

# Regional Profile Eastern Cape

## ● OVERVIEW OF THE REGION

### Demography

- 1 The current Eastern Cape province borders KwaZulu-Natal in the east, the Western Cape in the west, and the Northern Cape and Free State provinces in the north. It shares an international boundary with Lesotho in the north-east. Geographically, it is the second largest of the current nine provinces. According to the Unit for Statistical Analysis in the Western Cape, there were 6 665 million people living in the current Eastern Cape in 1991 which, after KwaZulu-Natal and Gauteng, has the third highest population. Unemployment in the province is usually estimated at above the national averages and, in 1991, the Development Bank of South Africa estimated that more than half the adult population had no formal income. Levels of literacy and life expectancy are lower and levels of poverty higher in the Eastern Cape and Northern Province than in any of the other provinces. This poverty tends to be concentrated in the former homeland areas.
- 2 The current Eastern Cape is made up of the eastern part of the old Cape Province and includes two of the four 'independent homelands', namely Transkei and Ciskei. Transkei is the oldest such territory in the country and was granted self-government status in 1963 followed by independence in 1976. Ciskei received self-government status in 1972 followed by independence in 1981. For a substantial part of the period within the Commission's mandate, they had separate parliaments and separate security forces, particularly after independence. The Transkei and Ciskei, which were geographically more united than most of the other homelands, were separated by a narrow strip of land commonly referred to as the Border region. For the purposes of the Commission's work, the Border region was often viewed as part of the Ciskei because of the cross-border nature of some of the violations.
- 3 About 87 per cent of the population of the Eastern Cape is African and almost entirely Xhosa-speaking. Roughly half the population is urbanised, but the majority of the African population lives in rural areas previously governed by homeland administrations.
- 4 Of the main political organisations, the African National Congress (ANC) has the biggest following in the province. Indeed, the Eastern Cape has generally been regarded as the heartland of the ANC. Many of the organisation's national leaders either grew up in the Eastern Cape or were educated at Fort Hare University in Alice, in the former Ciskei. The battles for control over this region often made it a key area of conflict in the country.

### Overview of violations

5 Abuses of human rights in this region included:

- a violations committed during the Pondoland Revolt of the 1960s;
- b armed attacks on civilians carried out by Poqo, the armed wing of the Pan Africanist Congress (PAC) and the accompanying torture and executions of Poqo members;
- c deaths in detention including that of Black Consciousness Movement (BCM) activist, Mr Steve Biko;
- d widespread torture in detention;
- e resistance to homeland rule and the related violent conflicts between traditional chiefs on the one hand and supporters of the ANC and the United Democratic Front (UDF) on the other;
- f clashes between ANC-aligned groups and the Ciskei government and its allies during the 1990s;
- g shootings by security forces at marches, funerals and protests;
- h assassinations such as the 1985 killing of the 'Cradock Four';
- i inter-organisational violence such as that between the UDF and the Azanian People's Organisation (AZAPO) in the mid-1980s, and between the newly unbanned PAC and ANC during the 1990s;
- j the use by UDF supporters of the 'necklacing' method of killing opponents such as community councillors, police and those perceived to be collaborating with the government;
- k violations committed during clashes between different security forces and homeland rulers, for example during coup attempts;
- l the attacks on security forces and 'soft targets' by the Azanian People's Liberation Army (APLA) in the 1990s.

● **1960–1975**

**Overview of Violations**

- 6 Human rights violations in the Eastern Cape during this period were related to the detention and trial of ANC and PAC members in the early 1960s. The Commission heard numerous allegations of torture and assault in custody. Deaths in custody were also recorded for this period.

- 7 The sabotage campaigns undertaken by the liberation movements in the early 1960s were also felt in the Eastern Cape. In Transkei, a peasants' revolt against tribal authorities and resistance to the impending creation of the Transkei homeland gathered momentum, resulting in the declaration of a state of emergency that would remain in force for more than a decade. Detentions and deaths in custody were a feature of these times.
- 8 The period also saw the creation of the first homelands. In 1963, Transkei became the first region in the country to be granted self-government, with initial strong resistance followed by brief attempts by some ANC groups to work within the new homeland structures. In August 1972, the Ciskei too became self-governing. Forced removals became a key part of Pretoria's push towards 'independence' for these territories.
- 9 Towards the end of the 1960s, police repression, along with new apartheid laws and the forced removal of hundreds of thousands of people from their homes, generated a climate of fear which resulted in a period of relative quiescence in political resistance until the early 1970s.
- 10 Of the Eastern Cape violations reported to the Commission for this period, the highest number (42 per cent) were cases of severe ill treatment.
- 11 The next largest category of violations was torture (27 per cent), while 10 per cent were killings.

## **State and allied groupings**

### *D e t e n t i o n*

- 12 After the lifting of the state of emergency, the strategy of the security forces was to rely primarily on the existing legal system to contain opposition. Using what amounted to legalised violence, repression was enforced with particular ruthlessness in the Eastern Cape, the worst affected area being Port Elizabeth. According to figures quoted by the International Defence and Aid Fund (IDAF)<sup>1</sup>, security police detained over 1 000 people in Port Elizabeth between October 1964 and June 1965.
- 13 Unlike the 1980s strategy of using detention for preventive purposes, the policy in the 1960s and 1970s was to charge and try those arrested. IDAF records that, of the roughly 1 000 persons detained in 1964–65, over 500 were sentenced, 101 became state witnesses, a few had charges withdrawn and the rest were still awaiting trial at the time of publication. Sentences ranged from one to twelve years, often for minor offences such as attending ANC or PAC meetings, distributing leaflets or contributing to ANC funds. Port Elizabeth lawyer John Jackson<sup>2</sup> notes that political trials in the Eastern Cape began in mid-1965 and were held in small rural courthouses or police stations. Most charges related to the banned ANC and PAC and acquittals were rare. He says of state witnesses:

*The promise of personal freedom, if satisfactory evidence was given, was enough to ensure that they would implicate anyone ... During these political trials, the Special Branch, as these policemen were known, conducted the investigation and interrogation. The allegations of torture were plentiful. The accused were mainly illiterate black men who had been recruited into one of the banned movements and arrested after attending meetings of the organisation. Conviction followed conviction.*

- 14 The new laws promulgated during this period facilitated extended detentions. The General Law Amendment Act No 37 of 1963 and the Criminal Procedure Act No 96 of 1965 allowed first for 90-day and then 180-day detentions. Conditions in detention and jails were appalling. Mr Harold Strachan [JB04416/99OVE], who was detained at Port Elizabeth's North End Prison in 1962 and later at Pretoria Central prison, told the Commission's prisons hearing in Johannesburg that North End Prison was "a hellish place" and described seeing warders assault prisoners as a matter of routine. "Where purposeful cruelty and vengeance left off, neglect would take over. Nobody really cared, you know."

### *T o r t u r e*

- 15 Statements made to the Commission indicate routine assault and torture of detainees by police. Beatings were the most frequently mentioned violation. Electric shocks were also common and allegations of poisoning were made. Some detainees returned home blind and/or deaf, some mentally ill. Some of those jailed after sentencing were also mistreated. These torture allegations were supported by Mbeki and Southall<sup>3</sup> as well as by the submissions handed to the Commission by Kairos.
- 16 Detentions and arrests were carried out primarily by the police, although several deponents also referred to soldiers having been involved. Several cases involved police assaults on family members and destruction of property, apparently in an attempt to force people on the run to surrender to police. Detainees and convicted prisoners were held at many different venues. A key place of torture was, however, a temporary police station housed in tents in Mkambati forest. This appears to have become an established police station by the early 1970s.
- 17 Mr Clement Khehlana 'Fly' Gxabu [EC0882/96ETK] was injured at Ngquza Hill (see below). He told the Commission that he was detained at Lusikisiki police station where he was beaten continuously over a five-day period. Mr Ngwazi Sipolo [EC0542/96ETK] said the police had tried to persuade him to become an informer, but he had not helped them. He was then again arrested and taken to Mkambati forest where he was tortured. Mr Ndovela Nxasana [EC0578/96EKT] was detained because he was a member of *iKongo*. He said he was taken to the tents in Mkambati forest where he was beaten with a stick and his hand was broken. He was also given electric shocks "by an auto engine" while lying down with his hands cuffed behind his back. Nxasana was moved to several other towns, held for a year and later charged and acquitted.
- 18 In September 1963, Mr Henry Fazzie, Mr Singqokwana Ernest Malgas [EC0001/ 96PLZ] and six others from Port Elizabeth were convicted for undergoing military training with Umkhonto weSizwe (MK). At the first public hearing in East London, Malgas said he had been tortured in detention in the 1960s as well as in the 1980s:

*During the torturing, I was always suffocated with a mask and there was this 'helicopter training'. A stick was put inside your knees and you had to stretch your knees. During that period, you were suffocated.*

- 19 He also said that, during the 1980s, his home was attacked several times. During one of these attacks, acid was thrown at one of his sons, who died as a result.

- 20 ANC member Mr Wilson Fanti [EC1704/97SBR] was arrested in Port Elizabeth in March 1964, tried in Graaff-Reinet, sentenced to five years on Robben Island for sabotage and banished to Stutterheim on his release. Fanti said he had been taken from jail to be re-tried in Grahamstown on sabotage charges and jailed for another five years:

*We were not even allowed legal representation ... Torture in the form of hard labour and assaults increased as the sentence was doubled.*

- 21 Among the many PAC members who testified to the Commission about their severe ill treatment when arrested and imprisoned in the 1960s were Mr Mfene Simon Yoyo [EC0653/96QTN], Mr Makhi Boyi [EC1990/97KWT] and Mr Daniel Paulos Nongena [EC1985/97KWT]. Yoyo, Boyi and Nongena alleged that they had been assaulted by various policemen, including Mr Donald Card. Yoyo said that, in April 1963, Card and other policemen had beaten him and then hung him out of the window at Cambridge police station in East London. Nongena was one of a group of Poqo members who tried to attack the King William's Town police station in 1963. He was detained by Mr Charles Xhanti Sebe (now deceased) and Card the following day and taken to King William's Town. Nongena described his torture:

*They put you into the sack, they tie it up and they throw you into the water ... the water inevitably comes into your mouth and stomach and your stomach would be full of water. They take you out, pump you, pump out the water and put you back again, saying that we must tell the truth.*

- 22 Mr Card attended the Commission's King William's Town hearing in May 1997 and denied the allegations saying, "I've never seen them in my life before". He added that he was well known amongst political activists, that his name had been bandied about a lot and that it was a case of mistaken identity. Several deponents told the Commission that they or family members had been assaulted by Card in custody; Card denied these allegations.
- 23 Mr Nohlaza Ngakanani Jakada [EC1340/96ETK] was held at Mkambati in 1971. He had shown scars on his back to his family and told them that he had been beaten and that police had cut his throat. He was jailed for six years, was ill on his release and remained so until his death three years later.
- 24 The Human Rights Commission (HRC) records the death of detainee, Mr Mthayeni Cuthsela, in Pondoland on 21 January 1971. Officially Cuthsela died in hospital of "natural causes, brain haemorrhage"<sup>4</sup> after forty days' detention. Kairos reports that Cuthsela was detained in December 1970 in connection with the Pietermaritzburg Terrorism Trial, and held at Mkambati camp and Umtata jail. At Mkambati, he was often handcuffed and tied to a tree. He was beaten, kicked and given electric shocks to the ears and penis over four days. Although he complained of severe headaches, he was denied access to a doctor at both Mkambati and Umtata. In January 1971, Cuthsela was taken while unconscious from the Umtata jail to the local hospital, where he died of a brain haemorrhage attributable to arteriosclerosis. The police retained the death certificate.<sup>5</sup>
- 25 Kairos reports that Mr Mfolwane Mbele [EC1654/97ETK] had been held with Cuthsela, who told him of the assaults.<sup>6</sup> Mbele's brother, Mr Ndengezi Makhokhoba, told the Commission that they had only been able to locate Mbele after he had been in custody for two years (similar complaints were made to the Commission about other detainees during the Pondoland Revolt). Makhokhoba told the Commission that after Mbele's release:

*He came back very ill, he could not eat, his mouth was full of scars, he complained of backache and that his whole body was aching.*

- 26 Mr Makhokhoba said they took Mbele to hospital where the doctors told the family that he had been poisoned. Mbele's widow, Ms Nantagelo Makhokhoba, told the Commission:

*He said that when he was in detention, they would beat him up. He said that they would be hung on trees, they would sleep there on the tree. They were then taken to 'Maritzburg where they were detained before they went to Robben Island ... He said that what really hurt him was that, before they actually went to Robben Island, the torture was worse.*

- 27 Mbele died in May 1980, a few weeks after his release. Mr Ndengezi Makhokhoba told the Commission that he himself had been detained and assaulted while attending his brother's trial in Pietermaritzburg. During 1977, while visiting his brother in jail, he was again arrested and assaulted until his hip was dislocated.

#### *Deaths and disappearances in custody*

- 28 Leading members of the MK command were amongst those arrested early in this period. Howard Barrell<sup>7</sup> names three Eastern Cape unionists, Mr Looksmart Ngudle, Mr Washington Bongco [EC2165/97ETK] and Mr Vuyisile Mini [EC2097/97PLZ], as MK commanders in the Western Cape, Border region and Eastern Cape respectively.
- 29 On 24 January 1964, Mr James Tyitya became the first political detainee to die in police custody in Port Elizabeth. The cause of death was given as "suicide by hanging".
- 30 In 1969, seven people across the country died in detention. One of them was South African Congress of Trade Unions (SACTU) unionist and ANC activist Caleb Mayekiso [EC0644/96PLZ], who died in Port Elizabeth on 1 June 1969, reportedly of "natural causes", after being held for eighteen days under the Terrorism Act.<sup>8</sup> His daughter, Ms Nomakhosazana Queenie Mayekiso, told the Commission that her father had been jailed for two and a half years in 1964 on charges of terrorism, re-tried while in jail and sentenced to an additional three years. He was released in August 1968 and detained again in May 1969. Two weeks later his family was told he had died of chronic bronchitis. However, "I learnt from another detainee that he was killed with an electric shock". Mr Mayekiso had taken a leading role in the Defiance Campaign of the 1950s and worked as an underground member of the ANC after it was banned.
- 31 Of those who died or disappeared in custody, some may have died in detention, others as sentenced prisoners. In most cases, families had little information about the deaths. Disappearances reported to the Commission for this period include that of Mr Maqhilane Solomase Nodosha [EC2064/97ETK], last seen being taken away by the police in March 1960, and the disappearance of Mr Ndlanganyana Mvunyiswa [EC1794/97ETK], last seen being arrested by the police in the same year.

- 32 In 1960, Mr Mtayini Myezo [EC1658/97ETK] was detained on three separate occasions; he told his family he had been assaulted during each detention. His daughter-in-law, Ms Nkanyiwe Myezo, told the Commission:

*On the third time, the police came to say he was dead. They said he died of TB [tuberculosis]. We went to pick up his body and we saw that his body had a scar cut in his right head side as if he was beaten by an iron baton.*

- 33 Mr Fuzile Shikita and his son, Mr Zanyokwe Shikita [EC1780/97ETK], were both detained in March 1960. They fought with the police and attempted to resist arrest. Zanyokwe Shikitha was released a few days later and told his family of beatings in detention; Fuzile Shikita died in custody the following year. The family did not know any further details. It is not clear whether Shikita died as a detainee or as a sentenced prisoner.

- 34 Mr Shweni Zibonele [EC1535/97ETK] was one of those who died in prison after being sentenced. He was arrested in the aftermath of the 1960 Ngquza incident (discussed below) and jailed for an effective four years. He died in prison in Bloemfontein in 1962. Ms Makhonjwayo Javu told the Commission:

*My father wrote a letter to me from an East London cell. He was complaining about ill treatment there, saying he was sick. Another letter came from him from a prison in Bloemfontein ... In this last letter he was again telling me about ill treatment there. He said he was often put into a freezer for hours [overnight] and was taken out in the morning. In that letter my father was telling me that by the time they were taken out it would be difficult to talk.*

- 35 Ms Javu said the family received a telephone call from the prison authorities calling them to Bloemfontein because Zibonele was ill, but that they had been too afraid to go. They were later told he had died.

- 36 The HRC records the death in Transkei of two detainees, Mr Ngeni Gaga and Mr Pongolosha Hoyo. Both were detained on 8 May 1965 and died the next day; in both cases, the official cause of death was given as “natural causes”.<sup>9</sup> These cases were not brought to the Commission. However, given the treatment of detainees reported to the Commission, it seems likely that the two men died as a result of treatment in detention. It is not clear in which area of Transkei these men were held.

- 37 Mr Mbambani Solomon Madikizela [EC1805/97ETK] disappeared in police custody in 1967. His family told the Commission that Madikizela was an ANC member who had recently returned home from Bophuthatswana. Police had taken him away in a helicopter, saying they were taking him to hospital. He was never seen again.

#### *A f t e r - e f f e c t s   o f   t o r t u r e*

- 38 The Commission received approximately ninety statements about people who had been detained and/or jailed, subsequently returning home ill and dying as a result of abuse suffered in prison. Some died within days or weeks, most within a few months, but some deaths took place years later. In many cases, deponents said the ex-detainees were permanently ill. Some families were too afraid to take the ill for medical treatment, but several deponents refer

to visits to hospitals that failed to prevent the deaths. At least one deponent reported that a doctor had told the family that the ex-prisoner had been poisoned (Mfolwane Mbele [EC1654/97ETK], see below).

- 39 Mr Sithembiso Ndesi [EC2059/97ETK], Mr Sambathi Majova [EC2062/97ETK], Mr Sithembile Ngalavu [EC0536/96ETK] and Mr Bambaliphi Mdlamla [EC0585/96ETK] were all ill when they were released from custody in 1960/1 and died within months. Ms Nobawo Mildred Mdlamla said of her husband:

*He said that the cell that he was in was not sheltered. When it rained, it would rain on them. We would take him from hospital to hospital, thinking that he would improve. He would cough blood.*

- 40 He was bedridden and died a year later.

- 41 Mr Aaron Mandokoza Mbhali [EC2060/97ETK] was released permanently blinded. His family said he believed he had been given poisoned water to wash in.

- 42 Mr Sikinkili Moyiswa [EC0538/96ETK] was detained in 1960 and later told relatives of beatings and electric shocks at Mkambati. He was detained again in 1970 and was constantly ill until his death years later.

- 43 Mr Mbethwa Silangwe [EC1677/97ETK] was held at Bizana police station with his son, Mr Mnikelwa Silangwe, who said white police officers had beaten his father and attacked his testicles with pliers. Mbethwa died from his injuries a few months later.

- 44 Mr James Notununu [EC0588/96ETK] was jailed for a year. On his release, he told his family he had been poisoned in jail. He died about a month later.

- 45 Mr Takutshane Mayidume [EC1666/97ETK] was jailed for three years in East London prison and died three months after returning home. His daughter, Ms Nokwanda Nora, told the Commission:

*His lower limbs were not functioning; his side teeth were gone. He had marks all over the body and his eyesight was gone. He died as a result of the severe torture he suffered in prison.*

- 46 Some prisoners returned home mentally ill. Mr Wani Ntsede [EC1811/97ETK] was detained in March 1960 and held for five months in Idutywa. His son Mamothisa told the Commission:

*At the time of the arrest he was severely beaten with fists and kicked all over his body. It would appear that during the period of his incarceration at Idutywa prison, a similar form of ill treatment was meted out to him – for at the time of his release in 1966 he was mentally deranged. He then passed away in 1970. At the time of his passing away, he was deaf in both ears.*

- 47 Mr Makulana Phato [EC1819/97ETK] was held for five years, variously at Bizana, Mount Frere, Umtata and Butterworth. His family told the Commission they did not know whether or not he had stood trial. He was assaulted in custody, released mentally ill and died of head injuries a few months later.



### *B a n i s h m e n t*

48 Many of those who had served their sentences were, on their release, banished to remote parts of the Eastern Cape, including Dimbaza in the Ciskei and Ilinge near Queenstown.

49 Mr Eric Lulamile Vara [EC1568/97NWC] was arrested in February 1963 together with Mr Aaron Mzwandile Sizila [EC1287/96NWC], secretary of the Cradock ANC branch, and jailed for furthering the aims of the ANC. Vara's son, Mr Nondwe Vara, told the Commission that, when his father was released three years later, "he was mentally disturbed due to beating with a hammer whilst serving on Robben Island". Both the Vara and Sizila families were banished to Ilinge. Nondwe Vara reported:

*Whilst in Ilinge, his health became worse such that he had to be taken to Komani mental hospital for treatment. He died after three months of being admitted to Komani hospital. I believe that if my father was not arrested and imprisoned in Robben Island he would still be alive.*

50 Mr Sizila's wife, Ms Nozithandiso Olga Sizila, told the Commission that prison warders assaulted Sizila and his teeth were broken. After his release, the family were banished from Cradock and sent to Ilinge, where they were kept under house arrest. Ms Sizila was pregnant at the time and her husband was ill. When her baby died at the age of three months, the family could not afford to buy a coffin:

*We then put the baby, the baby's corpse, in a cardboard [box], we took the baby to the graveyard. We dug a hole and we put the box inside. Our neighbours could not do anything to help us. We had no food. It is my mother who travelled from Cradock to Queenstown and gave us food.*

51 Ms Sizila's brother, who was also tortured, was a member of MK and was shot dead by police in Port Elizabeth in 1987.

### */// t r e a t m e n t o f f a m i l i e s*

52 Some deponents reported that families were ill treated when police attempted to find suspects. Mr Ndoyisile Mari [EC2145/97PLZ] was arrested in 1964 and jailed for seven years on Robben Island for underground activities. His wife, Ms Vuniwe Angelina Mari, told the Commission that the family had been harassed repeatedly by police while they searched for him before his arrest. She told the Commission: Inside the house if they [the police] don't find him they used to kick me, chasing my children in and out the house, forcing me to tell of his whereabouts. As a result, my second child from there on suffered from a mental sickness because he was hit against the wall also. He could not manage even to go to school ...

*[My husband was eventually arrested.] ... That was the worst day of my life seeing my husband naked, leaving my house to a car, kicked, and I still have that picture. His clothes were like washing hung on a line from his arms.*

- 53 On his release, Mr Ndooyisile Mari was restricted and the family was banished from Port Elizabeth to King William's Town, over 200 km away.
- 54 Ms Zakheleni Nkanyezi [EC2169/97ETK] was seventeen at the time of the Ngquza shootings (see below). Her father, Mr Mdayimani Nkanyezi, fled when the security forces arrived to arrest him, but the soldiers severely assaulted her mother and five-year-old brother. Her brother, Mr Dalindyabo Nkanyezi, died three months later and her mother, Ms Mafoxini Nkanyezi, four months later. She attributed both deaths to the assaults. Her father then handed himself over to the police in Durban and was taken back to Bizana with his daughter.

*The police or soldiers who were in the police station told me they are taking me home and I was to look at my father for the last time because they are going to kill him.*

- 55 Her father was subsequently convicted and executed.
- 56 Ms Irene Nontobeko Nakwa [EC1432/97ETK] told the Commission that her baby son Vuyisile was injured when police arrived at her home to detain her husband, Mr Kholisile Nakwa:

*As the Boers were taking my husband away, I tried to give him his coat. The Boers shoved me away and in the process hit my baby boy with a knobkierrie [club]. When I took my baby to the doctor later, I was told that my baby had a drop of blood in his brains. That boy who has grown to be a man ... is still troubling me to date. He is epileptic. He couldn't go to school.*

- 57 Kholisile Nakwa was held for six months and afterwards complained continually of pain behind his ear. "When he died in 1980", his wife said, "he just fell down, had a bout of fits and died on the spot".
- 58 The Commission heard that detainees were frequently moved from one police station or prison to another as part of a strategy to break contact between the prisoners themselves and between the prisoners and their families outside.
- 59 Mr Motshwa Sigwinta [EC1782/97ETK] and his brother, Mr Qawukeni Sigwinta [EC1782/97ETK], were arrested in April 1960, convicted and sent to work as farm labourers. Qawukeni died in the 1970s, apparently while still working as a prisoner on a farm. The surviving brother told the Commission:

*I together with my brother Qawukeni Sigwinta was taken by helicopter to somewhere in the Northern Transvaal which I think was Bethal. We were taken to farms where we were distributed to various farmers where I was subjected to hard labour and corporal punishment. That was the last I saw of my brother until I heard of his death in 1976 because we were not on the same farm ...*

*We were planting and harvesting potatoes under very harsh conditions. All this we were doing physically under very strict supervision from as early as about 4am until about after 7pm.*

*I escaped in January 1974 and had to find my way, avoiding contact with police and farmers. I came back home in 1977.*

60 Those who were jailed often had their homes destroyed by the chiefs. Mr Mranqwa Bhalala [EC1827/97ETK] was detained for a year and assaulted. A week after his release the local chief, together with police, arrived at the Bhalala home and torched it.

THE COMMISSION FINDS THAT DETAINEES, PARTICULARLY THOSE REGARDED AS MEMBERS OF THE ANC AND PAC AND THEIR ARMED WINGS, WERE SUBJECTED TO VARIOUS FORMS OF SEVERE ILL TREATMENT AND TORTURE BY THE SOUTH AFRICAN POLICE (SAP). THE COMMISSION BELIEVES THAT SUCH ILL TREATMENT AND TORTURE RESULTED IN DEATHS IN DETENTION – FOR EXAMPLE, THAT OF MR CALEB MAYEKISO IN PORT ELIZABETH IN 1969. THE COMMISSION FINDS THAT SUCH SEVERE ILL TREATMENT, TORTURE AND RESULTANT DEATHS IN DETENTION AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT THE STATE, IN THE FORM OF THE SAP, DETAINED AND TORTURED SEVERAL HUNDREDS OF PEOPLE IN PONDOLAND DURING AND AFTER THE PERIOD OF PONDOLAND REVOLT. THIS RESULTED IN SOME DEATHS IN POLICE CUSTODY– AS A RESULT OF TORTURE DURING CUSTODY AND AS A RESULT OF CONDITIONS OF CUSTODY.

THE COMMISSION FINDS THAT DETAINEES WERE SUBJECTED TO VARIOUS FORMS OF SEVERE ILL TREATMENT INCLUDING SEVERE ASSAULT, ELECTRIC SHOCK, AND OTHER FORMS OF TORTURE THAT RESULTED IN MANY DEATHS AFTER DETENTION.

THE COMMISSION FINDS THAT COLONEL CJ DRYER, A POLICEMAN LAMPRECHT, AND COLONEL THEUNIS SWANEPOEL, WHO WERE BASED AT MKAMBATI FOREST POLICE STATION, PLAYED A LEADING ROLE IN THE TORTURE OF DETAINEES.

THE COMMISSION RECEIVED VARIOUS ALLEGATIONS OF POISONING OF DETAINEES BUT DOES NOT HAVE SUFFICIENT EVIDENCE TO MAKE A FINDING IN THIS REGARD.

THE COMMISSION FINDS THAT THE ACTIONS OF THE POLICE WERE PART OF A SYSTEMATIC CAMPAIGN TO SUPPRESS POLITICAL OPPOSITION TO THE POLICIES OF THE STATE AND THAT THESE ACTIONS BY THE SAP AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

## **Resistance and revolutionary groupings**

### *ANC/MK activities*

61 During the 1950s, the ANC had built up a strong mass base in the Eastern Cape. When the ANC was banned in 1960, many recruits into the newly formed MK came from that region. MK engaged in a number of acts of sabotage in the Eastern Cape as part of its 'armed propaganda' campaign. Academic Tom Lodge records that Port Elizabeth was the region most seriously affected by the ANC's sabotage campaign, with fifty-eight attacks recorded. Cape Town was next with thirty-five. In the rest of the Eastern Cape, six attacks were recorded for East London and five for Uitenhage, near Port Elizabeth. Lodge also notes that, while nationally there was a general adherence to the national command's instruction to avoid bloodshed, there were twenty-three attacks on railways or beer halls that endangered lives, and twenty-three attacks on police officers. Most of these took place in either Port Elizabeth or Durban<sup>10</sup>.

*PAC/Poqo activities*

- 62 In line with the national Poqo call for an uprising targeting whites and following the 1960 Pondoland Revolt, Poqo activity increased in Transkei. Poqo activity in the Eastern Cape was concentrated in parts of Transkei, in the Queenstown area and in Graaff-Reinet (the hometown of PAC leader Robert Sobukwe). Much of this activity, particularly in the Queenstown and Transkei regions, seems to have been influenced by migrant workers who lived in Transkei and worked in Cape Town. The Poqo operations in Paarl in the Western Cape also involved some Transkei migrants.
- 63 In December 1962, Poqo members made an abortive attempt to assassinate Paramount Chief Kaiser Matanzima at his home at Qamata near Cofimvaba. Matanzima, who was later to become first president of an 'independent' Transkei, was at the time actively promoting self-government for the Transkei. Seven Poqo members were killed and three police officers seriously injured in the encounter. Statements made to the Commission suggest that, after this incident, Poqo members were rounded up and taken to Qamata where they were beaten. Some alleged that Chief Matanzima himself had been involved in this. The Commission met with Chief Matanzima, who said he was too old to remember matters from the 1960s and declined to be interviewed.

THE COMMISSION FINDS THAT MEMBERS OF THE PAC /POQO CARRIED OUT FAILED ATTEMPT(S) TO KILL PARAMOUNT CHIEF KAISER MATANZIMA AND TOOK PART IN ARMED ACTIONS IN WHICH CIVILIANS AND/OR POLICE WERE KILLED OR INJURED. THESE ACTIONS WERE CARRIED OUT AS PART OF THE PAC'S ARMED STRUGGLE. THE COMMISSION FINDS THAT THESE ACTIONS AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE PAC IS HELD ACCOUNTABLE.

- 64 In 1962, there was Poqo activity in a village called Jixini, in the district of Mqanduli in Transkei. Mr Mamfengu Leonard Mzolisa [EC2467/97CTK], who joined the PAC in 1960, told the Commission that the Jixini branch of Poqo planned an attack on white people near the area; but before this campaign could take off, more than 100 Poqo members were arrested. The prison and police station of Mqanduli reportedly overflowed with people detained during this period. Mzolisa was sentenced to two years' imprisonment in East London for participating in an unlawful gathering. Mzolisa named four prisoners, including his brother, who died as a result of ill treatment during this time.
- 65 On the night of 4 February 1963, Poqo members attacked a group of whites who were sleeping at the roadside near Bashee (Mbashe) River bridge in Transkei, killing five people. A massive police crackdown on the PAC followed and fifty-five people were arrested and charged with murder, twenty-three of whom were convicted and sentenced to death. The Commission did not receive submissions from the victims of this attack, but two were received from PAC members arrested in connection with the incident. Mr Gilindonda Nomgogwana [EC2021/97UTA] and Mr Right Mangqikana [EC2079/97UTA] were both charged. Mangqikana was subsequently executed and Nomgogwana was jailed for three and a half years. Nomgogwana said he was assaulted in Umtata and East London during his detention and later while jailed on Robben Island:

*I was repeatedly beaten up with sticks, fists, open hands, kicked with booted feet and I was also subjected to helicopter treatment.*

66 Mr Zakhele Mangqikana said his father, Mr Right Mangqikana, had been innocent:

*It was alleged that those Boers had been killed by the members of Poqo, of which my father was a member. But I am made to believe that my father was not present when those Boers were killed.*

67 In addition, in 1963, fifty-six PAC members went on trial in Steynsburg for involvement in Poqo activities. The Commission heard that Mr Velile Willie Ramncwana [EC1235/96NWC], one of the accused, was tortured in detention by unknown police officers in Venterstad and Colesburg. They threw water over him and beat him on the head with bricks. One eardrum was damaged, leaving him partially deaf. He was sentenced to three years in prison.

68 The most famous of the PAC prisoners from the Eastern Cape was the PAC president, Mr Robert Mangaliso Sobukwe [EC0155/97ALB]. Sobukwe was sentenced to three years' imprisonment in May 1960. Once he had completed his sentence, Parliament introduced a special amendment to the Suppression of Communism Act to provide for people convicted of certain political offences to be held in continual detention after completion of their sentences — if the Minister of Justice believed that they were likely to 'further the aims of Communism' on their release. In terms of a clause amending the General Law Amendment Act (No 37 of 1963), often referred to as the 'Sobukwe clause', Sobukwe was detained on Robben Island until May 1969, when he was released and banished to Kimberley until his death in 1978. According to his widow, Ms Zondeni Veronica Sobukwe:

*My husband was to be released on 30 May [1963] but he was not released. The government refused. He was one of the people who built up an organisation. They then decided that they will pass a Sobukwe Clause so that they can keep him ...*

*It is both the NP and the opposition party of the day that agreed that he should be, he should remain in jail. It is only Helen Suzman who spoke up for him. Even the opposition party said that he should remain in custody. Nobody wanted him to be released.*

69 Ms Sobukwe said her husband had been healthy before he was jailed but became ill while in jail. She unsuccessfully petitioned the government for his release so that he could get medical treatment at home. In 1966, he was admitted to hospital under a false name and had an operation about which his family was not informed. He also told his wife he had been given food with broken glass in it while on Robben Island. After his release, in Kimberley, Sobukwe suffered from a chronic cough. The family was initially refused permission to take him to Johannesburg to see a specialist. Sobukwe eventually died of lung cancer in 1978.

#### *The Pondoland Revolt<sup>11</sup>*

70 The granting of self-government status to Transkei and Ciskei (in 1963 and 1972 respectively) was a first move towards setting up homeland parliamentary systems, separate homeland legislation and separate homeland police forces. (Military structures followed only at independence.) Although the Transkei Police force was set up in 1966, the SAP retained access to both homelands.

- 71 The incidents that collectively became known as the Pondoland Revolt took place primarily in 1960-61 in the Pondoland region of former Transkei. The Commission received over 200 human rights violations statements in connection with the Pondoland Revolt, almost all of which were taken in the Bizana-Lusikisiki-Flagstaff regions, mostly from the Bizana area. No amnesty applications were received in connection with this matter. A public hearing was held at Lusikisiki in March 1997, generating enormous public interest. The gap of nearly four decades since the revolt meant that the Commission had difficulty collecting information and retrieving documentation. While some of the deponents had been personally involved in the revolt and could speak from their personal experiences, many stories were given to the Commission by descendants who lacked clear information on what had happened. Some deponents reported victims on both sides of the conflict.
- 72 The cases reported to the Commission included ten people killed by security forces outside of custody, eight deaths and disappearances in custody, three people killed by *iKongo* members, five permanent disappearances, seventeen judicial executions, approximately ninety people whose subsequent deaths were attributed to their treatment in custody, numerous cases of assaults and torture in custody, and various attacks on property both belonging to *iKongo* members and to those who supported Bantu Authorities. A total of fifty-three deaths was directly attributable to the conflict, and a further ninety deaths are believed by community members to have flowed from the conflict. Several deponents reported banishment to different areas.
- 73 The roots of the revolt were traced back to the 1950s and to the resistance by Pondoland communities to the imposition of the Bantu Authorities Act of 1951 (the forerunner to homeland rule) which provided for the establishment of tribal, regional and territorial authorities in the homelands. By the 1960s, the Pondoland communities were accusing the chiefs of being dictatorial and of abusing the powers granted to them, which included the running of tribal courts and the allocation of land. There was dissatisfaction with the rule of Paramount Chief Botha Sigcau, who years later was to become the first state president of the independent Transkei. Requests to the magistrate to meet with the community to discuss grievances were turned down. Mr Clement Khehlana 'Fly' Gxabu [EC0882/96ETK] told the Commission:

*Our chiefs were singing the same song with the Boers which created the division between Pondo people and the chiefs. In 1960, we took a decision to defy the chiefs' authority over us. Instead of attending their tribal courts, we decided to go to the mountains to have our court there, to solve our problems without the chiefs.*

- 74 Those who opposed the chiefs' rule started holding their own meetings, first in forests and later on hilltops, leading to the naming of the movement as the '*Intaba* (mountain) Committee'. It later became known as *iKongo*<sup>12</sup>. Statements to the Commission indicated that the first mountain committee was formed at Nonqulwana Hill near Bizana, followed by committees at Ngqindilili Hill, Indlovu Hill and Ngquza Hill, all in the Flagstaff-Lusikisiki area. The Pondoland Revolt was generally referred to by deponents to the Commission as '*Nonqulwana*' after the first hill committee. While this movement clearly involved ANC supporters, the revolt appears to have been a local initiative in response to local grievances rather than a planned ANC campaign. Of those linked to the *iKongo* group who made statements to the Commission, all but one indicated allegiance to the ANC; the single PAC member told the Commission that at the time of these uprisings he had been an ANC member.

75 *iKongo* members and supporters took action against chiefs and those they regarded as collaborating with them. It appears that property was initially the primary target: a large number of huts belonging to Bantu Authorities supporters were burnt down. A few months later, the chiefs and their perceived 'collaborators' themselves became the targets. Southall records that twenty-two people identified in some way with the authorities were killed by *iKongo* members. The Commission received several submissions relating to such attacks, including three killings.

76 Some families were caught up on both sides of the conflict. A local headman, Mr Manhanha Maqewu [EC2067/97ETK and EC1807/97ETK], joined the *iKongo* group and attended their meetings. His daughter-in-law, Ms Virginia Nodipha [EC1807/97/ETK], told the Commission:

*There was a day when he did not excuse himself from attending a meeting at Ndlovu because of an aching leg. Some men came with torches on the night of 18 December 1960 and attacked and killed him.*

77 Another daughter-in-law, Ms Nyembani Mafololzi Mbotho, told the Commission that "he was killed with swords as he was suspected of being an informer". Ms Mbotho added that her husband, Mr Mikayeli Nodipha, was jailed for ANC membership for three years in 1961 and that her house was burnt down.

78 There were also clashes between *iKongo* members and police. In March 1960, Mr Bhungweni Tshezi [EC1496/97ETK] died after police beat him with rifle butts in the Bizana area.

79 In May 1960, a meeting held at Ngquza Hill was teargassed from a helicopter by the security forces. Armed *iKongo* members fired at the helicopter. At one of the *iKongo* meetings in May, Mr Earnest Gwede Pepu [EC1762/97ETK] was shot dead by police and Mr Nkosayipheli Msukeni [EC1828/97ETK] was severely injured by the police and died on the way to hospital.

80 On 6 June 1960, a group of *iKongo* members were meeting again at Ngquza Hill when two aircraft and a helicopter dropped tear gas and smoke bombs on them<sup>13</sup>. Mr Clement Gxabu told the Commission that, although some of the *iKongo* members had been armed at the May meeting; they were not armed at the June meeting because they "intended convincing them that we were not at war with them but only needed a government delegation to talk to us about our grievances". Thus, they had been expecting a representative from the government to come and meet with them at Ngquza. When the police arrived instead, the group raised a white flag. Police emerged from nearby bushes and opened fire, killing eleven people, including the leader, Mr Wana 'One' Johnson [EC0544/96ETK], Mr Sigwebo Mfuywa [EC0335/96ETK], Mr Ntamehlo Sipika [EC0881/96ETK], Mr Khoyo Chagi [EC0534/96ETK] and Mr Ndindwa Popotshe [EC0541/96ETK] and wounding many others, including Gxabu. Mfuywa's daughter-in-law, Ms Mabathini Ntombizabantu Mfuywa, told the Commission:

*We were told that father was shot in the arm. He fell. As he was down, he was shot at the back of the head and the bullet exited through the nose and he died instantly. We never attended his funeral.*

81 Mr Sijumba Mlandelwa [EC0880/96ETK] and Mr Madodana Ndzoyiyana [EC1659/ 97ETK] disappeared permanently after the Ngquza shootings and no bodies were found. Mr Ngangilizwe Bele [EC2066/97ETK] disappeared in the same year, shortly after police arrived at his village to arrest people. His family never saw him again.

- 82 In late October 1960, an inquest heard that *post mortems* on the exhumed bodies of the eleven killed at Ngquza Hill indicated that six had died from bullet wounds, three from bullets in the back of the skull. Due to the late exhumations, it was not possible to determine the cause of death in the others. Lawyer Roley Arenstein, who represented the families of some of the dead men, was restricted by the government to the Durban area and could not attend the inquest. Another lawyer appeared instead. The inquest subsequently called the police actions “unjustified and excessive, even reckless”. It appears, however, that no members of the security forces were prosecuted<sup>14</sup>. This is likely to have been because the Indemnity Act of 1961 provided that no civil or criminal proceedings could be brought against the government or anyone acting under government authority in respect of acts carried out in good faith (after 21 March 1960) with the intention of restoring public order.
- 83 It appears that both the SAP and the South African Defence Force (SADF) were involved in the Ngquza Hill incident. Most accounts (including reports on the inquest) point to the police as having carried out the shooting, while the aircraft and helicopter must have belonged to the SADF as the SAP did not have such items at that time<sup>15</sup>. Mr Gxabu told the Commission that men parachuted down from the aeroplane during the Ngquza incident: these were presumably soldiers rather than police. The South African National Defence Force (SANDF) denied SADF involvement in the incident, while the South African Police Services (SAPS) had no record of it. A number of factors support the suspicion that the shootings were a planned ambush. These include the arrival of the security forces instead of the expected government representatives at the meeting, the absence of any reports of warnings by the security forces calling for the meeting to disperse before the teargassing and shootings, the fact that the white flag was ignored, the use of Sten sub-machine guns (as found by the inquest), and the fact that some of those at the meeting were shot in the back of the head.
- 84 The Ngquza Hill shootings were followed by mass detentions and arrests by police and further attacks on Bantu Authorities supporters by *iKongo* members. Mbeki reports that twenty-three people were arrested on charges of fighting after the Ngquza Hill shootings. Nineteen of these were subsequently sentenced to prison terms ranging from eighteen months with six strokes to twenty-one months. At least some of the *iKongo* members sentenced to death also appear to have been convicted on charges arising out of this incident. Statements to the Commission indicate that police tracked down and detained others who had been at Ngquza Hill and also people who had not been there but were known to the local authorities as *iKongo* activists. Deponents told the Commission that some of those taken into custody were beaten at the time of arrest; some were tortured in detention. Family members who were suspected of hiding wanted people were assaulted by police. Statements to the Commission indicate that the vast majority of those detained and arrested were men.

THE COMMISSION FINDS THAT THE STATE USED SEVERAL CHIEFS IN THE TRANSKEI REGION TO SILENCE POLITICAL OPPOSITION TO THE POLICY OF APARTHEID, USING METHODS INCLUDING BANISHMENT, FORCED REMOVAL OF POLITICAL OPPONENTS AND DESTRUCTION OF THEIR PROPERTY.

THE COMMISSION FINDS FURTHER THAT PARAMOUNT CHIEF KAISER DALIWONGA MATANZIMA ORDERED OR SANCTIONED SEVERAL VIOLATIONS OF HUMAN RIGHTS INCLUDING TORTURE OR PHYSICAL ASSAULTS ON PEOPLE. THE COMMISSION FINDS THAT THESE ACTIONS AMOUNTED TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH SOME OF THE CHIEFS IN TRANSKEI REGION, INCLUDING PARAMOUNT CHIEF KD MATANZIMA ARE HELD RESPONSIBLE.



THE COMMISSION FINDS THAT A GROUP OF PEOPLE CALLING THEMSELVES 'IKONGO MEMBERS' WERE INVOLVED IN HUMAN RIGHTS VIOLATIONS WHEN THEY CARRIED OUT REVENGE ATTACKS ON PEOPLE WHO WERE ALLEGED TO BE SUPPORTERS OF THE BANTU AUTHORITIES, KILLING SOME AND BURNING DOWN THEIR PROPERTIES. THIS CONTRIBUTED TO A CULTURE OF POLITICAL INTOLERANCE IN THE EASTERN CAPE AND AMOUNTED TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH IKONGO MEMBERS ARE HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT THE SECURITY FORCES, IN THE FORM OF THE SAP ACTING WITH SUPPORT FROM THE SADF, SHOT AND KILLED ELEVEN PEOPLE AND INJURED AN UNKNOWN NUMBER OF OTHERS NEAR NGQUZA HILL ON 6 JUNE 1960. THE COMMISSION FURTHER FINDS THAT NO WARNING WAS GIVEN BEFORE THE SHOOTING STARTED AND THAT UNJUSTIFIABLE DEADLY FORCE WAS USED. THE COMMISSION FINDS THAT THE ACTIONS OF THE SECURITY FORCES AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP AND THE SADF ARE HELD ACCOUNTABLE.

- 85 By September of 1960, authorities were restricting media access and denying that the unrest was a revolt against the Bantu Authorities. In a statement to the press, the commissioner-general for the Xhosa group, Mr JH Abraham, said:

*Tribal clashes, which occur from time to time and which have occurred regularly throughout history, are presented as revolts against the system of Bantu Authorities. Even when the true facts are supplied to these newspapers, the paragraph giving the facts is carefully deleted.*

- 86 A commission of enquiry was set up under the Chief Bantu Affairs Commissioner of Ciskei, Mr J A van Heerden, and announced its findings to a mass meeting of about 15 000 Pondos in October. It reported that it had found that secret meetings had been held, that law-abiding people had been threatened that their huts would be burnt if they did not attend these meetings and that many huts had been burnt, causing £20 000 worth of damage. It also found that, although mistakes had been made in implementing the Bantu Authorities provisions, people in Pondoland had been misled into believing the government was against them. Some of the people's complaints were justified, but a number of the grievances could not be blamed on the Bantu Authorities system. It appears that the enquiry did not look into the shootings by police. A public meeting at Imizizi Hill in Bizana later rejected the commission's finding and decided to stop paying taxes and boycott white-owned stores in Bizana. The inquest, later that month, criticised the police shootings.
- 87 In November 1960, police disrupted a meeting at a hill near Flagstaff and shot and killed Mr Qhuntswana Gilbert Bewu [EC2065/97ETK]. Chief Vukayibambe Sigcau (brother to the paramount chief) was accused of helping the police in this attack and he and two of his headmen were subsequently killed. Mr Sheleni Mhlokulu and Mr Shadrack George [both EC0656/96ETK] were convicted of murder in connection with the killing of Sigcau. George handed himself over to police after hearing that police had damaged his home while searching for him. Both were subsequently executed.
- 88 On 14 December, a state of emergency was declared in terms of Proclamations 400 and 413, prohibiting meetings and giving chiefs powers of banishment. Mbeki states that 4 769 people were detained during 1960, 2 067 of whom were eventually brought to trial. By the end of 1960, the uprising appears to have been over. Most of the leadership was in jail, dead or in hiding. Mbeki records that, between 24 August and 28 October 1961, thirty people were

sentenced to death in trials arising out of the revolt; Southall states that nine of these were later reprieved. The Commission received statements in connection with seventeen executions.

89 Mr Simbo Hlongwe Khalakahle said his father, Mr Cenjulwa Hlongwe [EC0337/ 97ETK] was one of those sentenced to death in the Kokstad court: "He was then taken to Pretoria and my mother and brother were taken to Pretoria to watch my father die".

90 While some of those on trial were represented by lawyers, it appears that some were not. Mr David Tshikilo Manqa [EC1821/97ETK], who was acquitted on appeal on charges of burning down a chief's house, was represented by lawyers during the trial. Manqa told the Commission:

*When the chief saw this, he took police and went to raid my house at three in the morning. They shot at my house, harassed my family, destroyed my property, stole R100 of mine and eventually shot me in the chest and left leg.*

91 He was charged with attacking the police, denied access to his lawyer for this case and jailed for two years.

### **Other resistance to homeland rule**

92 The violence and mass arrests of the Pondoland Revolt subsided within months, but isolated resistance to homeland rule continued. It appears that the ANC initially decided to work within the new homeland structures, but had grown disillusioned with them by the early 1970s.

93 Detentions in the Transkei continued in terms of the emergency regulations of Proclamation 400. Those seen as opponents of homeland rule were sometimes subjected to forced removals on the order of the local chief. The Minister of Bantu Administration and Development told the South Africa parliament that twenty-seven people in Transkei were living under such removal orders, served between 1961 and 1972.

94 At the Lusikisiki hearing, Mr Clement Gxabu and Mr Simon Silangwe told the Commission that *iKongo* members had asked the then ANC president, Chief Albert Luthuli, for advice on the proposed independence for Transkei. Luthuli, who was banned at the time, told them they should not oppose independence but rather get their own candidates elected in the new Umtata parliament. Silangwe reported:

*He said to us, "Comrades, there is nothing I can do and you cannot fight whilst you are outside. You can fight a bit better when you are inside". What he was advising us to do is for us to elect our own people and go to Umtata and fight from within the parliament there.*

95 Gxabu said *iKongo* members were involved in forming the opposition Democratic Party, several of whose members were subsequently detained by police. By 1970, with growing disillusionment among Transkei ANC supporters about the possibility of working within homeland parliamentary structures, a network in Pondoland began recruiting people to leave the country for training in the ANC's armed wing, MK.

- 96 Various people were detained at this time for recruiting for MK. The Commission heard allegations of torture in detention, including beatings and electric shocks. Again the Mkambati police station is mentioned as a site of torture; it appears that a more permanent structure had been set up by this time. Several of the cases of torture and death in detention described earlier relate to this period.

## ● 1976–1982

### Overview of violations

- 97 After the relatively quiet later 1960s and early 1970s, two major influences ushered in a period of heightened political activity. These were the national education protests and the rise of the BCM followed by other mass-based organisations. The Commission received many reports of shootings by security forces during the education protests that spread to the Eastern Cape after 1976. Many of the detentions reported were related to these protests.
- 98 The BCM gained momentum in the mid-1970s and developed a strong following in the Eastern Cape. A large number of those detained were from its ranks. After its collapse in the face of police repression, other mass-based organisations started to emerge in the Eastern Cape, such as the Port Elizabeth Black Civic Organisation (PEBCO) and the Congress of South African Students (COSAS). It was also at about this time that the ANC began to infiltrate units of trained guerrillas back into the Eastern Cape. Political trials began again, along with reports of abductions and killings. The Commission received numerous allegations of torture in detention and, indeed, the deaths in detention that occurred in this period need to be viewed in the context of such reports of torture. There were also attacks on police officers and people perceived to be collaborating with the state.
- 99 The pattern of violations in the Eastern Cape reported to the Commission for this period differs from that of 1960–75.
- 100 Whereas severe ill treatment, followed by torture, previously accounted for the bulk of the violations, during this period torture accounts for 39 per cent of the violations, followed by severe ill treatment. This indicates a shift in the site of violations, with a greater proportion of reported violations now taking place in custody; alternatively, it indicates an increasing severity of violations taking place in custody.

### State and allied groupings

#### *Public order policing: The mass protests of the education crisis*

- 101 The national education protests of June 1976 soon spread to the Eastern Cape, starting with violence in Port Elizabeth and Uitenhage in August. Many areas in the Eastern Cape were affected at various times by the boycotts and clashes between police and youths.

- 102 The Port Elizabeth–Uitenhage area was a frequent site of protests and the clashes that resulted. During 1976–78, a special police ‘anti-riot unit’ – the Unrest Investigation Unit – operated in that area. Although not a part of the security police, it fell under the command of the Port Elizabeth security police chief and was assisted by the regular police Riot Unit. The Unrest Investigation Unit claimed to have been responsible for 2 000 arrests in two years<sup>16</sup>. Riot police were allegedly instructed to identify and shoot at ringleaders of mob actions and to arrest those unable to move when the crowd dispersed. On the following day, police would go to the hospitals and arrest all those with bullet or shotgun wounds. A day or two later, all police officers who had fired upon anyone would have to identify those they had shot from the arrested suspects.
- 103 By 18 August 1976, ten people had been killed and over twenty injured by police in clashes in Port Elizabeth and Uitenhage. Youths targeted schools, police vehicles and municipal bottle stores for stoning and arson attacks. In Port Elizabeth, during August and September, eighty-nine buses were stoned, and there were arson attacks on twenty black schools, five bottle stores and twelve shops. There was extensive damage – estimated by police at R1.4 million – to thirty-four police vehicles and various government buildings.
- 104 Mr Thembile Yawa [EC1462/97PLZ] was shot dead by police outside the Mbilini Street police station in KwaZakhele, Port Elizabeth in one of the early clashes on 18 August 1976. His aunt, Ms Babana Rebecca Nontshapho Yawa, said police told her that he had been shot “as he was the ringleader of violence”.
- 105 A day later, eleven-year-old Zoliswa Florence Tiyo [EC0668/96PLZ] was shot dead by security forces in White Location, Port Elizabeth while on her way home from school. Zoliswa’s mother, Ms Theodora Nosisi Tiyo, said security force members told her to go to the mortuary to identify her daughter’s body. She told the Commission:
- I indeed went there and I found her dead. There were a lot of other children; they were packed as a load of sheep. There were so many bodies there, I couldn’t find my child, but I was taken to another room which was separate from this one. I could see one of the children and my daughter was next to that.*
- 106 On the first anniversary of the education crisis, violence escalated again in the Port Elizabeth–Uitenhage area as the events of 1976 were commemorated. Following a mass protest march in Uitenhage on 16 June 1977, six shops and schools were burnt down. A number of people were shot the following day, allegedly as they were about to set fire to a municipal beer hall. One of those shot dead on 17 June was a twenty-three-year-old labourer, Mr Michael Mzwandile Booi [EC1085/96UIT]. His mother, Ms Nontobeko Mavis Booi, said she had not known why he did not return home that night:
- On Sunday, I read a [news]paper that six people died in the shooting by police. On Monday, I found my son’s body at the mortuary.*
- 107 Protests followed the September 1977 death in detention of Black Consciousness leader Steve Biko. In Queenstown, police stopped a march, using batons and teargas. In the ensuing four days of unrest, two people were killed, a police officer’s home and other public buildings burnt and over eighty people arrested.

- 108 It was during this march on 30 September that Mr Lenare Moerane [EC0652/96QTN] was shot in the head. He died a few days later. Mr Billy Dagada, who told the Commission that he had been with Moerane when he was shot, said they had been shot by police in vans and by people (also believed to have been police) inside a house:

*Some of the shots were coming from a house ... That is where comrade Lenare died. I was also shot. We were all taken into a police van. I was unconscious and we were taken to a mortuary here in town, only to find that I was still alive, then I was taken to hospital.*

*We were interrogated by policemen ... some of us were under police guard for twenty-four hours. At about ten I was taken to the police station and I was tortured.*

- 109 On 7 October, the Ezibeleni township in the Transkei, just across border from Queenstown, was sealed off by Transkei police. In November, Mr Mnyamana Patrick Mayana [EC0420/96QTN] was shot dead by police in Queenstown while waiting outside a friend's house.
- 110 Protests spread to Cradock. On 8 November 1977, seventeen-year-old Mr Rocky James [EC0144/96NWC] was arrested by police under the Riotous Assemblies Act and shot dead the following day. Police said James was questioned in the municipal offices in Lingelihle township and escaped; they gave chase and fired two shots. The attorney acting on behalf of the James family said that township residents walking to work on the morning of 9 November found the boy's naked body. The family believe James was assaulted by police, and rejected police claims that he was shot while trying to escape.
- 111 The day after James' body was found, police fired birdshot at a crowd of stone-throwing youths. Three days later, police opened fire on a crowd that had reportedly set fire to three schools after a funeral.
- 112 The following month, police fired at a crowd that had gathered in New Brighton, Port Elizabeth to protest about the death in custody of Mr Mzukisi Nobadula (see below). Mr Mongezi Andrew Khomo [EC0659/96PLZ] was shot dead. Khomo's mother, Ms Monica Thandiswa Khomo, told the Commission:

*In the evening of 27 December 1977, I heard gunshots being fired just outside my house. I could not go outside as the shooting was still continuing; instead I peeped through the window. I saw a person being dragged by policemen to a police van which was parked in front of my gate ...*

*On the following morning, we found a pool of blood near our gate. We then decided to go to Louis le Grange police station to report the matter and try to establish Mongezi's whereabouts. We found Mongezi's body in the police mortuary. He had been shot through the head.*

*On the day of the funeral, a police helicopter flew over our house firing birdshot and throwing teargas canisters at the crowd of mourners. As a result thereof I could not go to the graveyard to lay my son to rest as I was unconscious from the affects of the teargas.*

113 The next night, Mr Mtuthuzeli Michael Heshu [EC0305/96PLZ] was beaten and then shot dead by police in New Brighton, Port Elizabeth. He was returning from a party with his girlfriend when police ordered him to have sex with her in the street in their presence. He refused and they got into a fight. The police dragged him into an alley and his girlfriend, Ms Liziwe Ndzimasi, fled. She heard three shots. The next day police informed Heshu's father that his son had been killed by riot police "during an attack on police". The body had a broken femur and three bullet holes. An inquest found the killing to be "justifiable homicide". According to police evidence, Heshu was shot during an attack on a school which police had been guarding<sup>17</sup>. The death of Heshu fuelled anger in the township and tension mounted until the funeral took place on 7 January 1978. At the funeral, the police fired on peaceful mourners.

114 On 15 March 1978, sixteen-year-old Makhwenkwe Madalane [EC0042/96ALB] was shot dead by police in New Brighton, Port Elizabeth. They told the family he had tried to set fire to a bakery truck. Madalane was an activist who had earlier been forced to flee his home in Grahamstown due to police pressure. A *post mortem* was held but the family was not told the outcome.

115 Thirteen-year-old Xolani Kannetjie Stuurman [EC1551/97NWC] was shot dead in Cradock in November 1978. His sister, Ms Nontobeko Bernadette Vala, said he was shot near the shop where he worked after school:

*People were shouting at the tops of their voices and others were crying hysterically. I then decided to go outside and investigate what was going on. Outside the yard in Kannemeyer Street next to the municipal building where the municipal police were staying, I observed that the SAP was chasing everybody who was in the street ... people were saying that my brother had been shot. I then followed the people who led me to the shop. I saw Xolani lying in front of the shop on his back. He had a bullet wound in the forehead.*

116 Clashes between police and scholars continued in Grahamstown in 1980. On 9 July, fifty-seven-year-old Ms Violet Tsili [EC0046/96ALB] was shot dead when she passed a crowd of 1 000 boycotting pupils who were being dispersed by police with dogs, batons and birdshot. Over 2 000 people attended her funeral on 19 July, during which police again used teargas and birdshot to break up the crowd. They shot a sixteen-year-old boy, Mr Boyboy Nombiba, in the stomach, killing him [EC0204/96ALB]. After Nombiba's funeral on 26 July, police fired at a crowd of mourners who they said were attacking a Hippo (police armoured vehicle). Two men, Mr Tunu Nxawe (28) and Mr Blacky Freddie Tsili [EC0201/96ALB] were killed. Mr Bulwana Vaaltyn [EC0523/96ALB] was shot in the stomach and injured by police patrolling the township; he later instituted a successful claim against the police.

117 Back in Port Elizabeth, Mr Lulamile Henry Woji [EC0444/96PLZ] was shot dead while visiting a neighbour near his home one evening in November 1980. Woji's aunt, Ms Nozibonele Mabel Woji, told the Commission:

*It appears he was with two friends inside the yard at this house when a bus without lights came along. Someone was running towards the group in the yard and went past them running. The soldiers in the bus started shooting through the fence, hitting Lulamile Henry Woji in the chest. He fell and died immediately with three bullet wounds.*

118 About two weeks later, scholar Mr Tefo Timothy Machesa [EC0560/96UIT] was shot dead during the school boycotts in Uitenhage. He was on his way to buy bread. His mother, Ms Malehlohonolo Lucy Machesa, told the Commission:

*Later a friend, Tesco, informed me that he and Tefo and another friend saw a police van. As the police were shooting at random they decided to run and entered a nearby house. It is where Tefo was hit and police dragged his body outside and put stones in his pockets.*

- 119 She said the family were told Machesa's body had been kept overnight among prisoners to delay its discovery. An inquest found that police had acted in self-defence.

### *Torture in custody*

- 120 Detentions continued in both homelands throughout this period. These were associated mainly with the education protests and with protests against independence. The Commission received several reports of deaths in detention in the Eastern Cape in the late 1970s, both through victims' submissions and through amnesty applications. In addition, numerous activists made allegations of torture while in security police custody. Some of the cases of severe torture reported to the Commission occurred directly after deaths in detention had taken place, suggesting that police were unconcerned that the torture of detainees might prove fatal. Cases reported to the Commission suggest that Port Elizabeth was one of the main sites of torture in custody.

#### **The case of Mzukisi Mapela**

*In June 1977, Mr Mzukisi Petros Mapela [EC0563/96UIT] was involved in the burning of a municipal office and a beer hall in commemoration of the events of the previous year. Three months later, he was arrested in KwaNobuhle by security police and taken to police offices where he was handcuffed, shackled and his head was immobilised. He was then hit continuously on the head with a piece of pipe for some hours. He eventually signed a statement implicating himself. His head was swollen and he could not lie on his back. He did not see a doctor until he was taken to North End Prison, where he was cursorily examined by Dr Ivor Lang and told that he was 'okay'.*

*He was convicted on 6 October 1977 at Algoa Park, Port Elizabeth, and sentenced to six years' imprisonment, of which he served four and a half years in North End and St Albans Prisons. While in North End, he was assaulted by warders and abused by criminal prisoners. When he complained, he was put in solitary confinement for ninety days. He received treatment only after his release in 1982. His hearing is permanently impaired and he is still affected by the trauma. He is unable to get work or to communicate effectively.*

#### **The case of Moki Cekisani**

*Mr Moki Jacob Bonisile Cekisani [EC2701/97PLZ and CT05004/ECA], president of the Black People's Convention (BPC) in Port Elizabeth, was tortured in custody at the Security Branch headquarters in Port Elizabeth's Sanlam Building, the day after Biko's funeral in September 1977. Cekisani told the Commission that a bag soaked with water was placed over his head and that he was rammed against a wall and given electric shocks. Cekisani named some of those involved in the assaults as Sergeant Nieuwoudt and others linked to Biko's death. He was admitted to hospital the same day, after a severe attack of epilepsy.*

## *Deaths in custody*

### **The case of Mapetla Mohapi**

*Mr Mapetla Mohapi [EC0007/96PLZ], a BCM activist from King William's Town, the national centre of BCM activism, was detained on 15 July 1976 under the Terrorism Act. He died in custody at the Kei Road police station on 5 August 1976. Police claimed he had committed suicide, but his family do not believe this. An inquest found nobody responsible for the death.*

*Mohapi had previously been detained in October 1974 and held for 164 days in 1974 before being released without charge. He was banned in September 1975.*

*Mohapi's widow, BCM activist Ms Nobuhle Mohapi [EC0007/96PLZ], was herself detained the following year and told the Commission of assaults in detention in Port Elizabeth. She was detained at the same time as Steve Biko, for whom she worked as a secretary. Mohapi was subjected to both physical and psychological torture:*

*"During the six months, everything was revolving around Steve Biko. At times, they would bring blank papers so that I could sign, and they promised to release me if I should sign them. But they asked me if I wanted the same thing to happen as happened to my husband. At times I would be fastened to a grille and then would be assaulted brutally and would be unable to defend myself. There was not even a chance to run away because the grille holds you so fast that you cannot do anything about it ...*

*"I stayed six months in solitary confinement in Port Elizabeth, and they would come and report some of the things that are happening at home. They even came and told me that my youngest child is dead. They even promised to release me so that I can attend to the funeral. And they also insisted that I should sign this paper. They told me that they wanted to take the paper to Steve Biko so that he can know that I'm also inside. Each time they said this, Steve would always deny and say they were threatening him. He didn't believe that I was arrested, and I wanted not to make them happy about this."*

*She refused to sign anything. Ms Nobuhle Mohapi was banned on her release; she lost her job and was forced to send her children to live with her in-laws to protect them from police harassment. She told the Commission:*

*"After the death of Mapetla, I was full of hate. I was full of hate that can never be countered. I was hating anybody who was in the police ... Even the children, when you speak to them, you have to tell them that these are the people who oppressed us but one day they will change."*

### **The case of Mr George Botha**

*Mr George Botha [EC1587/97PLZ], a thirty-year-old teacher at Paterson High School, was detained in Port Elizabeth on 10 December 1976 under Section 22 of the General Laws Amendment Act. He died in the Sanlam*



*Building five days later. The security police claimed that, after interrogation in which Botha gave incriminating information, he committed suicide by jumping down a stairwell from the sixth floor.*

*The police officers involved were Major Harold Snyman, Sergeant Rowland E Prinsloo and Captain Daniel Petrus Siebert.*

*At the inquest, magistrate JA Coetzee found that nobody was to blame for his death, although there was substantial evidence that he had been assaulted. Although the court accepted the findings of Drs Benjamin Tucker and Gideon Jacobus Knoebel that there were injuries on the body that had been inflicted before death, the magistrate found that the police evidence was satisfactory and the court did not know how the injuries were sustained.*

*At the Commission's amnesty hearing into the death of Steve Biko in 1997, Major Snyman was asked about the death of George Botha. He acknowledged that he had been present when Botha died, but repeated the version of events given by police to the inquest – that Botha had 'broken free' and jumped down the stairwell to his death. Nobody applied for amnesty for Botha's death.*

THE COMMISSION FINDS THAT THE PERIOD 1976—1982 WAS CHARACTERISED BY AN INCREASE IN THE RELIANCE BY THE SAP ON ILLEGAL METHODS OF POLICING, THE UNJUSTIFIED USE OF DEADLY FORCE, AND THE ASSAULT AND TORTURE OF SUSPECTS AND DETAINEES, RESULTING IN THE DEATHS OF AND SEVERE INJURIES TO LARGE NUMBERS OF PEOPLE. THE COMMISSION FINDS THAT SUCH ACTS WERE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE. EVIDENCE BEFORE THE COMMISSION INDICATES THAT MANY ACTIVISTS AND DETAINEES WERE DETAINED AND TORTURED AT THE POLICE SECURITY BRANCH HEADQUARTERS AT THE SANLAM BUILDING IN PORT ELIZABETH.

### **The case of Steve Biko<sup>18</sup>**

*Black Consciousness leader Steve Biko [CT05004/ELA] was detained on 18 August 1977 in Port Elizabeth and died in custody on 12 September 1977 in Pretoria.*

*Security police officers Major Harold Snyman [AM3918/96], Captain Daniel Petrus Siebert [AM3915/96], Warrant Officer Ruben Marx [AM3521/96], Warrant Officer Jacobus Johannes Oosthuizen Beneke [AM6367/96] and Sergeant Gideon Johannes Nieuwoudt [AM3920/96] alleged that Biko died of brain injuries sustained in a 'scuffle' with the police at the Sanlam Building, Port Elizabeth.*

*At the inquest, magistrate Marthinus Prins ruled that Biko's death was caused by a head injury, probably sustained on 7 September during a scuffle with security police in Port Elizabeth – but that there was no proof that the death was brought about by an act or omission involving an offence by any person.*

*The police officers involved applied for amnesty for the incident and the amnesty hearings took place in Port Elizabeth twenty years after Biko's death. The Biko family did not ask the Commission to make a finding on his death.*

THE COMMISSION FINDS THAT THE DEATH IN DETENTION OF MR STEPHEN BANTU BIKO ON 12 SEPTEMBER 1977 WAS A GROSS HUMAN RIGHTS VIOLATION. MAGISTRATE MARTHINUS PRINS FOUND THAT THE MEMBERS OF THE SAP WERE NOT IMPLICATED IN HIS DEATH. THE MAGISTRATE'S FINDING CONTRIBUTED TO THE CREATION OF A CULTURE OF IMPUNITY IN THE SAP.

DESPITE THE INQUEST FINDING WHICH FOUND NO PERSON RESPONSIBLE FOR HIS DEATH, THE COMMISSION FINDS THAT, IN VIEW OF THE FACT THAT BIKO DIED IN THE CUSTODY OF LAW ENFORCEMENT OFFICIALS, THE PROBABILITIES ARE THAT HE DIED AS A RESULT OF INJURIES SUSTAINED DURING HIS DETENTION.

IN VIEW OF OUTSTANDING AMNESTY APPLICATIONS IN RESPECT OF BIKO'S DEATH, THE COMMISSION IS UNABLE TO CONFIRM A PERPETRATOR FINDING AT THIS STAGE.

### **The case of Mzukisi Nobadula**

*Mr Mzukisi Melvin Nobadula [EC0662/96] died in a Port Elizabeth prison in December 1977. He was detained and appeared in the Grahamstown Supreme Court on a case against PEBCO leader Mr Thozamile Botha and two others. He refuted a statement he had been forced to sign implicating Botha.*

*The accused were released, but Nobadula was redetained and held as an awaiting-trial prisoner, pending perjury charges arising out of the Botha case. His family was later informed that he had died in custody. Dr Lang conducted a post mortem and stated that the victim died of natural causes. However, it was found that the body had scars and burns on the back. Attorney John Jackson, who was representing Nobadula, had told the Port Elizabeth regional court that he had seen Nobadula days earlier when he appeared to be in perfect health. A senior police officer said in a statement the day after a post mortem examination that no signs of any criminal offence causing Mr Nobadula's death in prison had been found, but that more tests would be made before an official report was issued by the police.*

*Jackson recounts that he learnt of the circumstances of Nobadula's death from one of his cellmates: a prison warden had taken his asthma pills and spray away from him and that night, in the grossly overcrowded cell, he had an asthma attack. Despite calls for help from other prisoners, the warders refused to help and threatened beatings. Nobadula died, and no inquest was held<sup>9</sup>.*

### **The case of Lungile Tabalaza**

*Mr Lungile Tabalaza [EC0002/96PLZ] was detained on 10 July 1978 in connection with arson attacks and the robbery and burning of a delivery van. He died the same day, in custody at the Sanlam Building, Port Elizabeth. Police claimed he had committed suicide by jumping from the fifth floor of the Sanlam Building — from an unbarred window in Sergeant Nel's office. Major PR de Jongh, Lieutenant Verceuil, Sergeant PJ Nel and Constable Mene were involved with Tabalaza's interrogation.*

*It was reported<sup>10</sup> that Tabalaza died shortly after being transferred by uniform police to the custody of the Security Branch. Photographs of bodies, smuggled to London, suggest he may have suffered injuries before the fall, and may have been suspended by his feet.*

*At the start of the inquest in Port Elizabeth, the government pathologist acknowledged that several bruises and lacerations could have been sustained before he fell. Magistrate Willem Lubbe told the inquest that he had seen Tabalaza less than an hour before his death, but had refused to investigate allegations of assault made by Tabalaza. Lubbe said he was “shocked” and regretted that he had not investigated Tabalaza’s fears that he would be beaten if he did not make a statement when he was taken back to security police offices.*

*The inquest held in October 1978 found no one responsible for his death. Justice Minister Jimmy Kruger and others tried to lessen the embarrassment of Tabalaza’s death by portraying him as a “common criminal”. Mr Kruger claimed that the barring of windows, which he had ordered to prevent such deaths, had not yet been completed in Port Elizabeth. In response to the outcry following Tabalaza’s death, three Security Branch officers were transferred, including Colonel Goosen, the local Security Branch chief, who was posted to another district.*

THE COMMISSION FINDS THAT THE ACTIONS OF THE SAP AND THE NAMED POLICE OFFICERS INVOLVED IN THE KILLING OF DETAINEES AT THE SANLAM BUILDING IN PORT ELIZABETH CONSTITUTE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP AND THE NAMED POLICE OFFICERS ARE HELD RESPONSIBLE.

### *Vigilantes*

- 121 In Grahamstown in 1980, some parents opposed to the school boycotts formed a vigilante group called the Peacemakers. On 14 May, Peacemakers member Mthantiso Alfred Soya [EC0437/96ALB] was attacked with *pangas* and stoned to death by youths in the grounds of a Grahamstown school, following a clash between scholars and police supported by the Peacemakers. Several youths were later convicted in connection with this murder. The widow, Ms Nomilile Phyllis Thandiwe Soya, told the Commission:

*The youth did not attend schools. As a result, the parents were disturbed by this; they tried by all means to persuade children to go back to school. It was then that the Peacemakers were formed ... we decided that we are going to ask the Peacemakers to persuade the children to go back to school ... The parents decided to ask the Peacemakers, not the police because the police might shoot the children.*

- 122 The Peacemakers did not succeed in ending the boycott; instead, there was a violent clash involving students, Peacemakers and police at Andrew Moyake School in Joza, Grahamstown. Ms Soya added that the police had assaulted the children and the children had retaliated.

### **Resistance and revolutionary groupings**

- 123 Black police officers — especially the Security Branch — township municipal councillors and people regarded by UDF supporters as collaborating with the state were targets of attack.

## *Resistance to homeland rule*

- 124 Transkei's independence in October 1976 was ushered in by a wave of detentions of anti-homeland rule campaigners. A similar intolerance of dissent marked Ciskei's independence in 1982. The South African Proclamations 400 and 413, issued in 1960 to help suppress the Pondoland Revolt in Transkei, were replaced by the Transkei Public Security Act of 1977. By 1980, Transkei had declared a state of emergency in terms of this Act.
- 125 Although forced removals were not defined as violations in terms of the Commission's mandate, they were a significant part of repression in the homelands. The use of forced removals to consolidate the homelands was well under way by this period. The Commission received individual statements from people who had opposed such removals.
- 126 Banishment was one tool used to silence dissent. People could be banished to another area in the homeland, from South Africa to a homeland, or even expelled from a homeland.

### **The case of Ezra Zeera Mtshontshi**

*Mr Ezra Zeera Mtshontshi [EC0969/96ELN] was first detained in 1963 in connection with PAC activities after being deported from Zimbabwe. In 1976, he was detained in Transkei for opposing Transkei independence. In 1980, he avoided being served with a Transkei banishment order by fleeing over the border to King William's Town.*

### **The case of Phindile Mfeti**

*Trade unionist Phindile Mfeti [EC0020/96STK] was detained in 1977, banned on his release and banished from Transvaal to Butterworth in Transkei. Mr Mfeti disappeared permanently while in Durban in April 1987.*

### **The cases of Chiefs Mbeki and Anderson Joyi and Others**

*In 1978, Chiefs Mbeki Marhelane Bangilizwe Joyi [EC0259/96UTA] and Anderson Dalagubhe Joyi [EC2437/97UTA] were banished along with their followers to different places within Transkei, after opposing the Matanzima government. In 1980, their homes were demolished, apparently on government orders. They were able to return home only after the military coup of 1987.*

THE COMMISSION FINDS THAT THE TRANSKEI HOMELAND AUTHORITY, THROUGH ITS PRESIDENT PARAMOUNT CHIEF KAISER DALIWONGA MATANZIMA, WAS RESPONSIBLE FOR ORDERING OR SANCTIONING VARIOUS ACTS WHICH AMOUNT TO GROSS VIOLATIONS OF HUMAN RIGHTS – INCLUDING THE DETENTION OF MR EZRA ZEERA MTSHONTSHI, THE DETENTION OF MR PHINDILE MFETI AND THE BANISHMENT AND DESTRUCTION OF PROPERTIES OF MR BANGILIZWE JOYI AND MR DALAGUBHE JOYI.

## *Unions*

- 127 In Ciskei, the new homeland government targeted emergent trade unions, effectively outlawing unionism in the territory. The South African Allied Workers' Union (SAAWU) was formed in 1979 with a base in East London, just outside Ciskei, and organised among workers who worked in East London but returned home across the Ciskei border to Mdantsane at night. SAAWU had a substantial impact on the emergence of unionism in the region. Unionists were sometimes detained by the SAP and were handed across the border to the Ciskei Police.
- 128 SAAWU leader Thozamile Gqweta was repeatedly detained and his family harassed. His mother was killed in a petrol bomb attack on his home in 1981.

#### **The case of Deliswa Roxiso**

*After attending the funeral of Gqweta's mother in Peelton on about 8 November, Ms Deliswa Roxiso [EC0377/96ELN] was shot dead by Ciskei police. Her mother, Ms Philda Novula Roxiso told the Commission:*

*"On their arrival at Mdantsane Highway and while they were alighting from the buses, the police started firing at them. It is said that my daughter was first shot at the leg and then on the head. She then fell on the ground. She was then dragged by the same members of the police force into the back of the police van."*

*Ms Philda Roxiso said her husband had tried to find Deliswa, but police initially refused to talk to him. Eventually he was able to meet with Ciskei security chief Charles Sebe, who told him that Deliswa had been shot by the police.*

#### **The case of Bonisile Norushe**

*Mr Bonisile Philemon Norushe [EC0389/96ELN], a branch secretary for the African Food and Canning Workers' Union, was detained by the Cambridge security police in East London after a 16 June commemoration service in 1980. He told the Commission of his assault in detention:*

*"One policeman ... who was leading the attack, pushed his middle fingers into both my ears. He kicked me on the groin and that blow lifted me up and I hit the roof with my head and fell down unconscious."*

*Norushe still suffers from the after-effects of the assaults. The police held him for a year, telling him they were planning to bring sabotage charges against him. Instead, he was called as a state witness in the trial of another unionist, Mr Mandla Gxanyana. On refusing to give evidence in that case, he was jailed for about a year.*

*In 1983, a year after his release, the Cambridge security police again detained him and handed him over to the Ciskei police. He and his wife eventually fled into exile.*

THE COMMISSION FINDS THAT THE CISKEI HOMELAND AUTHORITY, THROUGH ITS PRESIDENT CHIEF LENNOX SEBE AND THE HEAD OF THE CISKEI SECURITY FORCES GENERAL CHARLES SEBE, WAS RESPONSIBLE FOR ORDERING OR SANCTIONING VARIOUS ACTS WHICH AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS — INCLUDING THE SEVERE HARASSMENT, DETENTION AND TORTURE OF THE LEADING MEMBERS OF SAAWU AND THE KILLING OF MS DELISWA ROXISO.

THE COMMISSION FINDS THAT THE ACTIONS OF THE TRANSKEI AND CISKEI HOMELAND AUTHORITIES AMOUNTED TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH PARAMOUNT CHIEF KAISER DALIWONGA MATANZIMA AND CHIEF LENNOX WONGAMA SEBE, IN THEIR CAPACITIES AS HEADS OF THESE AUTHORITIES, ARE HELD RESPONSIBLE.

### *M K actions and state response*

- 129 From the mid-1970s, there were a number of trials of people who had undergone military training, and in many cases detainees were interrogated and tortured before being brought to trial. In most instances, the suspects had not been involved in any operations, and often had not yet left the country for military training, but were merely planning to do so. One of those cases involved Mr Sipho Fielden Hina [EC1863/97ALB], who was called as a state witness in the trial of Mr Joe Mati in East London in 1978. Hina was detained in Port Elizabeth for six months from 7 June 1977 and reported being tortured. He refused to testify and was sentenced to six months' imprisonment.
- 130 At this time, the ANC was improving its capacity to wage an armed struggle, continuing to focus on strategic installations. In the Eastern Cape, however, MK's capacity was still limited. Mr Chris Hani had moved to Lesotho in about 1974 and, while a level of communication existed between activists in the Eastern Cape and the ANC in Lesotho, the infiltration of armed units from outside the country was restricted. People attempting to strengthen the link were quickly hunted down and suppressed by the security police. One example of this was the killing of COSAS activist Mr Sizwe Kondile in 1981, one of the first cases of security police arranging the 'disappearance' of an ANC member.

#### **The case of Sizwe Kondile**

*Mr Gcinisizwe 'Sizwe' Kondile [EC0021/96STK] was a Port Elizabeth activist and a founder member of COSAS. In contact with the ANC in Lesotho, Kondile and five others formed an underground ANC cell inside the country in about July 1980.*

*When two members of the cell — Mr Thembi Mbiyabo and Mr Nangamso Ndzube — were arrested, Kondile and the other cell members (Mr Vusumzi Pikoli, Mr Thozzi Majola and Mr Phaki Ximiya) decided to leave the country in September 1980.*

*They went to Maseru, Lesotho, where they met with former PEBCO leader Mr Thozamile Botha and Mr Chris Hani. They were given basic training and told to build the underground in the Eastern Cape. This involved moving back and forth between Lesotho and South Africa.*

*Kondile went into South Africa on a brief mission in June 1981, and returned safely to Maseru in the same month. Later that month he disappeared from Maseru.*

*The South African Police claimed that Kondile had been arrested in Port Elizabeth on 26 June 1981, but had been released in August 1981. Because he had borrowed Chris Hani's car on the day he disappeared, the ANC suspected him of being a traitor, and the family suffered political isolation and trauma as a result of this.*

*It emerged subsequently (in the evidence of former police captain Dirk Coetzee to the Harms Commission in 1990) that Kondile had been kidnapped in Maseru, Lesotho, by members of the security police's Vlakplaas unit. He was detained in Port Elizabeth, then taken to Jeffreys Bay police station where he was tortured and sustained a brain haemorrhage. Colonel Nick Van Rensburg of the Port Elizabeth security police then drove him to Swaziland and handed him over to Coetzee. He was taken to Komatipoort on the Mozambique border, poisoned and shot, after which his body was burnt while those responsible drank beer.*

*Applications for amnesty for the abduction and killing of Kondile were heard in Port Elizabeth in October 1997. Applications were made by Mr Dirk Johannes Coetzee [AM0063/96], Mr Nicolaas Johannes Janse van Rensburg [AM3919/96], Mr Gerrit Nicholas Erasmus [AM4134/96], Mr Hermanus Barend du Plessis [AM4384/96] and Mr Johannes Gottfried Raath [AM4397/96].*

- 131 Between late 1980 and mid-1982, several bombings occurred around Port Elizabeth and East London, causing injuries and damaging property. Most of these acts can be attributed to MK units operating from Lesotho from the second half of 1981 until May 1983. In August 1981, a member of one of the units was killed in a series of clashes with police while trying to escape back to Lesotho (see below). Another cell member died in a sabotage attempt in January 1983 (see 1983–90); the rest of that cell were killed or put on trial.
- 132 In November 1980, MK member Gwaza Duckworth Twalo [EC0128/96KWT], who was operating out of Lesotho, disappeared in Transkei. His family heard that he had been arrested and “thrown down a cliff” at the Umtata Central Prison. The Commission was not able to clarify what had happened to Mr Twalo.
- 133 On 6 August 1981, one person was injured in a bomb blast at Central Square in East London’s city centre. The following day a shoot-out was reported between the police and MK guerrillas in Butterworth, killing two Transkei police officers, including a Captain Ngidi. The guerrillas escaped and later that day were involved in another shoot-out with the SAP at a roadblock near Elliot on the road to Lesotho, resulting in the injury of two SAP members, the death of two guerrillas and the arrest of another. Six days later, there was a final clash between the surviving guerrillas and the SAP on a farm near Aliwal North, during which the two last guerrillas were killed.
- 134 As a result of the Commission’s investigations, the remains of the four guerrillas were found buried in unmarked graves on a farm in Aliwal North. The remains of Mr Senzangabom Vusumzi ‘George’ Khalipha, [EC2318/97PLZ], Mr Anthony Sureboy Dali [JB00216/01GTSOW], Mr Thabiso Isaac Rakobo [JB02461/01GTSOW], Mr Joseph Lesetja Sexwale [JB02462/01GTSOW] and two others were exhumed and reburied; Khalipha, who was the only one from the Eastern Cape, was reburied in Port Elizabeth. The man arrested near Elliot was Mr Mveleli ‘Junior’ Saliwa [EC2691/97UTA], who had been driving the group. He was subsequently put on trial in Umtata.
- 135 The first Transkei terrorism trial was held in 1981. Among the accused were Mr Mzwandile ‘Kaiser’ Mbete [EC972/96ELN], Mr James Kati [EC0309/96WTK], Mr Mkhangelisi Matomela [EC0121/96KWT], Mr Alfred Marwanqana [EC0670/96PLZ] and Mr Mveleli ‘Junior’ Saliwa [EC2691/97UTA], who had been captured during the August 1981 shoot-outs. Some were members of the opposition Democratic Progressive Party’s (DPP) youth league. Matomela and Marwanqana were finally acquitted in 1982; all the other co-accused were convicted and given sentences ranging from five to thirteen years’ imprisonment. Most of them had been in detention for more than a year before being

charged, and most spoke of torture by police. Marwanqana, who had been jailed on Robben Island for ANC activities in the 1960s, fled into exile soon afterwards. He and two of his children, Thandiswa and Mzukisi, were killed in the SADF raid on Lesotho in December 1982.

- 136 In 1982, COSAS activist Siphwe Mthimkulu [EC0034/96PLZ] and his friend Tobekile 'Topsy' Madaka [EC0766/96PLZ] were abducted from Port Elizabeth and killed by security police. In his amnesty application, Port Elizabeth police officer Mr Gideon Nieuwoudt referred to attacks on police officers at the time and claimed that the two activists were linked to these attacks and to a spate of bombings. This was used to explain the context in which the two were assassinated. However, it appears that while Mr Mthimkulu and Mr Madaka were linked to the ANC in Lesotho, they were part of a 'propaganda wing' involved in pamphlet distribution and were not involved in the armed actions.

### **The case of Siphwe Mthimkulu**

*Mr Siphwe Mthimkulu [EC0034/96PLZ] was a student activist in Port Elizabeth from 1979 until 1982, when he disappeared. He was chairperson of the Loyiso High School Students' Representative Council and an active COSAS member. It is also widely believed that he was an underground member of the then banned ANC.*

*Mthimkulu was involved in the COSAS schools boycotts of 1980–81 and a campaign against Republic Day celebrations in 1981, which involved the distribution of ANC pamphlets in Port Elizabeth. Along with other COSAS members, he was detained on 31 May. After being shot while trying to escape detention, he was treated in Livingstone Hospital. He was held at the Security Branch headquarters in Port Elizabeth as well as Algoa Park and Jeffreys Bay police stations and was subjected to extensive interrogation and torture, including suffocation, electric shocks, sleep deprivation and being forced to stand on bricks for many hours.*

*He was released without charge on 20 October 1981, after five months in detention. He made a statement to his lawyer and instituted a case against the Minister of Police for assault and torture. The day after his release Mthimkulu complained of pain in his stomach and legs and was soon unable to walk. Fighting for his life, he was admitted to Livingstone Hospital. In November, he was transferred to Groote Schuur Hospital in Cape Town, where his hair started to fall out. Neurologist Dr Frances Ames diagnosed poisoning with thallium, an odourless and tasteless poison unavailable in South Africa except to the state.*

*In January 1982, Mthimkulu returned to Port Elizabeth in a wheelchair. The police claimed that a top-level investigation into his poisoning was being conducted. On 2 April 1982, he instituted a second claim against the Minister of Police, this time for poisoning. Within two weeks, he had disappeared.*

*Ms Joyce Mthimkulu, Siphwe's mother, last saw him on the morning of 14 April when he left for Livingstone Hospital with his friend, Mr Tobekile 'Topsy' Madaka, who often helped COSAS members with transport. After visiting the hospital, Mthimkulu spent the evening with other COSAS members, including Mr Madaka, Mr Lulu Johnson, Mr Tango Lamani and Mr Themba Mangqase. Mthimkulu left Johnson's house that evening with Madaka and Mangqase, dropped Mangqase off and arranged to return to Johnson's house later.*



*They never came back, and it seems that Mangqase was the last person to see them alive before they were abducted. About a week later Madaka's car was found at Sterkspruit in the Transkei, near the Telle Bridge border post with Lesotho. Madaka's passport and Mthimkulu's wheelchair were inside. The two families received anonymous telephone calls claiming the youths were safe. Enquiries on behalf of the Mthimkulu family at the time ascertained that Mthimkulu was not in custody in South Africa or Transkei. Enquiries through the United Nations High Commission for Refugees, the Civil Rights League, the ANC and churches in Lesotho, and a trip to Lesotho, confirmed the Mthimkulus' belief that he had not gone into exile.*

*In 1986, security police searched the Mthimkulu's house, claiming Siphiwe was back in the area after being trained as a 'terrorist'. In response to questions in Parliament, Mr Louis le Grange, then Minister of Police, said the police had no knowledge of Mthimkulu's whereabouts and "had not communicated any information about him to his relatives".*

*In April 1990, Mr Dirk Coetzee revealed at the London sitting of the Harms Commission that Mthimkulu had been poisoned, kidnapped and killed and that this had been arranged by Brigadier Jan du Preez of Security Branch headquarters in Pretoria and Colonel Nick van Rensburg of the Port Elizabeth Security Branch. Coetzee alleged that Brigadier Jan van den Hoven had had the rare poison flown to Van Rensburg, who had it administered to Mthimkulu before his release from detention. Coetzee claimed that Du Preez had told him about the killing.*

- 137 In response to these allegations, Mthimkulu's parents, Sipho and Joyce Mthimkulu, expressed the wish to see the place of their son's death and to retrieve his bones for a proper burial. Madaka's parents had both passed away in April 1990.
- 138 The cases were scheduled to be heard at the first hearings of the Commission in East London on 15 April 1996. An interdict brought by Brigadier Jan du Preez and Major General Nick van Rensburg in the Cape Town Supreme Court ruled that the Commission should not hear the matter before these officers had been given time to study the allegations against them. At the second Eastern Cape hearings of the Commission in Port Elizabeth on 22 May 1996, Ms Mthimkulu collapsed when she was informed that once again a court interdict prevented her from telling the story of her son's disappearance. A crisis situation was defused when thousands of demonstrating COSAS members were allowed into the Centenary Hall in New Brighton and given an assurance that Mthimkulu's case would be heard at a special hearing of the Commission in the same venue on 26 June. An additional interdict brought by Mr Gideon Nieuwoudt also specified that Ms Mthimkulu could not name him as one of her son's torturers. The ANC organised demonstrations and marches in Port Elizabeth protesting against the silencing of the Mthimkulus.
- 139 The Mthimkulu and Madaka cases were finally heard at a special hearing of the Commission's Human Rights Violation Committee on 26 June 1996 at the Centenary Hall, New Brighton. On the day before the hearing, a Cape Town Supreme Court ruling overturned the previous decisions and ensured that the evidence of Ms Mthimkulu could be heard. Various COSAS activists also gave evidence, handing in a list of COSAS activists who had died in this period and naming a number of Security Branch officers as torturers.

- 140 In January 1997, amnesty applications regarding the deaths of Mthimkulu and Madaka were received from Port Elizabeth Security Branch officer Gideon Nieuwoudt, Colonel Nick Van Rensburg, Major Hermanus Barend Du Plessis and Colonel Gerrit Erasmus. At a press conference in Port Elizabeth on 28 January 1977, it was revealed that the bodies of Mthimkulu and Madaka had been burnt and their remains thrown into the Fish River near the disused Post Charmers police station near Cradock. The Commission took the families to the site of the killings and disposal of the bodies. At the amnesty hearings later, the security police admitted to having abducted and killed the two activists, but they denied all knowledge of torture and poisoning.
- 141 Because the audience and families did not feel that the whole truth had been revealed, and because of the attempts by the security police to prevent the case from being heard on previous occasions, the amnesty hearings were fraught with tension and anger. At one point, a part of the crowd obstructed the armoured vehicle in which the amnesty applicants were being transported from the hall.

THE COMMISSION FINDS THAT THE SAP WERE RESPONSIBLE FOR THE ABDUCTION AND KILLING OF POLITICAL ACTIVISTS IN THE EASTERN CAPE — INCLUDING MR GCINISIZWE KONDILE WHO WAS ABDUCTED AND KILLED BY MR DIRK JOHANES COETZEE, MR NICHOLAS JANSE VAN RENSBURG, MR GERRIT ERASMUS, MR HERMANUS BAREND DU PLESSIS AND MR JOHANNES RAATH ON 26 JUNE 1981; AND MR SIPHIWE MTHIMKULU AND MR TOPSY MADAKA WHO WERE ABDUCTED AND KILLED BY MR GIDEON NIEUWOUDT, MR NICHOLAS JANSE VAN RENSBURG, MR GERRIT ERASMUS, MR HERMANUS BAREND DU PLESSIS, MR JAN VAN DEN HOVEN AND MR JAN DU PREEZ.

THE COMMISSION FINDS THAT THE ACTIONS OF THE SAP AND THE NAMED POLICE OFFICERS AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP AND THE NAMED POLICE OFFICERS ARE HELD RESPONSIBLE.

## ● 1983–1989

### Overview of violations

- 142 In the Eastern Cape, as in the rest of the country, these seven years were marked by renewed protest against apartheid structures. The UDF established a presence in the Eastern Cape from 1983, leading to clashes with the state and its allies, including vigilante groups. These clashes were characteristic of this period, evidenced in police shootings of UDF-aligned protesters, UDF attacks on police and community councillors – the Black Local Authorities (BLAs) – and the accompanying practice of ‘necklace’ killings and burnings, the increase in (mainly ANC) guerrilla activity in the country and the killing of guerrillas and key activists by the security forces.
- 143 About half of this period was spent under a state of emergency: a limited state of emergency affecting western parts of the Eastern Cape around Cradock lasted from July 1985 to March 1986, followed by the declaration of a national state of emergency three months later and lasting until 1990. The emergency had a significant impact in the Eastern Cape, with thousands being detained. In September 1985, the courts granted an interdict, brought by district surgeon Dr Wendy Orr and others, restraining police from assaulting emergency detainees.

- 144 Submissions received by the Commission indicate that violations in the Eastern Cape for this period were once again dominated by severe ill treatment (38 per cent of the Eastern Cape violations).
- 145 While severe ill treatment and torture remain the two biggest violation categories, as in the previous two periods, killings in this period increased to 16 per cent, becoming the third biggest category of violations reported to the Commission. This is probably a result of the large number of clashes between police and protesters.
- 146 There was a sharp increase in killings, torture and severe ill treatment in 1985, just before the state of emergency. Torture was a key violation in the Eastern Cape during this period.

### **State and allied groupings**

#### *P u b l i c   o r d e r   p o l i c i n g*

- 147 Shootings accounted for about 22 per cent of the serious violations (that is, killings, attempted killings, abductions, torture and severe ill treatment but excluding associated violations) reported to the Commission in statements for the Eastern Cape region during 1983–89. Generally, these occurred in public order policing situations. About half of the shooting violations were fatal and, half of the shooting violations over these seven years occurred during 1985, with another 22 per cent the following year. The Commission received reports of shootings from towns across the province, but the Port Elizabeth–Uitenhage region accounted for nearly a third of all the reported Eastern Cape shootings during this period.
- 148 Particularly in 1985, there were large-scale police shootings of demonstrators in public order policing situations. Some of these larger incidents are detailed below. Evidence about these and numerous other smaller incidents was heard at the Commission's hearings. These included the Mdantsane railway shootings by Ciskei security forces in August 1983, the Langa massacre by police at Uitenhage on 21 March 1985 and police shootings at Duncan Village and Aliwal North in August 1985 and at Queenstown in November 1985. In addition, the Commission was told of three incidents during 1985 (in Despatch, Uitenhage and Steynsburg) in which SAP members shot protesters in 'Trojan Horse' type incidents. This period thus saw the bulk of the mass shootings reported to the Commission in the Eastern Cape.
- 149 Police unrest statistics for the Port Elizabeth–Uitenhage area for the period 21 March 1985 (the date of the Langa massacre) to 29 May 1985 give an insight into the level of violence at the time. During this period, 108 people died in unrest: of these, sixty-eight were killed by police and forty by 'rioters'.
- 150 The South African Police Services (SAPS) provided the Commission with a copy of the SAP's Standing Orders (SOs) for dealing with public order protests during this period – SO 210 and 211 effective for the period January 1985 to August 1990. The SAPS stated that these documents were the closest that could be found to regulations for dealing with mass actions. These brief documents do not appear to give police much guidance on dealing with the mass protests of this period. Such outdoor protests were by definition illegal, were often spontaneous and sometimes resulted in violence. The SOs contained no explicit ruling on how to prevent or contain the political protests so typical

of the mid-1980s, nor how to liaise with the military if troops were brought in. No mention is made of what equipment police should be issued with for such events, nor is mention made of the use of minimum force.

*The Ciskei bus boycott and the railway station shootings: 1983*<sup>21</sup>

- 151 On 18 July 1983, a boycott of the partly government-owned Ciskei Transport Corporation (CTC) buses started in Mdantsane, Ciskei, in protest at an 11 per cent fare increase. The boycott lasted several years and involved shooting of and assaults on commuters by the Ciskei security forces backed up by vigilantes, in attempts to force commuters to use the buses.
- 152 The Commission received numerous statements in connection with violence that broke out during the bus boycott; many of those who made statements were also heard at the hearing at Mdantsane in June 1997.
- 153 When the boycott started, commuters initially walked to work in large groups, from Mdantsane across the Ciskei border to East London, a distance of about twenty kilometres. These groups effectively became mass demonstrations against the bus company. Later, more use was made of private taxis and trains.
- 154 Within days, the boycott elicited a violent response from Ciskei authorities. Security forces and vigilantes set up roadblocks in Mdantsane, and there were reports of commuters being hauled out of taxis and ordered onto buses. On 22 July 1983, five people were shot and wounded by Ciskei security forces at the Fort Jackson railway station. On 30 July, a man was attacked and killed by vigilantes while walking near the Mdantsane stadium, used by vigilantes as a base. On 3 August, a state of emergency was declared in Mdantsane and a night curfew imposed. Meetings of more than four people were banned and people were prohibited from walking in groups larger than four. The following day Ciskei forces opened fire on commuters at three Mdantsane railway stations.
- 155 In the dark early winter morning of Thursday 4 August, Mdantsane commuters started walking up the small hill to the railway line that ran alongside Mdantsane and the three stations of Fort Jackson, Egerton and Mount Ruth that served the township. The state of emergency had been declared the evening before and the first nightly curfew had just ended at 04:00. Many commuters were probably still unaware of the emergency or the curfew. They were met at each station by a human blockade of armed police and soldiers, supported by vigilantes armed with sticks and *sjamboks* (whips). The security forces apparently had one aim: to get the commuters back onto the buses. Within an hour, commuters had been shot at all three railway stations.
- 156 Ms Valencia Ntombiyakhe Madlityane [EC2091/97ELN] said she was shot by soldiers at Mount Ruth station at about 05h00 after she ignored police orders to use a bus instead of the train. At least three people died in the incident. At 04h20 union employee Ms Kholeka Dlutu<sup>22</sup> heard shooting at Egerton where commuters also died. Shooting was also reported at Fort Jackson, where some injuries were reported. All in all, "at least six commuters died and dozens were injured<sup>23</sup>. The fact that shooting happened at more than one station points to a co-ordinated security force operation with orders to stop commuters from catching the trains at all costs. While police later claimed they were attacked, attempts to prosecute commuters for such attacks failed and it seems unlikely there would have been similar attacks at all three stations at the same time."

157 Ms Kholeka Dlutu said she heard shooting and went with her aunt to see what was happening. Ms Dlutu stated in an affidavit:

*Somewhere near the church nearby a corner house, on the way to Egerton Railway Station, we came across a girl who was bleeding from the thigh and screaming. She alleged that she had been shot by the police ... We proceeded and saw many people in an open veld standing opposite Egerton Station, and a smaller group of people, some wearing brown overalls and some wearing other police or army uniform, standing on the opposite side nearer the station. The two groups were facing each other. Whenever the commuters moved towards the station, the other group, to whom I shall collectively refer as the police, would advance as if to meet the first group halfway, causing the commuters to retreat, some of whom ran into residential yards.*

*At that stage, visibility was poor, but the action described above went on for so long that the light gradually improved. Meanwhile, some of the commuters were managing to escape and reach the railway line by taking devious routes and crossing the railway line. Later, when the police advanced once more, the commuters did not run but shouted out that they were not at war with the police and only wanted to get to the railway station so as to board trains to East London.*

*The police drew their firearms, and, without having given any warning fired at the commuters who just stood still, apparently not having expected to be fired upon. Even from where I stood, somewhat further away from the commuters, I feared that I might also be struck by bullets and I ran away.*

*Before running away I saw an elderly man fall to the ground holding his leg, which was bleeding. He complained that he had been shot. As I ran away, I went past a young man wearing a bluish overall lying prostrate on his back on the ground apparently motionless. I also noticed some vigilantes approach the said elderly man. They beat him severely as he lay on the ground. I crawled on all fours and heard further gunshots and bullets whizzing past me. Three bullets struck the wall of a house in front of me, leaving visible holes.*

158 The affidavit later helped win an urgent interdict aimed at stopping security force and vigilante assaults. Ms Dlutu was chased by police and hid in a nearby house. She watched police assault the injured young man and then throw both him and the older man into the back of a police truck. The young man is believed to have been twenty-seven-year-old Mr Lawrence Vukile Cecane [EC2625/97ELN]. He was later found to have died.

159 Mr Goodman Toko [EC2215/97ELN] and Mr Nyanisile Alton Vusani [EC2174/97ELN] were also shot dead by police the same morning at Mount Ruth station. Mr Fuzile Caza [EC0220/96ELN] was shot by Ciskei security forces (the family believed that the Ciskei Defence Force (CDF) was involved) at Mount Ruth station; he died in hospital a year later from his injuries. His family tried to bring a civil claim against the Ciskei authorities but heard nothing further from their lawyers. They heard that police had claimed that Caza had been holding an illegal gathering and had been shot after throwing stones at the police. His brother, Mr Mykeni Wellington Caza, told the Commission that Caza had been assaulted and left for dead by vigilantes.

160 The Commission received several other accounts of the shooting in which victims were killed or severely injured. Mr Zola Malgas [EC2178/97ELN] described how police tried to force commuters onto buses.

*Near my house, there was a bus which people were told to board instead of using trains. I went out to see with my family but I told my wife to take the kids inside the house. Due to gunshots, we ran inside the house. My wife, Christina Malgas, was snatched by a bullet on the head, leaving a gap on the hair; there are still bullet holes in our door.*

161 There were no reports to the Commission of any warnings before shooting began. Most victims did not know what had happened. It seems that few, if any, of those injured or families of those killed received compensation from the Ciskei government. Several deponents who had been injured spoke of having had to pay money to the government for court proceedings but not receiving any payments in return. They were unable to say what the legal proceedings had been about. Some of those injured said they had subsequently been arrested, charged and acquitted, without knowing what the charges had been.

162 At the time, Ciskei authorities said police had been attacked. The Commission did not, however, receive any statements indicating that this was so. It is worth noting that, by the end of August, fifty-nine people accused of attacking the police at the railway stations on 4 August had been found not guilty by the Mdantsane court. A year later, a group of ten were acquitted on charges of public violence relating to the incident, or charges against them had been withdrawn.

163 The Commission could find no indication that anyone was prosecuted in connection with these killings. About eighteen months after the shootings, the Ciskei Attorney-General said he had referred files on four of the six known killings back to the police for further work, and that police were still working on a fifth file. The inquests into four of the deaths eventually began in September 1986, three years after the shootings. Nobody was found to be criminally liable for the killings.

164 There was confusion and panic in Mdantsane after the shootings. Ciskei authorities issued contradictory reports and hospital staff were under pressure not to release details. It was alleged that soldiers prevented people from entering the casualty ward to find the dead and the injured. One persistent rumour was that as many as ninety people had died. However, the Commission did not receive statements indicating a large number of previously unknown deaths and/or disappearances and was unable to substantiate this.

165 Detentions and assaults followed the shootings, some of which were reported to the Commission. A large number of people were charged in connection with breaking the curfew. Two more people were shot dead by Ciskei police within days of the railway station shootings.

166 Six Mdantsane residents working in East London and taxi operator Mr Khabalinjani Mabulu were granted interim orders prohibiting members of the Ciskei security forces and vigilantes from assaulting, molesting, harassing, intimidating or unlawfully interfering with them.

- 167 One deponent alleged that the SAP had also acted against boycotters. Ms Misiwe Evelyn Keye [EC0951/96ELN] said she had been bitten by police dogs, assaulted by the SAP and dragged onto the railway line at Arnoldton station, just outside East London, the day after the Mdantsane railway station shootings: "I think they were angry simply because we were boycotting buses".
- 168 The actions of the security forces and vigilantes elicited a violent response from some of the boycotters, who targeted the vigilantes as well as government structures and individuals believed to be linked to the bus company. Buses were attacked with petrol bombs and stones. The homes of two people believed to be vigilantes assisting the police were burnt down. About 1 000 pupils boycotted school in Mdantsane and within ten days six schools had been damaged in arson attacks. In late July, a bus crashed when a stone thrown at it knocked the driver unconscious. The sole passenger escaped unhurt. In early August, ruling party official Mr Robert Ndlovu's home in Mdantsane was petrol-bombed and three of his children were killed. Ndlovu had been involved in urging commuters to use buses.
- 169 A large number of detentions were recorded. By the end of August, over 1 000 people had been detained under the emergency regulations. At the same time, at least sixty-seven were detained under Ciskei's Internal Security Act, including eight members of the Committee of Ten which was set up to negotiate around the boycott<sup>24</sup>. A lawyer who represented some of the detainees, Mr Hintsa Siwisa, was himself detained. Following the boycott period, a Committee of Ten member, Ms Priscilla Mxongo, was hospitalised following assaults in detention; another, Mr Eric Mntonga, was subsequently killed in detention in Ciskei in July 1987, while at least two others (Mr Mzwandile Mampunye and Mr Newell Faku) were charged with 'terrorism'. Unionists were also targeted for detention during the boycott. Some unionists were detained by the SAP and handed over to Ciskei. The militant SAAWU, formed in East London in 1979, had been struggling to operate in Ciskei before the boycott started and the Ciskei authorities used the boycott as an excuse to suppress the union. Chief Lennox Sebe openly accused SAAWU of being behind the boycott. SAAWU unionists were detained and by 5 September, the union had been banned in Ciskei<sup>25</sup>.
- 170 The bus boycott was finally called off at a mass meeting held by the Committee of Ten on 15 March 1985.

THE COMMISSION FINDS THAT THE RESPONSE OF THE CISKEI POLICE FORCE AND THE CDF TO THE 1983 MDANTSANE BUS BOYCOTT WAS GROSSLY UNLAWFUL, AND THAT THE POLICE ACTIONS IN ATTEMPTING TO BREAK THE BOYCOTT AND FORCE PEOPLE TO USE BUSES LED TO THE COMMISSION OF WIDESPREAD GROSS HUMAN RIGHTS VIOLATIONS, INCLUDING KILLING, ATTEMPTED KILLING, AND SEVERE ILL TREATMENT, FOR WHICH THE CISKEI POLICE AND CDF ARE HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT PRO-CISKEI GOVERNMENT VIGILANTES ALSO PARTICIPATED IN THE UNLAWFUL ATTACKS ON COMMUNITIES, AND ARE HELD EQUALLY ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS THAT RESULTED.

### *The Langa massacre: 21 March 1985*

- 170 In March 1985, tensions in Uitenhage townships reached boiling point. Between 8 and 10 March, police reported twenty-three incidents of arson and eighteen of stone-throwing, causing damage estimated at R220 000. The Minister of Law and Order, Mr Louis le Grange, had visited Uitenhage with the commissioner of police, General Coetzee on 19 February. They had been told that 'soft' weaponry was no longer effective for riot control purposes. On 14 March, Uitenhage's most senior police officers, the 'Order Group', decided to take stronger action to regain control. As from

15 March, police patrols were no longer issued with teargas, rubber bullets and birdshot; instead they were given heavy ammunition.

- 171 Meanwhile, police action against militant youth resulted in six black people being killed by police. The funeral of four of the six was to be held on Sunday 17 March and a stay away was called for Monday 18 March as part of the 'Black Weekend'. Police said that three petrol bombs were thrown at a police vehicle in Langa during this weekend, and that they shot and killed a young man. The houses of two police officers in Langa were destroyed by fire. On 17 March, Black Sash leader Ms Molly Blackburn burst into the Uitenhage police station where a youth, Mr Norman Kona, was being tortured by police. She halted the assault and saw that charges were brought against the police officers responsible.
- 172 The week before the funeral, Captain Goosen of the SAP applied for two different and conflicting orders relating to funeral prohibitions. Both were granted, resulting in confusion over the dates on which funerals were to be held.
- 174 On 21 March 1985, a large group of people from Langa township assembled at Maduna Square and began to march to KwaNobuhle to attend the funeral. The police blocked the road into the centre of Uitenhage with two armoured vehicles and ordered the crowd to disperse. When the crowd failed to comply immediately, police opened fire on the crowd, fatally shooting twenty. The incident became known as the Langa massacre.
- 175 The Kannemeyer Commission was appointed the day after the shooting with Judge Donald Kannemeyer as chairperson and sole member. The Kannemeyer Commission found that twenty people were shot dead and at least twenty-seven were wounded, and that the majority had been shot in the back. He found that, in the circumstances, the police could not be blamed for issuing orders to open fire. Police were armed with lethal weapons rather than standard riot control gear because of a deliberate policy adopted by senior officers, and the police should thus have foreseen that an order to open fire would result in fatalities. Police evidence of the weapons carried by the crowd was exaggerated.
- 176 Charges of public violence laid against thirty-one people following the Langa massacre of March 1985 were dropped a year later. Of the thirty-one charged, twenty-one had been injured by police gunfire.
- 177 A year later, an inquest at the New Brighton courts in Port Elizabeth found that the deaths were not the result of any act or negligence constituting a crime on the part of anyone. The inquest findings were based on the evidence heard by Kannemeyer and it was considered unnecessary to call any of the witnesses to give their evidence to the inquest. As a result of this decision, the families of the deceased withdrew from the inquest proceedings. Magistrate JS Knoesen said that, if any blame were to be attributed for police actions, the responsibility should lie with Lieutenant JW Fouche, who was in command of the Casspirs (armoured personnel carriers) and who gave the order to open fire. However, Knoesen found that Fouche had done his duty in dispersing the crowd which was on its way to kill white people in town; that every effort made by Fouche and Warrant Officer JW Pentz to halt the marching crowd had failed, and that Fouche and Pentz had seen objects that they believed to be petrol bombs among the crowd. Knoesen said:



*The court is satisfied that the amount of violence used was that which was required and justifiable under the circumstances.*

- 178 The Commission received statements in connection with more than twenty victims of this incident – about half relating to deaths, the rest to injuries. Part of one of the Uitenhage hearings in August 1996 was devoted to the Langa massacre. Those who gave evidence at this hearing included two men who had been working as ambulance drivers at the time. The dead included Mr Kenneth Thobekile Mahuna [EC0057/96PLZ], Mr Buyile Gladstone Blaauw [EC0555/96UIT], Mr Gugulethu Mzwabantu Gavu [EC0558/96UIT], Mr Aubrey Vuyo Nobatana [EC0559/96UIT], Mr Phakamile Nicholas Solomon [EC0562/96UIT], Mr Mgcineni Vusani [EC0615/96UIT], Mr Mzimkulu Penzana [EC0708/96UIT], Mr Phumzile Gladwell Plaatjies [EC0806/96UIT], Mr Sonwabo Kama [EC1080/96PLZ], Mr Zanele Sidwell Majikazana [EC1140/96UIT] and Ms May Vena [EC1197/96UIT], who all died on the day, and Mr Lungisile William Nqikashe [EC0685/96TSI], who was paralysed in the shooting and subsequently died after surgery.
- 179 There had previously been allegations that a baby had died in the shooting; the Kannemeyer Commission found that this was not true. One of the ambulance drivers told this Commission he had seen a dead baby at the scene, but nobody could corroborate this. This Commission also heard from a woman who said her baby had been ill with gastro-enteritis and she had arrived at the casualty department at the same time as many of those wounded in the massacre. Her baby had been certified dead on arrival at the hospital. It appears that this incident may have been confused with the massacre, and the Commission satisfied itself that this baby's death had no connection with the shooting.

THE COMMISSION FINDS THAT, WHILE THE SAP WERE JUSTIFIED IN PREVENTING THE MARCH AND DISPERSING THE CROWD, THEY RESORTED TO GROSSLY EXCESSIVE MEANS TO ACHIEVE THIS, USING UNJUSTIFIED DEADLY FORCE, AND THAT THEY ARE ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS (KILLINGS, ATTEMPTED KILLINGS AND SEVERE ILL TREATMENT) WHICH RESULTED FROM THEIR ACTIONS.

### *V i o l e n c e   i n   D u n c a n   V i l l a g e*

- 180 The Commission received a number of statements from people affected by unrest and killings that took place in Duncan Village, Aliwal North and Queenstown within months of each other during 1985, and which were in many ways typical of township unrest in other parts of the country.
- 181 Until August 1995, the predominant aspects of resistance and political mobilisation were less pronounced in Duncan Village (on the outskirts of East London) than in other townships around the country. There were, however, sporadic street battles between youths, students and the police, particularly in the context of intermittent schools boycotts. Pupils at Qaqamba Senior Secondary School boycotted classes early in 1985, demanding that their student representative council be recognised and corporal punishment abolished. On 11 April 1985, the pupils at Qaqamba apparently marched out of their school and demanded that other pupils from the nearby Nyathi and Makinana primary schools join them. They were confronted and dispersed by the police using rubber bullets. Persistent running battles between the police and boycotting students followed. In May, the local educational authorities suspended classes.

- 182 At that time, Duncan Village was under threat of removal to the nearby Mdantsane township, under Ciskei jurisdiction, which was causing substantial unhappiness in the township.
- 183 On 11 August, large-scale violence was sparked off in Duncan Village after the funeral of human rights lawyer and activist Ms Victoria Mxenge, who had been assassinated in Durban. Her husband, human rights lawyer and activist Mr Griffiths Mxenge, had been killed in Durban by a police hits quad some years earlier. She was buried next to her husband at her home village of Rayi outside King William's Town, about sixty kilometres from Duncan Village.
- 184 Mxenge's funeral was characterised by militant addresses to mourners and UDF supporters. The speakers' messages concentrated on demands for the release of Mr Nelson Mandela from prison, the withdrawal of the troops from the townships, the denunciation of government 'collaborators' and institutions and the lifting of emergency regulations. A message from Mr Mandela was smuggled out of prison and read at the funeral.
- 185 At the end of the funeral, members of the crowd attacked a passing vehicle with CDF soldiers in it. Corporal Mnyamezeli Bless [EC2782/96ALB] died after being stoned and set alight.
- 186 After the Mxenge funeral, there was violent unrest in Duncan Village, apparently started by the returning mourners. There were arson attacks on various buildings like the rent office, schools, a beer hall, a bottle store and a community centre. That evening, rampaging youths swept through the Ziphunzana area of the township, singing freedom songs. All six community councillors' homes were burnt down and homes of police officers and suspected 'collaborators' were also attacked. Youths stopped private cars and taxis travelling through the township and demanded petrol for making petrol bombs.
- 187 The police dispersed the youths with rubber bullets, teargas and sneeze powder. The violence continued the following day, a Monday, adversely affecting industry and commerce, with high absenteeism at local factories. There were also reports of looting and burning of commercial and delivery vehicles. Bread and milk deliveries to the township were affected.
- 188 Police are reported to have arrested many injured people as they were being treated at a local church aid centre. Many families were left homeless as a result of this violence. According to media reports, five people were dead by 14 August. The neighbouring coloured areas were also peripherally affected, as there was no instruction at their schools. Bus services were withdrawn from the township and taxis avoided the Duncan Village route to town. Commercial vehicles were stoned and burnt, and their drivers attacked. By 16 August, the toll had risen to nineteen people dead and 138 injured after running battles with security forces. The Commission received statements in connection with about seventy victims of violations in Duncan Village for this period, about a third of which related to killings. Statements submitted indicate that killings continued throughout August. Most killings were by shooting and a report of a death by necklacing (Mr Mzuzile Siqubethu [EC0991/96ELN]) was also received. The Commission was unable to consult police records on these incidents as records were reported to have been destroyed.
- 189 Police are alleged to have shot randomly and without warning at mourners holding church services for the victims. The police harassed, interfered with and intimidated the clergymen operating an aid centre and clinic treating the victims. A court order was brought against the police on behalf of the priests working at the centre.

- 190 At a mass meeting called by the Duncan Village Residents' Association (DVRA), residents called for an end to the violence and workers were urged to go back to work. Buses were to be allowed to operate without hindrance or restraint and Escom was called to resume power supplies to the area — they had been unable to repair electrical faults during the unrest. There was an ongoing consumer boycott and shop owners were requested to lower their prices to avert the collapse of the boycott. Suppliers of goods to Duncan Village were also asked to resume their services.
- 191 A memorial service for the dead was held on 21 August and several factories closed as workers heeded a call to attend. At least twenty-three organisations were represented at the service and most had provided speakers. Some workers are reported to have been fired for attending the service. Activists were detained, including an aid centre worker. State President PW Botha paid a visit to the city for a briefing about the unrest.
- 192 On 31 August, nineteen people were buried at a mass funeral attended by 35 000 people and addressed by then Border UDF president, Mr Steve Tshwete. Two men were killed by a crowd returning from the funeral when their car apparently ploughed into the crowd, injuring eleven.

THE COMMISSION FINDS THAT, WHILE THE POLICE WERE OBLIGED TO MAINTAIN ORDER DURING THE PERIOD OF UNREST IN DUNCAN VILLAGE, THEY ROUTINELY RESORTED TO THE UNJUSTIFIED USE OF DEADLY FORCE IN DOING SO AND ARE ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS THAT RESULTED FROM THEIR ACTIONS, INCLUDING KILLING, ATTEMPTED KILLING AND SEVERE ILL TREATMENT.

#### *Aliwal North shootings: August 1985*

- 193 The Commission's public hearings in Aliwal North focused on human rights violations in Aliwal North and in surrounding districts such as Barkly East, Lady Grey, Sterkspruit, Jamestown and Burgersdorp.
- 194 The mid-1980s was the most violent period for Aliwal North and surrounding areas. Political protest centred around students at Malcomess High School in the Dukathole township, and the UDF-affiliated Aliwal North Youth Congress was formed.
- 195 The first clashes between police and students took place on 22 August 1985; student activist and leader Mr Mzingisi Biliso was the first victim. The following day, about twenty-four people were shot dead by the security forces. The Commission received over twenty statements in connection with the shootings in Dukathole: nearly half of these dealt with killings.
- 196 According to stories told to the Commission, police standing on top of a building fired on protesting youths. Chaos followed in the township with arson attacks and further clashes between youth and police. The shootings were followed by detentions, and in May 1986, twenty-three people were charged with public violence related to the August

1985 events. Inquests subsequently found nobody criminally liable for the deaths. The Commission was unable to find police records relating to these incidents as records from that period were reported to have been destroyed.

THE COMMISSION FINDS THAT THE POLICE RESORTED TO THE UNJUSTIFIED USE OF DEADLY FORCE IN DEALING WITH THE AUGUST 1985 PUBLIC UNREST, AND ARE ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS WHICH RESULTED FROM THEIR ACTIONS, INCLUDING KILLING, ATTEMPTED KILLING AND SEVERE ILL TREATMENT.

*Queenstown massacre: November 1985*

- 197 There had been no major political conflicts in Queenstown and the surrounding areas from the 1960s until the mid-1970s except for the forced removals and the incorporation of areas into the neighbouring Ciskei and Transkei homelands. In the 1980s, dissatisfaction revolved around the rejection of BLAs and land issues. In surrounding black areas that formed part of the former Ciskei homeland, political conflict was between homeland security police forces and chiefs, communities or individual activists opposed to the homeland system and who were also suspected to be part of the Mass Democratic Movement (MDM).
- 198 In Queenstown, conflict escalated with the imposition of a consumer boycott by UDF-aligned organisations in August 1985. Tension between the coloured and African communities followed the enforcement of the consumer boycott and at least one coloured man was 'necklaced'. This led to the formation of a coloured vigilante group supported by the local SAP and SADF. Black schools were also out on boycott since the assassination of the 'Cradock Four' in June. In September, the brother of a suspected informer was 'necklaced' in Queenstown's Mlungisi township.
- 199 On 17 November, a report-back meeting on negotiations with the Department of Education and Training, the Queenstown municipality, the East Cape Development Board and the Queenstown Chamber of Commerce was called by the residents' association of the local Mlungisi township. The meeting, held at Nonzwakazi Methodist Church and attended by over 2 000 people, was disrupted by police.
- 200 It is estimated that at least eleven people were shot dead and many were severely injured in the ensuing conflict. The Commission received submissions dealing with the deaths of Mr Lizo Ngcana [EC1241/96QTN], Mr James Mnyandeki [EC1111/96QTN], Mr Fikile Dastile [EC1109/96QTN], Mr Thamsanqa Kamati [EC0326/96QTN] and Mr Zandisile Ndabambi [EC0325/96QTN]. All had been part of the meeting. Eighteen-month-old Cebisa Tyobeka and her grandmother, Ms Maggie Tyobeka [EC0158/96QTN], who was holding her at the time, were both wounded inside their home, apparently by stray bullets.
- 201 Again, the Commission was unable to obtain inquest records or police records from the incident, and deaths were confirmed by consulting mortuary records. In addition, the Commission found details of another six people who died in this incident whose cases were not brought to this Commission. All eleven dead were male, ranging in age from fifteen to sixty-one. A press report from the time indicates that a twelfth person may also have died<sup>26</sup>.

202 On 13 December, eleven people were buried at a mass funeral in Mlungisi township, attended by thousands. In response to questions in Parliament over a year later, the then Minister of Justice, Mr Kobie Coetzee, said that an inquest into nine deaths from that incident had found that nobody was criminally liable.

IN REVIEWING THE EVIDENCE OF THE GROSS HUMAN RIGHTS VIOLATIONS REPORTED TO THE COMMISSION IN THIS PERIOD, THE COMMISSION FINDS THAT THE STATE AND THE HOMELAND AUTHORITIES IN THE EASTERN CAPE DISPLAYED TOTAL DISREGARD FOR THE LIVES OF THOSE ENGAGED IN PROTEST ACTION AGAINST THEIR POLICIES. WHERE LESSER MEASURES WOULD HAVE SUFFICED FOR THE RESTORATION OF PUBLIC ORDER, DEADLY FORCE WAS USED, RESULTING IN:

- THE KILLING OF AT LEAST SIX PEOPLE AT RAILWAY STATIONS IN MDANTSANE ON 4 AUGUST 1983 BY THE CISKEI POLICE AND THE CDF DURING THE MDANTSANE BUS BOYCOTT;
- THE KILLING OF AT LEAST TWENTY PEOPLE AT LANGA TOWNSHIP IN UITENHAGE ON 21 MARCH 1985 BY THE SAP AND THE SADF;
- THE KILLING OF AT LEAST NINETEEN PEOPLE AT DUNCAN VILLAGE OVER SEVERAL DAYS IN MID-AUGUST 1985 BY THE SAP AND THE SADF;
- THE KILLING OF AT LEAST ELEVEN PEOPLE AT MLUNGISI TOWNSHIP IN QUEENSTOWN ON 17 NOVEMBER 1985 BY THE SAP AND THE SADF, AND THE
- KILLING OF ABOUT TWENTY-FOUR PEOPLE AT ALIWAL NORTH ON 23 AUGUST 1985 BY THE SAP AND THE SADF.

THE COMMISSION FINDS THAT THE ACTIONS OF THE SAP, SADF, CP AND CDF AMOUNT TO CRIMINAL NEGLIGENCE FOR THE LIVES OF HUMAN BEINGS, AND HOLDS THEM ACCOUNTABLE FOR THE KILLING OF AN ESTIMATED NUMBER OF EIGHTY PEOPLE DURING THE FIVE NAMED MASSACRES.

### *Hankey shootings: May 1986*

203 Hankey is a small farming town on the Gamtoos river, about 100 km west of Port Elizabeth. In Hankey, as in many other small Eastern Cape towns, 1984–86 saw the emergence of youth and community organisations aligned to the UDF and opposed to the BLAs. A town council was set up in the local Centreton township but, by May 1986, most of the councillors had resigned under pressure. In April, activist Sandile Joseph Mjacu [EC0089/96TSI] was shot, allegedly by a councillor, and died in hospital on 3 May. One of the councillors who had not resigned, Mr AM Mabukane, was killed by militant youth. Three days later the state-owned beer hall and the homes of two black police officers and a councillor were firebombed.

204 In late May, five more youths were shot dead by security forces — including farmers who appear to have been part of the local SADF commando at the time. A witness later told an inquest they were shot while attempting to attack a councillor's house. A councillor told the Commission he had fired shots when a group tried to petrol-bomb his home;

he later heard a youth had died. Those killed were Mr Vuyo Gladman Kato Ndleleni [EC0085/96TSI], Mr Sipho Edward Boy Siziba [EC0086/96TSI], Mr Msondezi Eric Sibengile [EC0087/96TSI], Mr Vusumzi Patrick Khotso Landu [EC0090/96TSI] and Mr Nimrod Monde Mjijwa [EC0088/96TSI]. Another youth, Mr Buyisile Eric Swartbooi [EC0084/96TSI], was shot in the leg in the same incident. He was subsequently convicted of public violence and given a suspended sentence.

### **'Trojan Horse' killings: Despatch, Uitenhage and Steynsburg**

205 The so-called 'Trojan Horse' incident that took place in Athlone, Cape Town, on 15 October 1985 is well known: police hiding in boxes in the back of a delivery van opened fire, killing three youths. Similar tactics were used in the Eastern Cape, twice before the Cape Town incident and once afterwards.

206 On 18 April 1985, a municipal truck loaded with branches drove past the Nomathamsanqa Higher Primary School in Despatch. Scholars were on boycott at the time but were playing games in the school grounds. The truck was stopped by youth in the street. The driver got out and fired a gun into the air, at which police officers emerged from under the branches and opened fire on the group of youths, hitting six people. Four died, including Mr Xolisile Nqandu [EC0679/96TSI], and two survived.

207 Mr Henry Sawuli told the Commission at the Uitenhage hearing that he had seen the ambush being prepared. He had been on his way home, waiting for a bus, when he saw a municipal truck loaded with branches stop behind a tree at a shooting range, next to a police Hippo (armoured personnel carrier):

*Two policemen alighted from the Hippo, the others remained in the Hippo, and they got under the branches in this truck and I realised that these boys are up to something ... Since there was no bus, I stopped a car. You must remember it cost me 30c to get home, but I paid somebody R2 to take me home, to save our children from the lions ... I ran past no. 6 and no. 5 to my house at no. 4, and I put my bag on the table and as I walked out, the shots rang out and they started shooting.*

208 Mr Lulamile Base Peter [EC0680/96TSI], who was fifteen at the time, told the Commission he had been shot and injured. He was arrested at hospital, convicted of public violence and given a suspended sentence. He requested medical assistance as he is still affected by the shooting. When asked by the Commission why he thought the incident had occurred, Peter said:

*It is because they thought that we were going to burn their truck, because we were a group, and yet we were coming from school.*

209 Mr Mntukanti Mbolekwa [EC0688/96TSI] also survived; he was sixty-nine years old at the time:

*I was sitting outside basking in the sun when I saw this lorry. A green lorry appeared near the school and when it got near our blocks, it stopped and these branches, first you only saw branches and then the next thing people appeared from amongst these branches with their arms and they started firing ... They shot at*

*everyone around ... They struck me while they were shooting. They even followed me. I was crawling to the other side.*

210 Mr Mbolekwa was wounded in the left arm and chest. Now in his eighties, he is weak and in pain, and says that the government should compensate victims and build houses with running water as “this would make people happy and also make them feel like human beings”.

211 A few weeks later a similar incident took place in KwaNobuhle, Uitenhage, close to Despatch. Seventeen-year-old COSAS activist Khayaletu Melvin Swartbooi [EC0175/96UIT] was killed. Swartbooi’s mother, Ms Meyi Mabel Swartbooi, told the Commission:

*On 2 May 1985, a Hippo had collided at the Filtoni Bottle Store, Mabandla Road, Uitenhage at about 11am, damaging a door. Khaya and another comrade left to go and see this accident. While travelling up Mabandla Street, a municipal truck loaded with cardboard boxes passed by. Police came out of hiding under the cardboard boxes and shot at Khaya who fell. The truck stopped and they picked Khaya up and put stones in his hands and put him in a plastic bag and loaded the bag before they drove off.*

212 On 27 December, a third such incident took place, this time in Vergenoeg township at Steynsburg, a small town which had also been experiencing violent clashes between youths and police. Three youths, including nineteen-year-old UDF activist Buyisile Guga [EC1514/97NWC], were killed. Guga had been part of a group of youths staging a *toyi-toyi* (a form of chanting and dancing often used in protests) demonstration at the time. His mother, Ms Notyaya Elise Guga, told the Commission:

*As they were running up and down the streets they were approached by police in a bakery truck who dispersed them. Some gunshots were fired and my son was hit by one of the shots in his spinal column. The police who approached the crowd had hidden themselves in a bakery truck, so as to give the impression that it was an innocent delivery truck so that nobody would suspect any danger from it. This delivery truck, which disguised itself as some kind of a Trojan Horse, was followed by a police van.*

THE COMMISSION FINDS THAT THERE WERE THREE INCIDENTS IN THE EASTERN CAPE IN WHICH THE SAP ACTED AGAINST PUBLIC PROTESTS BY AMBUSHING AND SHOOTING PROTESTERS IN TROJAN HORSE-STYLE OPERATIONS — IN DESPATCH ON 18 APRIL 1985, AT KWANOBUHLE IN UITENHAGE ON 2 MAY 1985 AND AT VERGENOEG IN STEYNSBURG ON 27 DECEMBER 1985. IN REVIEWING THE EVIDENCE BEFORE THE COMMISSION, THE COMMISSION FINDS THAT THE ACTION OF THE POLICE IN THESE THREE INCIDENTS WAS CONTRARY TO NORMAL PUBLIC ORDER POLICING PROCEDURES AND THAT THESE INCIDENTS WERE DELIBERATE ATTEMPTS BY MEMBERS OF THE SAP TO CREATE SITUATIONS IN WHICH PROTESTERS WOULD BE KILLED IN ORDER TO SUPPRESS SUCH PROTESTS. THE COMMISSION FINDS THAT THE ACTIONS OF THE SAP AMOUNT TO GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE SAP IS HELD ACCOUNTABLE.

### *Kitskonstabels and municipal police*

213 In some areas special constables or *kitskonstabels* (instant constables) and municipal police were brought in. Both *kitskonstabels* and municipal police were often implicated in attacks on activists.

- 214 *Kitskonstabels* were brought in to reassert state control over the township at the small rural town of Hofmeyr during this period, but instead brought more violence. Hofmeyr and its Eloxulweni township are about sixty kilometres north of Cradock. The Catholic Institute for International Relations [CIIR]<sup>27</sup> reported that a successful consumer boycott was implemented in Hofmeyr in 1985, and a schools boycott was widely supported. The community council was forced to resign, and street committees were implemented to 'govern' the township. Mr Matthew Goniwe launched the Hofmeyr Youth Congress in 1985. In the 1985–86 period, police admitted that they had "lost control of the township". A number of incidents of violence occurred, including killings by both police and residents.
- 215 In response to the worsening situation, the state deployed a group of thirteen *kitskonstabels* in Eluxolweni in April 1987. The public prosecutor for Hofmeyr was also at times the station commander of the South African Police, and thus would not take action against members of the security forces accused of being 'above the law'. Residents felt that it was useless to lay complaints against the *kitskonstabels* at the charge office, but approached lawyers to apply for an interdict against them.
- 216 On 30 October 1987, *kitskonstabels* shot seven people leaving a concert in Eluxolweni. Five of them were hospitalised. One was taken to the *kitskonstabels*' quarters, kicked and threatened with a shotgun and an axe. Despite a temporary interdict granted against the *kitskonstabels*, in February 1988 a *kitskonstabel* shot one of the applicants outside a memorial service.
- 217 During 1985 there were a number of incidents of shootings and torture by police in Jansenville, south-east of Graaff-Reinet. On 1 January 1986, Mr Pieter Rapudi [EC1399/96KAR] was shot dead while part of a group of youths celebrating the new year by singing freedom songs. Four months later, Mr Vuyani Douze [EC1397/96KAR] was shot dead by the same municipal police officer. Rapudi's brother, Mr David Velele Mgone, asked the Commission to ensure that the police officer concerned was not employed by any government structure.

## Resistance groupings and counter-mobilisation

*UDF. AZAPO. clashes: Port Elizabeth, 1985. 86*

- 218 1985 and 1986 saw the evolution of inter-organisational conflict in the Port Elizabeth-Uitenhage area, with manipulation by the security forces (see Volume Two). The conflict started between AZAPO and the UDF in Port Elizabeth; later it developed into a violent conflict between the UDF and an organisation called *AmaAfrika* in KwaNobuhle. This conflict emerged at a time of education boycotts and developed into increasingly violent clashes between UDF-aligned youths and security forces and those regarded as their allies, such as community councillors. A prominent feature of these conflicts was the use of fire in attacking opponents – arson attacks on houses and burning of people. By 1985, the 'necklace' method of killing was being used, which involved placing a tyre around the victim and setting him or her alight.
- 219 Up until late 1984, there had been no political violence to speak of in Port Elizabeth. By September 1984, the UDF was becoming increasingly antagonistic towards the BLA and Mr Thamsanqa Linda, who later became the mayor of



Port Elizabeth's BLA. Schools boycotts also began, leading to clashes between scholars and riot police. Clashes between youths and police and between youths and BLAs continued.

- 220 During 1985 and 1986, the battle between the UDF and AZAPO tore the Port Elizabeth townships apart. Although the UDF–AZAPO conflict had national parallels, in this region much of the conflict appears to have centred around relations between the UDF and Reverend Mzwandile Ebenezer Maqina, who was aligned to AZAPO. Maqina had a background in the BCM and was banned until 1983. Tension between Reverend Maqina and the UDF started in 1984 over responses to the education crisis. Maqina opposed the school boycotts, which made him unpopular with COSAS.
- 221 The conflict in Port Elizabeth became violent in April 1985. On 6 April, at the funeral of AZAPO member Patata Kani, Reverend Maqina claimed that he had been threatened by members of COSAS, marking the beginning of the 'feud'. The end of that month saw the first of several attacks on UDF leadership by AZAPO members; there were allegations that Maqina himself was involved in at least one attack. Counter-attacks followed, with leaders on both sides being targeted.
- 222 The feud led to a large number of attacks, rendering many families homeless. One clash in June 1985 involved 600 to 1 000 UDF and AZAPO supporters, killing two. Most attacks involved petrol bombs, knives, axes and similar weaponry; some guns were also used, and one MK attack on Maqina involved hand grenades. There were also allegations by both sides of 'third force' involvement in the conflict.
- 223 The Commission received several submissions in connection with this lengthy feud. Reported incidents included the abduction and assault of Mr Mono Badela [EC0217/96KWT] by AZAPO members. Badela's home was also petrol-bombed. Mr Edgar Ngoyi [EC1602/97SBR] was assaulted and his home was petrol-bombed. Mr Ernest Malgas's [EC0001/96PLZ] home was petrol-bombed on three occasions and Mr Sicelo Apleni [EC0304/96PLZ] was shot and injured.
- 224 By May 1985, the conflict had spread to Uitenhage where it emerged as a conflict between the rival metalworker unions in the auto industry, namely the National Automobile and Allied Workers' Union, whose members supported AZAPO, and the UDF-supporting Motor and Component Workers' Union [MACWUSA] and its ally the Uitenhage Youth Congress [UYCO]. Also in May, the conflict spread to Grahamstown AZAPO and UDF affiliates.
- 225 The two weeks from 30 April to 11 May saw a number of violent attacks. On the 8 May, the 'PEBCO Three' (Mr Siphon Hashe [EC0003/96PLZ], Mr Champion Galela [EC0005/96PLZ] and Mr Qaqawuli Godolosi [EC0004/96PLZ]) were abducted and killed by the security forces. This further increased tensions in the area. On 10 May, Mr Mkhoseli Jack went to Reverend Maqina's home with a large crowd, demanding the release of four youths who were being held by him. One reporter noted that: "The crowd made it clear that there was no fight between the UDF and AZAPO, but that it was between Maqina and the community". Maqina claimed that the youths had been 'apprehended' on their way to attack a home in New Brighton, tied up and beaten. The police and SADF intervened, secured the release of the four and took three of them into custody, while one was hospitalised. Maqina denied the allegation that AZAPO held informal courts and commented at the time:

*The only thing we usually do when we apprehend some youngsters attacking homes of our members, in particular mine, is to keep them at my place and send for their parents who talk to them. Then we release them. I know of two youngsters from Dora Street who were given some form of deterrent punishment after they admitted being members of a UDF action committee. They were also involved in certain acts of violence against our members.*

- 226 On 16 June, an MK member attacked Reverend Maqina's house and car with hand grenades. Two days later, the home of UDF leader Mr Ernest Malgas was petrol-bombed; it was the third such attack and ten youths were burnt. Before the end of that month, Maqina's home had again been attacked with hand grenades and firearms and at least one person was injured.
- 227 By early July, eighty to ninety UDF families and fifty-five AZAPO families were estimated to be homeless as a result of the feud.
- 228 In June, the 'Cradock Four' were abducted and killed in a clandestine operation by the security forces. The security forces tried to make it look as though the four UDF activists had been killed by AZAPO members (see below).
- 229 On 22 July, at the funeral of the 'Cradock Four', the first partial state of emergency was declared in the Eastern Cape. Most of the local UDF leadership was detained under emergency regulations; many were tortured in detention. On 13 September, thirty-nine AZAPO leaders and supporters were arrested at a commemoration meeting for Steve Biko in Uitenhage. They were later charged with holding an illegal gathering and some were severely assaulted in custody.
- 230 On 24 December, UDF leader Mr Edgar Ngoyi was released on bail. He met with Reverend Maqina and they made an agreement in terms of which the hundred AZAPO members under Maqina's protection would not be attacked. Just a few weeks later, in early 1986, AZAPO distanced itself from Maqina, claiming that he had been expelled from the organisation. AZAPO members returned home and, to a certain extent, the truce held. However, on 15 July 1986, the AZAPO regional chairperson, Mr Sonwabo Ngxale, was killed. By the end of that month, a national state of emergency had been declared and thousands of activists were detained.
- 231 Street and area committees set up by UDF activists in early 1986 involved 'people's courts' to deal with local problems and avoid having to deal with police. Following the mass detentions of the state of emergency, however, the *amabutho* (UDF-aligned vigilantes) sometimes took over these structures and committed violent actions such as 'necklacings'.
- 232 During 1987, the violence between AZAPO and UDF died down to some extent. At the beginning of 1988, the situation was 'normalised' to the extent that services such as post offices were reopened in the townships and work began on the electrification of Kwazakele. However, the violent conflict between AZAPO and UDF flared up again, this time in Walmer township. Three people died in a week of fighting, including former Azanian Students' Movement (AZASM) chairperson, Mr Xolisile Mnyaka.

- 233 Uitenhage and its townships, KwaNobuhle and Langa, are a short distance from Port Elizabeth. Uitenhage is an important centre for the motor industry in South Africa, and the unions that organised in this sector had a strong influence on the development of civics in that region during the 1980s.
- 234 The enactment of BLA legislation in 1983 and the subsequent establishment of the KwaNobuhle Town Council in Uitenhage heightened political tensions. The sixteen councillors were elected unopposed in October 1983. Seventy-five per cent of them had been members of the previous community council which had also been elected unopposed in 1978.
- 235 In September 1984, the KwaNobuhle Town Council, faced with a fiscal crisis, decided to raise rents and service charges. Popular opposition to this decision (which was not implemented) combined with national opposition to the BLA system under the banner of the United Democratic Front. Uitenhage Youth Congress called for the resignation of the councillors and a boycott of their businesses. Councillors responded by installing police guards and getting personal firearms for their protection. In addition, a group of young men formed a vigilante group called the 'Peacemakers' in support of the councillors.
- 236 Violence escalated between September 1984 and March 1985, with violent attacks on councillors and police by *amabutho* being met by increasingly harsh responses from police and vigilantes, including indiscriminate shooting at individuals and groups, assaults on innocent people and prolonged torture in police cells. This violence also affected the township of Despatch, where the political funeral of Mr Lungile Nqgikashé on 15 September 1985 was followed by the arrest and torture of youth by police. When conflict developed over the use of the KwaNobuhle community hall in November 1984, the police openly backed the Peacemakers in their violent clashes with the *amabutho*. One Uitenhage police officer said:

*The police regarded the Peacemakers as helpful in maintaining law and order and admitted that members of the Peacemakers were acting as informers for the security police.*

- 237 Several violent incidents were reported. On 3 December, the home of metalworkers' union official Mr Fikile Kobese was firebombed, killing his brother, Mr Leslie Kobese [EC0302/96UIT], for which the Peacemakers were blamed. Police broke up the vigil for Kobese on 17 December, detaining some of the mourners. The same day, Mr Zamuxolo Louis Mondile [EC2821/97UIT], a nephew of Councillor Benjamin Kinikini, was beaten to death by *amabutho*. On 16 January 1986, police opened fire on a crowd in KwaNobuhle; the next day three police officers' homes were burnt down by *amabutho*.
- 238 In February, three KwaNobuhle councillors resigned. Another resigned early in March. On 12 March, almost all the remaining councillors resigned *en masse*, led by the Mayor, Mr Tini. Mr Benjamin Kinikini was not at the meeting where the resignations took place and was the only councillor who did not resign.
- 239 Violence escalated further after the Langa massacre of 21 March 1986 (see above). The houses of thirteen police officers were petrol-bombed, and all black police officers living in Uitenhage's two African townships had to be moved to temporary accommodation. Revenge attacks against those suspected of collaboration became rife. This led to the

burning down of the houses of eighteen suspected 'collaborators' at Tinis, another township near KwaNobuhle, and the killing and burning of at least seven suspected informers or 'sell-outs', including Councillor Benjamin Kinikini.

#### **UDF–AmaAfrika clashes: Uitenhage 1985–86**

- 240 The beginning of 1986 saw the beginning of a violent conflict between the UDF and *AmaAfrika* in KwaNobuhle. *AmaAfrika* was led by the Reverend Ebenezer Maqina, who had been expelled from AZAPO in Port Elizabeth in January 1986. It was formally established in Port Elizabeth in December 1987, although it had been in existence for some time before this. Its forerunner was the African Persons Concerned Committee (APCC). *AmaAfrika* soon came into conflict with the UDF when it objected to the consumer boycotts and to the undisciplined actions of township youth aligned to the UDF following the detention of UDF leaders in June 1986.
- 241 Violence erupted in January 1987 when a march through KwaNobuhle, organised by the APCC and protected by SAP vehicles, led to the death of up to four people, the assault of many others, and the burning down of at least ten houses belonging to leading UDF activists. The intention was to purge the township of political organisations and activities which were "holding the township to ransom", to create space for government reforms and negotiations, and to prepare for councillors to return to the township as Regional Services Councillors.
- 242 The violence, which continued after January 1987, resulted in the deaths of many people from both the UDF and the *AmaAfrika*. Municipal police were deployed to establish control in the township. By 1988, nine separate court cases had been brought against the municipal police for assault and other charges including rape and theft. By September, more than 300 families had fled from their Uitenhage homes. By this time, *AmaAfrika* was suffering from internal divisions and there was less open collusion with the police. Many people detained under emergency regulations were released, and the situation in KwaNobuhle was brought to the attention of international and national bodies.
- 243 The following cases brought to the Commission occurred in one incident on 28 December 1989, when thirteen youth who were *abakhwetha* (initiates at circumcision school) were attacked by *AmaAfrika* vigilantes in KwaNobuhle, Uitenhage.
- 244 Ms Miriam Nombulelo Manziya testified about the death of her son, Mr Mthuzimele Philip Manziya [EC0636/96UIT] in Khayelitsha, Uitenhage, on 28 December 1989. He was aligned to the UDF and was 'guarding' the *abakhwetha* from the *AmaAfrika* group. His mother later heard that police had teargassed the group guarding the *abakhwetha*, chasing them into the hands of the *AmaAfrika* members. Manziya was hacked with axes and knives and died of his wounds three days later. Thirteen people were allegedly killed by *AmaAfrika* in this incident; three bodies were hidden and found later. Manziya was buried with nine others on 13 January 1990.
- 245 Ms Nodoli Lillian Solani testified about the death of her son, Mr Vusumzi Solani [EC0635/96UIT], who was also killed in this incident. His decomposed body was found by police two weeks later, on the path to Despatch.
- 246 The case of the *AmaAfrika* vigilantes is significant as it represents an overlap between two categories of violent conflict with African communities — inter-organisational political conflict, and vigilante conflict. While sharing many of the characteristics of vigilante groups elsewhere, the *AmaAfrika* were perceived to have an ideological basis in

Africanism as well as an organisational basis in either the PAC (through individuals such as Mr Timothy Djabaties who had been PAC members in the days before its banning) or AZAPO (through the connection with Reverend Maqina). Members of the community did not understand the ideological differences and sometimes referred to the vigilantes as 'AmaAfrikas or AZAPOs'. Reverend Maqina's involvement in the Uitenhage conflict is confusing; also from Africanist roots, he established an organisation called *AmaAfrika* in December 1987, and denied it was the same organisation as that which had operated in Uitenhage earlier in that year<sup>28</sup>.

247 Mr Mncedisi Sithotho testified at the Commission's Uitenhage hearings in his capacity as a former UDF leader from Uitenhage, giving the Commission a background on the conflicts. He explained how, after the consumer boycotts of 1986, people had to move from the old part of KwaNobuhle to Khayelitsha, where rents were higher. On 28 December 1986, a decision was taken to lift the consumer and schools boycotts in the new year. The community was to be informed by pamphlets of this decision, which would be implemented on 5 January 1987. However, on the morning of 4 January, KwaNobuhle was surrounded by police Casspirs. Escorted by the police, vigilantes marched through the township, attacking the houses of UDF activists. Homes of UDF leaders were destroyed and their relatives attacked. Mr Sithotho explained that some of those in the vigilantes' march were not politically active, but were compelled to join; others were glad of police support as they wanted to crush the youth. The conflict continued until 1989, when a peace agreement was reached. He was of the opinion that the conflict was designed to crush the emerging democratic forces. It was not, in his view, a manifestation of 'black on black' violence but rather a manipulation of the situation by Military Intelligence. There is, indeed, evidence that Military Intelligence was involved in financing the Uitenhage Concerned Group, which later became known as *AmaAfrika*. Some UDF members joined the *AmaAfrika*. Hundreds of people fled from their homes and went into hiding or took refuge elsewhere as a result of this violence. UDF leaders were detained, whereas *AmaAfrika* leaders were not. Many of the participants in *AmaAfrika* are now members of the PAC.

248 Mr Mandla Konci testified to the same hearings as a former member of *AmaAfrika*, now chair of the PAC Uitenhage branch. He explained how an organisation called 'Save the Starving Community' was established in Uitenhage around 1982, including both Africanists and 'Congress' supporters. Some, like Djabaties, were involved in this group but did not want to affiliate to the UDF when the latter was formed. There were thus ideological divisions within the African community of Uitenhage. In March 1986, the conflict began to deepen. Members of the organisation wanted to establish a branch of AZANYU, the youth wing of the Africanist movement. They were then forced to go and live in Khayelitsha. In May 1986, one of the members was killed, and the feud started in earnest. Konci admitted that "the Boers tried to use us, to fan the conflict in Uitenhage", but denied that they were given protection by the police, and claimed that they were also arrested and assaulted: "Rumours that we worked with the police are surprising". He said there was continuity between the *AmaAfrika* and the PAC branch today.

*Covert Military Intelligence operations: Somerset East and Cookhouse*

249 Conflict in Somerset East began in late 1984. Residents held meetings to discuss problems with rents and with the beer hall. The focus of their grievances was Mr Joel Memese, Chairman of the KwaNojoli Community Council. On 11 February 1985, Memese fired a shotgun at a crowd stoning his house, wounding three youths. Somerset East schools came out on boycott after this incident. As in other small towns, violence escalated, with attacks on police officers

and councillors, acts of arson, and police shooting and killing a number of youths. The schools in Cookhouse, Pearston, Jansenville and Fort Beaufort joined the boycott on 10 April. Two days later, meetings of twenty-nine organisations, including COSAS, were banned.

- 250 The councillors together with municipal police officers began to adopt increasingly 'hard-line' actions against residents. The vigilante movements in Somerset East and Cookhouse, linked in the case of Somerset East to Councillor Memese, are mentioned in the documentation on Project Vallex and Operation Katzen as being covert projects of Military Intelligence aimed at creating conflict in black communities. One of the aims of such operations was "to remove the UDF, through the use of force, from the communities on the principles of colour against colour".
- 251 Mr Bantu Holomisa's May 1996 submission to the Commission in Port Elizabeth gave details of some of these strategies. Project Vallex was intended to create a counter-revolutionary force in the Eastern Cape, specifically in the towns around Cradock. Cradock was perceived to be the "epicentre" of the "revolutionary onslaught". The organisational efforts of Mr Matthew Goniwe and the UDF were described as follows:

*It is well known that the enemy started its activities during 1983 in Cradock mainly through organisations like the residents associations, youth organisations and women's organisations. It expanded its control more or less as follows: Somerset East, Cookhouse, Bedford, Adelaide, Hofmeyr, Middelburg, Graaff- Reinet and Pearston. On a map it represents a circle around Cradock. It would therefore be wise not to tackle Cradock directly but rather to concentrate on the surrounding towns, thereby isolating Cradock. This will only be possible in co-operation with the right black leaders.*

*On a trial basis, activities were introduced in Somerset East with a strong conservative element and positive results have been achieved ... Elections have been held and a black council is now functioning in Somerset East. The main figure in this effort is Joel Memese. Two members of the council, previously regarded as radical, have attended a course and are now openly supporting Memese. In our efforts to find suitable black leaders, Joel Memese should receive our full support. He is totally opposed to the UDF, ANC and Communists. He openly supports the RSA government and commands wide influence. The municipal police also support him fully.*

- 252 A local medical doctor in Somerset East was appointed as co-ordinator of this programme. Three courses were conducted for groups between twenty-four and forty-five in Somerset East, and one for the Kakana family in Cookhouse. The success of this programme in security forces' eyes was described as follows:

*Restricted, isolated hard actions have been launched by Memese and his followers on comrades resulting in no actions from Cradock [and] Somerset East over the past month. Memese is outspoken against the ANC and UDF and is responsible for evictions of those who do not pay rent. Intimidation by the UDF is now less effective in Somerset East.*

- 253 It seems that these reports were dated around the middle of 1986, by which time the projects were already in operation; it is not clear exactly when they started.

- 254 The small township of Bongweni, outside Cookhouse and some eighty kilometres south of Cradock, was torn apart by violence in 1986, when fighting broke out between UDF supporters and those aligned to the Kakana family. It was alleged that the Kakana family refused to join the UDF-affiliated Cookhouse Youth Organisation unless there was proof that the UDF's activities were legal; they were accused of being 'Le Grange dogs'. UDF Eastern Cape president Edgar Ngoyi claimed that the violence began when residents boycotted a shop belonging to a member of the Kakana family. Submissions to the Commission indicated that, whether or not there was a link between the Kakana family and the security forces, there was certainly a belief among UDF supporters that the Kakanas were linked to the police, which probably contributed to the conflict. At least one of the Kakanas was either a police officer at the time of the conflict or joined the police soon afterwards. In some submissions to the Commission, former UDF supporters indicated they believed the Kakanas to be AZAPO supporters.
- 255 On 26 February 1986, UDF activist Gugwana Menzi was injured and his wife, Ms Nokhaya Mina Menzi, was killed in an attack on their shop in Bongweni [EC0468/96NWC]. An inquest implicated members of the Kakana family in the killing. In the following days, violent conflict between the Kakana family and UDF supporters ensued. Nine houses were gutted and there were running battles in the streets of Bongweni.
- 256 Ms Nosence Engelina Zanyiwe Kakana [EC1289/96KAR] and Ms Nokuzola Lena Nonhi [EC1290/96KAR] gave testimony on the deaths of four Kakana family members. Mr Mabhuti Kakana (17) was stabbed to death in Ekuphumleni location, Cookhouse, during 1985. Noticeboards were posted in the community saying, "Do not attend the Kakana funeral; they are sell-outs." Subsequent attacks resulted in the deaths of Mr Mpendulo Kakana, Mr Zolani Meko, Mr Batayi Kakana and Mr Wheyiwheyi Kakana, a *kitskonstabel*. Nosence Kakana questioned allegations of security force support to the Kakanas and said she was not aware of any payments made by the state to her family to oppose the UDF.
- 257 Mr Wele Samuel Kakana [EC1401/96ALB] testified that his house in Bedford was burnt down and his livestock destroyed because he was accused of being a police informer. Mr Buti John Kakana [EC1753/97ALB] and his family fled to Pretoria after their home and shop were burnt down; he later moved to Adelaide and joined the police. The Kakanas were eventually able to return to Cookhouse.
- 258 The home of Ms Angelina Zanyiwe Feni [EC0465/96NWC] was attacked and set alight because her sons were UDF activists; she was badly burnt. UDF member Mzukisi Johannes Fesi [EC2319/97KAR] was injured when he was attacked on two occasions and stabbed.
- 259 Many other people were injured and homes were torched. Two hundred members and supporters of the Kakana family fled and took shelter at the Cookhouse police station.

IN REVIEWING THE EVIDENCE EMANATING FROM THE AZAPO–UDF CONFLICT IN PORT ELIZABETH AND THE AMAAFRIKA–UDF CONFLICT IN UITENHAGE AND OTHER AREAS OF THE EASTERN CAPE, THE COMMISSION FINDS THAT THE STATE EMPLOYED A POLICY OF CONTRA-MOBILISATION TO MANIPULATE LEGITIMATE POLITICAL DIFFERENCES BETWEEN POLITICAL ORGANISATIONS WITH THE INTENTION OF MOBILISING ONE GROUP AGAINST ANOTHER AND FOMENTING VIOLENCE, STRIFE AND DIVISION.

THE COMMISSION FINDS THAT THE REVEREND MZWANDILE EBENEZER MAQINA WAS A LEADER OF SUCH A GROUP IN PORT ELIZABETH. DURING THE PERIOD 1985—90, AND IN AND AROUND PORT ELIZABETH, MAQINA WAS INVOLVED IN THE FORMATION AND SUPPORT OF POLITICAL AND SOCIAL ORGANISATIONS AND VIGILANTE GROUPS WHICH HAD AS THEIR AIM, INTER ALIA, THE PERPETRATION OF VIOLENCE AGAINST MEMBERS AND SUPPORTERS OF THE UDF.

IT FINDS THAT HE INCITED MEMBERS OF THE AFORESAID ORGANISATIONS AND GROUPS TO ACT VIOLENTLY AGAINST MEMBERS AND SUPPORTERS OF THE UDF AND COLLUDED WITH MEMBERS OF THE SAP AND SADF IN ORDER TO FURTHER THE AIMS REFERRED TO ABOVE. BECAUSE OF MAQINA'S ACTIONS, SUBSTANTIAL VIOLENT POLITICAL CONFLICT OCCURRED IN THE PORT ELIZABETH REGION BETWEEN 1985 AND 1990, AS A RESULT OF WHICH AN UNKNOWN NUMBER OF PEOPLE WERE INJURED AND DIED.

THE COMMISSION FINDS THAT MAQINA IS ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS WHICH RESULTED FROM HIS ACTIVITIES (KILLING, ATTEMPTED KILLING, TORTURE, ARSON AND SEVERE ILL TREATMENT).

ON THE EVIDENCE BEFORE THE COMMISSION, VARIOUS ACTS OF KILLING, ABDUCTION AND DESTRUCTION OF PROPERTY TOOK PLACE ON BOTH SIDES OF THE CONFLICT AS A RESULT OF THE ACTIVITIES OF THESE GROUPS. THE COMMISSION FINDS THAT THE POLICY OF CONTRA-MOBILISATION CAUSED VARIOUS VIOLATIONS OF HUMAN RIGHTS TO BE COMMITTED FOR WHICH THE STATE IS HELD ACCOUNTABLE.

### *Vigilantes in Ciskei*

260 Over the years, the Ciskei authorities used vigilantes on several occasions. Haysom records the first use of vigilantes in Ciskei as being during 1974, when the vigilantes known as the 'Green Berets', who were members of the ruling Ciskei National Independence Party (CNIP), assaulted Mdantsane commuters during a boycott of the local bus company. Vigilantes re-emerged in 1977, this time to target Mdantsane schoolchildren who were boycotting classes in protest over Steve Biko's death in detention.<sup>29</sup> While there was suspicion that these vigilantes were linked to the homeland authorities, and they appeared to act in support of the homeland government, there was no clear evidence of state support for them.

261 However, there was clear Ciskei government support for the vigilantes who operated during the July 1983 boycott of the homeland-owned bus company. Police, army and vigilantes were used to break the boycott by assaulting commuters who used taxis, private cars and trains and taxi drivers seen as being in opposition to the bus company. The vigilantes were given free rein during the bus boycotts and that were able to use the central Sisa Dukashe stadium in Mdantsane as a venue for holding detainees. Haysom reports that there was "overwhelming evidence" that the vigilantes were involved in the assault and torture of detainees here. Any knowledge of this was denied by the then Ciskei Minister of Justice, Mr David Takane, although he did admit that the vigilantes were operating with official endorsement. The *Daily Dispatch* reported on 4 August:

*People assisting in checking intimidators in Mdantsane during the bus boycott were vigilantes working under the direction of the police, the Ciskei Minister of Justice, Mr DM Takane, said yesterday. Mr Takane added that reports of assaults on Mdantsane residents by such people had not been received by his office.*

262 The Commission received several statements implicating vigilantes in assaults on commuters during that period.



- 263 In 1987, Potsdam community leader Mr Zola Nozewu [EC0359/96ELN] fell foul of vigilantes. Potsdam village, near Mdantsane, had been opposing homeland rule for some time. In an extraordinary move, a substantial group of Potsdam residents dismantled their homes and fled across the border to South Africa where they begged for a home. South Africa trucked them back again. Nozewu became a leader in his community. His mother, Ms Noti Lena Kroti, told the Commission that Ciskei police had warned her that Nozewu should stay out of politics or he would die. He was stabbed to death by vigilantes near his home on 24 July 1987, three weeks later. Other community members were injured when the vigilantes, known locally as 'Inkatha', went on the rampage. The Potsdam community eventually found a permanent home at Eluxolweni on the South African side of the border.
- 264 In September 1985, Ciskei police raided the Zwelitsha home of UDF activist Zalisile Matyholo [EC0105/96ELN] and told his mother, Ms Evelyn Matyolo, that they would kill him because he was the cause of unrest in Ciskei: "They had a list which they said was for UDF activists that must be killed". Mr Matyolo was also accused of helping people to flee the country to join the ANC. Within days he had been killed by a group of vigilantes travelling in vehicles with Ciskei government registration numbers. They searched the area for him with security force assistance and beat and stabbed him to death in front of witnesses.

### *Necklacings and burnings*

- 265 The use of the 'necklace' method and the burning of opponents began in the Port Elizabeth and Uitenhage townships during the mid-1980s, both as part of the UDF conflicts with AZAPO and *AmaAfrika* and as a method used by UDF supporters to attack police, councillors and those seen as collaborating with the state. The Commission received statements of both 'necklacings' and burnings. Due to the lack of information available, it was often difficult to distinguish between the two types of violations in a particular incident.
- 266 For the period September 1984 to December 1989, SAP national statistics recorded 406 deaths by 'necklacing', 28 injuries by 'necklacing', 395 deaths by burning and 150 injuries as a result of burning<sup>30</sup>. The former Border and Eastern Cape regions (which together with the Transkei and Ciskei form the current Eastern Cape Province) accounted for 144 necklacing deaths (35 per cent of the national total), 131 burning deaths (33 per cent of the national total), 42 per cent of the burning injuries and 14 per cent of the necklacing injuries during that period.
- 267 The Commission received statements listing a large number of violations in connection with killings, attempted killings and severe ill treatment resulting from necklacing and burning – primarily related to incidents during 1985–87. In the first two of the review periods (1960–82 and 1990–94), the majority of reported fire-related attacks were arson attacks on buildings. In the current review period (1983–89), the majority of such violations related to attacks on people. Many of these attacks during the 1983–89 period occurred in the areas around Port Elizabeth, Uitenhage, Grahamstown, Port Alfred and East London. The 1983–89 period also saw an increase in the number of burnings during torture violations (that is, while in custody), but only a very small number of such cases was reported.
- 268 When houses were petrol-bombed, children who could not escape the flames sometimes became victims. Press reports indicated that, between March and May 1985, at least seven children under the age of ten (from families linked to councillors, AZAPO supporters and UDF supporters) died in such attacks in Port Elizabeth. Likewise, during

the August 1983 Ciskei bus boycott, three children died in Mdantsane when their home was petrol-bombed because their father was seen as being against the boycott.

- 269 KwaNobuhle town councillor Mr Benjamin Kinikini [EC0289/96PLZ] was stoned, stabbed and 'necklaced' on 23 March 1985. Four of his sons and nephews were killed with him, either burnt or hacked to death: Luvuyo Stanley Kinikini (12), Mr Qondile Kinikini (18), Mr Silumko Welcome Kinikini (20), and Mr Zamuxolo Eric Kinikini (22) [EC0289/96PLZ]. At the time of the attack, Kinikini was accused of involvement in the abduction of some UDF youths. Kinikini's widow, Ms Nombuzo Kinikini, told the Commission she had not been present on the Saturday when her husband was killed, but heard about it from others:

*I was told that he was stabbed by a spade on his head, then they stabbed him several times. He was made to drink petrol, they put a tyre over him and then they ignited him. During this time my younger son was hiding under the car, some of the petrol got to him and when he was trying to escape somebody saw him.*

*Silumko was hiding in one of the shops at Mboya. He asked one of the businessmen to hide him under the counter. They took him and they ignited him alive in front of the shop. I am telling you as it is. They cut his testicles while he was still alive.*

*Then on Monday at the police station, the doctor told me that he was going to inject me, at that time I had not seen them yet ... I will not be able to tell you about the head of my husband.*

- 270 Many youths from Uitenhage were tried and some were sentenced to death for these killings based on the doctrine of 'common purpose'. Mr Moses Jantjies and Mr Wellington Mielies were convicted of murder and hanged on 1 September 1987 for their part in this.

#### **The case of Phinda Baartman**

*On 13 April 1985, UDF supporter Mr Phinda Gladstone Baartman [EC2026/97ALB] was attacked in Fort Beaufort and survived an attempt to 'necklace' him. Baartman was accused of being a police informer. His attackers were allegedly UDF supporters. Baartman told the Commission two men collected him from his home, telling him he was wanted at a neighbour's house. On the way, he was ambushed by a larger group.*

*"They immediately attacked me with knives and screwdrivers. I was stripped of all my clothing except my underpants. I was stoned and severely beaten up. A car tyre was brought in and used to burn me up ('necklace' method). I was saved from death by a group of SADF soldiers who were passing by and saw the fire ... My entire left ear was burnt out as well as my left hand small finger. The left-hand side of my head was badly burnt as well as my left arm which had to have a skin graft ... Six of my teeth were broken off. My skull was broken."*

*He was hospitalised for months and eventually boarded from work. Four men were charged and acquitted in connection with the attack.*

### **The case of the Aubrey and Nokuzola Fulani**

*On the night of 28 April 1985, police officer Aubrey Jacob Fulani and his wife, Ms Nokuzola Carol-Anne Fulani [EC0291/96UIT] were abducted from their home at Uitenhage by UDF-aligned 'comrades' because Fulani was a police officer. The Fulanis had been at home on a Sunday evening when a group of attackers broke into their home, shot and wounded Mr Fulani, forced the two of them outside into waiting cars and drove them to a house in Soweto, Port Elizabeth. Ms Fulani told the Commission:*

*"They took him out of the house. They had black plastics and five litres of petrol and some tyres ... Then I was made to watch him. I was made to look at him for the last time. During all this time I had only a night-dress on. I was told to stand outside and look as this dog was dying. Then I asked them to burn him with me because I could not endure to listen to his cries. They said the petrol that they had was only for him. They were going to burn me up tomorrow. They made him drink petrol and he was also crying that he must be burnt with me ... They burnt him right in front of me until he died."*

*Ms Fulani escaped being killed with her husband, apparently because the attackers could not obtain additional petrol and because she was pregnant at the time. Six people were later convicted for this killing.*

### **The case of Nofikile and Zameka Dikana**

*In January 1986, three women were tortured and then 'necklaced' by UDF supporters in the Duncan Village township outside East London. These killings came after several months of violent unrest in the township, involving mainly clashes between UDF-supporting youths and security forces. Ms Nofikile Dikana (50) and her daughter Ms Zameka Dikana (29) [EC1967/97ELN] were accused of having bewitched their son and brother, UDF activist Fudwana 'Giza' Dikana [EC0943/96ELN]. Fudwana Dikana had died a few months earlier when an SADF armoured vehicle drove into his car, an incident which was regarded in the community as a deliberate killing, since he had often helped wounded activists by driving them to hospital. The two Dikana women and a third woman were abducted by a crowd and taken into a house while a fire was built in the road nearby. A witness, Mr Skonwana Mntuyedua, stated in an affidavit to police at the time:*

*"[A man] was placing iron rods approximately one metre long into the fire. He seemed to be handling two or three of these rods. When these rods were red hot they were taken and handed over to [another man]. All the time I could hear screaming and pleading for help coming from inside the house. These rods were passed in and out for a period of about one hour. Throughout this hour the screaming and shouting for forgiveness never stopped ... The following morning when I arrived there I saw a large crowd of people gathered there. In the road I saw the same three females I had seen the previous evening lying in the roadway. [Three men] were standing next to the bodies and were placing tyres on top of the bodies. [A]ll three of the people were dead."*

*Two men were subsequently charged with the killings. Mntuyedua was stabbed to death a week before the trial was due to start and the case collapsed. The police reports on the matter indicated that UDF-aligned 'comrades' were responsible for the killings.*

- 271 UDF supporter, Mr Norman Gilindoda Gxekwa [AM0148/96] was granted amnesty in connection with the 'necklace' killings in Uitenhage of Mr Thando Dladla in September 1987, Mr Monwabisi Reginald Fanayo in February 1988 and Mr Thozamile Michael Dondashe in March 1988. Gxekwa was convicted of murder in these three cases and was serving a lengthy prison sentence.

THE COMMISSION FINDS THAT A NUMBER OF POLITICAL DISSIDENTS WERE KILLED THROUGH THE 'NECKLACE' METHOD THROUGHOUT THE EASTERN CAPE REGION. THE MOST GRUESOME OF THESE INCIDENTS IS THAT WHICH WAS REPORTED TO THE COMMISSION BY THE KINIKINI FAMILY, WHERE FIVE MEMBERS OF ONE FAMILY WERE KILLED ON 23 MARCH 1985 IN KWANOBUHLE, UITENHAGE, BY A GROUP OF YOUTH WHO CLAIMED ALLEGIANCE TO THE UDF, INCLUDING MR MOSES JANTJIES AND MR WELLINGTON MIELIES. THE COMMISSION FINDS THAT THESE KILLINGS AMOUNTED TO GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE UDF AND THE PERSONS NAMED IN THIS FINDING ARE HELD RESPONSIBLE.

- 272 In May 1985, the Grahamstown home of two UDF activists, Mr Mxoliswa Christian Mbekela and Ms Miseka Tonyela [EC0031/96ALB], was firebombed and Tonyela was killed. Mbekela was the chair of the UDF-aligned Grahamstown Youth Congress. Mbekela said the device used was not a petrol bomb but a firebomb. He believed the security forces to be responsible for the attack.
- 273 In March 1986, a family in Duncan Village, East London, was attacked as part of the UDF–AZAPO feud. Ms Nomasonto Kumalo and her two-year-old daughter Ayabulela Kumalo were badly burnt; her mother, sixty-five-year-old Ms Vuyelwa Edith Kumalo, and sister, thirty-two-year-old Ms Nomakhosazana Kumalo, were both killed in the attack [EC0211/96CCK]. Nomasonto Kumalo told the Commission the family had been accused of being AZAPO members and her mother of being a witch. There had been several threats to the family. On the night of the attack, they were woken by stones being thrown at the house and the smell of petrol:

*We tried to look through the windows to see what was happening. We noticed that the doors could not open as they were tied with wire ... My sister came out with her hair burning. I found my mother sleeping on the doorway of her room and I dragged her out.*

- 274 On 2 April 1986, Mr Michael Mteto Ntozakhe [EC0567/96UIT] and his colleagues were stopped by a group of youths while on their way home to the SAP camp in Motherwell. The youths covered them with plastic bags, paper and sticks, poured petrol over them and set them alight. Ntozakhe and one other managed to escape. A security guard assisted them and called an ambulance. Ntozakhe spent three months at Livingstone Hospital in Port Elizabeth.
- 275 In July 1986, Ms Albertina Nontsikelelo Dlanjwa and Ms Wendy Sizeka Ramathe [EC0575/96PLZ] were attacked by UDF-aligned *amabutho* at Veeplaas in Port Elizabeth. The two women worked for the municipal welfare department and ran a welfare project involving a soup kitchen, sewing classes and the distribution of food parcels. They were at Dlanjwa's home, together with two elderly women, when two petrol bombs were thrown into the house by a youth who was their neighbour. Ramathe saw the youth throw the first petrol bomb and tried to escape. Dlanjwa died and Ramathe was severely and permanently injured. The UDF denied responsibility for the attack.
- 276 In January 1987, Mr Zolile Gerald Bonisile Vumazonke [EC0673/96UIT] left home to attend a relative's funeral in New Brighton, Port Elizabeth. He did not return and his wife later heard he had been killed by a group of youths. She heard

that a quarrel had developed, after which Vumazonke was forced into a car, questioned and then killed and burnt with petrol.

### *C r a d o c k*

- 277 Cradock is a small farming town some 300 km north of Port Elizabeth. Michausdal and Lingelihle townships at Cradock have had a long tradition of resistance to apartheid. Canon JA Calata, General Secretary of the ANC between 1936 and 1949, was from Cradock. During the 1950s, the town had a vigorous ANC branch, which mobilised support for the Freedom Charter and other campaigns. When Canon Calata died on 16 June 1983, the opportunity was used to mobilise people once again in the spirit of the Congress movement. This was at the time of the formation of the UDF.
- 278 Mr Matthew Goniwe, the popular principal of the Lingelihle Secondary School, and his nephew Mr Mbulelo Goniwe were approached by Mr Arnold Stofile, an ANC underground activist based at Fort Hare university, and asked to build organisation in Cradock and other Karoo towns. In 1983 he was instrumental in forming the Cradock Residents Association (Cradora), set up primarily to fight rent increases, and became its first chairperson. He was assisted by Mr Fort Calata, a fellow teacher at Lingelihle, who later became chairperson of the Cradock Youth Association (Cradoya).
- 279 On 29 November 1983, Mr Matthew Goniwe was notified that he had been transferred to Graaff-Reinet. Assuming this to be a politically motivated transfer, Goniwe refused to accept the move. The Department of Education and Training (DET) then claimed that he had 'dismissed himself'. When the DET refused to revoke the transfer, a school boycott started in February 1984 in support of Goniwe. By 18 March, it was supported by around 7 000 students from all seven Lingelihle schools; it ran for over fifteen months and became the longest school boycott in the country.
- 280 On 26 March 1984 a magistrate banned all meetings of Cradora and Cradoya. A few days later, police fired teargas into a church hall packed with 2 000 pupils. Pupils responded by stoning the police. On 28 March, twenty-one-year-old Mr Fezile Donald 'Madoda' Jacobs [EC0025/96NWC], head boy of Lingelihle High School, was detained under section 28 of the Internal Security Act. A COSAS and Cradoya leader, he was detained and tortured on numerous occasions between 1980 and 1989. He was charged with public violence and acquitted; he was later also charged and acquitted in connection with the 1985 killing of a Cradock police officer.
- 281 On 30 March 1984, Mr Matthew Goniwe [EC0080/96NWC], Mr Mbulelo Goniwe and Mr Fort Calata were detained under the same Act. On 31 March, the Minister of Law and Order banned all meetings for three months, extending the ban for another three months at the end of June. Conflict in Lingelihle escalated and the houses of councillors were stoned. Boycott-related violence began on 15 April, when students marched through the township demanding the reinstatement of Matthew Goniwe. Mr Sebenzile 'Sheshi' Jacobs [EC0149/96NWC], an eighteen-year-old student activist, was one of the first victims of political violence in Cradock in the 1980s. He was stabbed by a student who opposed the schools boycott.
- 282 On 26 April, the home of Mr Gladwell Makawula, Cradora chairperson, was petrol-bombed. The 'comrades' stoned the house of Mr Nqikashe, a teacher critical of the boycott. He warded them off with a pistol, but subsequently fled the

township. His house was burnt down. On 27 May, police and the SADF cordoned off Lingelihle township searching for public violence suspects. In June 1984, Mr Matthew Goniwe, Mr Fort Calata, Mr Mbulelo Goniwe and Mr Madoda Jacobs were listed in terms of the Internal Security Act.

- 283 On 16 June, Cradora called a successful one-day consumer boycott. A commemoration meeting was dispersed by the police with *sjamboks* and teargas, and schoolchildren stoned police vehicles. Over 200 people were charged with arson and unlawful gathering. On 23 July, the trial of five scholars for intimidation relating to the schools boycott began. On 9 August, eleven scholars were tried with public violence.
- 284 On 21 August, Mr Fort Calata, chairperson of Cradock, was dismissed from his teaching post while in detention. From July to November, seventy-seven Cradock residents were tried for public violence and arson; all but nine were acquitted.
- 285 In August 1984, a successful seven-day consumer boycott of white shops in Cradock was called, protesting against the detention of Goniwe, Calata and Mbulelo Goniwe. They were released on 10 October to a hero's welcome. In December 1984, a boycott of a beer hall led to its closure after four months. Ms Sindiswa Blom [EC0517/96NWC] testified how her home was petrol-bombed by youths in December because her husband Thembekile was a police officer.
- 286 Consumer boycotts and work stay aways were other tactics used to further the community's objectives – for example, the closure of the beer hall. The claim was made that, to all intents and purposes, Cradora had “seized control of Cradock” and was governing the township of Lingelihle. It clearly enjoyed widespread support from most of the township's 20 000 residents, demonstrated by the fact that it had gained the signatures of over 80 per cent of rent-payers for its petition.
- 287 On 3 March 1985, at the UDF Eastern Cape's first annual general meeting, Mr Matthew Goniwe was elected to the UDF Eastern Cape regional executive in the newly-created position of rural organiser. He helped establish civic structures in Adelaide, Fort Beaufort, Cookhouse, Kirkwood, Hanover, Colesburg, Alexandria, Kenton-on-Sea, Steytlerville, Motherwell and Noupoot. Civic and youth organisations in many of these towns used the same methods as organisations in Cradock: boycotts of beer halls and schools and various forms of pressure on BLA councillors and police officers.
- 288 The effectiveness of Goniwe's organisational methods did not go unnoticed by the state. The security forces perceived Cradock – and Goniwe in particular – to be the epicentre of revolutionary organisation in the sub-region; General Joffel van der Westhuizen later testified to the second inquest into Goniwe's death that Cradock was considered to be the ‘flashpoint’ (*brandpunt*) of the revolutionary onslaught. The security forces consequently targeted both Goniwe and his ‘comrades’, and established or supported conservative forces in neighbouring towns in an attempt to break the organisational influence of Cradock.
- 289 It appears that a decision of top-level security force members resulted in the harsh repressive measures adopted in Cradock to deal with the schools boycott. However, banning of meetings, detention and ‘listing’ of leaders, and trials for public violence and arson of many young activists during 1984 did not have the desired effect, and organising

continued to spread. Moreover, acts of violence escalated in the absence of respected leadership. In January 1985, the entire Lingelihle Council resigned and were accepted back into the community. They were the first Eastern Cape black local authority to resign. Many others were to follow.

- 290 Ms Novakela Doris Hermans was a councillor in Cradock from 1978 until 1984. At the Cradock hearing in 1997, she explained the background to the problem of rents in Cradock in 1984. She said that nobody from the community came to her to say that they did not want the council any more. In April 1984, her house was petrol-bombed twice; her elderly mother subsequently died. Hermans was forced into hiding: "My children were innocent; my parents were innocent. I was the councillor. But my family had to pay." She later resigned with the other councillors. When the police asked her if Mr Matthew Goniwe had pressured her to resign, she replied that he was in prison and was not responsible for her resignation. She was later accepted back into the community, but her house was burnt down again after Goniwe's death.
- 291 Violence in Cradock escalated again in February 1985. A number people died in the conflict. Some were police officers, stabbed or 'necklaced'; others were youth who were shot by police. In early April 1985, the schools boycott was called off, despite the refusal of the DET to reinstate Goniwe and Calata.
- 292 The 'Cradock Four' died on 27 June 1985 (see below) and were buried under the Communist Party flag in Cradock on 21 July. At midnight that night, the first partial state of emergency was declared, covering most of the Eastern Cape. Violence escalated again, partly due to the loss of trusted leadership. Many more people were killed in Lingelihle in the following three years, either shot by police or 'necklaced' by 'comrades'.
- 293 The pattern of events in Cradock in the mid-1980s was replicated with variations in many other small Eastern Cape towns: the building of community organisations, actions such as schools and consumer boycotts, the resignation of the black local authorities, action by security forces (police, municipal police, and sometimes state-aided vigilantes), the escalation of violence, the imposition of the state of emergency, the removal of leadership and the crushing of organisation.

#### *The . . . Cradock Four.*

- 294 The cases of the 'Cradock Four' and the related 'Motherwell bombing' illustrate the use of sophisticated covert operations by the security forces in the assassination of both political opponents and dissidents within their own ranks.
- 295 The UDF activists known as the 'Cradock Four' were Mr Matthew Goniwe [EC0080/ 96NWC], Mr Sparrow Mkonto [EC0029/96NWC] and Mr Fort Calata [EC0028/ 96NWC], and Oudtshoorn activist Mr Sicelo Mhlauli [EC0079/96NWC]. They were abducted and assassinated outside Port Elizabeth on 27 June 1985. Testimony was given to the first East London hearing of the Commission in April 1996 by their wives, Ms Nomonde Calata, Ms Nyameka Goniwe, Ms Sindiswa Mkhonto and Ms Nombuyiselo Mhlauli, and by Mhlauli's daughter, Ms Babalwa

Mhlauli. Before their deaths the 'Cradock Four' had all been frequently detained, tortured, threatened and harassed by the security police.

- 296 On 27 June, they drove to Port Elizabeth to attend a UDF briefing. They did not return home to Cradock, and their burnt and mutilated bodies were found near Bluewater Bay outside Port Elizabeth about a week later. An inquest in 1987 found that they had been killed by unknown persons. The inquest was reopened in 1993 and, after the disclosure of the top secret military signal calling for the "permanent removal from society" of Goniwe, it was found that the security forces were responsible for their deaths, although no individual was named as responsible. The families subsequently filed a claim for damages against the SADF and the SAP and this was finally settled.
- 297 The families requested further investigation to ascertain who was responsible. Ms Mkhonto requested that the perpetrators be brought to court so that justice could be done. Ms Mkhonto, Ms Mhlauli and Ms Calata also requested assistance with the education of their children. Ms Mhlauli requested the return of her husband's hand, which is believed to have been kept in a jar by the security police at Louis le Grange Square in Port Elizabeth. Mr Madoda Jacobs [EC0025/96NWC], the former head boy of Lingelihle High School, told the Commission that while he was in detention in Port Elizabeth in 1985, security police had shown him a hand in a bottle and told him it was Mhlauli's.
- 298 In January 1997, the Commission received amnesty applications from members of the Port Elizabeth security police for the killing of the 'Cradock Four'. Those who applied for amnesty were Mr Eric Alexander Taylor [AM3917/96], Mr Hermanus Du Plessis [AM4384/96], Mr Nicolaas Jacobus Janse van Rensburg [AM3919/96], Mr Harold Snyman [AM3918/96], Ms Gerhardus Johannes Lotz [AM3921/96] and Ms Johan Martin 'Sakkie' van Zyl [AM5637/97]. It was revealed that the car in which the four were travelling was intercepted at the Oliphantshoek pass. The four were shot or stabbed, and their bodies mutilated, before being dumped in the veld near Port Elizabeth.

#### *The . . . P E B C O . T h r e e .*

- 299 The killing of the 'Cradock Four' followed that of the 'PEBCO Three' on 8 May 1985, a very similar killing. These two killings of prominent UDF activists, within weeks of each other, added enormously to the tension in the Eastern Cape during 1985. At the time of the second killing, the 'PEBCO Three' had disappeared and their fate was suspected but not confirmed.
- 300 The 'PEBCO Three', Mr Sipho Hashe [EC0003/96PLZ], Mr Qaqawuli Godolosi [EC0004/96PLZ] and Mr Champion Galela [EC0005/96PLZ], were all members of PEBCO. They were lured to the Port Elizabeth airport with a false telephone message, abducted by the Port Elizabeth security police and taken to the remote disused Post Chalmers police station outside Cradock where they were killed. It was only when the Commission received amnesty applications in connection with these killings that the fate of the victims was confirmed. The amnesty applicants are Mr Johannes Koole [AM3748/96], Mr Harold Snyman [AM3918/96], Mr Gideon Johannes Nieuwoudt [AM3920/96], Mr Gerhardus Johannes Lotz [AM3921/96], Mr Hermanus Barend du Plessis [AM4384/96] and Mr Johan Martin 'Sakkie' van Zyl [AM5637/96].

#### *The Motherwell bomb*



301 This case involved a bomb blast outside Port Elizabeth in 1989, in which three black security police officers including Mr Amos Themba Faku [EC2115/97ELN] and Mr Mbambalala Glen Mgoduka [EC2631/97PLZ], and an *askari* (guerrilla fighter 'turned' by the police) died when the car they were travelling in exploded. It was initially thought that the blast was an act of MK, and it was alleged that the ANC had claimed responsibility for it. However, an investigation led to the trial and conviction of senior members of the SAP Security Branch, including Mr Gideon Nieuwoudt. The accused held that they had killed their colleagues because of a case of fraud involving the Council of Churches.

*Armed activity by liberation movements*

302 MK activities increased throughout the region during this period; armed attacks and clashes between guerrillas and police were reported and political trials continued. Transkei, which had a common border with Lesotho, became an infiltration route for guerrillas. The South African and homeland security forces often co-operated in matters such as handing over detainees. Detentions were frequently accompanied by torture.

303 In December 1987, the Prisoners' Welfare Programmes (Priwelpro), a human rights group in Umtata, published a report on security activity in the homeland in 1987 (up to 15 November). It claimed that 238 people had been detained (one had been in detention since 1985). A total of 738 people had been charged in forty-one political trials. In nineteen cases, charges had been dropped or the accused acquitted; there had been convictions in only ten cases. Of twenty-seven court applications, most of them seeking relief from detention or banishment and expulsion orders, twenty-four led to final orders or interim relief. The report said that there were thirty-two legal suits pending against the Minister of Police, claiming a total of R1.7 million; all but two of these dealt with unlawful detention or arrest and assault in detention. By May 1988, these claims had risen to a total of R2 million. Of 155 prisoners sentenced to death in the previous ten years, eighty-five had been executed and thirty-three were on death row. There were eleven political prisoners serving sentences at the end of 1987. In September 1988 Priwelpro was banned — the only organisation known to have been banned under the Transkei military government.

304 The Institute for Strategic Studies reported nineteen incidents of armed activity in Transkei alone during 1985–87. During 1988, there were at least twelve political trials relating to ANC activity in Transkei, many relating to armed incidents. Half of these cases were linked to one another and to another seven trials that had already been concluded. The Commission received a number of submissions dealing with these incidents and trials; in many cases there were allegations of torture in detention.

305 The following are some of the incidents of sabotage reported for this period:

306 An attempt to bomb the Bantu Affairs Administration Board (BAAB) offices in Port Elizabeth on 26 January 1983 resulted in the bomb apparently exploding prematurely, killing a bystander and the holder of the bomb, MK member Petros 'James' Bokala [KZN/ZJ/066/BL]<sup>31</sup>. Bokala was part of a small network of ANC members in Port Elizabeth, some of whom were later jailed.

307 The bombing of the Umtata bulk fuel depot and sabotage of the Umtata water and electricity installations, both on 25 June 1985, resulted in no deaths or injuries. Transkei enforced a nightly curfew for years after this and several trials

resulted. After the bombing, the ANC sent MK commander Mzwandile Vena to Cape Town to replace an operative who had been arrested. Vena was also arrested in Cape Town and fought unsuccessfully against extradition to Transkei to face charges on this matter. The state alleged he had been assisted by Mr Mazizi Attwell Maqokeza (see below) and Mr Zola Dubeni [EC2653/97UTA]. Dubeni was killed by police in Cape Town in March 1987 and Maqokeza was gunned down in Lesotho. In another trial, Mr Zakade Alfred Buka [EC0310/96WTK] was jailed for seven years for assisting the bombers; he had been tortured severely in detention.

- 308 Shortly after the bombing, then Transkei prime minister Chief Kaiser Matanzima publicly accused student activist, Mr Batandwa Ndondo [EC0237/96WTK] of involvement in this incident. On 24 September, Ndondo was fetched from his home by a group in a minibus. Shortly afterwards he was seen trying to climb out of the vehicle's window, shouting that he was being attacked. He escaped briefly and was gunned down in a neighbour's yard. Transkei and South African police together with *askaris* from Vlakplaas were implicated in the killing, but the trial collapsed due to lack of co-operation from the security forces. The Commission received amnesty applications from former police officers Mbuso Enoch Shabalala [AM5727/97] and Gcinisiko Lamont Dandala [AM6535/97] in connection with this matter. Six men connected to Ndondo (either as his relatives or as potential witnesses at an inquest into his death) were banished to remote Transkei regions for two years after his killing.
- 309 In July 1986, an MK unit attacked the police station in Madeira Street, Umtata. Three police officers and four others are believed to have died. ANC guerrilla China Talakumeni (aka Solly Prusente) was fatally injured and was later buried secretly by his colleagues. His body was subsequently exhumed by police; the Commission was unable to establish where he was eventually buried.
- 310 In January 1987, Mr Mbulelo Ngono (aka Khaya Khasibe) [EC0330/96PLZ] faced Transkei police, military and SAP in a thirty-six-hour shoot-out at a rural shop, the home of Ms Enid Jafta [EC0329/96STK] in Willowvale, southern Transkei. Ngono escaped with the assistance of guerrillas Dumisani Mafu, Zolile Ntlathi and Mazizi Attwell Maqokeza [EC0224/96UTA]. Mr Ngono and Mr Maqokeza were subsequently attacked in Lesotho; Maqokeza was killed in a second attack while recovering from the first in a Maseru hospital in March 1987. He was mentioned in numerous political trials in Transkei, with charge sheets indicating that he had operated in that territory for over three years. Ngono disappeared after the first attack, and the Commission learnt from amnesty applications<sup>32</sup> that he had been one of four members of the same ANC cell who voluntarily allowed the police to 'abduct' them from Lesotho to Ladybrand in December 1987 in order to become police informers. The applicants were unable to say what had subsequently happened to Ngono and the others, Ms Betty Boom, Ms Nomasonto Mashiya and Mr Tax Sejanamane, all of whom disappeared.
- 311 On 5 August 1987, police shot dead MK member Sonwabo Mdekazi (aka Thandi Malgas Khumalo [EC1286/96NWC]) in Port Elizabeth. The inquest heard that police had surrounded the house where he was staying at about 04h30, broke in and shot him dead because he had tried to shoot them from his bed. Police reported seizing an AK-47 rifle, a pistol and ammunition at the scene. Mdekazi had been a founding member and later regional organiser of COSAS; he had spent three years in jail until 1980 on charges of public violence before leaving the country.
- 312 On 12 January 1988, MK member Sthembele Zokwe [EC0018/96STK] was shot dead by Transkei police at his home in Ngqamakwe just hours after his detention in Butterworth. Police claimed he had tried to throw a grenade at them.

The family's lawyer said that he had inspected the room in which Zokwe had been shot and found fifty-four bullet holes. Onlookers said they had heard a burst of gunfire five minutes after Zokwe had been escorted by police into his mother's house. Two police officers appeared in court to face murder and attempted murder charges arising out of the death of Zokwe and assaults during an earlier detention. However, the accused, Sergeants Aaron M Tyani and Pumelele Gumengu, escaped from police custody in late October, shortly before they were due to appear in court. They escaped from separate prisons on the same day after requesting medical treatment. There had been at least two previous attempts by police to kill Zokwe; in one of these he was shot in the neck.

- 313 In February 1988, a joint South African and Transkei Police hit squad gunned down MK members Lizo Macanda (aka MK 'Gift', also known as Thembinkosi Gladman Mgibe), Zolile Sangoni [EC0243/96STK] and Zonwabele Mayaphi [EC0189/96ELN] in broad daylight in an Umtata suburb. A fourth man, Mr Thozamile Nkume [EC0257/96STK], escaped. Mayaphi's brother was on trial for a bombing at the time; Sangoni's brother was a prominent civil rights lawyer. Among the first to arrive at the scene of the attack were lawyer Lungisile Stofile and Priwelpro fieldworker Vumankosi Ntinkinca. They chased the assassins, who drove straight into the local police station backyard at full speed. Ntinkinca was subsequently detained and film in his camera was destroyed by police. Transkei and South African police officers openly admitted their involvement at an inquest later, but no one was ever charged. One of them, Mr Mpumelelo Madliwa, was later gunned down in Ciskei in an attack alleged to have been carried out by MK. The Commission subsequently discovered that Macanda had been buried in an unmarked grave in the Umtata cemetery.
- 314 In March 1988, MK member Qondo Hoho [EC0283/96QTN] was shot dead by police together with a relative at Mlungisi, Queenstown. The house in which he had been staying was smashed down by police during the incident.

THE COMMISSION FINDS THAT THE SAP AND PARTICULARLY ITS SECURITY BRANCH EMBARKED ON A PROGRAMME OF KILLING POLITICAL ACTIVISTS DURING THE LATE 1980S. EVIDENCE BEFORE THE COMMISSION POINTS TO THE RESULTING DEATHS AND DISAPPEARANCES OF ACTIVISTS BEING PART OF A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING BY MEMBERS OF THE SAP, FOR WHICH THE SAP AND THE SOUTH AFRICAN GOVERNMENT ARE HELD ACCOUNTABLE.

THE COMMISSION FINDS THAT, DURING THE LATE 1980S, THE TRANSKEI HOMELAND POLICE FORCE EMBARKED ON A PROGRAMME OF KILLING POLITICAL ACTIVISTS. EVIDENCE BEFORE THE COMMISSION POINTS TO THE RESULTING DEATHS AND DISAPPEARANCES OF ACTIVISTS BEING PART OF A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING BY MEMBERS OF THE TRANSKEI POLICE, FOR WHICH THE TRANSKEI POLICE AND THE TRANSKEI GOVERNMENT ARE HELD ACCOUNTABLE. THESE DEATHS AND DISAPPEARANCES WERE GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THE PERIOD 1983—89 WAS CHARACTERISED BY A DRAMATIC INCREASE IN THE RELIANCE BY THE SAP, THE CISKEI POLICE AND THE CDF ON: THE UNJUSTIFIED USE OF DEADLY FORCE IN CROWD CONTROL AND PROTEST SITUATIONS; THE USE OF DELIBERATE AMBUSH AND SO-CALLED 'TROJAN HORSE' OPERATIONS IN WHICH MARCHERS OR PROTESTERS WERE DELIBERATELY TARGETED AND KILLED; THE USE OF ASSAULT AND TORTURE ON SUSPECTS AND DETAINEES AS A SYSTEMATIC PATTERN OF ABUSE; THE FOSTERING OF DIVISIONS BETWEEN POLITICAL AND SOCIAL GROUPINGS; THE DELIBERATE KILLING OF POLITICAL ACTIVISTS.

THE COMMISSION FINDS THAT THESE ACTIONS LED TO WIDESPREAD GROSS HUMAN RIGHTS VIOLATIONS (KILLINGS, ATTEMPTED KILLINGS, TORTURE, ARSON AND SEVERE ILL TREATMENT) FOR WHICH THE SAP, THE CISKEI POLICE AND THE CDF ARE HELD ACCOUNTABLE.

## ● 1990–1994

### Overview of violations

315 Violations in the Eastern Cape during the 1990s took place in the following contexts:

- a violence following the release of Mr Nelson Mandela in February 1990;
- b clashes between the newly unbanned ANC and PAC;
- c a battle between the South African government and the ANC for control over the still independent homeland territories — including the conflicts in Ciskei (including the 1992 Bisho massacre) between ANC supporters and Ciskei authorities;
- d violence following the assassination of ANC leader Chris Hani in April 1993;
- e APLA's 'Operation Great Storm' of 1993.

316 The pattern of violations in the Eastern Cape as reported to the Commission changed from previous periods:

317 Severe ill treatment continued to be the largest category of violations (42 per cent), but killings increased to account for 20 per cent of the total Eastern Cape violations and torture dropped to 15 per cent.

### *P u b l i c   o r d e r   p o l i c i n g*

318 In Barkly East, residents of Nkululeko township were celebrating Mandela's release on the night of 11 February 1990 when two SAP officers fired shots at the crowd. At least two youths — Mr Lungile Stina [EC0229/96ALN] and Mr Thamsanqa Maqethuka [EC0230/96ALN] — were killed in this incident and Mr Bongani Nakele [EC0231/96ALN] had a leg amputated as a result of being shot. Mr Bonisile Hlwele [EC1005/96ALN] was shot in the head by police during the *toyi-toyi* demonstration.

319 In Steynsburg, campaigns by the Steynsburg Youth Congress against the BLAs continued, leading to violence in which a youth was killed by a 'greenfly', or special constable. Police opened fire on the funeral crowd on 4 July 1990, killing Mr Lulama Futshane [EC1433/97NWC] and Mr Fuzile Fatyela [EC1438/97NWC]. During the same campaign

against the BLA on 22 July 1990, Ms Nomphele Ralane [EC1435/97NWC] was shot and injured by a councillor while taking part in a *toyi-toyi* demonstration outside the councillor's house.

320 In Cradock, Mr John Vuyisile Mboya [EC0143/96NWC] was shot dead by police on 20 October 1992 following his arrest on a march into town. His sister, Ms Xoliswa Ethel Mboya, testified to the 1997 Cradock hearings that he was shot inside the police offices, where there were no witnesses other than police. No one was prosecuted.

321 In Venterstad, students and other residents of Nozizwe township engaged in protest marches in mid-1993, which led to the burning of delivery vehicles and attacks on municipal vans and policemen's houses. A number of youths were shot by police, or arrested and assaulted by police. Ms Nobeki Mbalula [EC1239/96NWC] was shot and killed by police on 4 July 1993 in Venterstad. The Commission also received other submissions relating to shooting injuries.

### *I n t e r - o r g a n i s a t i o n a l   c o n f l i c t*

322 In Fort Beaufort, an ANC/PAC 'feud' apparently broke out in February 1993. Three men were killed and several were seriously injured in violence. The police reported that the three were killed in separate incidents. They included ANC member Zwelenkomo Alfred Swartbooi [EC0723/96ALB], who died in Adelaide hospital because of multiple head injuries caused by a sharp object. The Commission received a number of other statements relating to these clashes. Political intolerance between the PAC-aligned Pan Africanist Student Organisation (PASO) and the ANC-aligned COSAS appears to have been a motivating factor in the violence of this period.

323 Political intolerance between ANC and PAC members also became violent in Steynsburg in 1993. PAC organiser, Mr Michael Zalimpi Meje [EC1457/97NWC] told the Commission that, during March and July 1993, the ANC "tried to intimidate people to change membership from PAC to ANC". His home was attacked and burnt by ANC supporters, despite at one stage being guarded by police.

324 In Uitenhage, the bloody conflict between the *AmaAfrika* and supporters of the UDF, which began in 1986/7 and flared up again in late 1989, continued into the 1990s. Mr Gladstone Kathazile Sibeku [EC0689/96UIT] was killed in the conflict between 1 and 6 February 1990 and Mr Mxoleli Pityana [EC1077/96UIT] was hacked to death by *AmaAfrika* on 13 February 1990. Mr Lawrence Mcebisi Willen [EC1068/96UIT] was shot dead at a rally in Uitenhage on 23 February 1990. It is not clear whether he was shot by SAP or by *AmaAfrika*. The homes and businesses of Mr Kaliman Jackson Befile [EC2367/97UIT] and Mr Pumezile Befile [EC2398/97UIT] were burnt down by UDF/ANC-supporting 'comrades' in February 1990. Mr Temba Tembani [EC2392/97UIT] was shot and stabbed to death by *AmaAfrika* supporters in Uitenhage in 1990. *AmaAfrika* member Thembekile Plaatjies [EC1141/96UIT] was found dead on 4 September 1993 in Uitenhage.

325 In Transkei, violence followed attempts by the unbanned organisations to organise, often as a result of local intolerance of opposition. ANC supporters clashed with supporters of tribal authorities. In Pondoland, many people of Xopozo village in Flagstaff were killed and many left homeless or physically injured in conflict between the ANC and a group led by Chief Samuel Mdutshane. The Commission received several statements from ANC supporters

concerning this conflict; at least eight named Chief Mdutshane's group as the perpetrators. Mr Dlayikeza Tonga [EC1730/97ETK], Mr Vulindlela Mbaligontsi [EC1731/97ETK] and Mr Masundula Kala [EC1732/97ETK] all died in the clashes; Ms Nokwendisa Priscilla Njeje [EC1537/97ETK], Mr Nkebe Soswiti Mdutshane [EC1727/97ETK] and Mr Sicanulo Ntshomela [EC1538/97ETK] were all injured; Mr Mandlakayise Lumbo [EC1729/97ETK] narrowly escaped injury; Mr Welcome Mtutuzeli Jara [EC1728/97ETK] and Mr Amos Mazizi Kango [EC1733/97ETK] had their homes burnt down.

THE COMMISSION FINDS THAT VIOLENT CONFLICT ERUPTED IN SEVERAL PARTS OF THE EASTERN CAPE DURING THE 1990S — BETWEEN THE ANC AND PAC IN FORT BEAUFORT AND STEYNSBURG AND BETWEEN THE ANC AND AMAAFRIKA IN UITENHAGE. THIS CONFLICT RESULTED IN KILLINGS AND INJURIES ON BOTH SIDES AND WAS FUELLED BY POLITICAL INTOLERANCE. THE COMMISSION FINDS THAT KILLINGS, ATTEMPTED KILLINGS AND INCIDENTS OF SEVERE ILL TREATMENT RELATED TO THIS CONFLICT WERE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH THE ORGANISATIONS INVOLVED IN THE CONFLICT ARE HELD ACCOUNTABLE.

### *The battle for the homelands*

326 This period was one of military rule for both Ciskei and Transkei. The Transkei had been under constant military rule since Major-General Bantu Holomisa's second coup on 31 December 1987, the first successful coup in a South African homeland. In Ciskei, Brigadier Oupa Gqozo took over on 4 March 1990, shortly after the national unbannings, riding on a wave of rural resistance to the rule of former Ciskei president, Mr Lennox Sebe. It appears that neither of these coups was initiated by South African security forces, as has been speculated; rather they seem to have emerged from the homeland militaries themselves. By the 1990s, there was an ongoing dispute between the Transkei military government and the South African government: this soon became a dispute over whether or not Transkei was offering the newly unbanned liberation movements weapons, military training and bases from which to launch attacks. A few months after Gqozo took over in Ciskei, the SADF MI set up a front operation in Ciskei deliberately aimed at turning Gqozo against the ANC. The (IR-CIS)<sup>33</sup>, which Gqozo was unaware was an MI project, operated in Ciskei from mid-1990 until the formal structure was closed down by the SADF following adverse publicity in August 1991.

327 During this period there was constant conflict in the Eastern Cape between the Transkei government and the ANC and PAC on the one hand, and the Ciskei and South African governments on the other. Within these broad alliances, there were other conflicts: the Ciskei and South African governments, for example, clashed frequently. These conflicts resulted, *inter alia*, in the abortive coup attempt against Major General Holomisa in November 1990 by Colonel Craig Duli, acting together with the South African security forces; the killing of Ciskei rebels Mr Charles Sebe and Mr Onward Guzana, and a plot to kill Mr Chris Hani and Holomisa in Transkei. The African Democratic Movement (ADM), which was set up under Gqozo with SADF MI assistance, was involved in conflict with ANC members in the Border-Ciskei region, particularly after the September 1992 Bisho massacre.

### *The Gqozo coup in Ciskei*

328 On 4 March 1990, the Ciskei military overthrew Mr Lennox Sebe's civilian government and installed a military government headed by Brigadier Oupa Gqozo. The take-over was followed by a wave of violence, with widespread

burning and looting reported in some areas, especially in Mdantsane. Township councillors and officials of Sebe's Ciskei National Independence Party (CNIP) were attacked.

- 329 Mr David and Ms Nomutle Zenzile [EC0932/96CCK], who were accused of being CNIP members (although they denied it), were stoned and their house in the Zwelitsha rural area was burnt down. Mr Zenile told the Commission that "the youth were *toyi-toying* and collecting CNIP membership cards from the relevant people with the aim probably of burning these". Mr Steve Nene [EC1032/96CCK] was a councillor in Mdantsane and had been associated with Sebe's government during the 1983 bus boycott. On the day of the coup, the Nenes' house and shop in Mdantsane were burnt down. Nene (66) was detained; his family eventually found him a week later in hospital where he had been unconscious for three days. His wife, Ms Nomalanga Rhyline Nene, told the Commission:

*He was injured in his head. Even today he is mentally impaired ... He said that the police would take his head to the toilet and they would flush the toilet, which rendered him unconscious.*

- 330 The police believed that Nene was in contact with Sebe, who had not returned to Ciskei since the coup.

#### *The Duli coup attempt in Transkei*

- 331 In 1990, Lieutenant Colonel Craig Duli [EC0236/96UTA] attempted a coup against the Transkei military government. Duli was a former member of the Transkei military council who had resigned his position in May 1989 and been detained shortly afterwards; he later fled to South Africa and was discharged from the Transkei Defence Force (TDF) in February 1990.
- 332 His abortive coup attempt on 22 November 1990 was carried out with the active support of the South African security forces. They started with an attack at the Ncise military base outside Umtata, early in the morning. Four TDF members and several of Duli's men were killed here. The TDF members were an instructor, Mr Mlungisi Atwell Kahla [EC0549/96UTA], Mr Sipho Peter [EC0795/97QTN] and two new recruits, Mr Xolile Milton Zweni [EC2122/97ETK] and Mr Telford Qungqutho [EC2123/97STK].
- 333 Duli and three others moved into the city centre and managed to gain access to Holomisa's office on the top floor of the Transkei government buildings by taking a key from the officer who arrived to unlock the doors early in the morning. After a lengthy shoot-out with the Transkei security forces, Duli was arrested together with Mr Sabelo Wana, who gave a witness statement to the Commission. Duli was killed after his capture. His bodyguard, Mr Boetie Davies [EC0533/96ALB], and a fourth man died before they could be arrested. The day after the coup attempt, bodies of the dead attackers and their weaponry were put on public display at the Ncise military base.
- 334 In all, seven TDF members were killed and thirty-three more wounded by the attackers, and Duli and ten of his followers died. In the months following the coup attempt, a large group of dissidents was detained in Transkei and later charged. Three years later, seventeen men were convicted in the main trial and given sentences ranging from an effective five to twenty years' imprisonment.

335 The Commission received submissions from families of the attackers and from families of the deceased TDF members, as well as amnesty applications in connection with this matter. Mr Albert Jacques Plaatjies [EC0530/96ALB], an SADF volunteer corporal from Grahamstown, died in the coup attempt. Plaatjies' sister, Ms Boniwe Maureen Ntshoko, told the Commission that she watched the news coverage of the failed coup on television and a few days later the Transkei authorities informed her of her brother's death. It took the family more than three weeks to get the Transkei authorities to release the body for burial. The family also questioned the public display of the bodies.

336 Ms Nontobeko Duli, widow of the coup leader, said she believed Duli had been shot dead by soldiers at the military base after he had been captured. She said she had been told by General Wildon Mbulawa of the Transkei Police (who was himself killed by unknown gunmen in December 1994) that he had seen Duli fatally shot in the back by security forces at the base; he did not identify the killers. Duli's fellow conspirator, Mr Sabelo Wana, was arrested with Duli at the government buildings in Umtata. Wana told the Umtata Supreme Court during his subsequent trial that he had been transported in the boot of a car after his removal from the building. Wana said that, at that time of his arrest, Duli had an eye injury and a gunshot wound in his leg. He was able to walk out of the building, although he was limping. The *post mortem* report states that Duli's death was "consistent with gunfire and explosive injuries to chest and abdomen". It also indicates that Duli suffered severe injuries including a fractured skull, fractured ribs, fractured vertebrae, injuries to the spinal cord and extensive internal injuries. Press reports at the time indicate that Duli was carried out of the building, rather than walking as suggested by Wana, and that he was seriously injured. Despite the injuries, it appears that he was taken to the military base rather than to the hospital. Shortly after the attack, Lawyers for Human Rights wrote in a report<sup>34</sup>:

*On the day of the coup, it was alleged that Colonel Duli had in fact been murdered. His wife is alleged to have said that a number of soldiers taking Colonel Duli to hospital had first beaten and then killed him. We doubt that Colonel Duli would have survived his wounds received during the attempted coup. However, Ms Duli's claims should not be taken lightly. This was not the only claim of secret execution. A soldier we spoke to claimed that a number of the rebels were captured alive and then later executed. We have so far not been able to confirm this. Another troubling aspect of the army's actions was the treatment of the bodies of the rebels. The open and public display of them cannot be justified under any circumstances'.*

337 At least four men were arrested years later and appeared in court in 1997–98 in connection with Duli's death. They were Major Kolekile Mangcotywa, Lieutenant Tobias Ngxola, Major Advocate Sobhuwa and Major Lungisa Fikeni. Their case continues.

#### *The deaths of Sebe and Guzana*

338 On 27 January 1991, Colonel Onward Guzana [EC0405/96ELN], formerly of the CDF, and Major General Charles Sebe [EC0904/96CCK], the former Ciskei security chief who had been living in Transkei for some years, were shot at a CDF roadblock in Ciskei on the road between Stutterheim and King William's Town. Guzana died at the scene while the injured Sebe fled. He was tracked down a few kilometres away and shot dead by the Ciskei security forces the following day. Guzana had been one of the four members of Gqozo's military council; within months of the Gqozo



coup he had been pressured into resigning from the council and had been detained on allegations of plotting against Gqozo. While out on bail facing charges of treason, he had fled to Transkei and linked up with Charles Sebe, who had previously been involved in attempts to seize power in Ciskei. The two left Transkei and drove to Ciskei with the intention of taking over the government. Guzana's widow, Ms Nomzi Vivie Guzana, told the Commission:

*They left about six in the evening, then it was in the morning at about ten that we heard from the radio that there had been a failed coup attempt in Ciskei.*

339 After several days, the Ciskei government permitted her to go to Ciskei to identify his body.

*When I arrived, we went to identify his body at the police mortuary in Mdantsane. When we arrived there, the place was full of school kids wearing navy blue tunics. And they were being shown Mr Sebe's body.*

340 The family disputed the official *post mortem* report and claimed Guzana had been executed after arrest.

341 The inquest found that Guzana and Sebe had been on an unlawful mission to overthrow Gqozo. They were unaware that they were being lured into a trap devised by the IR-CIS unit headed by Lieutenant Colonel Anton Nieuwoudt. The inquest judge was critical of the evidence of many of the witnesses – “a vast proportion of the evidence was given by witnesses who had a motive to lie”. The court found there was insufficient evidence to find criminal liability in connection with Guzana's death, while Sebe was illegally shot dead while surrendering. While the court found that Nieuwoudt had been instrumental in planning the fake coup, there was insufficient evidence for a finding on Nieuwoudt's or the unit's criminal culpability. As a result of the inquest findings, Gqozo and his bodyguard, Sergeant Major Thozamile Veliti, were charged with murder; both were subsequently acquitted.

342 The Commission received an amnesty application in this matter, from IR-CIS deputy chief Clive Brink.

THE COMMISSION FINDS THAT, DURING THE PERIOD 1990—1994, SADF MI COLLUDED COVERTLY WITH SENIOR MEMBERS OF THE CISKEI HOMELAND AUTHORITY TO FURTHER ITS COUNTER-REVOLUTIONARY STRATEGIES IN THE CISKEI, TO BOLSTER ITS ALLIES IN THE CISKEI GOVERNMENT AND IN THE CISKEI INTELLIGENCE SERVICES, AND TO UNDERMINE THE INFLUENCE OF STRUCTURES AND GROUPINGS OPPOSED TO THE FORMER STATE AND ITS HOMELAND POLICIES. IN TWO SEPARATE INSTANCES, SADF MI OFFICERS ACTED TOGETHER WITH SENIOR HOMELAND OFFICIALS IN INCIDENTS THAT LED TO THE KILLING OF PEOPLE. THESE INCLUDED:

- COLLUDING WITH SENIOR TRANSKEIAN DEFENCE FORCE OFFICER, COLONEL CRAIG DULI AND ASSISTING HIM IN AN ATTEMPT TO OVERTHROW THE TRANSKEI GOVERNMENT BY MEANS OF A MILITARY COUP IN NOVEMBER 1990. THIS INCIDENT RESULTED IN THE DEATHS OF FIFTEEN PEOPLE;

- ASSISTING THE CISKEI HOMELAND AUTHORITY IN THE KILLING OF MR CHARLES SEBE AND MR ONWARD GUZANA IN FEBRUARY 1991.

THE COMMISSION FINDS THAT THE DEATHS OF THE ABOVE PERSONS WERE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH THE FORMER STATE, THE SADF, THE CISKEI HOMELAND AUTHORITY AND COLONEL CRAIG DULI ARE HELD ACCOUNTABLE.

*Conflict between Ciskei government supporters and the ANC*

- 343 In the months immediately after the Gqozo coup, there were good relations between the Ciskei authorities and the ANC and its allies. This situation deteriorated by mid-1990, with conflicts revolving in particular around the homeland government's support of the system of rural government involving chiefs and headmen as opposed to the ANC and its allies' preference for a system of residents' associations. In July 1991, Brigadier Gqozo launched the African Democratic Movement (ADM), which later became the political party with which he contested the 1994 general elections. This party was drawn into the conflicts between Ciskei and ANC.
- 344 Conflicts became increasingly violent from 1991. From April to August 1991, a state of emergency prevailed in the Whittlesea district of Ciskei; in late October, a state of emergency was declared throughout Ciskei which lasted until mid-November. Clashes increased during 1992 (particularly during August 1992 – the month between the ANC's peaceful 'practice' march to Bisho of 4 August and the march that resulted in the Bisho massacre of 7 September). The Bisho massacre thus took place against a background of increasing conflict between Ciskei authorities and ANC supporters. After the massacre, conflict between the two groups seems to have increased for a few weeks; there was also an increase in the use of more sophisticated weaponry during this period. The worst of the violence appears to have subsided by the end of that year. Most of the attacks seem to have involved arson, burnings or stoning aimed at security forces on the one side and at prominent ANC-alliance members on the other.
- 345 The CDF recorded 218 incidents of political violence in Ciskei between the lifting of the state of emergency on 17 November 1991 and 30 August 1992 (a week before the Bisho massacre); fifty-eight of these incidents took place in August 1992. For the three-month period 1 June to 31 August 1992, the CDF recorded 139 attacks; these appear to be attacks solely on Ciskei government supporters (victims were chiefs, headmen, policemen, soldiers, private security force members associated with the government, and other government employees); no ANC victims were identified. Of those 139 attacks, twenty-four were aimed at security force members or buildings and twenty-eight involved the use of guns and/or hand grenades (as opposed to stones or petrol bombs); two-thirds of the attacks involving guns and hand grenades targeted security force members. The Network of Independent Monitors (NIM) reported on the involvement of MK operatives in the attacks on security forces during this period. NIM records another thirty-seven such armed attacks on Ciskei government supporters and security forces carried out from 1 September to 31 December 1992 (the period immediately after the Bisho massacre), which were probably carried out by MK. Both the CDF statistics and NIM records indicate that the overwhelming majority of victims during this period were Ciskei government supporters, rather than ANC supporters. For example, of 132 incidents recorded by NIM for June to August 1992 (also based primarily on CDF statistics), 46 per cent were known to involve government-aligned victims while less than 1 per cent were known to involve ANC-aligned victims. It appears that the CDF statistics were based primarily on cases reported to the police. According to a list drafted by lawyers for the Ciskei government, at least 151 civil claims were filed against the Ciskei government as a result of actions by soldiers during August and September 1992 alone. Fifty-one of these claims related to deaths and injuries in the Bisho massacre. This excludes civil claims made against the Ciskei police.

- 346 The Commission received about 150 submissions in connection with clashes between Ciskei authorities and ANC supporters during this period; the overwhelming majority of these statements were made by or on behalf of ANC-aligned victims. About twenty amnesty applications were received in connection with these conflicts.
- 347 Generally clashes appear to have been between Ciskei government supporters (security forces, ADM members, chiefs, headmen, government employees and private security companies such as Peace Force, which were associated with the government) on one hand and ANC supporters (the ANC, MK, the SACP, the Congress of South African Trade Unions (COSATU) and the South African National Civics Organisation (SANCO)) on the other. There were also clashes in some areas between ANC and PAC members, which often seem to have been linked to the broader conflict between the homeland authorities and the ANC. For example, in Bhele village outside King William's Town, ANC members perceived PAC members to be allied with the ADM. Thus clashes recorded as being between PAC and ANC members may have been perceived by at least one of the groups involved as being a conflict between ADM and ANC members.
- 348 One of the earliest of these clashes reported to the Commission took place in May 1990 when CDF members broke up a meeting at Ndakana near Stutterheim and assaulted those attending. The meeting had been called to protest against the re-imposition of the headman system and against conflict within the community over the recent stabbing of an ANC supporter. Those assaulted included Ms Selina Qongwana [EC1267/96SBR] and Mr Vuyisile Shushwana [EC1268/96SBR].
- 349 By August 1992, violence was increasing, revenge attacks were taking place and communities were being split by political intolerance. In Tendergate, in the Hewu district of Ciskei, there was tension between ADM and ANC members. ADM member Richard Xabendlini [EC1980/96KWT] was attacked in mid-August. His home was burnt down and he died later of his injuries. An ANC member in Tendergate, Mr Alfred Welile Oliphant [EC0161/96QTN], was accused of involvement in this killing by his one-time close friend, CDF member Bennie Lumko. Oliphant was arrested and charged with Xabendlini's killing. One night at the end of August, Oliphant's home was set alight and he was shot dead as he tried to escape the flames. Oliphant's widow, Ms Eunice Boniswa Oliphant, told the Commission:

*There were rumours that the ADM had sworn revenge and said when Mr Xabendlini was being buried, Mr Oliphant's body would be at the mortuary, and that is exactly what happened.*

- 350 Mr Edwin Lumko, Bennie Lumko's father, was convicted of the killing and sentenced to an effective three years' imprisonment, but the Oliphant family believes that he took the blame for his son. The criminal proceedings were complicated by the disappearance of a witness, ADM member Nkoliseko Mrola, who disappeared in the Western Cape while under a witness protection programme<sup>35</sup>. Ms Oliphant told the Commission:

*There were people that were arrested after my husband's death, but they were never held in custody because the day that they were arrested there were members of the ADM who phoned Gqozo and Gqozo sent a message that these people must be released immediately.*

- 351 The Commission found records at Middledrift Prison in Ciskei which indicated that Mr Edwin Lumko had been admitted on 3 September 1993 and released again just 18 days later, with his three-year sentence recorded as having been completed. Lumko [AM7967/97] applied for amnesty in connection with Oliphant's killing.
- 352 Tendergate ANC member Mr Tembilizwe Dywashe [EC0164/96CCK] was also allegedly killed by ADM members at that time. The family believed that a Mr Lumko and Nkoliseko Mrola were among those involved. A number of suspects were arrested and released soon after.
- 353 The Bisho massacre of 7 September 1992, which is dealt with below, seems to have set off an undeclared all-out war in Ciskei. A week after the massacre Mr Jimmy Kula [EC2120/97CCK], a headman and ADM member from the Msobomvu area of Middledrift, was stabbed to death and his family's homes torched by ANC supporters. His widow, Ms Nosilingi Patricia Makupula, told the Commission it was in retaliation for the Bisho massacre. The home of Ms Victoria Jwaxa [EC2119/97CCK] was burnt down after she attended Kula's funeral. On 15 October, people believed to be Ciskei soldiers attacked a Msobomvu home with guns and grenades and shot dead Mr Elby Ngayithini Ngece [EC0726/96CCK], apparently mistaking him for another family member they were searching for. Several others were injured. Mr Mthetho Ngece, SANCO member and chair of the local ANC Youth League, who is believed to have been the attackers' intended target, told the Commission:

*If I had the strength at that time and I knew who the perpetrators were I would have gone and revenged, because my family is as it is because of them ... I have no forgiveness for these people.*

- 354 The Ngece family believes this attack may have been in retaliation for the attacks on the Kula family and their supporters. Mr Madoda Shackleton Kula [AM6440/97] attended a hearing of the Commission and denied involvement in this attack. Kula applied for amnesty in connection with a hand-grenade attack on another Msobomvu household a week later, which did not result in fatalities. He was granted amnesty for possession of weapons but refused amnesty for the attack on the household on the grounds that this had an element of personal revenge and thus did not fall within the ambit of the Act.
- 355 On 22 September Mr Ndodiphela Maseti [EC0481/96CCK], a former headman from the Middledrift area who had joined the ANC, was attacked by ANC-aligned youths. His home was burnt down and he was chased and burnt to death. His widow, Ms Thandiswa Beatrice Maseti, told the Commission that her husband was targeted because he had once been a member of Upper Gqumashe Tribal Authority. The Commission received amnesty applications from Mr Zukile Makhaphela [AM6438/96] and Mr Ludumo Mati [AM6439/96] in connection with this. They said they were part of a group that stoned and burnt Maseti because of their anger over the headman system.
- 356 ANC member Banele William Mxoli [EC2248/97CCK] was detained under the Ciskei state of emergency in October 1991; a week after the 1992 Bisho massacre, his home at Perksdale Mission in the Middledrift region was petrol-bombed by attackers believed to be ADM members. The following day another arson attack was launched on his home by people armed with guns. The Commission received amnesty applications from Perksdale Mission headman and ADM member Richard Ziyanda Mandita [AM3498/96] and four other ADM members, Mr Welile Mamayo [AM3499/96], Mr Mbulelo Ngxoweni [AM3024/96], Mr Japie Nimrod Mandita [AM3025/96] and Mr Bongani Mandita

[AM3026/96]. Richard Ziyanda Mandita said his own home had been burnt down and he had attacked Mxoli and three others in revenge.

- 357 At the end of 1993, violence took a different form when a hit squad, apparently linked to the ADM, was set up. This group targeted ANC members and individuals who had spoken out against the ADM. On 23 December 1993, ANC member Mongezi Martin Ndudula [EC2090/97CCK] was shot and fatally wounded outside his home in Dimbaza. On 9 January 1994, Mr Khangelekile Tanana [EC2043/97CCK] was shot dead and Mr Thembani Moyeni [EC2083/97CCK] shot and injured while they were walking along the road on their way to an ANC meeting near Peddie. About two weeks later, the family of Mr Zongezile John Gamzana [EC2023/97KWT] at Phakamisa near King William's Town was attacked at night, leaving three people injured. ADM chairperson Titise Mcoiyana, Peace Force security employee Vuyisile Madikane, former MK member Jeffrey Moshumi, civil servant Dingaan Somtsora and CDF member Mongezi Reuben Solani subsequently faced thirty-seven charges including murder, attempted murder, armed robbery and weapons charges relating to incidents in December 1993 and January 1994. They were acquitted on all counts.

THE COMMISSION FINDS THAT THERE WERE VIOLENT CONFLICTS BETWEEN THE ANC AND ITS ALLIES AND THE CISKEI GOVERNMENT AND THE ADM IN THE FORMER CISKEI DURING THE 1990S. THESE CONFLICTS INVOLVED KILLINGS, ATTEMPTED KILLINGS AND SEVERE ILL TREATMENT. THEY WERE INFLUENCED BY POLITICAL INTOLERANCE ON BOTH SIDES AND WERE EXACERBATED BY THE THEN CISKEI GOVERNMENT'S INTOLERANCE OF LEGAL OPPOSITION. THEY INVOLVED BOTH AD HOC ATTACKS BY SUPPORTERS OF BOTH SIDES AND TARGETED ATTACKS BY ANC/MK MEMBERS ON CISKEI SECURITY FORCES (IN CONTRAVENTION OF THE ANC'S SUSPENSION OF THE ARMED STRUGGLE) AND BY CISKEI SECURITY FORCES ON MK MEMBERS AND/OR PROMINENT ANC MEMBERS.

THE COMMISSION FINDS THAT KILLINGS, ATTEMPTED KILLINGS AND SEVERE ILL TREATMENT WHICH OCCURRED DURING THIS CONFLICT WERE GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH THE ANC, THE CISKEI GOVERNMENT AND THE ADM ARE HELD ACCOUNTABLE.

### *Attacks on security force members*

- 358 There were various attacks on police during this period. While this type of attack fell within the stated policies of the APLA at the time, not all were carried out by APLA members. Some of the attacks were part of the conflicts between the Ciskei authorities and the ANC and were probably carried out by MK members, despite the official suspension of the armed struggle. Some of these attacks may have been aimed at arming ANC self-defence units (SDUs) during the Ciskei-ANC conflicts. During 1993, there was speculation in the security forces and in the press that some of these attacks were carried out by a unit comprising MK members, APLA members and hired killers; the Commission did not receive any amnesty applications on behalf of anyone claiming to have acted as part of such a group.
- 359 Even if SDUs were not operating in Ciskei during this time, the Ciskei security forces believed they were: ANC Youth League member Khayaletu Baba [EC2001/97CCK] was detained in Peddie in about June 1992 by Ciskei security police and assaulted while being questioned about SDUs and the involvement of MK members in them.
- 360 On 14 August 1992, there were two separate attacks on Ciskei police vehicles in Mdantsane. Mr Thembaletu Jwayi [EC0235/96STK], who had recently joined the police, was on his way to work with other police officers when they were attacked. Jwayi's father, Mr Malolo Gilifisi Jwayi, told the Commission:

*There were two policemen who came and reported that Themba lethu was shot dead and then the van in which he was travelling was burnt out.*

361 He said his son's body was so badly burnt, he did not recognise him:

*I went to the mortuary ... I couldn't identify him because it was only the skeleton which was there.*

362 Four other police officers were killed in the attacks, including Mr Buyile Robert Kelewu [EC1282/96ELN]. The attackers fled to the Transkei border, chased for part of the way by the SAP. Subsequent inquest reports into the deaths of Jwayi and Kelewu indicate that the perpetrators were linked to MK. There were no prosecutions.

363 The day after these attacks, the Umtata police station was attacked and weapons were stolen. The Commission received amnesty applications in connection with this matter; the applicants stated the attack had been carried out on behalf of APLA.

364 On 17 September 1993, a Ciskei police vehicle was attacked by unknown gunmen in Zone Two in Mdantsane. Mr Zolani Dumile [EC0083/96KWT], who was in the vehicle following his arrest shortly before the attack, was killed along with two police officers.

365 While MK was clearly operating in Ciskei under cover of the general violence, it appears that the Ciskei security forces may also have been taking advantage of the violence as a cover for attacking guerrillas and leading activists. Again, the worst of these attacks seem to have taken place after the Bisho massacre.

366 The home of Mr Fusante Stanley Roji [EC0487/96CCK], the father of the general secretary of the SACP in the Border region, Mr Skenjana Roji, was attacked with guns on 15 August. The family counted over twenty bullet holes in the house. Two months later, just after the Bisho massacre, the family was again attacked. This time grenades were used and the home was burnt down. No one was injured and the family fled to stay with friends.

367 Ms Nowinile Badi, her husband Ben Badi and their granddaughter Vuyokazi Badi [EC0725/96CCK] were all killed when unknown gunmen attacked their home in Msobomvu, near Alice on 15 October 1992, in search of MK member Eric Fumanekile Badi [EC0727/96CCK]. Mr Eric Badi described how the attackers knocked on the window and called him by a nickname that only a few close friends knew, and then started shooting with rifles and throwing grenades. Badi was injured but managed to escape.

THE COMMISSION FINDS THAT THE ATTACKS UPON CISKEI POLICE AND DEFENCE FORCE MEMBERS PRIOR TO AND FOLLOWING THE BISHO MASSACRE IN SEPTEMBER 1990 WERE CARRIED OUT BY MEMBERS AND SUPPORTERS OF APLA AND THE ANC. THE ATTACKS RESULTED IN GROSS HUMAN RIGHTS VIOLATIONS (KILLING, ATTEMPTED KILLING, ARSON AND SEVERE ILL TREATMENT) FOR WHICH THE ANC AND APLA ARE HELD ACCOUNTABLE.

*T h e   B i s h o   m a s s a c r e*

- 368 The incident commonly referred to as the Bisho massacre took place in September 1992 in Bisho, the capital of the then Ciskei. The months before the shootings had seen a marked increase in tension in the Ciskei, with numerous violent clashes between ANC supporters and Ciskei government supporters in the weeks leading up to the massacre. By September 1992, the ANC was running a national campaign to demand free political activity in homelands, targeting Ciskei, Bophuthatswana and KwaZulu in particular.
- 369 The ANC protest march to Bisho on 7 September 1992, demanding the resignation of Brigadier Oupa Gqozo (then military ruler of Ciskei) and free political activity in Ciskei, was part of this campaign. It followed a similar march on 4 August, which was regarded by many as a 'practice' march. CDF soldiers opened fire on the September march, killing thirty people. (Twenty-eight protesters and a CDF soldier – shot by his colleagues – died within days of the shooting; a twenty-ninth ANC supporter died in 1995 from his injuries.) At least 200 CDF soldiers and 70 000 – 80 000 ANC supporters were involved in the clash. Prominent ANC leaders who were part of the march included Mr Chris Hani, Mr Ronnie Kasrils (now Deputy Minister of Defence) and Mr Cyril Ramaphosa.
- 370 The Commission held two public hearings on this matter. The first was held in Bisho in September 1996, within days of the fourth anniversary of the massacre, and the second in East London in November 1996. About sixty witnesses who had brought complaints to the Commission were heard; these were people who had been injured in the march or whose relatives had been killed, and family of the CDF soldier who died. Further submissions were made by ANC leaders, Mr Ronnie Kasrils and Mr Cyril Ramaphosa, by the then South African Minister of Foreign Affairs, Mr Pik Botha, by a ballistics expert and by several senior police and military officers who had been in charge of the Ciskei security forces. The former Ciskei Attorney-General gave evidence describing interference by Gqozo's government in attempts to prosecute the matter. After some prevarication, Gqozo himself also gave evidence at the second hearing.
- 371 Those who made statements to the Commission described the chaos of the massacre. Some were apprehensive at the beginning of the march. Mr Monwabisi David Hlakanyana [EC0864/96ALB] told the Commission:

*It was not the first time that we had come to Bisho on a march, but this march was different. We observed the road for the manner in which everything was set up, that something was going to happen, but in the picture of my mind I thought that in previous marches — previous marches had been allowed ... before I got to that road we saw a helicopter taking off and in taking off I did not realise that anything was happening at the time but when it took off I saw people running back and I heard gunshots.*

- 372 The CDF soldiers were also worried. Mr Mzwabantu Nqabisa, whose brother, Rifleman Vusumzi Sydney Nqabisa [EC0877/96CCK], was the CDF soldier killed in the march, said the whole Ciskei army had received an instruction, apparently from Gqozo, that no soldier was to go home the night before the march but all should sleep at the military base instead.

*But I insisted on going home to tell my sister and the local residents that this was going to happen on the 7th and that they should not go to Bisho ... I told them that there was going to be trouble in Ciskei.*

- 373 In responding to a question as to why he thought there was going to be trouble in Ciskei on that day, Mr Nqabisa answered that their superiors were behaving in a strange way and seemed to be nervous.

374 The march started at the Victoria grounds in King William's Town and was monitored by the South African security forces as far as the outskirts of King William's Town. No South African security forces were visible across the Ciskei border by the time the marchers reached the border, apart from those in the air. The front of the crowd reached the Ciskei border in the middle of the day. A razor-wire barrier had been erected across the road by police to prevent direct access to Bisho itself. To the left, a dirt road led off the main road into the Bisho stadium, which the courts had given the marchers permission to use. Behind the razor-wire barrier were Ciskei police, some in armoured vehicles, and a long line of soldiers stretching down the Fort Hare University campus alongside the road opposite the stadium. More soldiers could be seen on the distant rooftops of some of the Bisho buildings, such as the parliament gates and the telephone exchange. At the razor-wire barrier, a group of ANC officials, including Mr Chris Hani and Mr Cyril Ramaphosa, stopped for discussions with National Peace Secretariat officials, while the main body of the march began to move into the stadium. Dozens of journalists and independent monitors were present. An SADF helicopter in camouflage colours, a blue and yellow SAP helicopter and a small white airplane monitored proceedings from above.

375 It seems that the shooting started on the far side of the stadium. The main body of marchers had gone into the stadium and a group, including Mr Ronnie Kasrils, ran out of the stadium towards Bisho in contravention of the court ruling on where the march could go. This group was shot at by soldiers stationed there. The shooting was apparently then picked up by most of the rest of the soldiers down the lines. No warning of intent to fire was given and no other methods of crowd control were used before opening fire.

376 MK member Petros 'Bushy' Vantyu [EC2053/97KWT], who was wounded in the incident, told the Commission that he was with Kasrils' group when the shooting started:

*As we ran through the gap in the fence the only soldiers that I could see were the soldiers that were deployed along the dirt road on the other side of the stadium, and according to my experience if these soldiers had shot at us, if it was that column of soldiers that shot at us they would have hit us from the front and they would have hit most people in our column. Hence, it is my belief that most of the people who were shot at in Bisho were shot by people who were either shooting from the parliament side or the Fort Hare University side. And I also believe that I was shot by those people ... It appears to me that the Bisho massacre was a pre-planned incident, judging by the manner in which the security forces were deployed both on the RSA and Ciskei sides.*

377 Mr Siyabulela Gusha [EC0865/96CCK] said:

*We managed to enter the stadium. Whilst inside there we saw Ronnie Kasrils leading a group of people heading towards a gravel road leading to Parliament. We followed that march; we then heard gunshots being fired and then we turned and ran away towards the stadium. Whilst inside the stadium I was hit by a pellet on my shoulder blade.*

378 Mr Lungisa Welcome Matiwane [EC0902/96KWT] gave his perspective:

*I went through the hole into the stadium and when we passed something that looked like bridges, we heard things like fireworks, and when we looked around to see what was happening, there were people that were*



*running out of the stadium towards our direction and when I turned around to run away as well in the direction from I had come, I fell and when I tried to get up, I couldn't.*

379 Mr Sicelo Jonnie [EC0793/96KWT] said:

*When we were about to enter Bisho, we were told to wait for the leaders. I heard some shots, and then we started to run, whilst I was running I was hit on the leg.*

380 Several people were killed at the point where marchers broke out of the stadium. Others were killed inside the stadium, yet others at the razor-wire barrier. Marchers inside the stadium and those still at the border had no idea what was happening when shooting started.

381 Ms Yoliswa Shiyiwe Kewuti [EC0208/96ELN] described the scene:

*A Ciskei helicopter got to the stadium and hovered very close to the ground but did not actually touch down and Mr Chris Hani asked us not to sing any freedom songs, and not make any noise, but we should rather keep quite because that was Brigadier Gqozo and he would think that by singing freedom songs we were provoking him. We should show him that we came to the stadium to speak to him, Chris Hani said.*

382 Mr Pawulosi Mantyi [EC0645/96ELN] added:

*It wasn't a Ciskei helicopter, it was something known as a 'Mellow Yellow' and when it went up there was dust because when a helicopter takes off it causes dust. I last saw the helicopter taking off and the next thing we heard was gunfire ...*

383 When the shooting started there was complete chaos. None of the deponents reported hearing any warning from the soldiers before the shooting started. Most did not know where the shots were coming from; many were convinced they were being shot at from the helicopters. Other evidence to the Commission suggested that the helicopters may have moved upwards rapidly once shooting started (in order to avoid being shot at themselves) and that the rotor blade noise of the rapidly ascending helicopters could have been misinterpreted as the sound of shots.

384 Mr Desmond Manzolwandle Mpunga [EC1164/96CCK] saw the shootings as follows:

*There were already a lot of people in the stadium who were in a hurry to go in, but what happened is that as more people got into the stadium a helicopter emanated. When I looked up there were about five or six men in the helicopter, and the doors were flung open. As I was trying to detect exactly what was happening we heard a terrible sound like a radio going off channel, then there was shooting ... after I was shot I thought that this could not be rubber bullets.*

385 Mr Andile Ndembu [EC0867/96ELN] told the Commission:

*We saw people going towards the stadium. When they got to the stadium, a helicopter went up. This helicopter was from the Republic of South Africa, it was yellow and blue in colour. When the helicopter arose there were shootings, that is how I was shot.*

386 Mr Tembinkosi Ntengento [EC0823/96CCK] described the situation in the following manner:

*Some gunshots came from the soldiers who were on top of the parliamentary buildings, some were coming from the soldiers who were approaching from Balasi direction, and some were coming from the helicopter that took off in front of us.*

387 One deponent, Mr Phakamile William Duda [EC1158/96KWT], said in his testimony:

*On the way to King William's Town, on the sides of the road there were police and soldiers of the Republic of South Africa. I realised that they were guarding the white men's houses. When we were going towards Bisho I looked at my right side, next to the Parliament and I saw Ciskeian soldiers with arms. We walked on, and as I looked at the gravel road that was leading to the stadium, I heard a noise that sounded like fireworks. We were being shot at.*

388 Some were shot going into or inside the stadium, including Mr Lulama C Nyamfu [EC0416/96ELN], Mr Lindani Kama [EC0602/96CCK] and Mr Zolile Jonas [EC0874/96PLZ]. The latter told the Commission:

*I was already inside the yard of the stadium when I heard some gunshots and I started to run for cover. I do not know what happened, as I only gained consciousness in Grey Hospital where I was admitted. I discovered that I was shot in my left thigh and the bullet is still in my thigh.*

389 Mr Vuyani Tom [EC1443/97CCK], Mr Boyce Nqono [EC0873/96CCK], Mr Alfred Dayile [EC0833/96ELN], Mr Lulamile Madala Marcus [EC0779/96CCK], Mr Mabotshelole Paul Goniwe [EC22219/97ELN] and Mr Thembele Mtyingwana [EC0872/96CCK] all told the Commission that they had sustained gunshot injuries in the shooting. Some were injured in other ways while trying to escape the bullets. Mr Nofaneleko Mdlangu [EC0809/96QTN] told the Commission that he was hit by a green military truck.

390 Transporting the dead and injured from the scene was a difficult process, complicated by concerns that the soldiers would start shooting again and by the fact that people had been shot over such a big area. The injured were taken to several different hospitals. Mr Tatise William Ncapayi [EC0812/96QTN] from the Queenstown area, had this to say about the aftermath of the shootings:

*We were even scared to go to the Queenstown hospitals because white men were looking for people who had bullet wounds and then they would identify that person as a person who had been in the march.*

391 The South African security forces airlifted some of the more seriously injured victims to hospitals. Mr Sipho Makhwenkwe Ngweventsha [EC1264/96SBR] told the Commission:

*I was transported in a helicopter because of the seriousness of the injury ... Later, in December 1992, I managed to remove the bullet on my own as it was moving inside my body.*

392 In the chaos, it was sometimes difficult to distinguish between the living and the dead. Mr Wandile Mbathu [EC0787/96CCK] was unconscious, and it seems some people thought he was dead. He told the Commission:

*Someone told me that I was transported with corpses to Grey Hospital. I only regained consciousness after two weeks and I was not even able to speak.*

393 Mr Lungisile Robert Cotani [EC0811/96QTN] had a similar experience:

*Then the comrades took me into a van that was collecting injured people all day. Whilst in that van, which was taking in more people, even dead people, I was still feeling very dizzy but I could hear that there were some who had died. I wanted to indicate that I was still alive, so I decided to come out of the dead bodies that were on top of me.*

394 In addition, there were those who simply did not return home. Among these were Mr Thibane Gola [EC0222/96ELN] and Mr Jongile Mene [EC0792/96CCK], both of whom died at Bisho. Gola's mother, Ms Nokuzola Letitia Mene, told the Commission:

*Three bullets hit him, but he probably died from the one fired at his shoulder, penetrating through the heart...*

395 Mene's mother, Ms Ntombikayise Oscarine Gola, said of her son :

*He had a hole on top of his head which indicated to us that the bullet which hit him was apparently coming from above.*

396 Mr Norman Fulani's son Vuyani [EC0646/96ELN] and Ms Remonica Mnyamezeli Myeha's husband [EC0794/96CCK] died at the scene. Ms Alice Nombeko Mfenqe [EC0647/96ELN] heard the news through the media:

*I was at home, listening to the radio on the procession of the march. I heard that the people were shot at Bisho. On the following morning, one of my daughters, Thandiswa, bought a newspaper, Daily Dispatch, and it is only then that we discovered that Monde was shot to death in the march ... My other son Nonelelo, avers that on the day in question he was manning a roadblock near Bisho Hospital, as he was then member of the Ciskei Police Force, searching for weapons on people who were entering Bisho.*

397 By late 1996, the current government had paid out on various civil claims lodged in connection with deaths and injuries sustained. Attempts were made by the Ciskei Attorney-General to investigate and prosecute the matter; these got as far as the issuing of a draft indictment against a group of Ciskei police and soldiers and against the ANC's Mr Kasrils for his part in leading a breakaway group that allegedly sparked the shootings. The Ciskei government then passed a decree indemnifying everyone from prosecution. This was later overturned, but for various reasons (partly

because it was too close to the elections and the matter was expected to be handed to the Commission) the prosecution did not go ahead.

398 On the third anniversary of the massacre, September 1995, the prosecution was reopened and handed over to the East London police. In October 1996, the police investigation was handed over to the Attorney-General in Bisho for a decision on prosecution. The Attorney-General has indicated that he would wait to see whether those he was considering charging applied for amnesty through the Commission before going ahead with any prosecution. Two amnesty applications were received in connection with this matter, from Mr Vakele Archibald Mkosana [AM4458/96] and from Mr Mzamile Thomas Gonya [AM7882/97].

399 In reviewing the evidence on the events leading to the Bisho massacre on 7 September 1992, the Commission has made findings in respect of then Ciskei military ruler, Brigadier Oupa Gqozo, the CDF and the ANC.

THE COMMISSION FINDS THAT, ON 2 SEPTEMBER 1992 THE ANC ORGANISED A MARCH OF SUPPORTERS FROM KING WILLIAM'S TOWN ACROSS THE HOMELAND BORDER TO BISHO IN CISKEI, IN SUPPORT OF DEMANDS FOR FREE POLITICAL ACTIVITY IN THE CISKEI AND FOR THE REMOVAL OF THE THEN CISKEI MILITARY RULER, BRIGADIER OUPA GQOZO. AT THE CULMINATION OF THE MARCH, AS MARCHERS WERE NEARING THE AFORESAID STADIUM, A GROUP OF THEM INCLUDING MEMBERS OF THE MARCH LEADERSHIP (THE BREAKAWAY GROUP) ATTEMPTED TO PASS THROUGH A GAP IN A FENCE IN THE VICINITY OF THE STADIUM, IN ORDER TO GAIN ACCESS TO THE TOWN OF BISHO. THIS ACTION WAS TAKEN PURSUANT TO A DECISION BY THE ALLIANCE LEADERSHIP WHICH LED THE MARCH, BUT WAS IN CONTRAVENTION OF THE COURT ORDER. THEY RAN TOWARDS THE GAP IN THE FENCE, AND DID NOT MOVE IN AN ORDERLY, CONTROLLED MANNER. THE MARCHERS WERE FIRED ON BY CDF SOLDIERS, RESULTING IN THE DEATHS OF THIRTY PEOPLE AND INJURIES TO AN UNSPECIFIED NUMBER OF PEOPLE, SUCH DEATHS AND INJURIES BEING GROSS HUMAN RIGHTS VIOLATIONS.

THE COMMISSION FINDS THAT THE DECISION OF THE ALLIANCE LEADERSHIP EXHIBITED A LACK OF PRUDENCE IN DECIDING TO PROCEED THROUGH THE GAP IN THE FENCE IN THAT:

- THEIR DECISION AND THE MANNER IN WHICH IT WAS ACTED UPON, AS SET OUT ABOVE, CONTRIBUTED TO THE VOLATILE AND UNPREDICTABLE SITUATION PREVAILING AT THE TIME;

- THEIR ACTIONS AS AFORESAID ELICITED THE ILLEGAL RESPONSE OF THE CDF, ALTHOUGH SUCH RESPONSE WAS OUT OF ALL PROPORTION TO THE SITUATION AND WAS NOT REASONABLY EXPECTED BY THE ALLIANCE LEADERSHIP.

ACCORDINGLY, THE ALLIANCE LEADERSHIP WHO TOOK THE DECISION IS HELD PARTIALLY ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS ARISING FROM THE UNLAWFUL ACTIONS OF THE CDF.

THE FORMER MILITARY RULER OF CISKEI, BRIGADIER OUPA GQOZO, IS ACCOUNTABLE FOR THE AFORESAID VIOLATIONS IN THAT:

- HE INSTRUCTED THE CISKEI SECURITY FORCES IN THE DAYS PRIOR TO THE MARCH, AND UP UNTIL 11:00 ON THE DAY OF THE MARCH, THAT THE MARCHERS WOULD NOT BE PERMITTED ACROSS THE CISKEI BORDER, THEREBY SERVING TO HEIGHTEN THE PREVAILING VOLATILE POLITICAL SITUATION;

- HIS INSTRUCTIONS AS AFORESAID WERE IN CONTRAVENTION OF THE NATIONAL PEACE ACCORD, AND UNTIL 11:00 ON THE DAY OF THE MARCH IN CONTRAVENTION OF THE LAW;

- HE EXHIBITED EXTREME INTOLERANCE OF LEGITIMATE POLITICAL PROTEST WHICH RESULTED IN A SITUATION IN WHICH THE SECURITY FORCES WERE RELIED ON TO RESOLVE A SITUATION WHICH COULD HAVE BEEN RESOLVED BY POLITICAL MEANS;

- AS HEAD OF THE CISKEI GOVERNMENT AND OF ITS DEFENCE FORCE, HE IS ACCOUNTABLE FOR THE ACTIONS OF SUCH FORCE, WHICH WAS RESPONSIBLE FOR THE GROSSLY IRREGULAR USE OF DEADLY FORCE IN THE SHOOTING DEAD OF THIRTY MARCHERS;

- AFTER THE SHOOTING ON 7 SEPTEMBER 1992, HE DELIBERATELY AND ILLEGALLY INTERFERED WITH THE CRIMINAL PROSECUTION INTO THE SHOOTINGS RESULTING IN A DELAY IN THIS PROCESS AND FACILITATING A PUBLIC PERCEPTION THAT THE SECURITY FORCES WERE ABOVE THE LAW.

THE CDF IS ACCOUNTABLE FOR SUCH VIOLATIONS IN THAT:

- UNTIL 11:00 ON THE MORNING OF 7 SEPTEMBER, IN CONTRAVENTION OF THE MAGISTRATE'S RULING THAT THE MARCHERS COULD USE THE STADIUM IT ADOPTED THE VIEW THAT NO MARCHERS WOULD BE PERMITTED TO ENTER THE CISKEI TERRITORY. THIS SERVED TO HEIGHTEN THE PREVAILING VOLATILE POLITICAL SITUATION;

- IT DID NOT PLAN FOR ANY SCENARIO OTHER THAN PREVENTING THE MARCHERS FROM ENTERING BISHO, THEREBY LIMITING ITS ABILITY TO DEAL WITH OTHER EVENTUALITIES WHICH COULD HAVE ARISEN;

- THE CDF TROOPS WERE ISSUED WITH WEAPONS AND AMMUNITION WHICH WERE NOT IN ANY MANNER SUITED TO CROWD CONTROL BUT WERE OF SUCH A CALIBRE AS TO BE CALCULATED TO KILL PERSONS AT WHOM THEY WERE FIRED;

- THE CDF TROOPS FIRED UPON MARCHERS IN CIRCUMSTANCES WHEN IT WAS NOT NECESSARY TO DO SO, AND WITH WEAPONS AND AMMUNITION WHOLLY DISPROPORTIONATE TO THE THREAT POSED BY THE MARCHERS;

- THE CDF TROOPS FIRED ON THE MARCHERS WITHOUT ISSUING A WARNING, AND WITHOUT CONSIDERING MINIMUM USE OF FORCE SUCH AS THE USE OF SHARPSHOOTERS;

THE CDF IS ACCOUNTABLE FOR THE GROSS HUMAN RIGHTS VIOLATIONS (KILLINGS, ATTEMPTED KILLINGS AND SEVERE ILL-TREATMENT) ARISING FROM THE INCIDENTS ON 7 SEPTEMBER 1992. THE INDIVIDUAL MEMBERS OF THE CDF HELD ACCOUNTABLE ARE GENERAL MARIUS OELSCHIG, MAJOR MVELELI MLEVI MBINA, COLONEL VAKELE ARCHIEBALD MKOSANA AND GENERAL DIRK VAN DER BANK.

*Violence.in.the.wake.of.Chris.Hani.s.assassination*

400 Widespread protests and some violence followed the news of the assassination in Johannesburg of Mr Chris Hani on 10 April 1993. During one of the demonstrations, police opened fire on a crowd in Uitenhage. The exact circumstances of the shooting are not known. Among the victims was fourteen-year-old Zilindile Manyashe [EC1098/96UIT], who was shot dead. On 12 April 1993 Mr Bongani Bakhe [EC2388/97UIT] was also shot dead by police during a demonstration. Mr Fezile Fumbata [EC1071/96UIT] and Mr Andile Faltein [EC1089/96UIT] were both shot in the stomach and recovered after hospital treatment.

401 Mr Khayaletu James [EC1840/97ALB] was shot and injured by the SAP during unrest in Grahamstown on 15 April 1993 when youth were looting and setting vehicles alight. In Zwide, Port Elizabeth, Mr Mtutuzeli Msikinya [EC1847/97PLZ] was shot and injured by SAP on 18 April 1993.

402 In Transkei, there were attacks on whites in various areas. Mr Alistair Weakley and Mr Glen Weakley [EC0303/96PLZ] were killed in one such attack near Port St Johns on 13 April 1993. The Commission received amnesty applications from three ANC members, Mr Phumelele Civilian Hermans [AM7581/97], Mr Lungile Mazwi [AM5203/97] and Mr Mlulamisi Maxhayi [AM7207/97], in connection with this attack.

*Attacks on soft targets: APLA's Operation Great Storm: 1991-94*

403 From late 1991 until the elections in April 1994, APLA, the armed wing of the PAC, claimed responsibility for various armed actions aimed primarily at police officers and whites. A number of these took place in the Eastern Cape. The SAP told the Goldstone Commission in January 1993 that there had been about forty-six armed attacks ascribed to APLA nationally during 1991–92; about 40 per cent of these occurred in the Eastern Cape<sup>36</sup>. In April 1993, APLA commander Mr Sabelo Phama announced that 1993 was the year of APLA's 'Operation Great Storm': the attacks of these years were generally regarded as being part of this operation. The Commission received submissions from both victims and amnesty applicants in connection with these attacks.

404 Eastern Cape incidents from this period reported to the Commission include:

- a the early 1992 attack on the Wilgespruit farm at Lady Grey near Aliwal North and an attack on police at Lady Grey (submissions and amnesty applications received);
- b the 15 August 1992 attack on an Umtata police station, including theft of weapons (amnesty applications received);
- c the 13 March 1994 attack on members of the Baha'i faith in Mdantsane (amnesty applications received);
- d the March 1994 attacks on a minibus near Fort Jackson and on a minibus at the Da Gama factory outside East London, in which a police officer and two attackers died (amnesty applications received).

- 405 All the amnesty applicants in these matters said they had acted on behalf of the APLA. Some of the attackers were linked to the 1993 attacks on the St James Church and Heidelberg Tavern in Cape Town and some were linked to various attacks on farmers and police in the Free State.
- 406 The amnesty applications indicated that some of the same APLA members were involved in the attacks in the Lady Grey area in early 1992, the August 1992 attack on the Umtata police station, various armed robberies in Transkei and the Heidelberg Tavern in Cape Town. No amnesty applications were received in respect of the Highgate Hotel attack or the Queenstown Spur attack (see below), indicating the possibility that these were not carried out by the same group that had been responsible for the other major attacks ascribed to APLA.
- 407 Some of the victims of these attacks described the incidents at Commission hearings. The first major attack carried out by APLA in the Eastern Cape during this period was that on the golf club at King William's Town on 28 November 1992, where a wine-tasting party was in progress. Four people died. Ms Beth Savage [EC0051/96ELN] was seriously injured in that incident. She spent a month in the intensive care unit in hospital and suffered hallucinations about her attacker. Her family was traumatised and she believed the subsequent death of her parents was brought on by the shock of her injuries. She told the Commission how she felt about the attack:

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

- 408 When asked how she would feel if anyone applied for amnesty in connection with this matter, Savage said:

*It really wouldn't worry me one way or the other ... It's not important to me, but, I've said this to many people, what I would really, really like is, I would like to meet that man that threw that grenade in an attitude of forgiveness and hope that he could forgive me too for whatever reason. But I would very much like to meet them.*

- 409 APLA member Tembelani Tandekile Xundu [AM3840/97], now an officer in the SANDF, applied for amnesty in connection with this incident. His trial was postponed pending the outcome of his application.
- 410 The Highgate Hotel in East London was attacked on 1 May 1993. The Commission did not receive any amnesty applications in connection with this matter although it has routinely been ascribed to APLA. Mr Nkosinathi Alfred Gontshi, who was the barman at the Highgate Hotel, told the Commission:

*On entering the bar, the man in a mask started firing at all of us. I was hit on my right thigh by one of the bullets. Even today I do not know which political organisation did that, if ever it was one.*

- 411 Mr Neville Beling [EC0167/96ELN], Mr Karl Andrew Weber [EC0035/96ELN] and Ms Doreen Rousseau [EC0052/96ELN] were permanently disabled as a result of the attack. Mr Deric John Whitfield [EC0101/96ELN] was one of five people killed. Ms Rousseau described her experience:

*I said to the friend on my right, I've been shot and he said, lie still, pretend that you're dead because they may come back. My friend on the left was lying face down. I shook him and called his name but he lay very still. Everyone was screaming and lying in pools of blood.*

412 Mr Weber told the Commission his feelings about the attack:

*My life was changed overnight ... I've accepted it and I have to carry on with the daily routine of life. It's not something that will be forgotten about and it's something that I think justice should be done about.*

413 A Spur restaurant in Queenstown was bombed on 3 December 1992, a few days after the King William's Town attack. One man died. Mr Les Barnes [EC0780/96PLZ] was seated at the table where the bomb had been placed; his friend died and he was seriously injured. Mr Barnes asked the Commission:

*Basically all I'd sort of want to know is are the people that planted the bomb, will they be coming forward? Will they be testifying? And what is really going to happen to get their side of the story and is anything being done about it?*

414 The Commission did not receive any amnesty applications in connection with this attack, although APLA claimed responsibility at the time.

415 On 20 March 1993 the Yellowwoods Hotel at Fort Beaufort was attacked by armed men. A student, Mr Johan Jerling [EC2359/97ALB], was killed. Amnesty applications received by the Commission in connection with this attack acknowledged APLA involvement.

416 The Commission also received statements in connection with some of the APLA members. These included a statement regarding the death on 9 February 1994 of APLA chief Sabelo Gqweta, better known as Sabelo Phama [EC1956/97UTA], when his car was involved in a crash with a truck in Tanzania, on the road from Dar es Salaam to Zimbabwe. His brother, Mr Bandile Besuthu 'Boxer' Gqweta, said he believed the crash was not an accident but had been staged. Gqweta told the Commission:

*At the time of Sabelo's death there was conflict within the PAC as to the suspension of armed struggle and participation in the general elections of 1994. The position of Sabelo was that of being against the suspension of armed struggle, but he was for the participation of the PAC at the general election. He even called 1994 'the year of the bullet and the ballot'. This view of Sabelo's was a popular view among the organisation as a whole, but it was not so popular among the National Executive Council on which Sabelo served. The opposing view was that the armed struggle must be suspended so that the PAC could participate in the general elections of 1994. I do believe that Sabelo died for the view that he held.*

417 The attacks ascribed to APLA became a matter of bitter dispute between the Transkei and South African governments, with South Africa accusing Transkei of harbouring APLA members and providing them with weapons and training. No statements or amnesty applications were received by the Commission in connection with such



training or provision of weaponry. An investigation by the Goldstone Commission similarly resulted in conflict between the two governments as well as the PAC.

- 418 On 8 October 1993 the SADF carried out a raid on the home of an Umtata PAC member, Mr Siggibo Mpendulo, in which five youths, including a twelve-year-old child, were shot dead. The SADF claimed at the time that it had attacked an APLA base. The Commission did not receive HRV submissions in connection with this matter.

THE COMMISSION FINDS THAT MEMBERS OF APLA CARRIED OUT VARIOUS ARMED ATTACKS ON SOFT TARGETS INCLUDING POLICE AND WHITES DURING THE 1990S AS PART OF THAT ORGANISATION'S OPERATION GREAT STORM. VARIOUS KILLINGS AND INJURIES RESULTED FROM THESE ATTACKS, WHICH INCLUDED THE ATTACKS ON THE KING WILLIAM'S TOWN GOLF CLUB, THE HIGHGATE HOTEL AND A QUEENSTOWN SPUR RESTAURANT. THESE ATTACKS WERE CARRIED OUT AS PART OF APLA'S ARMED STRUGGLE. THE COMMISSION FINDS THAT THESE ACTS CONSTITUTED GROSS VIOLATIONS OF HUMAN RIGHTS, FOR WHICH THE PAC/APLA ARE HELD ACCOUNTABLE.

# Statistics on Violations in the Eastern Cape

## ● NATURE OF THE VIOLATIONS

- 1 The pattern of violations in the region covered by the East London office is similar to the national picture, with death by shooting being the most common killing violation:
- 2 Shooting accounted for most of the killings, followed by beating to death and then stabbing. This differs from the national pattern where stabbing was the second most common cause of death. Unlike other regions, necklacing was amongst the top eight causes of death in the East London region.
- 3 As in all other regions except Durban, beatings and incarceration were the most commonly reported severe ill treatment violations, followed by shootings. Arson and destruction of property were the next most common type of severe ill treatment.
- 4 East London reflects the national trend, showing beating to be the most common form of torture. Suffocation was more common here than in the other three regions, reaching second place. Mental torture and torture by forced postures were also more common than electric shocking.

### **Victim organisations**

- 5 The number of killings reported in terms of the organisational affiliation of the victim (where this is known) were as follows:
- 6 Most of those killed in this region were members of the African National Congress (ANC), the United Democratic Front (UDF), and the Pan Africanist Congress (PAC). There were some security force deaths, but the vast bulk of the victims were members of the ANC and UDF.
- 7 The pattern for cases of severe ill treatment was almost identical to that for killings, with ANC, UDF and PAC members suffering the bulk of the violations.
- 8 The pattern of torture is similar. All torture victims were members of black political organisations.

### **Perpetrator organisations**

- 9 The top eight organisations allegedly responsible for killings in the area covered by the East London office area were as follows:

- 10 The security forces dominate the chart, with killings attributed to the South African Police (SAP), Ciskei security forces and SADF making up the most cases. Black political organisations account for the rest of the killings, except for a small number attributed to the Transkei security forces. Killings by the the SAP, Ciskei security forces and SADF show a peak similar to killings allegedly committed by the SAP during the states of emergency years:
- 11 Unlike the national picture, the Eastern Cape does not reflect a peak in the killings attributed to the SAP in 1976 (the Soweto uprising), but the states of emergency peak does appear. In 1992, a number of killings attributed to the Ciskei security forces can be seen. The SAP also dominate the chart of severe ill treatment violations:
- 12 Overwhelmingly, the greatest number of instances of severe ill treatment are attributed to the SAP, followed by the Ciskei security forces and the SADF. The severe ill treatment violations attributed to the top three organisations change over time as follows:
- 13 The pattern of severe ill treatment closely matches that of killings, with allegations against the SAP dominating the peak in the mid-eighties and tailing off in the early 1990s. The number of allegations of severe ill treatment by the Ciskei security forces reaches a peak in 1992.
- 14 As in the national picture, the SAP dominates torture violations, with nearly 2 000 allegations:
- 15 The security forces of both Ciskei and Transkei also feature strongly. Again, the pattern of alleged torture over time shows that torture was at its worst during the states of emergency:
- 16 The greatest number of torture cases attributed to the SAP occurs in 1985, then drops in 1986. In the national picture, by contrast, it shows an increase in 1986.