMMENTED ON THE INITIAL INVESTIGATIONS, INDICATING THAT WHEN THE TRIAL COMMENCED HE WAS TAKEN ABACK BY THE APPALLING STANDARD OF INVESTIGATION BUT LATER REALISED THAT WHAT HE HAD TAKEN FOR INCOMPETENCE WAS IN FACT A DELIBERATE COVER UP.

IN PASSING SENTENCE, THE COURT FOUND THAT THE THREE ACCUSED COULD NOT HAVE ACTED ALONE AND CALLED FOR FURTHER INVESTIGATIONS INTO THE ACTIVITIES OF THOSE WHO HAD DIRECTED THE HIT SQUAD.

THE ATTORNEY-GENERAL: KWAZULU-NATAL DECLINED TO INSTITUTE ANY FURTHER PROSECUTIONS.

Assassinations: IFP 400 list

- 309 The IFP provided the Commission with a list of 422 Inkatha/IFP office-bearers allegedly assassinated because of the positions they held in the party.
- 310 Of the 422 listed cases, eighty-one occurred after the Commission's cut-off date of 10 May 1994; another fifteen happened outside KwaZulu-Natal. The Durban office of the Commission investigated the balance of 326 KwaZulu-Natal cases. Of these, 187 were referred back to the IFP for additional information. At the time of writing, no response to this request had been received.
- 311 The Commission's investigation was hampered by the fact that some case dockets were untraceable or had been destroyed. Two hundred and fifty of the cases were still under investigation by the SAPS. In the finalised cases, there had been 182 arrests, leading to twenty-two convictions and eighteen acquittals. The Attorney-General declined to prosecute in twenty-seven of the cases where arrests had been effected, and six suspects were killed before they could be prosecuted.
- 312 The Commission received amnesty applications in respect of two of the cases listed. In only twenty-one of the 326 cases investigated could it be positively confirmed that the office-bearer died as a result of attacks by UDF/ANC supporters. Seven of the cases were found to be irregular (the person named was not an IFP member, the death was crime-related, or cases were duplicated). Another four of the officials listed were killed as a result of intra-IFP conflict. This investigation is dealt with in greater detail in Volume Two of the Commission's report.

Individual assassinations

- 313 A large number of senior community members, including professionals, church leaders and party leaders, were assassinated during the 1990s. In some cases, the individuals' links with party politics were tenuous.

The Killing of Reverend Sipho Africander

Imbali priest and chairperson of the Pietermaritzburg Council of Churches, Reverend Sipho Victor Africander [KZN/NN/259/PM], was shot dead on 4 May 1990. IFP supporter Toti Godfrey Zulu, from Imbali, was convicted in 1991 but was later acquitted on appeal.

The Killing of Jerome Mncwabe and others

Imbali councillor Jerome Mncwabe [KZN/MP/062/MP] was shot dead at his daughter's home in Imbali on 16 May 1990. He was thirty-eight years old at the time. It is suspected that he was killed in revenge for the killing of Reverend Africander. Mncwabe was named as a perpetrator in at least six statements made to the Commission.

In what could have been a revenge attack for Mncwabe's killing, Imbali resident Baveni Philemon Ngcobo [KZN/NN/093/PM] was shot dead the next day. Mncwabe's son Nhlanhlazi Luthuli was arrested in connection with Ngcobo's killing. However, he was acquitted after the state's key witness, a policeman who had witnessed the killing, was himself killed.

Then on 23 May 1990, Imbali resident Ndleleni Anthony Dlungwane [KZN/PMB/211/PM] was killed in his home. The attackers blamed him for Mncwabe's assassination. Sean Awetha was arrested in connection with Dlungwane's death but was later released.

The Killing of Dr Henry Luthuli

Dr Henry Vika Luthuli, a young medical doctor, was one of the early casualties in the violence in Esikhawini. He was shot in the consulting room at his Esikhawini home on the night of 2 August 1990 and died in the arms of his wife Dorcas [KZN/SS/013/DN].

Luthuli was one of the first black people to graduate with a degree in community medicine from the University of Natal. Although he was not a member of any political organisation, he used to treat many scholars who were victims of the conflict.

The KZP investigation into this case indicates an extensive cover-up. The initial investigating officer, Detective Sergeant Derrick Ntuli, arrested Vlakplaas Constable Thembinkosi Dube in connection with the killing. Ntuli then searched Dube's homestead and removed police equipment for ballistic testing. Ntuli alleged that high-ranking officers of the KZP reprimanded him severely for searching Dube's home. Members of the Empangeni Security Branch took the equipment he had seized, preventing him from sending it for ballistic testing. Ntuli says he questioned Dube in the presence of Colonel Strydom of the Empangeni Security Branch, who taped the interview. Dube allegedly confessed to killing Luthuli. After this, Ntuli was moved off the case. Dube was subsequently killed in mysterious circumstances.

Ms Dorcas Luthuli persisted in pressurising the police to investigate her husband's killing. She wrote letters to the then State President, Mr FW de Klerk, and to General Jac Buchner, then Commissioner of the KZP, after which she received death threats. Eventually new investigating officers were appointed and an inquest was opened in 1996. The following year, the inquest court found Vlakplaas policeman Thembinkosi Dube responsible for the killing of Dr Luthuli.

The Killing of Arnold Lombo

IFP leader Arnold Lombo [KZN/GSN/073/PM] was shot dead on 31 October 1990 at the Joshua Doore furniture shop, Pietermaritzburg, where he was employed.

Four ANC members were arrested in connection with the killing and applied for amnesty. They are Mr Sipho Motaung, Mr Bhekimpindle Dlamini, Mr Nhlanhla Sibisi and Mr Johannes Sithole [AM3902/96; AM3905/96]. Their applications were all successful. Motaung [AM3902/96] was a trained Umkhonto we Sizwe member. He claimed that the assassination was planned and directed by his superiors (whom he named) "in the furtherance of the political struggle waged by the ANC against the apartheid regime that existed at the time".

The Killing of Chief Mhlabunzima Maphumulo

On the night of the 25 February 1991 the President of CONTRALESA, Chief Mhlabunzima Maphumulo [KZN/MR/077/PM; ECO/68/96UTA], was shot dead as he drove up the driveway of his central Pietermaritzburg home.

Maphumulo was a chief from the Maqongqo/Table Mountain area, east of Pietermaritzburg. He had survived numerous previous attempts on his life and had fled from Table Mountain with his family in 1990 after their house was burnt down. His killing has still not been solved.

Maphumulo had been president of CONTRALESA since 1989. He had previously been harassed by policemen and askaris and had led a campaign calling for a commission of enquiry into the violence in the Natal Midlands.

The Killing of Winnington Sabelo

IFP Central Committee member and KwaZulu MP for Umlazi, Mr Winnington Sabelo, was shot dead in his Umlazi shop on 7 February 1992. A customer was also mistakenly killed in the shooting [KZN/GM/006/DN]. At the time of his death, Sabelo was a member of the local peace committee and as such was involved in a number of peace initiatives in the community. Sabelo's wife, Evelyn, was killed in an attack outside their home in August 1986 [KZN/NM/209/DN].

His killing was investigated by SAP member Mr De Beer. The KZP suspected ANC member Sbu Mkhize of involvement in the killing. Mkhize's mother, Ms Florence Mkhize, told the Commission that the police visited the Mkhize home and searched for weapons. They found a firearm belonging to Mkhize's father and took his father in for questioning. His father was killed in the police station. Sbu Mkhize himself was killed in July 1992 during a shoot-out with police at Isipingo.

The Killing of Mr S'khumbuzo Ngwenya (Mbatha)

Mr S'khumbuzo Ngwenya Mbatha [KZN/NNN/290/PM; KZN/GW/004/PM] (more commonly known as S'khumbuzo Ngwenya) was the chairperson of the Imbali ANC branch, member of the ANC regional executive committee and a field worker at PACSA.

He was assassinated on 8 February 1992. He was shot dead while leaving a restaurant in central Pietermaritzburg after dining with PACSA colleagues and visiting American academics. Ngwenya was thirty-four years old at the time. He had been deeply involved in spearheading various peace initiatives in the Pietermaritzburg area during the late 1980s, although his efforts were severely hampered by several detentions and a banning order.

Imbali mayor Phikelele Ndlovu, deputy mayor Abdul Awetha and a sixteen-year-old were arrested on 9 June 1992 in connection with Ngwenya's killing. However, charges were dropped when the state's key witness refused to testify after allegedly being threatened. As a result, no one has been prosecuted in connection with Ngwenya's killing.

The Killing of Reggie Hadebe

On 27 October 1992, ANC Natal Midlands Deputy Chairperson Reggie Hadebe [KZN/SELF/135/DN] was shot and killed when the car in which he was travelling with other senior ANC officials was ambushed outside Ixopo. Hadebe was returning from a Local Dispute Resolution Committee meeting together with ANC Midlands Region Executive member Shakes Cele and ANC official John Jeffries. Cele sustained slight wounds while Jeffries escaped without injuries.

According to Daluxolo Luthuli [AM4018/96]:

"On a Saturday afternoon after the assassination of Reggie Hadebe from Pietermaritzburg there was an IFP march to the Durban City Hall. At the march, I met Bongani Sithole who was a Caprivian. He had in the interim joined the KZP and was attached to the BSI in Mpumalanga. He told me that he was implicated in the murder of Reggie Hadebe. He said that he had used a G-3 rifle which was allocated to Mr Vezi who was the IFP chairman of Patheni near Ixopo. Bongani complained that the SAP was collecting G-3 rifles to compare them to

spent cartridge cases which had been found at the scene of the murder. They had approached Mr Vezi and wanted to remove the G-3 that had been used in the murder. Mr Vezi refused to hand them the weapon until he received another in its place.”

Imprisoned IFP member Richard Sibusiso ‘Sosha’ Mbhele [AM4018/96] claimed that Hadebe’s assassination was ordered by the late Chief Xhawulengweni Mkhize and discussed at a small meeting at Mkhize’s home. The meeting included a former KZP member and a local SPU commander, two unnamed KZP members and a “white man with a neat red moustache” who “drove a cream car and spoke Zulu very well”. It was decided that Hadebe would be ambushed on one of the corners in the Umkomaas valley area. Mbhele claimed that a KZP member and two other men left to carry out the operation. The KZP member returned home alone in the afternoon some time after 14h00. He appeared to be very happy and reported that he had “finished with Hadebe”. Later Mbhele heard a radio report of Hadebe’s killing.

The Killing of Professor Hlalanathi Sibankulu

Professor Hlalanathi Sibankulu [KZN/MR/166/NC; KZN/MDU/999/NC], a member of the ANC Midlands Executive Committee and long-standing trade union and civic leader from Madadeni, was killed in November 1992 in Madadeni township, outside Newcastle. His body was dismembered and burnt in his car.

Sibankulu was a highly energetic trade union, political and civic activist, and one of the most prominent residents of this large township. He had been detained several times in the late 1980s by the Newcastle Security Branch. He successfully brought two interdicts against the police after being tortured in detention. In 1988, Sibankulu was charged with treason, along with fellow union activist Mandla Cele, but was acquitted after a fourteen-month trial.

Despite a thorough investigation, there were no arrests. The evidence collected by the Commission’s investigating officer points to KZP involvement in the killing. The Commission could not make a conclusive finding on the available evidence.

The Killing of Claire Stewart

The Commission conducted an intensive investigation into the death of Ms Claire Stewart [KZN/NG/028/DN], a British citizen and trained agriculturist who ran a community project in KwaNgwanase in the Manguzi area of KwaZulu Natal.

Stewart’s active membership of the ANC led to an IFP boycott of the project after a speech made by senior IFP official, Prince Gideon Zulu.

On 10 November 1993, she was abducted by unknown persons while driving to a meeting. Her body was found on 24 November 1993 in the Ingwavuma area, with bullet wounds to the head.

The Killing of Michael Mcetywa

On 22 November 1993, Mr Michael Mcetywa [KZN/HD/313/EM], the Pongola ANC Chairperson, was assassinated by a local IFP member Emmanuel Mavuso [AM7921/92]. Mavuso was subsequently convicted and sentenced to twenty-five years for the murder. However, he evaded custody after being given bail pending an appeal.

A co-conspirator to the assassination, Mr Mdu Msibi, in custody for a related murder, claimed that Mcetywa’s murder had been planned by the IFP leadership in Piet Retief and members of the Piet Retief Security Branch [Pongola CR 120–11–93].

Mdu Msibi alleged that two leading IFP members (from Pongola and Piet Retief) and a member of the Piet Retief Security Branch decided to eliminate Emmanuel Mavuso while he was in custody and standing trial.

Mavuso was allegedly dissatisfied because he had been promised protection from prosecution and Msibi was asked to poison him. Mavuso heard of the plot and stopped eating food given to him. It was then decided to wrest him from police custody when he appeared at the trial. Msibi attempted to do this but was recognised at the court and arrested for a Piet Retief killing. (Msibi was subsequently convicted and imprisoned for murder cases in Piet Retief.)

THE COMMISSION FINDS THAT A LARGE NUMBER OF COMMUNITY AND POLITICAL LEADERS, INCLUDING NON-ALIGNED ACADEMICS, PROFESSIONALS AND MEMBERS OF THE CLERGY, WERE TARGETED FOR ATTACK IN PLANNED HIT-SQUAD OPERATIONS IN THE PROVINCE FROM 1990–94. THE DEATHS ARISING FROM THESE ATTACKS CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS.

Hostel Violence

- 314 In the early 1990s, Inkatha undertook a vigorous recruitment drive in township hostels. Until that time, relations between hostel-dwellers and township residents had been cordial. However, this changed after February 1990 when township residents tended to join the unbanned ANC.
- 315 Hostels became Inkatha's point of entry into the township: all hostel residents were compelled to join Inkatha or leave. Inmates were required to attend all functions organised by Inkatha. Hostels became Inkatha strongholds and no-go zones for township residents. Strangers entering the hostels were frequently suspected of being from the township and were killed.
- 316 Similarly, the townships were identified as ANC strongholds and were no-go zones for the hostel-dwellers. Hostel-dwellers travelling through the township to get to and from the hostel were frequently attacked by township youth. The violence in the Bruntville township outside Mooi River in the Natal Midlands is illustrative.
- 317 The township of Bruntville, near the farming town of Mooi River in the Natal Midlands, was administered by a town council set up under the Black Local Authorities Act of 1982. Around 1990, Mooi River Textiles (Mooitex) was the largest employer in the area. About two-thirds of its labour force lived in the company's hostels located in Bruntville. The hostel-dwellers were predominantly Inkatha-supporting and members of UWUSA. In contrast, the township residents were predominantly ANC-supporting and members of COSATU.
- 318 On 8 November 1990, sixteen township residents were killed by approximately 1 200 hostel-dwellers and other Inkatha supporters who were allegedly brought into the area to assist in a pre-dawn attack. About 1 500 people, mainly women and children, fled their homes.

THE COMMISSION NOTES THE KILLING OF SIXTEEN PEOPLE ON 8 NOVEMBER 1990 IN A PRE-DAWN ATTACK ALLEGEDLY LED BY APPROXIMATELY 1 200 HOSTEL-DWELLERS AND INKATHA SUPPORTERS, AND THE CONSEQUENT DISPLACEMENT OF UP TO 1 500 PEOPLE FROM THEIR HOMES IN THE AREA. AS IN MANY OTHER AREAS WHERE SINGLE-SEX HOSTELS (INHABITED BY THE MORE TRADITIONAL INKATHA-SUPPORTING MEN) WERE SITUATED ADJACENT TO TOWNSHIPS (WHICH HAD ACTIVE CIVIC AND YOUTH STRUCTURES), TENSIONS AND CONFLICT DEVELOPED. THERE IS NO DOUBT THAT INKATHA-SUPPORTING HOSTEL-DWELLERS WERE SUBJECTED TO PROVOCATION AND ATTACKS FROM ELEMENTS OF THE YOUTH.

THE COMMISSION FINDS THAT THIS UNLAWFUL BEHAVIOUR CONTRIBUTED SUBSTANTIALLY TO THE CONFLICT. HOWEVER, THE OVERWHELMING NUMBERS OF PEOPLE WHO DIED OR WERE INJURED WERE NON-IFP TOWNSHIP RESIDENTS. THE SCALE AND EXTREME BRUTALITY OF THE PRE-EMPTIVE ATTACKS CARRIED OUT BY THE INKATHA-SUPPORTING HOSTEL-DWELLERS ON NEIGHBOURING TOWNSHIP RESIDENTS CANNOT BE JUSTIFIED. ELDERLY PEOPLE, WOMEN AND INFANTS WERE KILLED IN A MOST CALLOUS AND BRUTAL MANNER. THE COMMISSION FINDS THAT THE SAP WERE AT BEST HOPELESSLY INCOMPETENT IN THEIR EFFORTS TO PREVENT OR CONTAIN THE CARNAGE AND, AT WORST, COLLUDED WITH THE ATTACKERS BY OMISSION. THE COMMISSION FINDS THAT LOCAL AND REGIONAL IFP STRUCTURES DID VERY LITTLE TO INTERVENE.

THE COMMISSION FINDS THAT THE KILLING OF SIXTEEN PEOPLE ON 8 NOVEMBER 1990 WAS CAUSED BY UNKNOWN SUPPORTERS OF THE IFP FROM THE BRUNTVILLE HOSTEL, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH UNKNOWN INKATHA-SUPPORTING HOSTEL-DWELLERS ARE HELD ACCOUNTABLE.

319 Violence continued throughout the following year.

The Attack on the Majola Family

The chairperson of the Bruntville ANC, Mr Derek Majola, and his wife Mavis were killed on 24 April 1991 when four armed men wearing balaclavas attacked their home. Their four-year-old daughter was seriously injured in the attack [KZN/NN/377/MR].

320 While the township residents were frequently disarmed and subjected to weapons searches by members of the security forces, hostel-dwellers often paraded through the township, openly brandishing their traditional weapons. In October 1991, the ANC called a stay away boycott to protest against what they perceived to be discriminatory treatment.

321 On the night of 3–4 December 1991, eighteen people were killed when large groups of IFP hostel-dwellers launched two large-scale attacks on houses and residents in the township. Many allegations were made that the police were reluctant to intervene in the attack. Victims and survivors say that the police never approached them for statements. There were no prosecutions in connection with the massacre.

322 Pensioner and ANC member Joseph Sabelo Mthethwa told the Commission his story of what happened that night. He arrived home from work at 18h00 and noticed a large group of men gathered outside the hostel. Soon afterwards, he heard gunshots, and people came running past, shouting that Inkatha was attacking them. He remained in his home until the fighting died down. A while later there was a knock on his door. It was someone from the hospital to tell him that his twenty-two year old son, Nkosinathi, had been killed [KZN/ZJ/306/EST]. Late that night, SADF members conducted a weapons raid throughout the township. In the early hours of the next morning, the hostel-dwellers launched a second attack on the township residents. Mr Bongeni Alson Majola lost his wife in the pre-dawn attack:

It was on the third of December. There was some noise outside and the soldiers were moving around the streets, patrolling ... that night, we did not sleep. At about 4.00 am we heard some gunshots from outside and we woke up and looked at White City, and we could see the Inkatha impi at White City, going around burning people's houses. And at my in-laws' place, we saw a certain house, Mr Zuma's house, being burnt down and my wife jumped and went out. She wanted to go and check my [six-year-old] son, who had gone to my in-laws to visit, and I was left with the daughter.

By the time she got to the place, they had already finished burning the house and they were coming towards our place, and they came across my wife. And there's a certain person I was working with by the name China. His other name was Sidney Zulu. And he tried to hold my wife. Amongst the other people who were hiding themselves they saw him grabbing my wife, and my wife pushed this man and went to knock at the door, and this group of people followed my wife. And the other one took out an assegai and stabbed my wife ...

We tried to get some transport, but people had run away because they were scared that they would be attacked. When I got to her I touched her. I saw a little hole just above her breast, and when I turned her over, I saw that she had been stabbed from the back and the assegai went through to the front. That's when the police came. They took her with [them].

323 On being asked whether he had reported his wife's killing to the police, Majola answered:

It was not easy for me to submit a statement because I learnt my lesson at first when Mr du Toit [a policeman] told us that there were some cattle that had been slaughtered, and when we went to the mortuary we realised that he was referring to the people ... They were referring to our loved ones as dead cows which had been slaughtered earlier on, so I did not want to report the matter to the police.

324 Ms Janet Madlala (65), her daughter Ria and three granddaughters aged eighteen years, six years and eighteen months lived in one of the homes targeted in the hostel-dwellers' pre-dawn offensive. Ria and the girls were able to

climb through a back window and run away. The attackers gave chase and caught up with Thando (18) [KZN/NN/318/MR], whom they stabbed to death, and the six-year-old, whom they pounded with a rock and left for dead. Ria hid in a pit latrine with the baby. When all was quiet again Ria emerged from her hiding place and went in search of her family.

I was rushing home to try and rescue my mother. When I got to the house the house was filled with smoke and I couldn't see anything. I couldn't even see where my mother was. I was not able to go into the bathroom to fetch some water. I asked for water from the opposite house and they gave me water. They also helped me to try and put out the fire until I was able to put out the fire, and I went inside. I found my mother sprawled in the passage. The way that she had been stabbed the whole place was just a pool of blood. She had twenty-four stab wounds. I think everybody just took his turn to stab. I tried to pull her outside because the house was still burning. I dragged her outside and I was trying to extinguish the fire all at the same time ...

Thereafter we tried to get some transport to ferry these people to the hospital, because I have a strong belief that had she been taken to the hospital in time she would have survived, but the police and the soldiers refused. They said that they were not able and they were not going to take anyone to the hospital.

325 The police never took any statements from any of the Madlala family concerning the events of that fateful night. As a result of her experiences of that night, Ria says:

I was very traumatised. I lost a great deal of weight. I wasn't able to eat for quite a long time. I even went to Ladysmith, to my sister, and I became quite reclusive. I couldn't mix with other people. They even had to take my child for a period of two years, and they were also complaining that she was having panic attacks. She was always scared, and at times they would wake up and pray in the evening, pray for my daughter.

326 The Goldstone Commission inquiry into the violence in Bruntville on 3–4 December 1991 showed that, of the nineteen people killed, eighteen had died of wounds inflicted by weapons other than firearms (*assegais, knobkerries, pangas* and bush knives).

THE COMMISSION FINDS THAT THE KILLINGS CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH UNKNOWN INKATHA-SUPPORTING HOSTEL-DWELLERS ARE HELD ACCOUNTABLE.

327 A total of fifty killings and thirty-eight cases of severe ill-treatment were reported to the Commission for Bruntville and Mooi River for 1991. The corresponding figures for the previous year were six and eleven respectively.

C l a s h e s i n t h e w o r k p l a c e

328 In July 1990, not long after the release of Nelson Mandela, workers at the Durnacol mines, Dannhauser, went on strike over a wage demand. The subsequent industrial unrest at the mines developed along Zulu–Xhosa ethnic lines.

329 The mine employed mainly Zulu workers. Ms Kate Masiba [KZN/NNN/026/NC] told the Commission that her husband Mr Justice Masiba, a Durnacol employee for twenty years, was killed by other miners on 12 February 1991 because he was Xhosa.

330 A Xhosa-speaking worker claimed that the trouble had spread to the Dannhauser mine from the nearby Hlobane Colliery, where clashes between Zulu and Xhosa coal miners had caused at least ten deaths and many more injuries. The National Union of Mineworkers (NUM) claimed that Iscor management wanted to get rid of the union and was actively encouraging Inkatha to attack NUM members. The NUM alleged that mine security and the SAP had watched the attack, but had not tried to stop it.

331 As on the mines in the former Transvaal, certain members of the police and certain mine officials, especially the security officials, promoted the separation of Xhosa and Zulu people because this helped them to control the labour

force. They encouraged the tendency of workers to join different trade unions according to their ethnic background – Zulu miners joining the UWUSA union while Xhosas joined the COSATU unions.

- 332 At Durnacol specifically, Zulu workers were encouraged to organise themselves separately from the rest of the workforce. They began to hold their own meetings. In late 1991, Xhosa miners were told to return to the Transkei. Fearing for their lives, the Xhosa-speakers fled their workplace. Amongst these was Justice Masiba. After a series of attacks on the homes of people of Xhosa descent, the Masibas fled to Madadeni. After a while Masiba decided to apply for a transfer to Durban and on 12 February 1991 he returned to the mine to collect his transfer forms. A large group of unknown mineworkers chased him back to his home, where he was killed. Ms Masiba remembers:

Most of the people who killed my husband, they didn't even know my husband. They were new employees of that mine. They didn't even know him. ... When they arrived there, they found him inside the house. I heard he tried to run. He hid behind the wardrobe. They broke the door in my brother's bedroom, and neighbours were there watching but they were scared to do anything. They broke the wardrobe, and that's how he was killed. He had twenty-six wounds. They cut his tongue, they cut his genitals, they took his teeth out. They left him there. They put muthi all over his body.

After I received a message, I went there, I went to look for his corpse, and I was so scared because it was terrible. And they told me they don't want to see me and my family, and they wanted to kill everything that belonged to him ...

Sergeant Komandu, who was handling the case, said there was nothing that he could say or do because whites refused him to arrest those people who killed my husband. So he said there was nothing he could do.

That's how he left, and up until today nothing happened.

- 333 Masiba's attackers followed his widow to Madadeni, where she was living with her sister, and burnt all her possessions.

P a r t y . s t r o n g h o l d s / . n o - g o . z o n e s .

- 334 The rural and urban areas of Natal and KwaZulu were divided into a jigsaw puzzle of party political strongholds or of what became known as 'no-go zones'. Townships were divided according to sections; rural areas according to valleys, rivers, ridges or roads. Often a party flag or graffiti would serve to stake out the party stronghold. It was impossible for people to be non-partisan without fearing for their lives and those of their families. Those people without strong party affiliations had no choice but to support the party in whose stronghold they were living. They were required to join the party, attend its gatherings and participate in its marches, night 'camps' and patrols. Failure to do this could be fatal. Victims who were questioned by the Commission about their political affiliations would sometimes give answers like: "We were under the ANC".

- 335 Many of the attacks at this time were indiscriminate, perpetrated by men from one stronghold on people living in a stronghold of an opposing party. Often the victims were non-partisan but were labelled as IFP or ANC simply because of where they lived. The Commission heard many accounts in which victims were unable to explain why they had been attacked, but said that they lived in the stronghold of one political party and that the attackers were seen or presumed to be coming from a neighbouring stronghold of the opposing party.

- 336 Sokhulu, a rural area north of Richards Bay, was split into an ANC-supporting section and an IFP-supporting section soon after the unbanning of the ANC. Many reports were received of armed men from the IFP side launching attacks on people living in the ANC side. People from the ANC side who went across to the IFP side were killed.

The Killing of Caleb Mthembu and his brother-in-law

On 2 February 1992, Mr Caleb Fana Mthembu [KZN/MR/208/EM] and his brother-in-law, both from the ANC side, went to buy an ox in the area considered to be IFP. They were both shot dead.

- 337 By 1993, both the town of Escort and its dormitory township, Wembezi, had become demarcated into ANC and IFP sections, and even the taxi ranks in town were separated by party. In Wembezi, homes situated on the borders between ANC and IFP sections would be burnt, forcing their occupants to flee to one side or the other. Invariably they would flee to the side that offered them better protection.
- 338 Bergville is a small farming town in the foothills of the Drakensberg and is surrounded by a tribal area falling under the IFP-supporting chief Maswazi Hlongwane. The area became a strong Inkatha enclave. An attempt by some ANC youths to launch an ANC branch in February 1993 was aborted after IFP supporters allegedly intimidated them. A second attempt was made to launch a branch on 20 June 1993.
- 339 The ANC organisers sought permission from the magistrate to hold the gathering at the Woodforde soccer stadium and were issued with a permit to do so. They also informed the Bergville SAP station commander and peace monitors of their intention to hold a rally to launch a branch. When the ANC members began arriving at the soccer stadium for the launch, they found a group of IFP supporters gathered nearby. The IFP supporters were armed with traditional weapons and guns. It was clear to all that a confrontation was looming.
- 340 The police spoke first to the group of IFP supporters and then to the ANC leaders. They told the ANC to disperse, saying that the gathering was illegal because they had not received permission from Chief Hlongwane. After much deliberation and negotiation with the police, the ANC decided to disperse. While they were dispersing, gunshots and shouting filled the air. The ANC soon discovered that IFP supporters had barricaded all the access routes from Woodforde. Despite the presence of the security forces, six ANC members were killed. That night a number of homes were torched and as many as sixty ANC-supporting youths fled the district. It was several months before they were able to return to their homes.
- 341 Mr Thulani Sibeko made a written submission to the Commission on behalf of the victims and survivors of this attack:
What was really painful was the way those who died on 20 June 1993 were buried. They were buried by Inkatha without their parents or families. They were buried in the mountain wherein no one had ever been buried. It is not known whether they had coffins. Inkatha said categorically that they (the deceased) were Xhosas⁵¹ and should be taken to Transkei to be buried there.
- 342 Mr Sibeko was to have presented this submission publicly at the 1997 Mooi River hearing. However, he never got the opportunity: one of the alleged perpetrators was seen attending the hearing, so the Bergville delegation left soon after their arrival.
- 343 The Commission received statements indicating sporadic cases of violence in the northern Natal township of Ezakheni during 1992 and 1994. The bulk of the victims referred to incidents which took place during 1993. At this time, the township was largely ANC-dominated, with the exception of C1 section which was said to be IFP. Residents of C1 section had to pass through E section to catch taxis and buses to and from the township, and were frequently attacked.

The Killing of Thula Nhlabathi and Baloni Msimango

On 31 October 1992, a group of IFP supporters attacked mourners attending the funeral of a prominent ANC member. Two mourners, Mr Thula Alson Nhlabathi and Mr Baloni Richard Msimango, were shot and stabbed to death and a number of houses were set alight and looted [KZN/ZJ/369/LS; KZN/ZJ/366/LS]. The docket was closed as 'undetected' on 15 November 1993.

- 344 On 9 July 1993, after weeks of mounting tension, IFP supporters attacked E Section before dawn, killing ten ANC supporters, injuring at least eleven others and burning houses. The attack lasted a few hours and bodies were found

over a two-kilometre radius. The raid appeared to be in revenge for the attacks on IFP commuters passing through E Section.

- 345 The incidence of violence increased in the months following the massacre. Scores of houses were burnt down and
hundreds of residents forced to flee. The Ndakane High School, situated between C1 (IFP) and C2 (ANC) Sections,
was temporarily closed because of conflict between staff and students coming from different sections of the township.
- 346 As with other areas in the Natal Midlands, the political conflict in the Richmond area flared up in the latter half of the
1980s and was largely characterised by conflict between ANC and IFP supporters, although there was a strong
element of faction fighting. The communities worst affected were Patheni, the IFP stronghold led by local IFP leader
Mbadlaza Paulos Vezi, and Magoda and Ndaleneni, ANC strongholds led by Mr Sifiso Nkabinde. The conflict was
alleged to have been further fuelled by a 'third force', said to include local right-wing farmers and certain members of
the Richmond SAP. This 'third force' not only fuelled the conflict between the two parties but split the organisations
internally, pitting former allies against each another.
- 347 The IFP-ANC conflict escalated in 1990, erupting into full-scale violence in January 1991. The fighting culminated in
the so-called 'Battle of the Forest' on 29 March 1991, in which twenty-three IFP supporters, including women and
children, were killed and the ANC regained control of the major portion of Ndaleneni area. A number of prominent IFP
leaders in the area were attacked and/or killed: Mr Ndodi Thusi, IFP leader of Ndaleneni and family members were
killed; Chief Dingiziwe Ndlovu, KwaZulu Legislature member was killed in Ixopo and Chief Majozi (IFP leader) was
attacked several times. On 21-23 June 1991, groups of heavily armed IFP supporters attacked ANC supporters in
Ndaleneni, Magoda and Townlands.
- 348 The Commission received more than ten accounts of the incident. Fourteen people were killed and nine others injured
in attacks on seven homesteads in Ndaleneni.

THE COMMISSION FINDS THAT TWENTY-THREE PEOPLE, INCLUDING WOMEN AND CHILDREN, WERE KILLED BETWEEN 21 AND 23 JUNE 1991 IN THE RICHMOND AREA BY UNKNOWN SUPPORTERS OF THE IFP, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS. TWO IFP MEMBERS, MR MDUDUZI PITSHANA GUMBI AND MR ROBERT 'VO' ZUMA [AM0433/96] WERE GRANTED AMNESTY FOR THEIR ROLES IN THE ATTACK ON 23 JUNE 1991.

- 349 A Richmond IFP member who took part in these June attacks told the Commission that he and five other IFP
supporters had been hand-picked by local IFP chief Mzwandile Majozi in May 1991, and sent to undergo paramilitary
training at the Amatikulu camp in KwaZulu. The training lasted one week and was given by IFP member Mr Phillip
Powell. On completion of their training, Mr MR Mzimela, the Secretary of the KLA, issued them with G-3 rifles from
the Chief Minister's Department. Three weeks after their return from Amatikulu they launched the attack on Ndaleneni.
The same IFP member also alleged that policemen from the local Richmond SAP station supplied them with
ammunition.
- 350 In addition to the many lives that were lost, an estimated 20 000 people were displaced during 1991 in the so-called
Richmond war.
- 351 Although the Richmond violence was portrayed as solely ANC-IFP conflict, the amnesty applications of a former SAP
member exposed the security forces' role in fomenting the violence. Former Riot Unit constable Nelson Shabangu
[AM3676/96] exposed the police collusion with IFP elements in Richmond. He also accused the police of ignoring
cases implicating IFP officials and thus allowing them to take the law into their own hands.
- 352 Also in 1991, AWB slogans started appearing in Richmond and the first rumours emerged of AWB training taking
place on local farms.
- 353 On 26 March 1992, nine IFP supporters were killed, several others injured and many homes burnt down in an attack
on the Gengeshe community. Two ANC supporters, Mr Mandlenkosi Tommy Phoswa [AM3641/96] and Mr Mafuka

Anthony Nzimande [AM3095/96], were granted amnesty in respect of the attack. Both were serving fourteen year prison terms for the attack.

THE COMMISSION FINDS THAT NINE SUPPORTERS OF THE IFP WERE KILLED ON 26 MARCH 1992 BY SUPPORTERS OF THE ANC, CONSTITUTING GROSS VIOLATIONS OF HUMAN RIGHTS. ANC SUPPORTERS MANDLENKOSI TOMMY PHOSWA AND MAFUKA ANTHONY NZIMANDE WERE GRANTED AMNESTY IN RESPECT OF THEIR ROLES IN THE ATTACK.

354 The Commission heard stories from several survivors of massacres in the Richmond area and from other 'flashpoints' around the province.

355 In Umlazi, fifteen women and three children were killed and twenty-eight other people injured in an attack on the ANC-supporting Uganda informal settlement on 13 March 1992. Two of the children were still toddlers; one was decapitated. The attackers included a large number of KZP members and IFP supporters from the Unit 17 hostel complex in T Section, Umlazi.

356 Residents reported that a large contingent of KZP members was seen escorting hundreds of Inkatha supporters to the pre-dawn attack. The attackers withdrew after the SAP arrived on the scene. This was the third such attack in two months by hostel-dwellers and the KZP in U-section, Umlazi, though the casualties in the previous incidents had not been as high.

THE COMMISSION FINDS THAT EIGHTEEN PEOPLE, INCLUDING FIFTEEN WOMEN AND THREE CHILDREN, WERE KILLED AT UGANDA INFORMAL SETTLEMENT, UMLAZI, ON 13 MARCH 1992 WHEN A LARGE NUMBER OF KZP MEMBERS AND IFP SUPPORTERS FROM THE UNIT 17 HOSTEL COMPLEX IN T SECTION STAGED A PRE-DAWN ATTACK ON THE INFORMAL SETTLEMENT. THE KILLINGS CONSTITUTE GROSS VIOLATIONS FOR WHICH UNKNOWN KZP MEMBERS AND UNKNOWN IFP SUPPORTERS ARE HELD ACCOUNTABLE.

357 At this time, conditions were particularly volatile on the lower South Coast where IFP supporters were the targets of violent attack.

358 At Bomela, twelve IFP-supporting youths were massacred on 4 September 1992 at the home of the local IFP Women's Brigade leader, Ms Thokozile Dlamini, on the eve of an IFP Youth Brigade conference in Ulundi. Children had gathered at the Dlamini home to rehearse songs they were intending to perform at the conference. At about 19h00 or 20h00 a group of armed men wearing camouflage stormed the Dlamini home and opened fire on the children, who fled in all directions. At the time, Ms Dlamini [KZN/KM/543/PS] was sitting outside her house listening to the children singing. At the Port Shepstone hearing, she told the story of that day:

I heard a rumble of guns and there were gunshots all over. And the children started running, calling and saying, "Mum, we are dying". Some of them ran on top of me, and they ran into the house. The other one was crying, and the child was trying to get through the window, but they couldn't. They all fall down, and everything was happening so fast, and it was as if I was dreaming. I didn't know what was happening ... I decided to creep on the floor and went to one of the bedrooms. I couldn't see the condition of the children at that time ... I went out to investigate to see what was happening to the other children who were singing. And I could still hear these sounds. When I looked around the girls were lying all over the floor. One of my daughters was lying down and she was dead.

359 The daughter who was killed, Ms Thandekile Goodness Dlamini, was seven months pregnant at the time [KZN/KM/543/PS]. There have been no prosecutions in connection with the massacre.

THE COMMISSION FINDS THAT TWELVE IFP SUPPORTERS WERE KILLED ON 4 SEPTEMBER AT BOMELA WHEN A GROUP OF UNKNOWN ARMED MEN STORMED A GATHERING OF THE IFP YOUTH BRIGADE. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS. ON THE AVAILABLE EVIDENCE THE COMMISSION IS UNABLE TO MAKE A CONCLUSIVE FINDING ON THIS MASSACRE, SAVE TO SAY THAT IT IS PROBABLE THAT THE DECEASED WERE KILLED BY UNKNOWN ANC SUPPORTERS.

360 At Folweni, in the Umbumbulu district south of Durban, twenty IFP supporters were killed in an attack on a religious ceremony on 26 October 1992. A group of fifteen unidentified assailants armed with AK-47 assault rifles attacked

predominantly IFP-supporting persons attending a *sangoma's* (traditional healer's) party at the homestead of IFP member Mbonwa Sabelo. The assailants, wearing SADF uniforms and balaclavas, opened fire on people in two huts in the Sabelo kraal. Eighteen people were killed in the attack and two died in hospital. Another thirty-three people were injured.

AT FOLWENI IN THE UMBUMBULU DISTRICT, SOUTH OF DURBAN, TWENTY IFP SUPPORTERS WERE KILLED IN AN ATTACK ON A RELIGIOUS CEREMONY ON 26 OCTOBER 1992. ON THE AVAILABLE EVIDENCE, THAT THE KILLINGS WERE CARRIED OUT BY A GROUP OF FIFTEEN UNIDENTIFIED ASSAILANTS WEARING BALACLAVAS AND SADF UNIFORMS, THE COMMISSION IS UNABLE TO MAKE A CONCLUSIVE FINDING. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS.

- 361 Several chiefs from the coastal areas were forced into exile following attempts on their lives after they had refused to adopt certain IFP and/or KLA policy decisions. These chiefs included Chief Jabulani Mdlalose of Mondlo, Chief TE Xolo of KwaXolo near Margate, Chief B Shinga of KwaNdelu, near Umzumbe, and Chief E Molefe of Nqutu on the North Coast.
- 362 In 1992, following the Bisho massacre, the ANC stated its intention to march on Ulundi in support of its demand for free political activity. Chief Buthelezi responded by calling on all young men from KwaZulu to be sent by their *indunas* for training as warriors to resist the ANC invasion. In the Nqutu district on the North Coast, a meeting of *indunas* was called which was also attended by Prince Gideon Zulu, who allegedly said they would search for and kill traitors in the Nqutu area as had happened at Isandhlwana. Many of the *indunas* under Chief Molefe failed to comply with the call to take up arms and were threatened with punishment and fined.
- 363 A few weeks later, on the night of 8 November 1992, a group of armed men attacked several homesteads under Chief Molefe's jurisdiction. At least three people were killed, including Molefe's senior *induna*, and several huts burnt to the ground. Police were called, but made no attempt to detain the attackers. Two people were subsequently arrested, including the younger brother of one of the deceased. He was kept in detention without charge from 9 to 30 November and on his release laid charges against police for wrongful arrest.

THE COMMISSION FINDS THAT ON THE NIGHT OF 8 NOVEMBER 1992, THREE PEOPLE WERE KILLED WHEN A GROUP OF UNKNOWN ARMED MEN ATTACKED SEVERAL HOMESTEADS UNDER THE JURISDICTION OF CHIEF MOLEFE ON THE NORTH COAST. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS, AND UNKNOWN PERSONS OPPOSED TO THE ANC ARE HELD ACCOUNTABLE.

- 364 On the night of 7 November 1993, eleven ANC-supporting youths were killed and a number of others injured in an attack on Chief Molefe's homestead. A large ANC rally had been planned for that day and was to have been held in the Nqutu stadium. However, during the week preceding the rally the ANC said it had received information that the IFP was stockpiling weapons and planned to attack the gathering. The rally was called off. That same night, sixty to eighty gunmen wearing balaclavas attacked Chief Molefe's homestead, killing the eleven youths. One of the chief's sons, Tsepo Molefe [KN/FS/366/VH], was among the deceased; the chief escaped with injuries. He subsequently fled the area and to this day has not returned to his home. He is now destitute. To date, no one has been charged in connection with the massacre.

THE COMMISSION FINDS THAT ON THE NIGHT OF 7 NOVEMBER 1993, ELEVEN ANC SUPPORTERS WERE KILLED IN AN ATTACK ON CHIEF MOLEFE'S HOMESTEAD. THE KILLINGS REPRESENT GROSS VIOLATIONS OF HUMAN RIGHTS. ON THE AVAILABLE EVIDENCE THAT THE ATTACK WAS CARRIED OUT BY SIXTY TO EIGHTY ARMED MEN WEARING BALACLAVAS, THE COMMISSION IS UNABLE TO MAKE A CONCLUSIVE FINDING ON THE KILLINGS, SAVE TO SAY THAT IT IS PROBABLE THAT THE DECEASED WERE KILLED BY UNKNOWN PERSONS OPPOSED TO THE ANC.

Self-defence units (SDUs)

- 365 Substantial evidence placed before the Commission points to the fact that Mr Sifiso Nkabinde, the person responsible for the establishment of one of the largest self-defence units in the country, was recruited by the SAP Security Branch

in 1988 as a registered source. He was recruited by Captain J T Pieterse and his task was to monitor political activists and inform the police about the movements of Umkhonto we Sizwe cadres. His previous handler, prior to his exposure as a Security Branch informer and subsequent expulsion from the ANC in 1997, had been security policeman Shane Morris. An extract from a Security Branch file on source SR 4252 outlines information obtained from Bhekumusi Gabriel Nkabinde, which is Nkabinde's full name. The source is registered under the name of Derrick Nene.

366 Sifiso Nkabinde's SDU structure allegedly became one of the most powerful in the Natal Midlands. This is borne out by criminal trials in which its members were alleged to be conducting offensive operations against the IFP in areas beyond the boundaries of Richmond, such as in Ixopo⁵².

367 Sifiso Nkabinde mobilised support in areas further afield, including Impendle, Bulwer and Mooi River.⁵³ It is alleged that Nkabinde garnered support by providing weapons to ANC members in these areas.⁵⁴ In response, his counterparts in the IFP, namely Mr Ndadlazi Paulos Vezi (IFP leader, Patheni), Mr David Ntombela (IFP leader, Pietermaritzburg), Mr Phillip Powell (KwaZulu Natal urban representative, Midlands, and later IFP senator), Mr Dumisani Khuzwayo⁵⁵ (IFP organiser, Ixopo) and Mr Gamantu Sithole (IFP leader, Ixopo) began to mobilise IFP supporters. Violence in these areas flared.

THE COMMISSION FINDS THAT ANC SDUS WERE SET UP IN LOCAL COMMUNITIES WITH THE ENCOURAGEMENT OF THE ANC LEADERSHIP AND THAT SENIOR MEMBERS OF MK WERE CHARGED WITH THE RESPONSIBILITY OF TRAINING AND ARMING THESE UNITS, WHICH EXISTED OSTENSIBLY TO UNDERTAKE THE DEFENCE OF THESE COMMUNITIES. AUTOMATIC FIREARMS, INCLUDING AK-47S, PISTOLS AND GRENADES WERE DISTRIBUTED TO SDUS IN THE AREAS WORST HIT BY THE VIOLENCE, PARTICULARLY THOSE AROUND THE METROPOLITAN CENTRES OF DURBAN AND PIETERMARITZBURG.

THE COMMISSION FINDS THAT, WHILE THE TERMS OF THE PEACE ACCORD PROVIDED FOR THE SETTING UP OF LOCAL DEFENCE STRUCTURES, IN SOME INSTANCES MEMBERS OF THE SDUS ACTED IN TOTAL CONTRAVENTION OF THE SPIRIT OF THE PEACE ACCORD, AND CARRIED OUT UNLAWFUL ATTACKS ON HIGH-PROFILE AND OTHER MEMBERS AND SUPPORTERS OF THE IFP. INTERNAL KILLINGS WERE ALSO A FEATURE OF THE SDU'S OPERATIONS.

THE COMMISSION FINDS THAT THE ANC AT A REGIONAL LEVEL IN KWAZULU/NATAL KNEW THAT MEMBERS OF THE SDUS WERE ENGAGED IN UNLAWFUL ACTS, INCLUDING KILLING, ATTEMPTED KILLING AND SEVERE ILL-TREATMENT, WHICH CONSTITUTED GROSS VIOLATIONS OF HUMAN RIGHTS, AND THAT IT FAILED TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH VIOLATIONS WERE DISCIPLINED OR BROUGHT TO JUSTICE. TO THIS EXTENT, THE ANC IS ACCOUNTABLE FOR SUCH GROSS VIOLATIONS OF HUMAN RIGHTS.

368 Simultaneous allegations were made that the police were assisting the IFP in its struggle against the ANC. These allegations were levelled as early as 1989 and were aimed in the main at Major Deon Terreblanche (now deceased) of the Riot Unit, and its members⁵⁶. In addition, community members have consistently alleged that police were involved in attacks. One notable instance occurred on 23 June 1991 when sixteen ANC-aligned persons were killed and their bodies mutilated. Witnesses claimed that police 4x4 vehicles had been used to offload the attackers and one survivor claimed that the attackers wore police camouflage jackets and were speaking English⁵⁷.

369 From about 1991, the SDUs in Richmond were torn by internal conflict, the culmination of which were the killings of a popular leader in the area, Mr Mzwandile Mbongwa and others, allegedly by SDU members mainly from the Magoda area.⁵⁸ On the surface, the conflict appeared in part to turn around a power struggle in the SDU and a battle for resources (such as weapons) between units of the SDUs in different areas in Richmond. The alleged justification for these murders was that Mbongwa and others were police informers.

370 During 1990 and 1991, the ANC in Richmond sustained heavy casualties in Ndaleni and Magoda areas when large groups of IFP supporters from Nkobeneni and Patheni crossed the borders, burnt houses and killed people. The IFP supporters managed to take occupation of a house in Magoda, which they used as a base from which to launch

attacks⁵⁹. As a result of the violence, approximately 20 000 people left the Magoda and Smozomeni areas and took refuge in town⁶⁰.

- 371 With the development of the SDUs, however, the tide began to turn against the IFP in the area, culminating in the so-called 'Battle of the Forest' mentioned earlier. Owing to the violence in the area, the Richmond SDU was established earlier than other SDU structures. According to a member of the SDU's intelligence wing, Mr Nto Zuma,⁶¹ Mr Mzwandile Mbongwa (Richmond ANC Youth League leader), Sifiso Nkabinde (ANC Chairperson, Richmond) and Mr Harry Gwala (Natal Midlands ANC leader) formed the SDU in 1989. The Richmond SDU eventually had at least six members per area (10 areas). In addition to this, it had undercover members (or reservists) which brought the total to about twelve to thirteen members in each area.
- 372 Conflicts arose within the SDUs owing to the perceived favour given to the Magoda SDUs, the area in which Nkabinde had his home. Initially the conflict revolved around the fact that Magoda members were sent on training whilst other areas were not given this opportunity. In addition, in 1990 the SDUs had access to a limited supply of AK-47s and R-4s, which had to be shared amongst areas. This created conflict within the structure. The weapons were held by people from eMaswazini, who were deployed to other areas to defend them from IFP attacks.
- 373 According to evidence supplied to the Commission, it was decided that, in under-resourced areas such as Ndaleni, R50.00 would be collected from each household to purchase firearms. The evidence places Nkabinde at the centre of this project. Money was collected and a number of AK-47s were purchased.
- 374 Throughout the early 1990s, conflict between the Magoda SDUs and other Richmond SDUs arose over a variety of issues. At the end of 1992, Nkabinde called a meeting to discuss tensions within the SDU. SDU members complained that Nkabinde's bodyguard and senior SDU member, Mr Bob Ndlovu, dispensed ammunition only to the Magoda area and that Nkabinde visited only Magoda and not Ndaleni and Isomozomeni. A further complaint was that Nkabinde helped Magoda SDU members to get released when arrested, but did not do this for other SDU members in Richmond.
- 375 The question of refugees from the IFP stronghold of Patheni also led to conflict within the Richmond SDUs. At a meeting with Nkabinde, it was stated that the Patheni refugees would be safe in the area. After this meeting, however, the Magoda SDU held their own meeting and decided that they would forgive all the refugees except their leader, Mr Zomwakhe Nzimande. The latter was subsequently killed in Richmond by Magoda SDU members. According to witnesses, Nkabinde stated that he agreed with the murder of Nzimande.
- 376 According to further evidence given to the Commission, other issues over which there was conflict included:
- a Conflict over money that was collected to send SDU members for training in the Transkei, but was withdrawn and used by Nkabinde.
 - b Nkabinde's role in preventing a strike at a supermarket at which Ndaleni SDU members were employed. The supermarket belonged to an owner of taxis in which Nkabinde had a financial interest.
 - c Nkabinde's allegation that he had a list of police informers, on which the names of some Ndaleni SDU members appeared. His bodyguard, Bob Ndlovu, incited people to kill police informers.
- 377 As a result of this internecine conflict, a number of senior SDU members were killed, primarily by Magoda SDU members.

The Killing of Zmokwakhe Sibongiseni Mfana Phungula

Mr Zmokwakhe Sibongiseni Mfana Phungula was the Richmond SDU commander and outspoken in his criticism of Nkabinde. He suspected that Nkabinde was a police informer because the Magoda SDU

members walked around town openly displaying their firearms and, when they were arrested, Nkabinde would secure their release by speaking to the police.

Phungula was killed, together with Mr M L A Mhlongo, by an informal 'people's court' on 8 October 1993 [CR 41–10–93].

The Killing of Julius Mkhize

Shortly afterwards, Mr Julius Mkhize [KZN/NNN/043/PM], the newly appointed chairperson of the Richmond ANC branch,⁶² was forced to flee to Georgetown where he was killed, allegedly by SDU members [CR 12–10–93].

The Commission was unable to establish conclusively whether the killing was an internal operation by members of an SDU unit, or carried out by unknown persons opposed to the ANC.

THE COMMISSION FINDS THAT SDUS WERE ALSO RESPONSIBLE FOR THE KILLING AND ATTEMPTED KILLING OF AN UNKNOWN NUMBER OF POLICEMEN, AN UNKNOWN NUMBER OF ANC MEMBERS SUSPECTED OF BEING POLICE INFORMERS AND AN UNKNOWN NUMBER OF ANC LEADERS WHO ALLEGEDLY POSED A THREAT TO NKABINDE'S LEADERSHIP.

378 Mr Mnandi Phoswa was murdered on 29 December 1993 by Mr Bob Ndlovu and others, and Mr Mzwandile Mbongwa was murdered on 20 March 1994 along with Mr Musi Ximba, Mr Mzo Mkhize and Mr Mfaniseni Latha⁶³. A pamphlet circulated beforehand accused Mbongwa of being an informer for military intelligence. SDU members alleged that Nkabinde and Bob Ndlovu were responsible for the planning of the murder.

379 In March 1998, Nkabinde's chief bodyguard, Bob Ndlovu, was given three life sentences in connection with the killing of three Pietermaritzburg policemen in Richmond in 1996. The presiding judge, Mr Justice Galgut, found that Ndlovu and his five co-accused (all Richmond SDU members) had acted in common purpose to ambush and kill the policemen, who were following up on cases in Richmond. In passing sentence, the judge said that the SDUs had conducted a reign of terror in Richmond and that the local residents had lived in fear of their lives. Even the police were not safe.

The SDUs were not subject to the law ... they were free to carry on their illegal terror campaign as they pleased ... Such lawlessness is a shocking state of affairs. It belongs in a barbaric community and has no place in an organised society.

380 Nkabinde was charged in 1997 with fifteen murders and acquitted on all charges on a technicality in April 1998.

EVIDENCE TO THE COMMISSION INDICATES THAT FORMER ANC MEMBER OF PARLIAMENT SIFISO NKABINDE WAS RESPONSIBLE FOR THE ESTABLISHMENT OF A NUMBER OF SDUS IN THE RICHMOND AREA OF THE NATAL MIDLANDS. THE COMMISSION FINDS THAT MEMBERS OF THESE SDUS CARRIED OUT MANY OPERATIONS AGAINST MEMBERS AND SUPPORTERS OF THE IFP IN RICHMOND AND BEYOND, INCLUDING BULWER AND IXOPO, RESULTING IN THE DEATHS OF AN UNKNOWN NUMBER OF PEOPLE. AN EXAMPLE OF SUCH OPERATIONS WAS THE KILLING OF IFP MEMBER, MR JJ NGUBANE, AT HIGHFLATS IN SEPTEMBER 1993.

THE COMMISSION FINDS THAT MR SIFISO NKABINDE WAS ALSO RESPONSIBLE FOR THE DISTRIBUTION OF ARMS AND AMMUNITION TO SDUS IN THE RICHMOND AREA. SUCH ARMS INCLUDED AUTOMATIC FIREARMS, PISTOLS AND HAND GRENADES. THE COMMISSION FINDS THAT SUCH WEAPONS CONTINUED TO BE DISTRIBUTED EVEN AFTER THE ANC ANNOUNCED THE SUSPENSION OF THE ARMED STRUGGLE IN 1990. THE COMMISSION FINDS THAT NKABINDE MUST HAVE CONTEMPLATED THAT SUCH WEAPONS WOULD HAVE BEEN USED IN THE COMMISSION OF OFFENCES, AND THAT IT WAS LIKELY THAT LOSS OF LIFE WOULD OCCUR.

THE COMMISSION FINDS THAT NKABINDE WAS RESPONSIBLE FOR PROMOTING AND/OR CONDONING A CLIMATE IN WHICH GROSS VIOLATIONS OF HUMAN RIGHTS, INCLUDING KILLING AND ATTEMPTED KILLING, COULD AND DID TAKE PLACE, AND FACILITATED THE COMMISSION OF SUCH VIOLATIONS. HE IS ACCORDINGLY HELD ACCOUNTABLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS THAT AROSE FROM SDU OPERATIONS IN THE AREA UNDER HIS CONTROL.

THE COMMISSION FINDS THAT THE ANC CONSISTENTLY FAILED TO REPROACH, DISCIPLINE OR EXPEL NKABINDE FROM ITS RANKS, AND THEREBY ENCOURAGED A CLIMATE OF IMPUNITY WITHIN WHICH HE CONTINUED TO OPERATE. TO THIS EXTENT, THE ANC IS ALSO HELD ACCOUNTABLE FOR THE AFORESAID VIOLATIONS.

Self-protection units (SPUs)

- 381 From the mid-1980s to the April 1994 general election, Inkatha supporters were trained by their leaders and/or by the KwaZulu Government in weapons handling and paramilitary tactics. Many terms were used to describe these trained fighters, including community guards, tribal policemen and *amabutho*. Their training venues included the Amatigulu and Mlaba Camps, both owned by the KwaZulu government.
- 382 The SPU training project was initiated in September 1993 at the Mlaba Camp, near Mkhuze in Northern Natal, overseen by a former security policeman and IFP member Phillip Powell. Powell told a section 29 hearing of the Commission that the training was lawful and was intended to protect members of Inkatha from unlawful attacks by members of the ANC/SACP/COSATU. The deputy camp commander, Mr Thompson Xesibe, was also an IFP member and a 'Caprivi trainee'. KZP members, former SAP and SADF members, *askaris* and operatives from Vlakplaas were all involved in giving instruction and training at the camp. These included Vlakplaas Commander Eugene de Kock and Vlakplaas operative Lionel 'Snor' Vermeulen (see amnesty application and De Kock's evidence in mitigation of sentence at his trial). Many of the KZP members who were seconded to Mlaba were former 'Caprivi trainees', and were specifically hand-picked for this purpose. The logistical side of the Mlaba Camp fell under Captain Leonard Langeni, who had previously been associated with the Caprivi training and the operations of KZP and IFP hit squads.
- 383 Training at the Mlaba camp included ambush and counter-ambush techniques, booby traps, camouflage, house penetration, hostage taking, fire and manoeuvre techniques, patrol formations, combat formations, raids and offensive tactics. A musketry course was also included. Training was given in the handling and use of AK-47s, Uzi sub-machine guns, shotguns, G-3 rifles, 9mm pistols, and hand grenades. In addition, the trainees were taught how to manufacture and use petrol bombs. Shooting practice took place in the Mlaba riverbed.
- 384 Mr Israel Hlongwane [AM4600/97] participated in the training at Mlaba Camp. He said that, at his passing-out parade, the trainees were addressed by the KwaZulu Minister of Justice, the Reverend Celani Mthethwa, who told them that "the purpose of this training was to guard the Chiefs, to eliminate the ANC and to stop the people from going to vote in the April 1994 elections."⁶⁴
- 385 The Commission heard that Mthethwa told the trainees that there were no other duties assigned to them besides killing ANC members. As a leader of his platoon at Mlaba Camp, Hlongwane was appointed leader of Inkatha in his area.
- 386 Mr Thami Hebron Ngubane, an SPU member from Ixopo, told the Commission:
- On the day of passing out, our instructors/commanders gave us instructions that we must endeavour by all means to eliminate the ANC members. We were also told by them (the commanders) that we would later be integrated into the KZP. There were no other duties assigned to us except that of killing the ANC members. As I was a leader in my platoon at the camp, I was again appointed as a leader of Inkatha protectors in my area. Whenever there was a fight between ANC and Inkatha in my kraal, I used to mobilise my troop-mates and assist Inkatha to destroy the ANC by killing the ANC members ...*
- I was arrested for killing ANC members and further taken to court but all cases were withdrawn against me because of the insufficient evidence.*
- 387 In April 1994, 1 000 of those who had graduated from the SPU training were recalled to receive further training as special constables. It was intended that those who received the special constable training would be incorporated into

the KZP's ISU. On 15 March 1994, a secret memorandum was presented at a special KwaZulu Cabinet meeting. It proposed that a "battalion/regimental sized paramilitary unit be set up within the KZP immediately which would enhance the role of the KZP ISU". The unit was to include 1 000 selected graduates of the KwaZulu government SPU training project appointed as special constables, 100 KZP members who had been trained by the SADF in the Caprivi during 1986 and a small group of professional advisors drawn from former SADF or SAP officers. Powell denied that the memorandum was his.

388 However, the training of these would-be special constables was brought to a halt with a joint SAP/TEC raid on the Mlaba premises on 26 April 1994, the day before the national election. The police raid was planned after information came to light in early 1994 that illegal weaponry was being kept at Mlaba and being used in the training of the SPUs. When the trainees observed an officially marked police helicopter over the camp, they acted aggressively and attempted to stone it. There was therefore a delay before General Van der Merwe of the SAP ISU could arrive at the camp. In their search of the camp, police found a large quantity of weapons and medical supplies in the rondavels, including twenty-six M-26 hand grenades, five rifle grenades, seventy-six G-3 rifles, forty-nine shotguns, eleven cases of 7.62mm rounds of ammunition, twelve cases of shotgun rounds and one big box of 9mm ammunition. These were seized by the SAP, together with a number of documents. A search of Phillip Powell's vehicle revealed boxes of ammunition, a Ruger semi-automatic firearm and a 9mm pistol. A home-made shotgun was found concealed under the front seat, which was not volunteered by Powell. Natal Attorney-General Tim McNally declined to prosecute Powell on any charges arising from these incidents.

389 In its report, the TEC Task Group found that the discovery of hand grenades and spent AK-47 cartridges pointed to unlawful military training having taken place at the camp. It called for an investigation into the training, the stockpiling of weapons and the conduct of the security forces in failing to prevent the departure of trainees without processing by the police.

The Case of Thulani Myeza

SPU member Thulani Myeza [AM6198/97] of Mpumaze Reserve, Eshowe, applied for amnesty in respect of three killings and an attempted murder which he committed between November 1993 and April 1994 in Gezinsila and Umlalazi.

Myeza underwent SPU training at the Mlaba camp during 1993. On completing his training, he said that he was given a certificate signed by Phillip Powell, commander of the SPUs. Myeza said that Powell gave orders to the graduated SPU members to kill ANC leaders. Myeza said that, as an SPU member, he received a bi-monthly salary of R2 800 and that Nyawose supplied him with food and clothing.

Myeza told the Commission that Mr Dlulani Nyawose,⁶⁵ the driver of the then KwaZulu Minister of Pensions, Prince Gideon Zulu, had convened a secret meeting of SPU members in Ulundi during 1993. At this meeting Nyawose told the SPU members that they were to kill all the ANC leaders in Eshowe, Esikhawini, Mtubatuba and elsewhere. Myeza said the motivation for killing these ANC leaders was to ensure that the ANC did not win the elections in April 1994.

He said KZP members had provided the SPUs with weapons and vital intelligence needed to carry out attacks on the local ANC people. On one occasion, the KZP had transported the SPU members to the scene of an attack in a KZP Hippo (armoured vehicle).

He claimed that all three killings for which he had applied for amnesty were committed under orders from senior IFP leaders and in furtherance of his organisation's objectives.

390 On 1 December 1993, nine ANC supporters were killed in the Bhambayi informal settlement, Inanda. Mr Sosha Mbhele [AM4018/96], the area commander of the Lindelani/KwaMashu SPU, claimed responsibility for the massacre.

Initially Mr Patrick Dlongwane [AM8028/97], chairman of the Returned Exiles Committee, had claimed that the armed wing of his group was responsible for the killings.

THE COMMISSION FINDS THAT, DURING THE PERIOD 1993-1994, THE SELF-PROTECTION UNIT PROJECT (SPU), ALTHOUGH OFFICIALLY PLACED WITHIN THE AMBIT OF THE PEACE ACCORD AND CONTAINING AN ELEMENT OF SELF PROTECTION, WAS ALSO INTENDED TO FURNISH THE INKATHA FREEDOM PARTY WITH THE MILITARY CAPACITY TO, BY FORCE, PREVENT THE CENTRAL GOVERNMENT AND THE TRANSITIONAL EXECUTIVE COUNCIL FROM HOLDING ELECTIONS WHICH DID NOT ACCOMMODATE THE IFP'S DESIRES FOR SELF-DETERMINATION.

IT WAS ADMITTED AT THE TIME BY THE PERSONS NAMED BELOW THAT SUCH ARMED RESISTANCE WOULD ENTAIL THE RISK OF UNLAWFUL DEATH AND INJURY TO PERSONS.

CONSEQUENTLY, IT IS THE CONTEMPLATED FINDING OF THE COMMISSION THAT THE SPU PROJECT CONSTITUTES A GROSS VIOLATION OF HUMAN RIGHTS WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE IFP AND MEMBERS OF THE THEN KWAZULU GOVERNMENT AND POLICE FORCE.

THE FOLLOWING INDIVIDUAL MEMBERS ARE ACCOUNTABLE FOR THE VIOLATION IN THE MANNER DESCRIBED IN SECTION 1(IX)(B) OF THE ACT:

- MR PHILIP POWELL OF THE IFP, WHO ON HIS OWN ADMISSION RAN THE PROJECT AND CONSPIRED WITH THE FORMER MEMBERS OF THE SOUTH AFRICAN GOVERNMENT'S SECURITY FORCES TO ACQUIRE EXTENSIVE WEAPONS AND SUPPLY LETHAL TRAINING TO TRAINEES.
- DR MG BUTHELEZI IN HIS CAPACITY AS THE CHIEF MINISTER OF THE KWAZULU GOVERNMENT.
- GENERAL SM MATHE IN HIS CAPACITY AS ASSISTANT AND/OR ACTION COMMISSIONER OF THE KZP.
- MEMBERS (NOT INDIVIDUALLY IDENTIFIED) OF THE KWAZULU LEGISLATURE AND CABINET WHO KNEW OF THE PROJECT'S UNLAWFUL AIMS AND SUPPORTED IT.
- CAPTAIN LEONARD LANGENI AND OTHER MEMBERS OF THE KZP 9 (NOT INDIVIDUALLY IDENTIFIED) WHO KNEW OF THE PROJECT'S UNLAWFUL AIMS AND WHO PROVIDED TRAINING IN SUCH UNLAWFUL AIMS.

Forced recruitment

- 391 The Commission heard that during the 1990s, with violence now endemic in many communities, men were often required to attend night 'camps', to participate in patrols and to attend all political gatherings convened by the party in whose stronghold they resided. People who failed to participate in these activities were suspected of being supporters of the opposing party and were frequently attacked as a result.
- 392 The term 'camping' was used to refer to the gathering of men at a vantage point to keep watch and protect their area from attack by supporters of the opposing party. While the men 'camped', the women and children often congregated at a number of houses where they would sleep for the night. A number of people told the Commission how men who had refused to attend such 'camps' were targeted.

The Killing of Gcina Maphumulo

Mr Peter Maphumulo's [KZN/NNN/139/PS] father, // r Gcina Geoffrey Maphumulo, an ANC member from Murchison, went to visit his wife who lived in an IFP stronghold. He was confronted by IFP members who wanted him to join their 'camp'. He refused and was killed.

The Killing of the Gumede Family On 11 September 1992, six members of the IFP-supporting Gumede family were shot and burnt to death when their home in Gobandlovu reserve, outside Esikhawini, was attacked. Earlier, a group of IFP members patrolling the area had stopped at the Gumede home and

asked why their nephew Tholithemba did not join their patrols and 'camps'. They then started burning the Gumede's house.

When Mr Jameson Gumede confronted the IFP leadership about their supporters' conduct, the group returned and attacked the whole family, killing Gumede, his wife Joyce and their four children Gugu, Sindisiwe, Thokozani and Nomusa.

Six-month-old Thabile escaped death but was seriously burnt on her face and upper body. Now five years old, she has lost her left ear and the use of her left hand, and is badly disfigured. Two local IFP leaders were arrested in connection with the attack but were later released without being charged [KZN/SS/025/EM].

The Attack on Makhosezwe Mthethwa

Mr Makhosezwe Mthethwa [KZN/KM/552/PS] from Murchison told the Commission how in June 1992 he was shot and left for dead after he stopped attending the night 'camps'. Mthethwa said that he had become tired of the 'camps' and decided he was no longer going to attend. One of those who allegedly shot him was the IFP member who organised the 'camps' in the area.

Internal party conflict

- 393 Internal party conflict developed in both the ANC and IFP in KwaZulu and Natal and resulted in several deaths. The causes of these internal divisions included leadership struggles and suspicions that one or other party member was a spy or traitor.

The Killing of Bafana Kunene

The Commission heard that on 4 January 1990, Mr Bafana Julius Kunene [KZN/MR/057/PM], an IFP supporter in the Mphophomeni area, was found hacked to death after being fetched from his home to attend a night 'camp' of the IFP.

His widow, Ms N Kunene, told the Commission that, shortly before this event, Mfana Kunene had attended a night 'camp' meeting at which "they were given some orders that in the time of war they must distinguish between the 'comrades' and the IFP people".⁶⁶ At the meeting, he was told to kill his brother, who was a 'comrade'. Kunene felt that he could not do this and left the meeting.

The following night, he and his wife were woken up by men telling him that he must go with them to attend an Inkatha 'camp'. He dressed and went out to join them. He never came home at all that night. The next morning his wife found his badly mutilated body.

- 394 Conflict broke out in Bhambayi, an informal settlement at Inanda, north of Durban, in December 1992. The conflict, triggered by competition for limited resources in the settlement, divided the community into two ANC-supporting factions, which came to be known as the 'Greens' and the 'Reds'. In time, the smaller 'Green' faction felt itself being increasingly marginalised by the local (Bhambayi) and regional (Durban) ANC leadership. As a result of the high level of conflict, an ISU base was set up nearby and there were continuous ISU patrols in the settlement. As the 'Greens' were in the minority and occupied a small area in the heart of the settlement almost completely surrounded by the 'Reds', the ISU tended to position itself on the border between the two factions. This led to accusations from the 'Reds' that the ISU had sided with the 'Greens'. In addition, there were numerous allegations that ISU members themselves were carrying out attacks on the 'Reds'. These allegations of collusion only served to heighten the division between the two factions and further to marginalise the 'Greens'.
- 395 In April or May 1993, the 'Greens' made approaches to the IFP and, a while later, people living in the 'Greens' section began identifying themselves as IFP supporters. In August 1993, an IFP branch was launched. Nine people were

killed, eleven injured and eighteen houses burnt down on the day of the launch. From that time, the conflict in the community was perceived as an ANC/IFP conflict. By July 1993, monitors estimated that as many as 200 Bhambayi residents had died violently.

The Killing of the Zulu Family

On 4 September 1991, the home of Mr James Zulu in Port Shepstone was attacked and four members of his family massacred. At the time, Zulu was a respected community leader and an ANC member, although he had fallen out with some of the younger activists. The police's main suspect in this case, ANC activist Alson Ngwazi, was killed on 25 May 1992. The Network of Independent Monitors (NIM) had the following to say regarding Zulu in their submission to the Commission:

"It is our suspicion that this massacre was the work of some 'third force' with support from the SAP for purposes of fuelling the local conflict ... The brutal murder and mutilation of his family was blamed at the time by the SAP on the ANC and it appears to have turned Zulu into an anti-ANC warlord."⁶⁷

R e v e n g e a t t a c k s

396 A former IFP youth leader from Izingolweni, inland of Port Shepstone, applied for amnesty in respect of fifteen murders and eight attempted murders committed between 1991 and 1992. Mr Goodman Muswakhe Ngcobo [AM5632/97] was convicted in September 1993 on ten counts of murder and four counts of attempted murder and sentenced to death six times. His death sentence was later commuted to life imprisonment. In passing judgement, the presiding judge, Mr Justice J Combrink, said:

It is clear that you terrorised the local inhabitants. You caused people to flee from their homes and you started and continued with a reign of terror.

397 Ngcobo began his killing spree after his mother was killed on New Year's Day 1990. He believed that ANC supporters had killed his mother and set out to avenge her killing. His first victim was an ANC youth, Mr Dan Cele, who Ngcobo held responsible for his mother's death. However, some of the other killings or attempted killings appear to have been random attacks on ANC supporters with whom he crossed paths, as opposed to targeted attacks. He told the Amnesty Committee that he viewed all ANC members as his enemies.

A r s o n / b u r n i n g s

398 The Commission received reports of arson attacks on homes, business premises and vehicles. Most of the victims of arson attacks told the Commission that they had subsequently fled the area and had never returned to their homes. The majority of these people are now living in shack houses in informal settlements. Many of them also lost their jobs as a result of having had to flee.

399 The large-scale burning of homes, particularly in the rural areas, was used by political groups as a way of forcing their opponents to leave an area, and thereby consolidating their political power base. Hundreds of thousands of people were displaced during this period. The incidence of house burnings increased noticeably in many areas in the run-up to the 1994 elections as party supporters attempted to expand their constituencies. While there was hardly a community not affected in this manner, the areas worst affected were Eshowe, Ndwedwe, Sundumbili/Mandini and Izingolweni.

C o m m u t e r a t t a c k s

400 A common tactic used by supporters of both parties during the 1990s was to ambush vehicles transporting supporters of the opposing party. Attacks on buses, minibus taxis and trucks transporting people to or from party strongholds

occurred across the length and breadth of the region. The Commission received reports of buses being attacked whilst transporting people to work or to a political rally, as well as reports of armed attacks on commuters waiting at bus stops or taxi shelters.

401 The violence in the Midlands town of Estcourt and its satellite township, Wembezi, was dominated for a time by such commuter attacks. By 1993, both the township and the town was demarcated into ANC and IFP sections. IFP supporters used the taxi rank in Alexander Street in the IFP part of town or faced the risk of losing their lives. Similarly, ANC supporters had to use the rank in the ANC part of town. Frequent drive-by shootings occurred on these taxi ranks. There were also many attacks on taxis and private vehicles transporting residents from Wembezi to Estcourt and back.

Attack on School Bus

On 2 March 1993, six schoolchildren were killed and seven others injured when unknown armed ANC supporters ambushed a bus transporting children from an IFP area to school.

THE COMMISSION FINDS THAT SIX SCHOOLCHILDREN WERE KILLED AND SEVEN OTHERS INJURED AT TABLE MOUNTAIN ON 2 MARCH 1993 BY UNKNOWN ANC SUPPORTERS WHO AMBUSHED THE BUS TRANSPORTING THE CHILDREN TO SCHOOL FROM AN IFP AREA. UNKNOWN SUPPORTERS OF THE ANC ARE HELD ACCOUNTABLE FOR THE GROSS VIOLATIONS CONSTITUTED BY THE KILLINGS AND ATTEMPTED KILLINGS.

Revenge Ambush of a Bus

In a revenge ambush by IFP supporters on 5 March 1993, ten people were killed and six others injured. IFP members Nkanyiso Wilfred Ndlovu [AM4058/96] and Mabhungu Absalom Dladla [AM4019/96] applied for amnesty for their part in the second attack. Both applicants had been convicted and sentenced to over sixty years' imprisonment for their roles in the attack.

Ndlovu told the Commission that he and his fellow IFP attackers had in fact ambushed the wrong vehicle. They had intended to ambush a particular vehicle transporting ANC supporters, but the vehicle they attacked was carrying IFP supporters as well. Five of the ten deceased were IFP supporters.

THE COMMISSION FINDS THAT TEN PEOPLE WERE KILLED AND SIX OTHERS INJURED ON 5 MARCH 1993 BY IFP SUPPORTERS WHO ATTACKED A VEHICLE IN THE TABLE MOUNTAIN AREA AND OPENED FIRE ON ITS PASSENGERS. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS. NDLOVU AND DLADLA HAVE BOTH APPLIED FOR AMNESTY IN RESPECT OF THEIR ROLES IN THE INCIDENT.

Alusaf Smelter Bus Attack

On 22 July 1993, ten men were killed by unknown IFP supporters in a planned attack on a bus transporting employees of the Alusaf smelter. The employees were all from KwaMthethwa, considered an ANC stronghold. It was further alleged that all employees of Alusaf were COSATU members and therefore ANC supporters. The bus was stopped in Enseleni, an IFP stronghold, by men in balaclavas who boarded and chose ten men from amongst the passengers. They took them outside, made them lie face down on the ground and shot each one in the back of the head. One of the deceased, despite being from KwaMthethwa, was an IFP supporter.

THE COMMISSION FINDS THAT ON 22 JULY 1993, TEN MEN WERE KILLED BY UNKNOWN IFP SUPPORTERS IN AN AMBUSH ON A BUS TRANSPORTING PEOPLE TO THE ALUSAF SMELTER AT ENSELENI. THE KILLINGS AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS AND UNKNOWN SUPPORTERS OF THE IFP ARE HELD RESPONSIBLE FOR THEM.

402 Many children were victims of gross human rights violations in Natal and KwaZulu. While some of these children were caught in crossfire, or were victims of large-scale indiscriminate attacks on party strongholds, some of them were deliberately targeted.

The Killing of Frances Khanyisile Mabaso's Children

Ms Frances Khanyisile Mabaso [KZN/MR/225/EM], from the Matshana tribal authority, North of Empangeni, told the Commission of an attack on her home in March 1992 while she and her young children were sleeping. Mabaso woke up in the middle of the night to find people pouring petrol on her house and setting it alight. While she was waking her children, telling them to flee the house, she was shot twice, in the arm and in the back. She fell to the floor and could not move. She could hear her children's screams and the attackers outside saying that they were going to kill the whole family because they were ANC. Her children came back for her and dragged her outside. They watched their house burn to ashes.

It was then that Mabaso discovered that her four-year-old daughter was bleeding profusely from her head where she been hacked with a panga, and that her sixteen-year-old son Njabulo had been shot in the eyes.

Mabaso told the Commission that she was not aware of any police investigation into the matter.

403 The Commission was also told of the pain that parents endured when they were required to go to the mortuaries and identify the bodies of their children. Mr Lawrence Fanizani Dladla [KZN/FS/124/PM] of Mpumalanga told the Pietermaritzburg hearing that his four UDF-supporting sons were killed in succession. The first was Molo (18) who was killed in November 1988. Dladla went to the mortuary to identify his son:

I went there with them because I wanted to see my son's body, and my heart was torn apart when I saw bodies, corpses, being packed on top of each other ... There was no space where you can put your feet because there were corpses all over the place.

And I looked around and my heart was torn apart, and I saw my son. I looked at him. I saw one big hole on his chest and I said to myself, "Oh my God, my son is lying there forever".

404 Five months later, in April 1989, a second son was killed. Again, Mr Dladla was required to identify the body:

[When] I saw my son, my son had been cut like a goat, and that hurt me very much. I even felt that it was better if they shot him rather than cutting him.

405 In September 1989 and April 1991, two other sons were killed. To his knowledge, there was not one prosecution in respect of any of his sons' killings.

406 IFP supporter Ms Nomusa Shandu [KZN/LPM/100/EM] told the Commission at the Empangeni hearing how her seven children and grandchildren were killed just metres away from where she was hiding. The incident occurred in Umgababa on 20 July 1990. She believes that the attackers were ANC supporters. The Shandus had recently moved to Umgababa from KwaMakhutha. She had been led to believe that Umgababa was free of political tensions. Only once they had moved did she discover that they were living in an ANC stronghold. However, she did not expect that they would be victimised for being IFP supporters, since they attended all the ANC meetings in the area.

407 Within a day or two of arriving in Umgababa, their house was attacked by ANC supporters and burnt to the ground. Shandu told the Commission she was paralysed with fear when she heard the attackers coming. She wanted to close the door, but could not move. She managed to crawl into hiding from where she heard her three children and two grandchildren being killed, one by one:

They were not firing twice, they were firing only once and I could count them, 1, 2, 3, until they were finished. After they finished, only one was safe. That's when they started pouring petrol on those bodies and then they lit all the corpses and when the fire caught the wardrobe my other grandchild, the one who was inside the

wardrobe, got away. Linda, Thulile were on fire. They couldn't get away. They were crying. They were not shot, but they were burnt.

Bethwell, Mafike, Linda, Zipporah, Primrose and Thulile, those are the only people who died on the 20th, and Mafike as well. Mafike was the last one to die, because after they've burnt the corpses and I was – from where I was hiding myself I could hear Mafike. I heard one of the attackers saying, "I want him dead. Don't let him loose", and I heard him crying and then they shot him and they burnt him outside the house. They put a big plank and they burnt him.

- 408 The following people, all ANC supporters, were convicted in respect of this incident: Mr Sibusiso Cele, Mr Nkosi Mseleku, Mr Ronny Bheko Luthuli, Mr Nke Zikhali, Mr Goodman Luthuli, Mr Dumo Petros Mfeka, Mr Ba Cyril Mseleku, Mr Dumisani Sibiya, Mr Qinisele Mbatha, Mr Rickman Simo, Mr Jet Gumede, Mr Sipho Mkhize, Mr Michael Luthuli and Mr Sinqbile Gumede.

W o m e n

- 409 While many women told the Commission of what happened to them, thousands came to the Commission to tell of what had happened to others – to their husbands, their children, their parents and their friends. These women tended to underplay the suffering that they had themselves experienced as witnesses and survivors of these tragedies.
- 410 As with children, the majority of women who were victims of gross human rights violations were not deliberately targeted but were caught in crossfire or were victims of indiscriminate attacks on party strongholds. The majority of victims in massacres of households were women. However, a number of women were specifically targeted for their political activism, their relation to male activists or in order to strike terror into the heart of communities. The Commission heard that both ANC and IFP supporters were guilty of extreme violence against women.
- 411 Although not easily quantifiable, a significant number of women told the Commission that they had been sexually abused in the name of politics.
- 412 Sixteen-year-old Ms Bajabulile Nzama [KZN/MR/094/DN] from Inanda told the Durban Hearing that she was abducted by ANC 'comrades' during 1990. Although she was non-partisan, her captors accused her of sympathising with the IFP because IFP supporters used to congregate near the bridge outside her house. She was taken to a house in B Section, Inanda.

That's where they raped me. What is worse is that I was only sixteen years, and I was still a virgin, and I had told myself that I wanted to be like my mother. I used to admire my mother because she only went out with one man, that is my father, and I tried to save my virginity and this is what happened to me.

They raped me, the three guys. That was the end of my story. I got pregnant there. And when I came back home, I was pregnant and now I have a child whose father I don't know.

There was a certain girl whom I found in that house and she was also abducted, she said she was from Richmond Farm. They used to come and rape us, both of us, and they will take us to a forest and in that area, there were a lot of bodies, dead bodies. And they used to tell us that this is what we will become. They used to assault us. They never used to give us food. They took my clothes, my money. They used to give us a bad porridge, which was black.

- 413 Bajabulile was kept locked up in the house and raped repeatedly over a period of one month. During this time, her captors told her to point out buses transporting people to IFP areas. One day they told her to point out the house of a certain well-known IFP supporter. That was the day she managed to escape. She reported the matter to a policeman with whom she was acquainted. Her case went to trial in 1992 but, according to Bajabulile:

The judge told me that I was just a concubine in that area, I am lying; they didn't rape me.

414 Bajabulile still sees her attackers in her neighbourhood and one of them taunts her, saying that the child is his. She is unable to make friends because they ask who her child's father is, and she cannot bring herself to speak of what happened to her..

415 In the rural area of Ndwedwe, not far from Inanda, forty-two year old Ms Bongini Besta Mbatha [KZN/NG/255/DN] was attacked by ANC supporters on 20 October 1991. They were looking for her nephew Mr Sipho Langa, an IFP member. When they could not find Sipho, they attacked her instead. She told the Commission:

They beat, stabbed and shot me. This happened in the forest where I was dragged. I was set on fire. I lost consciousness. It was dark when I gained consciousness. I crawled out of the forest, which took me a long time. Police came and took me to King Edward Hospital where I spent four months.

416 Ms Doris Ngubane [KZN/FS/226/DN], told the Commission how she was raped by four members of the *AmaSinyora* gang during March 1992. Ngubane and her husband Meshack had been married for thirty-two years and had seven children, one of whom, Xolani, was an active UDF/ANC member. They lived in K Section, KwaMashu, where there was a great deal of conflict at the time, with people being killed, houses set alight and residents fleeing their homes. On one such day in early March, Ms Ngubane (41) witnessed a group of IFP, KZP and *AmaSinyora* members attacking her neighbour's home and killing a young man who lived there.

417 The next day Ms Ngubane and the two children who still lived with her left their home and joined the many other residents who had taken refuge at the Tholemandla School. Meshack Ngubane refused to leave the house, wanting to stay to look after their possessions. The following day Ms Ngubane returned home to collect bedding. As she was entering the yard, she was approached by four youths, one of whom was known to her as KZP member Justice Nkwanyana⁶⁸. The four youths were the same age as her youngest child.

418 They pushed her inside. Meshack Ngubane came out to see what was happening and the couple was pushed into the bedroom where they were repeatedly assaulted. Mr Ngubane was then forced into a chair.

419 Justice Nkwanyana tore Ms Ngubane's pinafore with a knife and stabbed her on the feet. The others joined in the assault and she was held on the bed whilst Nkwanyana raped her in front of her husband. The others stood next to Mr Ngubane and, when he averted his eyes or bowed his head so that he could not see what was being done to his wife, they hit him and forced him to watch.

420 After Nkwanyana had finished raping her, he poured a jug of water over her vagina. The youths then took turns raping her, pouring water over her after each one had finished. When they hurt her and she cried out, they stabbed her and hit her all over her body with implements. They told her that they were doing this to her because her son was a UDF supporter. She eventually lost consciousness. The group then left, taking with them chickens from the yard.

421 Mr Ngubane left his unconscious wife and ran to get help. Their son Xolani arrived home and when he discovered what had happened to his mother he rushed to the Polyclinic to get an ambulance. The ambulance service refused to drive into K Section, but said that they could collect her from Malandela Road. Mr Ngubane, Xolani and four of Xolani's friends together carried the unconscious woman to Malandela Road to meet the ambulance.

422 When Ms Ngubane regained consciousness in the hospital, she discovered that the doctors had had to perform a hysterectomy. She remained in hospital for three weeks. On being dismissed, she went to lay a charge at the KwaMashu police station. The sergeant who attended to her refused to take a statement or to lay a charge. Ms Ngubane told the Commission:

I don't know how to describe the pain and anger I felt about this experience. When I went to KwaMashu police station, I was told that they do not take matters from the location. I don't know why they did this because they were supposed to help us.

423 The family left K Section and went to live in a shack. Mr Ngubane became epileptic after his traumatic night and was not able to return to work. Ms Ngubane does not attend any functions where people gather and she wishes to live in a place where they are not known. She says that she is not able to socialise normally with people and prefers to stay within the confines of her shack.

It's the most humiliating thing that can happen to anybody. These boys took away my dignity. I don't have the words to express the kind of pain and anguish I experience. I think about this every day. My husband has since been mentally disturbed. Life's very difficult.

Killing of witnesses

424 Several deponents told the Commission that potential witnesses in politically motivated killings were murdered before they could give evidence in court.

425 Murchison resident Ms Hilda Memela [KZN/NNN/110/PS], whose 21-year-old son Nelson, an ANC supporter, was shot dead, told the Commission at the Port Shepstone hearing that the police warned witnesses that their lives would be endangered if they made statements:

We sat there for quite some time up until the police arrived, and the children said they could actually show us the perpetrators, those marauders, and the police said, "Where will you live after pointing those people, after identifying those people, because it won't be peaceful?" Then that was scary enough for the children not to identify those [perpetrators]. They were still around, the perpetrators.

After some time the car that carries the corpse from the police station came and took the corpse, and there is nothing that we gave to the police. There was no statement whatsoever that was made to the police up until to this day.

Pre-election violence

426 In July 1993, the TEC announced that South Africa's first non-racial general elections would take place on 27 April 1994. On hearing the announcement, the IFP expressed its opposition. IFP National Council member Mr Walter Felgate was quoted in the national media as threatening that the IFP would "make it impossible for an election to take place, by embarking on a campaign of mass action, street action and disruption" (*Natal Mercury*, 10 September 1993). On 19 April 1994, with less than a week to go, the IFP announced that they would be contesting the elections.

427 In the months leading up to the elections, KwaZulu and Natal experienced the worst wave of political violence in the region's history. The incidence of politically motivated human rights violations rose dramatically following the announcement of the election date.

428 IFP supporters are alleged to have launched attacks on the party's opponents in KwaMakhutha, Umlazi and KwaMashu. In KwaMashu, Umlazi and Mondlo, opponents allegedly occupied stadiums reserved by the ANC, resulting in heightened political tensions and violent conflict in these areas. Voter education efforts were disrupted, leading to violent deaths (see below).

429 On 25 August 1993, the KLA took a resolution to establish an SPU training project financed by the KwaZulu Government. In October 1993, such training began at the Mlaba camp, near Ulundi (see above). Between October 1993 and April 1994, approximately 5000 people were trained at Mlaba camp and at a second camp known as Emandleni Matleng, in remote areas of the KwaZulu homeland. Training at Emandleni-Matleng began on 14 January 1994, to accommodate an overflow of trainees at Mlaba. Between December 1993 and April 1994, a third training project was run at the Dinizulu camp near Ndumo in Northern Natal.

- 430 Mlaba camp commander Philip Powell, an IFP member and former security policeman, was placed in overall command of the SPU training project. Under his command, training was carried out in part by members of the KZP, former Vlakplaas Commander Eugene de Kock, former Vlakplaas operative Lionel 'Snor' Vermeulen, former political commissar of the 'Caprivi trainees', Daluxolo Luthuli, and a number of other 'Caprivi trainees'.
- 431 Weapons training was conducted using unlicensed weapons and ammunition which were not KZP issue, including Z88 9mm, Scorpion, AK-47, Makarov, RPG-7, HMC and Uzi firearms; explosives included M-26 hand grenades, rifle grenades and limpet mines. These weapons derived from a consignment of weaponry, ammunition and explosives that Powell had requested from Eugene de Kock in September 1993.
- 432 On 1 October 1993, De Kock facilitated the transfer of a large quantity of weapons, including AK-47 rifle ammunition, rifle grenades, hand grenades, rocket propelled grenades, mortars, detonators and explosives. These weapons were loaded onto four KwaZulu government trucks and thereafter returned to Ulundi where Powell stored the weapons at his residence. On 20 October 1993, a further large quantity of similar weaponry was loaded onto two KwaZulu government trucks at the premises of Mechem in Johannesburg and transported to Powell's house in Ulundi. The weaponry was hidden in buildings in the residential complex where Powell lived.
- 433 In the latter part of 1993, certain KwaZulu/Natal IFP leaders engaged in arms smuggling. Former Security Branch members Izak Daniel Bosch [AM3765/96], Wouter Mentz, Willie Nortje [AM3764/96], Lionel Snyman, Dries Van Heerden and Eugene de Kock [AM0066/96] all applied for amnesty for supplying arms to Inkatha between 1990 and 1993. These arms were allegedly sent to Mr Themba Khoza (the IFP leader in the Transvaal) and to Philip Powell in KwaZulu/Natal.

Creighton

- 434 On 18 February 1994, fifteen ANC youths were massacred in the rural Mahehle village near Creighton in the Natal Midlands. Earlier that day they had been involved in putting up posters announcing a voter education workshop. Four prominent IFP leaders, Mr Mbadlaza Paulos Vezi, Mr Dumisani Khuzwayo, Mr Gamuntu Sithole and Mr Thulani Dlamini, were arrested in connection with the massacre. They were later acquitted due to conflicting evidence given by the state witnesses [KZN/ZJ/420/IX; KZN/ZJ/417/IX; KZN/ZJ/418/IX; KZN/MR/468/CT; KZN/MR/465/CT].

KwaMashu

- 435 On 20 March 1994, the ANC booked the Princess Magogo stadium in KwaMashu for an ANC election rally. IFP supporters, mainly from the KwaMashu hostel and the neighbouring settlements of Lindelani and Richmond Farm, began occupying the stadium the day before the planned rally. In an attempt to avoid clashes, the ANC held their rally in the adjoining street. Conflict erupted nevertheless and continued for two weeks, resulting in the deaths of over fifteen people. Up to 3 000 residents were forced to flee their homes.
- 436 In an attempt to end the violence that had engulfed the township, the local ANC leadership approached their IFP counterparts and scheduled a peace meeting for 29 March 1994. On that day, the ANC delegation went to the house of an IFP leader in the IFP-supporting KwaMashu hostel complex where their meeting was to take place. They were initially locked in the house, then taken by minibus to another section of the hostel complex where five of them were executed. The chairperson of the KwaMashu Hostel IFP branch, Mr Themba Alton Khanyile, was subsequently found guilty on eight charges of kidnapping, five of murder and two of attempted murder and was sentenced to twenty years' imprisonment. His three co-accused, Mr Charles Mavundla, Mr Khulumethule Msomi and Mr Themba Zulu, were acquitted after one state witness, who had allegedly been threatened, changed his testimony and was declared a hostile witness.

N d w e d w e

- 437 On 12 April 1994, nine employees of a private company were distributing IEC pamphlets in the Ndwedwe area north of Durban when they were confronted, accused of being ANC supporters and severely tortured. Eight were executed; the ninth managed to survive the attack and took three days to crawl to safety. Five IFP supporters were arrested in connection with the massacre. One of these, Mr Qaphela Dladla [AM6599/97], *induna* and leader of the *amabutho* at Ndwedwe, was subsequently convicted. The other four were acquitted because of contradictory evidence.

U / u n d i

- 438 On 17 April 1994, ANC canvasser Muzi Mchunu was shot dead in the Ulundi KZP station by a KwaZulu Correctional Services member, Mr Thokozani Alvation Sithole [AM5112/97]. The KZP originally claimed that Mchunu had committed suicide, but *post mortem* results showed that he was shot in the back at an angle and from a distance that ruled out suicide. Sithole was charged and convicted for the murder. In his plea for mitigation, he claimed that his brother-in-law had been killed during the so-called Shell House shootings the previous month.

Civilian right wing

- 439 Overt right-wing violence first emerged in KwaZulu and Natal during the 1990s. An informal alliance between the right wing and the IFP emerged after the formation of the Concerned South Africans Group (COSAG) in 1993 and was reflected in weapons smuggling and paramilitary training (mostly on white farms and KwaZulu nature reserves). There were a few cases where IFP members and right-wingers took part in joint attacks. The most notable of these was the bombing of the Seychelles restaurant in Port Shepstone. Mr Christo Brand [AM6422/97], Mr Morton Christie [AM6610/97], Mr Harry Jardine [AM6178/97], Mr Patrick Pedlar, Mr Roy Lane and Mr Andrew Howell [AM5961/97] all applied for amnesty in respect of the bombing of the Seychelles restaurant in February 1994 and of the attack on the Flagstaff police station in the Transkei, also in February 1994. Prominent South Coast IFP leader James Zulu ([AM5864/97], now deceased) was involved in both of these attacks for which he too applied for amnesty. The applicants also revealed that they had conspired to bomb the Port Shepstone offices of both the NP and the ANC, but had abandoned these plans because of the commotion caused by the bombing of the Seychelles restaurant.
- 440 Mr James Zulu was a major focal point for the investigation of political violence in the lower South Coast region. The Commission found that he had close links with the local and regional SAP as well as with senior members of the white right wing, and that he used these links to his full advantage in his campaign to extend his own power base and to rid the area under his control of anti-IFP elements. His extremely aggressive and abrasive public personality contributed substantially to instability and violence in the greater Port Shepstone region.
- 441 Three AWB members from Richards Bay applied for amnesty for the 9 October 1990 attack on a Putco bus in Duffs Road near KwaMashu and Inanda. Two people were killed and dozens of others injured. The applicants claimed that the attack was in revenge for an alleged Pan African Students Organisation (PASO) attack on the Durban beachfront in which one person was killed. (Eugene Marais [AM0054/96]; David Botha [AM0057/96]; Adriaan Smuts [AM0056/96; KZN/SC/001–012])
- 442 IFP member Allan Nolte [AM2501/96] applied for amnesty for adding cyanide to the water system in Umlazi. He named six other right-wingers whom he alleges to have been party to the poisoning.

Resistance and revolutionary groupings

PAC/APLA

- 443 Three cases of PAC/APLA violence were referred to the Commission.
- 444 APLA member Nboba Mgengo [AM6386/97] applied for amnesty in respect of the bomb explosion on a bus in central Durban on 30 November 1993.
- 445 On 16 January 1994, the PAC announced that it had suspended the armed struggle that had been conducted by its armed wing, APLA, for the past thirty years. On 17 January 1994, three men were killed in a shoot-out with policemen in Pine Street in central Durban. Two of the deceased were allegedly attackers; the other may have been a bystander. The police alleged that the SAP satellite office at the Pine Street parking garage was attacked on that day by APLA members armed with AK-47s, 9mm pistols and a grenade. The SAP had allegedly received prior warning of the operation and had therefore deployed a number of policemen ready to counter the attack. One of those killed in the ensuing shoot-out was Mr Mosheen Jeenah [KZN/NN/400/DN], a student at ML Sultan Technikon and an alleged APLA member. The PAC denied involvement in the incident.
- 446 Evidence led at the inquest alleged irregularities in the initial investigation carried out by Warrant Officer Van Biljon and state pathologist, Dr Book. Two policemen who had been present during the shooting claimed they were fired on first and only then did they return fire. However, no AK-47 or handgun bullets (alleged to have been fired by the deceased) were found in the Pine Street satellite office. Further, the weapons used by the police who fired on the deceased were not sent for ballistic testing.
- 447 One APLA and two PAC members applied for amnesty in respect of the attack on the Crazy Beat Disco Club in Newcastle on Valentine's Day 1994. Ms Gerbrecht van Wyk was shot dead and several others injured during the attack. The applicants, Mr Bongani Golden Malevu [AM0293/96], Mr Andile Shiceka [AM5939/97] and Mr Walter Falibango Thanda [AM5784/97], alleged that they had been sent by their commanders in the Transkei to Newcastle to 'identify areas where whites gather'. They said they targeted the disco because it was frequented by white patrons. All three were serving prison terms for their involvement in the attack. Thanda and Shiceka were both involved in several APLA attacks in the Cape Town area for which they also applied for amnesty.

Statistics on Violations in Natal, KwaZulu and the Orange Free State

● NATURE OF THE VIOLATIONS

- 1 The data gathered from the region covered by the Durban office is different to that gathered by the other three offices in many regards, and reflects the violent shifts in the political landscape in the early 1990s. The pattern of deaths, however, is similar to the national pattern. The top eight causes of death are:
- 2 Shootings account for the greatest number of the killings, followed by stabbings. As in the national pattern, death by multiple causes was very common; usually a consequence of victims being shot, stabbed and/or burnt at the same time.
- 3 The pattern of severe ill treatment is very different from the rest of the country, with arson dominating the chart:
- 4 Arson was by far the most common type of severe ill treatment, with nearly 4 000 cases reported, followed by shooting, beating and stabbing. Material losses, destruction of property and burning also feature in the top eight types of severe ill treatment. All these reflect the nature of the violence in this area, in which whole communities were targeted.
- 5 The pattern of torture is also slightly different:
- 6 As in the other regions, beating was the most common type of torture reported to the Commission, but this region differs from the others in that electric shock was the second most common form of torture. Relatively fewer cases of torture by forced posture were reported in the areas covered by the Durban office than in other areas.

Victim organisations

- 7 The breakdown of violations by victim organisation shows how differently the conflicts of the past played out in the region covered by the Durban office. Victims who were members of the African National Congress (ANC) were still in the majority, but Inkatha Freedom Party (IFP) victims featured as the second largest group. The numbers of killings were as follows:
- 8 Around 1 900 victims were ANC members and nearly 900 were IFP members. Non- partisan or non-aligned victims suffered the third highest number of killings, followed by members of the United Democratic Front (UDF).
- 9 The pattern of severe ill treatment violations presents an almost identical picture:

- 10 Again, ANC members suffered the highest number of violations, followed by IFP members. As with killings, the number of violations suffered by non-partisan or non-aligned people was far higher in the Durban office area than in the rest of the country.
- 11 Interestingly, the pattern of torture does not match that of killings or severe ill treatment at all:
- 12 The torture pattern is much closer to that of the national picture, with the bulk of torture cases involving ANC, UDF and Pan Africanist Congress (PAC) members. Very few IFP members were tortured in comparison to the numbers who were killed or suffered severe ill treatment.

Perpetrator organisations

- 13 Deponents attributed killings in the region covered by the Durban office mainly to the IFP, ANC and the South African Police (SAP). The top eight responses for instances involving killings were as follows:
- 14 Nearly 4 000 killings were attributed to the IFP, followed by the ANC with over 1 000. The SAP and KwaZulu Police (KZP) accounted for the third and fourth largest numbers of allegations.
- 15 In contrast to the rest of the country, most of the killings took place in the early 1990s.
- 16 In the killings allegedly committed by the IFP, the chart shows an increase in the late 1980s, then two steep peaks in 1990 and 1993. The killings attributed to the ANC and SAP increase more slowly to form a smaller peak in 1990.
- 17 The pattern of severe ill treatment is similar to that of killings, with the SAP, IFP and ANC at the top of the list of alleged violations:
- 18 The greatest number of instances of severe ill treatment are attributed to the IFP, followed by those attributed to the ANC, with a slightly lower number of allegations against the SAP. The pattern over time also differs from the national picture and is similar to the pattern of alleged killings:
- 19 As with killings, the number of severe ill treatment violations allegedly committed by the IFP starts rising in the mid-1980s and increases steadily throughout the early 1990s. Those attributed to the ANC start to increase later, in 1988, and peak in 1990. The violations allegedly committed by the SAP do not show the same increases as those of the other two organisations, but remain steady at around 200 violations per year.
- 20 The eight organisations against whom the most allegations of torture were made are as follows:
- 21 Again, the police are in the overwhelming majority of those alleged to have used torture. There are a few allegations against the ANC and IFP, but deponents attributed the bulk of torture to the SAP. The three organisations linked to the highest numbers of allegations of torture show the same pattern during the states of emergency.

- 22 The cases attributed to the SAP are greatest in 1986, and then drop steadily, tailing off in the period leading up the 1994 elections.