



Volume **SIX** • Section **THREE** • Chapter **TWO**

**The Intersection between the Work of the  
Human Rights Violations Committee and  
the Amnesty Committee**

**THE ANC AND ALLIED  
ORGANISATIONS**

# The ANC and Allied Organisations

## **PART ONE: OVERVIEW OF THE ANC AND ALLIED AMNESTY APPLICATIONS: 1960–1994**

### ■ **INTRODUCTION**

1. The purpose of this chapter is to review the information that emerged out of the amnesty process of the Truth and Reconciliation Commission (the Commission) in respect of the African National Congress (ANC) and its allies and to consider its intersection with information that emerged through the processes of the Committee on Human Rights Violations (HRVC).
2. Broadly speaking, ANC-related amnesty applications can be divided into a number of categories. The first concerns applications from members of the ANC leadership. These were accompanied by a 'Declaration of Responsibility' and became known as the 'collective responsibility' applications. The second were applications from Umkhonto we Sizwe (MK) operatives. The third were applications from self-defence unit (SDU) members, who can claim some level of practical and moral authorisation from the ANC.<sup>108</sup>
3. A fourth category of applicants was made up of civilians who were members of, or who acted in the name of, or in support of the ANC. In this category, the political and moral responsibility of the ANC and those who acted in its name was considerably less. This is even so when considering applications from members of organisations that operated internally during the final years of the ANC's exile from South Africa. The most prominent example is that of the United Democratic Front (UDF). Although the UDF and its affiliate organisations associated themselves with the ANC and its goals and principles, they operated as independent organisations.

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<sup>108</sup> The ANC Declaration embraces SDU members.

4. This chapter will also distinguish between applications that relate to the period prior to the lifting of the banning order on the ANC (1960 to 1989) and those that relate to the period from 1990 to 1994 – that is, from when the ban on the ANC was lifted and negotiations began until 10 May 1994, the closing date of the Commission's mandate.

## STATISTICAL OVERVIEW

5. A total of 998 persons who were members or supporters of the ANC or related organisations applied for amnesty for 1025 incidents. Only twenty-six (or 3 %) of these applicants were female.
6. The regional breakdown was as follows:

Transvaal	628	(61 %)
KwaZulu/Natal	170	(17 %)
Eastern Cape	61	(6 %)
Homelands <sup>109</sup>	56	(5 %)
Western/Northern Cape	33	(3 %)
Orange Free State	20	(2 %)
Outside South Africa	19	(2 %)

7. The annual breakdown was as follows:

1960–1969	20	(2 %)
1970–1979	35	(3 %)
1980–1984	113	(11 %)
1985–1989	339	(33 %)
1990–1994	493	(48 %)
Non-specific	25	(3 %)

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<sup>109</sup> Excluding KwaZulu, which is counted with Natal.

8. The 1025 incidents involved the following acts:<sup>110</sup>

Killings	464	(17%)
Killings <sup>111</sup>	24 incidents	(1% )
Attempted killings	1118	(42%)
Attempted killings <sup>112</sup>	67 incidents	(3%)
Assaults	56	(2%)
Abductions	58	(2%)
Robberies	84	(3%)
Arson, public violence, etc.	140	(5%)
Attacks using explosives	320	(12%)
Illegal possession of arms and ammunition	153	(6%)
Infiltration/distribution of weapons	24	(1%)
Other	151	(6%)

## OVERVIEW OF APPLICATIONS

9. ANC-related amnesty applications far outnumber those from other protagonists in the political conflict, yet it can be seen from the figures that the number of applications was not large, fewer than a thousand in all. It is of some interest why people did or did not apply for amnesty.

### Loyalty to the ANC

10. One reason ANC members gave for applying for amnesty was that the very idea of a South African truth commission originated from within the ranks of the ANC. Hence, many ANC applicants expressed a desire to participate in the amnesty process in order to support the new democratic government and its programme of political and economic transformation.

11. Yet, although the ANC had promoted the idea and led the legislation through parliament, the party appeared divided on the issue. Some of its leadership stated publicly that ANC members need not submit amnesty applications, on the grounds that the ANC had engaged in a just war against apartheid. Finally,

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<sup>110</sup> As early as 1996, the Amnesty Committee decided to deal with incidents rather than individual acts in order to make it possible to deal with groups of applicants who had been involved in the same incident but who may have committed a number of different acts. Thus, when dealing with applications, the Committee decided to focus on specific incidents, each comprising a number of different acts/offences.

<sup>111</sup> Where exact number of victims is unknown.

<sup>112</sup> Where exact number of victims is unknown.

following a meeting between the Commission and the ANC leadership, the ANC agreed to persuade its members to submit amnesty applications. This opened the road to substantial numbers of amnesty applications from MK operatives, as well as the 'collective responsibility' applications by ANC leadership figures.

## **Desire for reconciliation**

12. For others, amnesty applications represented a commitment to reconciliation. Mr Frans Ting Ting Masango [AM7087/97] told the Amnesty Committee at the Pretoria hearing on 8 June 1999:

*We are all South Africans and the past should remain what it is, the past. There should be that reconciliation. We should go forwards with our lives and try to build together South Africa. That's why I basically applied for amnesty.*

13. At the same hearing, Mr Neo Potsane [AM7159/97] expressed himself thus:<sup>113</sup>

*Well I want to put it this way now, when this idea of Truth and Reconciliation now first came into this country and was in actual fact adopted, I've always supported it. I supported it because I felt we cannot stand at one place pointing fingers at one another, looking at the past as something that is – should dominate our lives ... I felt that was the opportunity that I will never let ... pass me. I had to jump in and actually now also extend my hand of friendship to the victims or the people that suffered because of my actions in pursuit of democracy and I'm happy today that I'm here, sitting here explaining my actions so that you know, other people can understand why I did those things.*

14. Some operatives expressed a wish to take responsibility for their actions, particularly towards their victims. In Pretoria on 14 June 1999, the Revd Frank Chikane told the Amnesty Committee:

*My motive for being here is to actually show that the family finally knows who actually was part of the activities of eliminating their brother, their parent, their father and for that reason, I felt motivated to come here, simply because it wouldn't have been fair on them not to know who actually carried out this attack on their father. For that reason I feel that because there was no (indistinct), there was no investigation, or suspicion against me, it really touched me deeply, to have to come out and expose myself, to say I was part of that type of activity.*

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<sup>113</sup> Mr Masango and Mr Potsane applied for and were granted amnesty for the killing of Mr David Lukhele, former minister of KaNgwane, in April 1986 [AC/1998/0048; AC/1999/0257; AC/2000/142]. They and two others had been convicted of the killing and sentenced to death, but their sentences had been commuted to twenty-five years' imprisonment on appeal. The four were released in the early 1990s in terms of a deal struck between the ANC and the former government.

## **Criminal and civil action**

15. Many ANC members and MK operatives had already served prison terms and even spent periods on death row for the offences for which they sought amnesty. Some who had received indemnity from criminal prosecution during the early 1990s wished to avoid or prevent possible civil claims that might be brought against them.
16. Some who had already faced convictions and punishment expressed a desire to have their criminal records expunged, although many applicants appeared unaware of this dimension of the amnesty process.
17. Although few amnesty applicants for MK actions in the period 1960 to 1989 appear to have been motivated by fear of prosecution, political violence between 1990 and 1994 was the subject of ongoing prosecutions during the life of the Commission and provided a genuine incentive for amnesty applications. A number of ANC members had been sentenced to prison terms in the post-1994 period for incidents relating mainly to SDU activities or the political conflict in KwaZulu and Natal, and made amnesty applications as sentenced prisoners. Where charges were pending or trials were in progress, cases were suspended pending the outcome of their amnesty applications.

## **Problems experienced by MK operatives applying for amnesty**

18. The dissolution of MK as an organised formation and the disintegration of its networks made it difficult to trace operatives. The Commission's founding Act, the Promotion of National Unity and Reconciliation Act, Act 34 of 1995 (the Act) required individual applications, and MK operatives were faced with making the difficult decision of whether or not to apply for amnesty – separated as they were from their former comrades, operating without structures of any kind and trained in a culture of underground work and secrecy.

MR LALLA: *What you must take into account, that now we were at home, there was no Umkhonto we Sizwe, there was no structure, there was no command and control. We are now left on our own to pick up the pieces. How do I have responsibility of an individual when the structure legally has folded? (Durban hearing, 4 April 2000.)*

ADVOCATE BOSMAN: *And do you know whether anybody else in that group had applied for amnesty at all for this incident?*

MR MDLULWA: *I don't know, because we are all over South Africa, we are not*

*communicating with each other. (Johannesburg hearing, 22 May 2000.)*

*MR BUHALI: When the thing of the TRC started, first I was not fully briefed as to what is going to happen considering the TRC, and when I made the application I had not met my Commander then because I did not know his address. (Johannesburg hearing, 13 July 2000.)*

## **Low levels of civilian applications**

19. By far the greatest number of casualties inside South Africa arose out of violent community conflicts into which ordinary residents were mobilised or drawn. This category was not reflected in amnesty applications from any side of the conflict, including that of the ANC and its allies.

## **Poor representation of SDU applications**

20. Although SDU members applied in large numbers, these applications did not, in the view of the Commission, adequately reflect the full scope of SDU activity. One of the reasons for this was because SDU activity continued in certain areas after the cut-off date for applications.
21. In one significant case, the local ANC political leadership in Tokoza, which had had a strong relationship with the SDUs in the area, threw its weight into promoting amnesty applications. Meetings were held and questions answered. Assistance was provided with completing forms. As a result, approximately 200 SDU members from Tokoza applied for amnesty for very serious violations. Most had never been charged for these offences and were motivated by an appeal to their sense of political duty and the national imperative for reconciliation. The Tokoza SDU case points to the merit and feasibility of political parties investing energy at local level.

## **Low levels of applications in KwaZulu/Natal**

22. As with the IFP, the scale of the violence in KwaZulu/Natal is not reflected in the volume of amnesty applications from the ANC in this region. Here again, the vast majority of incidents were inter-civilian.
23. It is possible that political developments after 1994 may also have played a role in inhibiting applications. In the immediate post-1994 era, the national ANC strategy for ending the bloodshed in KwaZulu-Natal was one of incorporation and appeasement of the IFP and a reluctance to inflame the still-simmering

conflict. This period of rapprochement resulted in a tendency to draw a veil of silence over the bloody past and a tacit agreement to suspend blame.

According to the ANC:

*The apartheid counter-insurgency machinery inserted itself into the IFP and, as it carried out its murderous campaign, cloaked itself in IFP colours, whereas the genuine leaders and members of the IFP had nothing to do with planning or carrying out any acts of violence originally conceived of by themselves.*<sup>114</sup>

24. The 'special case' character of the region is also reflected in ongoing suggestions for a special amnesty for KwaZulu/Natal matters, possibly a 'blanket amnesty' for perpetrators in that region.
25. Moreover, as the majority of the KwaZulu/Natal ANC applicants were in jail at the time of making their amnesty applications, they suffered from the same serious problems faced by all applicants in prison, primarily a lack of legal advice. Although some prisoner applicants were assisted to some extent by the ANC, and the ANC leadership visited prisoners in an effort to facilitate their amnesty applications, this collective political advice did not adequately substitute for individual legal advice.
26. One of the consequences of this was that applicants were unable to obtain clarity on what acts or incidents to apply for. Thus an applicant might list only a single incident where a number of related offences should have been specified. For example, one applicant, Mr Skhumbuzo Chris Masondo [AM4183/96] believed he had only to apply for offences for which he had been convicted and he later spoke about many other offences at the hearing. These latter matters were excluded by the Amnesty Committee.
27. Another applicant testified about how helpless prisoners felt when faced with applying for amnesty:

MR LAX: *But you did understand that you were supposed to tell the full truth when you filled out this application?*

MR MSANI: *Yes, I did explain initially that in jail the brain doesn't function properly when we are in jail. We are like children when we are in jail. The brain*

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<sup>114</sup> Submission of the African National Congress to the Truth and Reconciliation Commission in reply to Section 30[2] of Act 34 of 1996, on the TRC, 'Findings On The African National Congress', October 1998, point 28.3, submitted by Thenjiwe Mthintso.



*is actually sort of disturbed to a certain extent when you are in jail.  
(Pietermaritzburg hearing, 23 November 1998.)*

28. Another problem was that many perpetrators involved in the same incident were scattered throughout the country in different prisons and were unable to contact one another. This tended to discourage applications, as applicants feared implicating others.

### **'Declaration of Responsibility'**

29. In line with the ANC's position that its leadership accepted full political and moral responsibility for the actions of its members, large numbers of National Executive Committee (NEC)<sup>115</sup> members and those involved in ANC hierarchies submitted collective amnesty applications to the Commission. These were framed in a general ANC 'Declaration of Responsibility'. The declaration reads as follows:

*We, the applicants, having at various times between 1 March 1960 and 10 May 1994, as indicated below been members and leaders of the African National Congress (hereinafter referred to as the ANC), elected and/or appointed to serve in various structures including its highest organ, the National Executive Committee, do hereby make the following declaration:*

*During the said period, the ANC played the foremost role in the leadership of the struggle of the masses of our people for the end of the hateful system of apartheid, appropriately dubbed a crime against humanity by the international community.*

*In the course of our people's struggle, with the intent to induce the apartheid government of the National Party to abandon apartheid with its concomitant violent repression, and with the intent to achieve, bring about and promote fundamental political, social and economic changes in the Republic, the ANC, **inter alia**, established its military wing, Umkhonto we Sizwe, through which it prosecuted an armed struggle.*

*At all material times, Umkhonto we Sizwe operated under the political authority, direction and leadership of the ANC.*

*Due to its peculiar circumstances, and the attacks mounted upon it by its adversary, the apartheid government, the ANC established various organs at*

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<sup>115</sup> The highest elected body of the ANC.

*various times such as the RC, PMC and a security organ NAT which at all material times also operated under its authority, direction and leadership.<sup>116</sup> Due to the circumstances which prevailed in the townships, in the early 1990s as a result of third force activities, the leadership of the ANC established and, in some instances encouraged the establishment of self-defence units (SDUs), which played a critical role in the defence of defenceless communities.*

*In the event, and to the extent that any of the activities of any of the above-mentioned institutions and structures including the SDUs could in any manner whatsoever be regarded as the kinds of acts or omissions or offences envisaged in the Promotion of National Unity and Reconciliation Act, we collectively take full responsibility therefore applying for amnesty in respect thereof.. [AM5780/97.]*

30. The 'Declaration' applicants did not specify particular acts but attempted to take collective responsibility for actions that may have resulted in gross human rights violations either by the ANC's military operatives or by the SDUs.
31. Although initially granted amnesty by the Amnesty Committee, these amnesties were subsequently overturned in the Supreme Court. The applications were considered again by the Amnesty Committee and were refused. The Committee found that the applications did not comply with the requirements of the Act as they did not specify particular acts, omissions or offences.

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<sup>116</sup> See list of Acronyms in this volume.

## **PART TWO: ANALYSIS OF AMNESTY INFORMATION: 1960–1989**

### **UMKHONTO WE SIZWE (MK) AND THE ANC: 1960–1990**

32. The Commission received a significant number of applications relating to the activities of MK in the period 1960 to 1989. One hundred and eighty persons, including eight females, sought amnesty for 420 incidents in the period 1960 to 1989.<sup>117</sup>
33. Applications ranged from individual operatives applying for amnesty for one or more acts, to units of operatives applying for a range of activities, to applications from command personnel based in the neighbouring states and in Military Headquarters (MHQ) in Lusaka, Zambia.
34. The regional breakdown of incidents was as follows:

Transvaal	285
Natal	80
Western Cape	7
Orange Free State	2
Eastern Cape	1
KwaNdebele	5
Transkei	5
Bophuthatswana	3
Venda	1
Non-specific <sup>118</sup>	31

35. The annual breakdown was as follows:

1960–1969	19
1970–1979	23
1980–1984	87
1985–1989	268
Non-specific <sup>119</sup>	23

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<sup>117</sup> A small amount of duplication may have occurred where applicants described the same incident in slightly different ways.

<sup>118</sup> The last category includes incidents that took place throughout South Africa and/or neighbouring countries (e.g. weapons infiltration from Swaziland to Transvaal and Natal).

<sup>119</sup> The last category also covers activities that took place over many years (e.g. the provision of weapons from 1978 to 1989).

36. Of the 420 incidents, 338 relate to actual attacks, while eighty-two relate to associated activities such as leaving South Africa illegally, escape from custody, possession of explosives or involvement in ongoing activities such as military training, infiltration of arms and operatives and aiding MK operatives. Included in the eighty-two are seven persons who applied for amnesty with respect to their convictions for terrorism without detailing specific acts. Three persons also sought amnesty for acts of sabotage.

37. The 338 attacks involved some 1276 separate incidents:

Killings	106
Attempted killings (specified) <sup>120</sup>	807
Attempted killings	22
Robbery (weapons and vehicles)	14
Attacks using explosives (sabotage) <sup>121</sup>	315
Arson (petrol bomb attacks)	6
Other	6

38. Possession of illegal arms and ammunition is not specified in these attacks since all such MK attacks involved such possession. Most applicants were granted amnesty in this regard.

39. Amnesty was granted for 412 of the 420 incidents, seven were refused, and one was partially granted and partially refused. Two applicants were struck off the hearings roll. Mr John Itumeleng Dube [AM5310/97] was refused permission to add two additional incidents to his amnesty application.

### **Overview of MK's armed actions: 1960 to August 1990**

40. On 8 April 1960, some three weeks after the Sharpeville massacre, the former South African government banned the ANC along with the PAC. This put an end to decades of largely peaceful protest by the ANC and, over the year that followed, the ANC adopted a strategy of armed resistance. MK was officially launched on 16 December 1961.

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120 This number is somewhat inflated by the use of judicial charge sheets which tend to list all persons involved as cases of attempted killing, even if they only experienced minor trauma such as shock. Hence this figure does not refer to injury only, although it does include all specified injuries.

121 Of the 315 attacks using explosives, thirty-two involved attacks on individual homes (usually those of police and community councillors) and sixteen involved landmines.

41. Between 1961 and 1963 there were some 190 actions, undertaken mainly by regional operatives in Johannesburg, Durban and Cape Town. These were almost entirely aimed at installations.
42. The Commission received five applications from MK operatives for this very early period of sabotage. These were from Mr Ronnie Kasrils [AM5509/97; AC/2001/168], Ms Eleanor Kasrils [AM7725/97; AC/2000/067], Mr Ben Turok [AM3723/96; AC/2001/013], Mr Muzivukile Curnick Ndlovu [AM5952/97] and Mr Billy Nair [AM5613/97; AC/2000/170], who applied for amnesty for over fifty acts of sabotage and related acts (such as theft of dynamite or escape from custody) in and around Durban and Johannesburg. All were granted amnesty.
43. Armed actions inside South Africa were, by and large, terminated with the arrest of key members of MK's high command in Rivonia in July 1963, all of whom were subsequently sentenced to life imprisonment. Mr Nelson Mandela, arrested a year earlier, was also sentenced to life imprisonment at the Rivonia trial. One of the Rivonia trialists, Mr Ahmed Kathrada [AM6240/97; AC/1999/0199] applied for and was granted amnesty for the offences for which he was convicted. No significant armed actions were undertaken by MK inside South Africa between 1964 and 1975, although several infiltrations led to arrests and the imprisonment or killing of MK operatives.
44. The 1976 student-led uprising inside South Africa injected new life into the ANC. From 1976 to 1984, there was a steady incremental growth in armed attacks, and approximately 265 incidents were recorded. These included attacks on police stations and assassinations.<sup>122</sup>
45. During this period the ANC's Special Operations Unit launched several high-profile armed attacks on economic and energy installations, infrastructure and police stations, as well as an attack on the South African Air Force headquarters in Pretoria, in which nineteen people died. In terms of casualties, this was the largest attack in MK history. Other high-profile attacks included the 1980 SASOL attacks, the 1982 attack on the Voortrekkerhoogte SADF base, attacks on police stations and the 1982 sabotage attack on the Koeberg nuclear power station.

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<sup>122</sup> For example AM5307/97, AM5886/97.

46. The Commission received amnesty applications in respect of seventy-nine incidents in this period. These were largely from the command personnel of Special Operations then based in Maputo, Mozambique, and the Transvaal military machinery based in Swaziland. In some cases, operatives also applied.
47. MK activity inside South Africa peaked between 1985 and 1988. The number of incidents increased from forty-four in 1984 to 136 in 1985 and 228 in 1986. Numbers continued to escalate, with 242 incidents in 1987, and peaked in 1988 with 300 incidents as a result of increased resistance to the municipal elections of October 1988. In 1989 the number of incidents dropped by nearly a third to 216. This period also saw a diversification of targets and an increase in attacks on public places where civilians were at high risk.
48. In February 1990 the ANC was unbanned, but the armed struggle was only suspended in August of that year. Armed actions continued, although they were fewer in number. According to police statistics, there were some eighty armed attacks between January and the end of May 1990. These resulted in three deaths (two police officers and one civilian) and eleven injuries (six police officers and five civilians). In general, the attacks were on the homes of perceived collaborators and police officers, police stations and fuel and electricity installations.
49. Police documentation obtained by the Commission suggests that the total number of incidents (including skirmishes, failed sabotage attempts and so on) for the period October 1976 to May 1990 totalled approximately 1555.<sup>123</sup>
50. The armed struggle was suspended by the ANC with the signing, on 6 August 1990, of the Pretoria Minute, the terms of which were spelt out in greater detail in the DF Malan Accord. MK was formally disbanded on 16 December 1993.

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123 These statistics were obtained from police documentation submitted to the Harms Commission of Inquiry and were drawn from the records of the Security Branch. The Commission concluded that these figures and details were numerically reliable as they had been compiled for police and not for public use. In other words, no purpose would have been served by falsifying them. Furthermore, no other incidents came to light through the Commission's work that did not appear on these lists, further confirming their general accuracy. Naturally, the Commission did not necessarily adopt the same characterisation of the incidents.

An important comment regarding numbers must be made here. The Commission has, through amnesty applications and its own investigations, established that there were a number of 'false flag' operations in which members of the security forces engaged in acts of sabotage. While these were included in the police statistics used above, the Commission has not included these known cases in the numbers cited above. There are, however, doubtless other 'false flag' incidents which remain uncovered, but it is unlikely that these would affect the general trends indicated above.

## ANC Targets

51. ANC targets remained fairly constant and, with certain exceptions, MK operatives remained within these boundaries:
- economic, communications and energy installations and infrastructure (electricity substations, oil refineries, telecommunications structures, etc.);
  - government buildings and infrastructure and other apartheid symbols (courts, post offices, government offices);
  - security force targets (personnel and physical structures of the police and military); and
  - individuals identified as 'collaborators' (councillors, state witnesses, suspected informers and defectors).
- e In addition, some targets related to specific campaigns being supported by MK, such as labour actions and anti-election campaigns.

52. The stated objective of MK was never to engage in operations that deliberately targeted civilians or indeed white people. Targets were not selected on the basis of race, and most attacks were aimed at the state, its organs and 'collaborators'. Attacks on 'collaborators' form a significant proportion of MK armed actions. According to Mr Aboobaker Ismail, who gave evidence at the hearing on the Church Street bombing in Pretoria on 4 May 1998:

*This was never a target, an attack against whites. We never fought a racist war. We fought to undo racism ... We never set out deliberately to attack civilian targets. We followed the political objectives of the African National Congress in the course of a just struggle. However, in the course of a war, life is lost, and the injury to and the loss of life of innocent civilians sometimes becomes inevitable. The challenge before us was to avoid indiscriminate killing and to focus on enemy security forces ... Whilst Umkhonto we Sizwe had the means to attack civilians, it would have been very easy to come to various houses and shoot people, Umkhonto never did that sort of a thing. It did not take the easy route. Instead it concentrated on military targets, on state infrastructure, often at the cost of the lives of its own cadres.*

53. Despite these noble intentions, the majority of casualties of MK operations were civilians. These civilians included those that members of the ANC apparently regarded as legitimate targets: 'collaborators' in the form of councillors, state witnesses at the trials of ANC members, suspected informers and the like. In other words, they were 'deliberately targeted civilians'. For example, in the period 1976 to 1984, of some seventy-one deaths as a result of MK actions, nineteen were members of the security forces and fifty-two were civilians.

54. The ANC Kabwe Conference held in Zambia in June 1985 showed a hardening in the ANC's attitude towards civilian casualties. Two days before the Conference, South African security forces launched a cross-border raid on residences in Gaborone in Botswana, killing twelve people.<sup>124</sup> According to the ANC, none of the casualties were MK operatives. This attack on what the ANC described as 'very, very soft targets' formed the background to the Conference. The ANC submission to the Commission states that the Conference:

*reaffirmed ANC policy with regard to targets considered legitimate: SADF and SAP personnel and installations, selected economic installations and administrative infrastructure. But the risk of civilians being caught in the crossfire when such operations took place could no longer be allowed to prevent the urgently needed, all-round intensification of the armed struggle. The focus of armed operations had to shift towards striking directly at enemy personnel, and the struggle had to move out of the townships to the white areas.*

### **Security force targets**

55. A large number of amnesty applications related to attacks on police, military personnel and buildings.<sup>125</sup> The bomb outside the Johannesburg Magistrate's court was planned and authorised by Sipiwe Nyanda, then head of the Transvaal military machinery and chairperson of the Swaziland Regional Politico-Military Council (RPMC). Nyanda decided to plant a mini-limpet mine in order to lure members of the South African Police (SAP) to the chosen area. A larger bomb placed in a car nearby would then be detonated by means of a remote control device. Four police officers were killed in the explosion and several others were injured, including a few civilians.<sup>126</sup>
56. Mr Heinrich Johannes Grosskopf [AM5917/97], a young white man from an Afrikaans background, left South Africa in early 1986 to join the ANC in exile. While in Lusaka, he was recruited to Special Operations. About six months were spent planning his infiltration, target and means of attack. Ultimately, the SADF's Witwatersrand Command was selected as the target. Mr Grosskopf gave his evidence at a hearing in Johannesburg on 20 November 2000:

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124 See Volume Two, Chapter Two, page 146.

125 See, for example AM5303/97,AM7164/97,AM5293/97.

126 AM7500/97,AM5303/97,AM5313/97.



*A great amount of thought and planning went into considering the political content and consequences of an attack on this military headquarters in central Johannesburg. ... The object of the operation was to attack military personnel inside Wits Command by blast damage to the building. The intention was therefore not to attack sentries or military personnel or civilians for that matter outside the command, the intention was to bring the car bomb into actual contact with the Wits Command building so that the effect of the explosion would be maximised.*

57. They decided to plant a bomb in a car with an automatic gearbox that would be able to move itself up to Wits Command without a driver before the bomb exploded.
58. No one was killed in the blast, but about sixty-eight people were injured. Grosskopf subsequently travelled to MK military headquarters in Lusaka where he reported back to his superiors and was debriefed by MK personnel. Grosskopf, Aboobaker Ismail and Johannes Mnisi were granted amnesty for the attack [AC/2000/248; AC/2001/003].
59. A number of applications related to skirmishes in which security force personnel and MK members were injured or killed<sup>127</sup> or sabotage attacks on security force buildings and personnel.

### **Attacks on black security forces**

60. Black security force personnel were prime targets for attack. The fact that they lived in the townships meant that they brought the apartheid regime onto home ground, making them extremely dangerous to local residents. They were seen as the enemy within. Many MK attacks on security force personnel took place while they were off duty, often while they were at home with their families. Of the sixty-one MK attacks on the security forces in 1986, twenty-three (roughly one third) were on the homes of police officers, and resulted in four deaths and nine injuries.<sup>128</sup>

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127 See, for example, AM5298/97.

128 See, for example, AM 7193/97, AM6207/97, AM5305/97, AM6059/97.

## **Attacks on collaborators with apartheid political structures**

61. There were many attacks on the homes of people involved with the tripartite parliamentary elections and other structures that were regarded as illegitimate. For example, four of the five attacks carried out in 1986 and 1987 by Mr Velaphi Dlamini, a local MK operative in Soweto [AM3887/96; AC/1999/0317], targeted male and female councillors. Family members, children and visitors were sometimes casualties of these attacks.
62. The most common forms of attack were grenades thrown at or into houses at night, sometimes accompanied by shooting. Limpet mines were also occasionally used. MK applicants tended to describe such attacks as 'intimidation' rather than as attempted assassinations.

*MS MTANGA: Mr Ndlovu, when you got your instructions were you told what was the intention? Was the intention just to throw the hand grenade and kill people or to just throw it?*

*MR NDLOVU: Okay. My answer will be twofold. One, carrying an order you do what you're told but the intention was not to kill. But there was a likelihood that somebody could actually die, knowing the kind of weapon that I've used.*

*MS MTANGA: How were you going to ensure that no one was killed?*

*MR NDLOVU: I was not going to ensure when a person gets killed or not. The point I'm trying to make here, knowing the nature or the type of weapon that I used, somebody could have died but that was not the intention, to kill a person. (Mr Hluphela Morris Ndlovu, Pretoria hearing, 14 June 1999.)*

63. Eight of the thirty-three limpet mine sabotage operations carried out by the Ahmed Timol MK unit were on the homes of persons associated with local or parliamentary government structures such as the President's Council and the Management Committees. The limpet mines were timed so that they would explode outside houses between midnight and 04h00. No injuries or deaths resulted. Amnesty applicant Jameel Chand [AM7026/97] stated that:

*It was only after our Commander (Prakash Napier) had received confirmation that we would carry out the action. The unit always carried out the attacks between 11pm and 4am. We would also monitor the scene of the intended action. The limpet would be placed in a location that would not cause injury or death. If explosion did not take place within the time it was scheduled to have we would contact the police and inform them of the device. We would also do dummy runs and evaluate afterwards. (Amnesty granted in chambers.)*

64. The killing of homeland politician Mr David Lukhele<sup>129</sup> provides an example of the assassination of a civilian politician that was approved by MHQ. Lukhele was a prominent leader in the KaNgwane homeland and was perceived as supporting the proposed incorporation of this homeland into Swaziland, a move fiercely resisted by many residents. For this he was regarded as a collaborator and members of the Elimination Unit identified him as a possible target.
65. They sought and received approval from MHQ in Lusaka and, on 6 June 1986, Mr Neo Griffiths Potsane entered Mr Lukhele's home in Mamelodi township and opened fire with an AK47, killing him, while Mr Obed Jabu Masina waited outside. The shots also killed Lukhele's sister, Ms Elizabeth Busisiwe Dlodlu, and injured Lukhele's wife.

### ***Attacks in public places***

66. MK operatives detonated explosives in public places where civilians were present and died. Amnesty applications were received for a number of the most well-known 'public place' bombs. The applicants put forward a range of explanations for these attacks.
67. In the case of the Durban Why Not/Magoo's Bar bomb<sup>130</sup>, the Benoni Wimpy Bar<sup>131</sup> bomb and the bomb detonated near the Juicy Lucy restaurant in Pretoria, applicants explained that their intelligence and reconnaissance had led them to believe that security force members frequented these places. Despite the fact that no or very few security force members were injured in these attacks, the applicants continued to hold the view that the venues were appropriate targets. The Amnesty Committee accepted that the operatives had acted 'in good faith' although they pointed out that, in retrospect, their intelligence had been faulty or simply wrong. Amnesty was granted in these cases [AC/2001/128; AC/1999/294].
68. Applicants in respect of two car bombs detonated in public places explained that these were placed outside the offices of security force structures: the South African Air Force headquarters in Pretoria and the Security Branch offices in Witbank. The civilians killed or injured were not the intended target. Similarly, the ANC landmine campaign was aimed at security force patrols even though the casualties were overwhelmingly civilian.

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129 AC/1998/0048; AC/1999/0257; AC/2000/142.

130 AM7032/97, AM7139/97, AM7679/97, AM7096/97, AM4028/96, AM4026/96.

131 AM5300/97, AM5725/97, AM5301/97, AM4351/97.

69. Amnesty applicants for the Ellis Park stadium car bomb<sup>132</sup> and the bomb at the Wild Coast Casino<sup>133</sup> in the Transkei explained that these were intended to send messages to the white community and the Transkei homeland respectively regarding the futility of apartheid. Similarly, a number of facilities such as segregated 'whites only' bus stops were apparently selected in order to highlight apartheid discrimination.

### **Bombs outside security force offices**

70. Car bombs were detonated outside buildings housing security force offices. The offices were located in the busy central areas of towns, in buildings shared by other civilian offices. Thus, although the intended targets were members of the security forces, the casualties were predominantly civilian passers-by. According to Mr Aboobaker Ismail, testifying at the hearing on the Church Street bombing (Pretoria, 4 May 1998):

*If we were to accept that nobody would be killed at any stage, then we wouldn't have executed the armed struggle. You often found that the security forces themselves had based themselves in civilian areas and the choice then is always 'do you attack them or not'?*

71. The car bomb that exploded outside the headquarters of the South African Air Force in Pretoria became known as the 'Church Street bomb'. The explosion claimed more casualties than any other single MK attack, killing nineteen people, including the two MK operatives themselves, and injuring more than 200 people. Three persons applied for and were granted amnesty for aspects of this operation: Mr Aboobaker Ismail, Mr Johannes Mnisi (MK Victor Molefe) and Ms Hélène Passtoors [AC/2001/003 and AC/2001/023].

### **Landmine campaign**

72. Landmine operations began in late 1985 under the overall command of MHQ and were approved by ANC President Oliver Tambo. In terms of ANC policy, only anti-tank landmines were approved for use; anti-personnel mines were specifically excluded. The targets were military personnel, both regular and combat

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132 The explosive, which was detonated outside the stadium on 2 July 1988 using a remote control device, killed two spectators as they were leaving a rugby match. Thirty-seven others sustained minor and major injuries. Four operatives from MK's Special Operations unit, including its commander, were granted amnesty [AC/2001/161].

133 Two people were killed and several others injured in the explosion on 18 April 1986. Three MK operatives were granted amnesty [AC/99/0181 and AC/2000/240].

units made up of farmers in the militarised border zones near Swaziland, Zimbabwe and Botswana. The landmines were placed mainly in the border areas by operatives sent in via these countries.

73. The campaign was halted by the ANC in late 1987 due to the high number of civilian casualties. According to police records, at least twenty-one landmines were detonated, causing twenty deaths. Only one of those killed was a member of the security forces. The others were civilians, divided more or less equally between black and white. Nineteen security force members were injured during the campaign as against forty civilians, of whom twenty-nine were black and eleven were white. Three landmines were placed in the Western Transvaal, thirteen in the Eastern Transvaal and twenty-five in the Northern Transvaal. A further twenty landmines were discovered and defused.
74. Two batches of amnesty applications were received and granted in respect of the landmine campaign. The first was from two members of the command structure based in Swaziland, Mr Sipiwe Nyanda [AM6231/97] and Mr Solly Shoke [AM5303/97] and one of their operatives, Mr Dick Mkhonto [AM5304/97], who planted landmines in the Eastern Transvaal and applied for amnesty for at least seven incidents. The second batch was from three operatives who laid landmines in the Messina area in the Northern Transvaal in November 1985, resulting in eight explosions: Mr Mzondeleli Nondula [AM7275/97], Mr Mthetheleli Mncube [AM5829/97] and Mr Jabulani Mbuli [AM6046/97]. All were granted amnesty [AC/2000/111; AC/1999/0054, and AC/2001/093]. No applications were received with regard to the three incidents in the Western Transvaal or the handful of landmines placed in the Northern Transvaal in 1986 and 1987.
75. Mr Dick Mkhonto, one of the operatives involved in placing the landmines, spoke of careful reconnaissance at the White River hearing on 2 May 1999:

*After the reconnaissance we found that that place was only used by the military and the police and there were no inhabitants around that area. The only people who were using that road, it was used for logistical supply for the people who were in the border, who are working around the fence of Swaziland and South Africa. Then it was taken into consideration that there were no civilians who are using those roads. We have stayed there for three days reconnoitring that place.*

76. Despite this reconnaissance, the landmine was detonated by a vehicle driven by black civilians on 28 March 1987. Four of them were killed and the fifth was injured.

77. In a landmine incident<sup>134</sup> on 15 December 1985, the Van Eck and De Nysschen families were on holiday on their game farm in the Messina area when their vehicle detonated a landmine. Four children, aged between three and nine years, and two women were killed in the blast. Mr Johannes Frederick van Eck and his eighteen-month-old baby boy, Mr de Nysschen and his daughter survived this ordeal, although they were seriously wounded.
78. The former head of the ANC's military intelligence, Mr Ronnie Kasrils, initially applied<sup>135</sup> for amnesty for the provision of:

*maps of border areas and the farm and security network. Instructions were given on reconnaissance methods and planning and on the collecting of data. When farm labourers and civilians were killed and injured in some of these explosions, MK Commanders, myself included, visited these areas with instructions to our operatives to exercise greater caution and be stricter with their reconnaissance. In the end these operations were called off. During this period I was working mainly with Paul Dikaledi (deceased) and Julius Maliba (deceased). (Hearing, 24 July 2000.)*

### **ANC violations against its members outside South Africa**

79. Although the Commission received significant information from the ANC through its submissions, its own commission reports and certain internal files, it received very few individual amnesty applications in respect of ANC violations against its own members outside South Africa. Twenty-one persons in all applied for incidents outside South Africa's borders. These applications came primarily from members of the ANC's Security Department (NAT) and camp commanders. Nine applications were later withdrawn. The remaining twelve applications covered nineteen incidents involving various offences against persons suspected of infiltration or defection in Angola (seven incidents); Zambia (nine); Mozambique (one); Botswana (one), and Swaziland (one). The incidents included four killings, three cases of negligence that contributed to deaths, one attempted killing, three abductions and twelve cases of assault of persons in the ANC's custody. Amnesty was granted to all twelve applicants in respect of all nineteen incidents.

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134 Three MK operatives were granted amnesty [AC/2001/093].

135 When the applicant's legal counsel argued that the applicant was not in a position to identify particular incidents in respect of which he would qualify for amnesty, his application was struck off the roll.

80. The four killings are: the assassination of suspected defector Mr Siphon Ngema<sup>136</sup> in 1988 in Swaziland; the killing of suspected defector Mr Monde Mpatheni<sup>137</sup> after he and Mr Joe Mamasela were abducted in Botswana in 1981; the execution of Mr Thabo Naphatli Mokudubete (MK Rufus)<sup>138</sup> in Viana camp in 1984, and the killing of an unknown ANC member called 'Shorty'<sup>139</sup> in 1981 in Zambia.
81. Two members of the ANC's Security Department applied for amnesty for the deaths of three prisoners in their custody. According to the applicants, their negligence may have contributed to the deaths, and the applications described some of the dire conditions under which prisoners were held. Mr Thabo John Sphambo [AM5097/97; AC/2000/149] was granted amnesty for negligence contributing to the death of Mr Eric Pharasi in 1981 at Quibaxe, also known as Camp 13.<sup>140</sup>
82. Similarly, Mr Mzwandile Alpheus Damoyi [AM6303/97; AC/2000/149], a camp commander at Camp 32, applied for and was granted amnesty for the deaths of Mr Zaba Madledza and Mr Edward Masuku in 1984 and 1985. Madledza and Masuku were both inmates at the camp.
83. Amnesty applications were also made for several cases of beating during interrogation.<sup>141</sup>
84. Mr Moruti Edmond Noosi (MK Stanley) [AM6307/97] was granted amnesty for an assault on Mr Don Siphon Mashele (MK Ben Maseko) in the early 1980s. Noosi was a senior member of the administration of Camp 32 where Mashele was being held. Noosi admitted that assault was not permitted in terms of ANC camp regulations.

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136 AM6403/97.

137 AM5294/97,AM5297/97.

138 AM7058/97.

139 AM3592/96 TE Mfalapitsa.

140 The ANC's confidential submission lists a Motlalentoa Pharasi (MK Elick Mabuza) who 'died as a result of excessively harsh treatment after committing breaches of discipline' in 1981.

141 AM5095/97,AM3592/97,AM5100/97,AM5295/97.

## Discipline

85. The Commission did not hear of any specific cases where operatives were censured or punished for improper action or unauthorised operations. However, some amnesty applicants made general reference to operatives being recalled to MHQ or to the frontal command and being asked to account for or explain their actions. The approach adopted when operatives strayed beyond their mandate appears to have been one of 're-education'. The ANC submission to the Commission asserts that:

*maintaining discipline in guerrilla and conventional armed forces is also fundamentally different. In the case of a guerrilla force, discipline flows from a thorough understanding of the political objectives of the armed struggle, not from the threats of court martial or punishment.*

86. At the Durban hearing on 27 September 1999, Mr Aboobaker Ismail explained the ANC's approach:

*Comrades were called in, they were talked to, people were asked to explain what they were doing, what their objectives were. In this case [Magoo's Bar], had comrade Robert come back, we would have spoken about it, looked at the way he went about it, what were the failures ... what was he trying to do, what was the outcome of it, how could we have improved it? Any suggestion that we would simply mete out punitive action against operatives who in good faith went to carry out an operation, is not so. I don't think this was the style of the ANC, certainly that was not my approach to command.*

87. Operatives responded in different ways when asked if they still considered that their targets had been 'legitimate'. Some insisted they had not changed their minds. However, when Mr Raymond Lalla [AM2756/97], head of intelligence of the Natal machinery based in Swaziland, was asked whether the two car bombs that exploded in Durban in 1984 hit legitimate targets, he seemed less confident.

MR MAPOMA: *Can it be fairly put that these targets which were ultimately hit were in fact wrong targets?*

MR LALLA: *I think it's a bit difficult for me to answer that question. I think the best person to answer the question was Rabbit himself and Rabbit perhaps could provide some explanation as to why and whether the legitimacy of it or not, but in my personal opinion, looking from afar, a lot of civilians lost their lives and personally I'm not sure whether I can call it a legitimate target. (Pietermaritzburg hearing, 4 September 2000.)*



88. Mr Lalla had been part of the structure commanding the operative ('Rabbit') authorised to launch car bomb attacks, but had not been involved in selecting the targets.
89. Another amnesty applicant, Mr Rodney Abram Moeketsi Toka [AM6034/97], testified that a mission in which a baby girl was killed when a grenade was thrown into the home of her father, a police officer, had been regarded as a failure by the unit:

*The intelligence gathered was totally inappropriate ... no man in his good senses can rather throw a grenade when he knows that there is only a baby and a mother in the house. (Pretoria hearing, 29 January 1999).*

90. Early signs that the ANC was concerned about the nature of certain attacks made by operatives emerged in late 1987. Late that year ANC President Oliver Tambo called in all members of MHQ and expressed his concern at the number of unnecessary civilian casualties in certain attacks, particularly those involving the use of anti-tank landmines. The landmine campaign was then suspended. Tambo also tasked MHQ with ensuring that all operatives fully understood ANC policy in respect of legitimate targets. Failure to comply with these orders would be considered a violation of policy and action would be taken against offenders.
91. Senior commanders were then sent to all the forward areas to raise these concerns with MK structures and, where possible, to meet with units. The command structures in the forward areas were told to contact all command structures in their units, whether or not they had been involved in attacks of this nature, and to ensure that all units and operatives were entirely clear on ANC policy regarding legitimate targets.
92. In August 1988, the NEC issued a statement specifically dealing with the conduct of the armed struggle in the country. While the NEC reaffirmed the 'centrality of the armed struggle in the national democratic revolution and the need to further escalate armed actions and transform our offensive into a generalised people's war', it also expressed concern at the recent spate of attacks on civilian targets and stated that some of the attacks were carried out by MK operatives motivated by anger in response to state repression.

## Unfinished business

93. The hearings pointed to the legacy of bitterness and pain felt by ANC members who had experienced the harsh hand of NAT. These experiences of assault left more than physical scars on the recipients. At the Johannesburg hearing on 17 July 2000, Mr Mashele (see above) testified that, despite remaining with the ANC as a disciplined member, he had never received an apology for being assaulted by Mr ME Noosi [AM6304/97].

MR MASHELE: *We met at Luthuli House [ANC Head office]. I met him, I asked him what he did there because I'm fully convinced it was not motivated by any good intentions, that he must apologise to me for that and this was done seriously because I wanted him to take an opportunity then to apologise to me. It was around 1994 or 1995.*

MS MAKHUBELE: *Yes and what was his response?*

MR MASHELE: *He never apologised, and moved away from me. Turned his back against me. .... I met him on maybe two or three occasions at the general practitioner, which is my practitioner, and you know, this thing is straining our relationship, especially when we meet because he just looks at me and he doesn't care. You see, he doesn't want to extend, you know, even a smile, to show that I recognise you, you see? And recently we met at a funeral, he also you know, exhibited the same – I don't know whether to call it arrogance or what.*

94. At the same hearing, Mr Noosi responded:

MR NOOSI: *I saw him at Luthuli House; that was when he said I should apologise to him personally.*

JUDGE DE JAGER: *What did he say why should you apologise, what have you done to him?*

MR NOOSI: *He said because I've assaulted him, I assaulted him.*

JUDGE DE JAGER: *And did he tell you what you've done to him?*

MR NOOSI: *No, he said I assaulted him and I said to him no, I can't apologise to you because I was not doing that for my personal interests, I was doing it for the organisation. If you want an apology, the ANC has apologised. That's what I said to him.*

95. The hearings also highlighted the trauma suffered by families whose members went into exile but never returned. In Johannesburg on 22 May 2000, the Mokudubete family told the Amnesty Committee of the difficulties they had

encountered in obtaining information from the ANC as to the fate of their family member, Thabo:

*When the MK cadres returned from exile after the unbanning of the ANC, we received some rumours that he died in exile ... As a result of this we started making enquiries and follow-ups. We went to Shell House at ANC Headquarters but because each time we went there, we were meeting different people, eventually ended up not getting the full story. I know that at the end they typed an unsigned statement to say that he died in exile. On our own, we requested a death certificate from court and [it] was issued to us. At some stage Chris Hani visited my father and confirmed that my brother had died but they were still to make more investigations into his death, most unfortunately he [Hani] was killed before returning to us. Up to this moment, we do not know how my brother met his death. I would appreciate it from the applicant to tell us how my brother died.*

96. Cases where ANC members were executed by their own organisation left a particular legacy of trauma. Eighteen-year-old Sicelo Dlomo, a member of the Soweto Students Congress and a volunteer worker for the Detainees' Parents' Support Committee, was shot dead in Soweto on 23 January 1988. He had experienced several periods of detention and had become well-known through his testimony on a video called 'Children of Apartheid'. Dlomo's mother, Ms Sylvia Dlomo-Jele, told the Commission:

*I want these people who killed my child to be found out and I want them to appear and explain what happened. I think maybe that can really satisfy me and console my spirit. (Johannesburg hearing, 15 February 1999.)*

97. It was widely assumed that the security forces had assassinated Dlomo. However, one of the Commission's investigators obtained information from sources within the police that a particular Special Operations operative, Mr John Itumeleng Dube, had killed Dlomo. On being questioned by the investigator, Dube confessed to his role and submitted an amnesty application for the killing, along with two other members of his MK cell. Dube [AM5310/97] testified that Dlomo had been recruited into one of his cells. He said he became suspicious of Dlomo and instructed a member of his unit to execute him in the presence of other cell members. They followed his instruction. Ms Dlomo-Jele experienced tremendous shock when she learnt that her son had been killed by his own friends and comrades, all of whom had remained close to the family after the killing. She died a month after the amnesty hearing. Dube and three others were granted amnesty for the killing [AC/2000/019].

98. MK operative Joel George Martins [AM6450/97; AC/2000/157] testified about how he assassinated ANC supporter Benjamin Langa in Pietmaritzburg on 20 May 1984. Langa, a member of a politically active family, was a local activist known to Martins. His brother, Mr Mandla Langa, was a writer of note in exile and another brother, Mr Pius Langa, was a prominent human rights lawyer involved in defending political activists on trial.

MR MARTINS: *I enquired why they had such an instruction and they told me that a certain Ralph who was their commander in Swaziland, had given them that instruction to kill Ben because Ben had basically sold out 'comrades'.*

MR VAN DEN BERG: *Did you question the instruction?*

MR MARTINS: *No, I did not question the instruction, I could not question it – if you'll recall, you know, the early 80s, you know, anything that came from the ANC was hardly questioned, especially from operatives in the country in a word, you know, this was an impeccable source where it came from an MK guy who had just come back from the front, so yes, I did not have a basis on which I could question it. ... The three of us walked up to Benj's apartment. We got there, I knocked, Benj asked who it was. I answered that it was me. He knew who me was. He then said 'come in'. These two guerrillas walked in and, ja, they shot and killed him and immediately after that we ran to the car and we drove off. (Pinetown hearing, 17 June 2000.)*

99. Mandla Langa told the Commission about his sense that this matter had never really been dealt with:

*There was at the beginning quite a lot of confusion. I have a memory of the time when this was announced and when this came out that it was because Ben had been labelled an informer and I remember that there was a sense of disbelief among my – I was in Lusaka at the time – among the comrades, my colleagues were there, you know, the broader community in exile, all the way since from 1984 through today I have not received any feedback from my comrades which could have made me know or understand or feel that they felt that Ben had been an informer. .... I have yet to find somebody who will say to me that they really did believe that Ben had been this or that. (Pinetown hearing, 17 June 2000.)*

100. The ANC commander apparently responsible for giving the order, Mr Edward Lawrence, aka Fear or Ralph, later came under suspicion by the ANC and was detained and interrogated. Under questioning, he confessed to being a police spy and subsequently died in ANC custody. According to the ANC, therefore, the killing of Benjamin Langa had taken place on the orders of a government

agent, as opposed to a genuine ANC order. According to the ANC Submission to the Commission:

*In a few cases, deliberate disinformation resulted in attacks and assassinations in which dedicated cadres lost their lives. In one of the most painful examples of this nature, a state agent with the name of 'Fear' ordered two cadres to execute Ben Langa on the grounds that Langa was an agent of the regime ... Once the facts were known to the leadership of the ANC, President Tambo personally met with the family to explain and apologise for this action.*

101. However, security police amnesty applicants denied that Lawrence was an informer.<sup>142</sup>
102. Killings of suspected defectors also took place outside the borders of South Africa. Mr Kevin Mabalengwe Mandlakomo [AM6403/97; AC/2000/230] applied for and was granted amnesty for the assassination of Mr Siphon Ngema in a restaurant in Manzini, Swaziland, on 6 January 1988.
103. Mandlakomo was deployed to Swaziland in 1987 as part of a four-person unit made up of himself, Thabiso, Dumele Xiniya and Shezi. The other three are now deceased. Ngema was believed to have defected in 1986 and was suspected of having played a 'pointing out' role in the events leading to the assassination of senior MK official Cassius Make and others in Swaziland on 9 July 1987. Mr Mandlakomo described the killing of Ngema at a Johannesburg hearing on 20 November 2000:

MR MANDLAKOMO: *It was in a restaurant, a Mozambique Restaurant in Manzini. .... You know, people were drinking, some were eating and we found him. He was seated in a corner.*

MR KOOPEDI: *And what did you do? Did you say anything to him? What happened?*

MR MANDLAKOMO: *No, I just told him to identify himself to confirm that he was Siphon and he did.*

MR KOOPEDI: *And thereafter?*

MR MANDLAKOMO: *I shot him.*

MR KOOPEDI: *How many times?*

MR MANDLAKOMO: *Four times.*

MR KOOPEDI: *Where on his body did you shoot him?*

MR MANDLAKOMO: *At the chest and head.*

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<sup>142</sup> Evidence of Eugene de Kock, amnesty hearing into the killing of ANC operative Zweli Nyanda, 14 June 1999, Pretoria.

104. Mandlakomo and Dumele then left the restaurant and climbed into the getaway vehicle. The group then drove to Mbabane. No one was ever charged for the killing.
105. In an interview with the Commission, Vlakplaas Commander Eugene de Kock denied that Ngema was ever a source, but testified that one of the assassins had been. This allegation was not investigated.

## **POPULAR RESISTANCE: 1960–1990**

106. The second cluster of applications relating to events prior to 1990 is from civilians who engaged in various forms of protest, both peaceful and violent. During the 1980s, the ANC called on South Africans to 'make the townships ungovernable'. Yet, while the UDF and its affiliates attempted to structure peaceful campaigns and programmes, their supporters often acted on their own initiative and translated the militant rhetoric and slogans of the UDF and ANC into violent actions.
107. While MK operations formed a significant component of resistance in the pre-1990 period, its estimated 1500 operations pale beside the scale of protest action by civilian opponents of the apartheid government inside South Africa. Police statistics<sup>143</sup> cite tens of thousands of cases of what they described as 'unrest', including over 900 cases of burning and 'necklacings' between September 1984 and 31 December 1989. While these figures must be viewed with caution, there is little doubt that the wave of protest that swept South Africa prior to 1990 was extensive, leaving hardly any town untouched.
108. Ninety-nine persons, all male, applied for amnesty for 'internal protest' and UDF-related activities covering 104 incidents or events in the pre-1990 period. Of these, twenty-one are not linked to the UDF, either because they predate its launch or because they are applications from persons not clearly aligned to the organisation.

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<sup>143</sup> See, for example, the submission to the Commission by the Foundation for Equality before the Law, headed by Major General Herman Stadler and other retired officers of the SAP, April 1996.

109. These 104 incidents include 214 separate acts as follows:

Killings	79
Attempted killings	34
Assault	18
Arson/public violence	27
Abductions	17
Robbery	14
Illegal possession of arms and ammunition	4
Other <sup>144</sup>	21

110. The regional breakdown is as follows:

Eastern Cape	38
Transvaal	36
Natal	15
Western/Northern Cape	11
Orange Free State	2
Venda	1
Unspecified	1

111. The annual breakdown is as follows:

1960–1969	1
1970–1979	11
1980–1984	11
1985–1989	61
1990–1994 <sup>145</sup>	18
Unspecified	2

112. Amnesty was refused for eleven incidents, partially granted for three and granted for ninety.

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<sup>144</sup> The last category covers cases that generally did not involve gross human rights violations, including, for example, refusal to serve in the SADF, spraypainting of political slogans, illegal gatherings and the like.

<sup>145</sup> Although this section covers the pre-1990 period, these incidents are included here as they specifically relate to the UDF. Most took place in the early months of 1990.

## Group attacks

113. Many of these attacks were spontaneous and unplanned, but several had some organisational links. The application by Mr Mziwoxolo Stokwe [AM6538/96] offers a compelling example of the latter. At his amnesty hearing, Stokwe explained that a certain Mr Skune Tembibile Maarman, aged nineteen, was identified as an informer used by the police to identify 'comrades'. At the Port Elizabeth hearing on 17 July 1999, he described how Maarman was killed on 6 April 1985:

*One night we had a COSAS<sup>146</sup> meeting, when I was chairing, and in that meeting we took a decision to kill Maarman because he was dangerous to us. ... And we sent a few 'comrades' to go and kidnap [him] from the disco. We were about 200, ± 200 people at that night. Mr Maarman was brought to us by the delegation and we stoned him into death. Thereafter we burnt him with a tyre on his neck. But only eight people were charged for the killing and I was accused number one.*

114. After the arrests, information emerged that a woman who had also participated in the killing, Ms Cikizwa Ntiki Febana, was going to be a state witness at the trial. On 14 December 1985, she too was killed.

115. Stokwe expressed a wish to contribute to reconciliation and building a united community that knew the truth about the events of the past. The families of the victims supported his application, which was granted [AC/1999/240].<sup>147</sup>

116. In many instances, applicants explained that their actions were spontaneous and often came about in direct response to clashes with police. UDF supporter, Justice Bekebeke [AM6370/97; AC/1999/203], applied for and was granted amnesty for the killing of Municipal Police officer Lucas Tsenolo 'Jetta' Sethwale in Paballelo township in Upington in the Northern Cape on 13 November 1985. The turbulent events of the previous three days had enraged residents, and Mr Bekebeke described this as a 'crowd attack' during a period of conflict.

117. Mr Bekebeke was part of the well-known trial of the 'Upington 26' in which twenty-five residents were convicted of the killing in terms of the 'common purpose' doctrine. The twenty-sixth person was convicted of attempted murder. Fourteen of the accused were sentenced to death, including Mr Bekebeke. Many of the convictions and all of the death sentences were overturned on appeal. Mr Bekebeke was given a ten-year prison sentence but was released as a political prisoner in January 1992.

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<sup>146</sup> Congress of South African Students.

<sup>147</sup> See also AM5487/97,AM6400/97,AM6401/97,AM6402/97,AM6601/97,AM0148/96.



## Robberies on farms

118. The Amnesty Committee also heard applications from UDF supporters who planned and participated in robberies, often on farms, largely for the purpose of acquiring arms.
119. Five UDF supporters from Kubusi township, Stutterheim in the Eastern Cape, applied for and were partially granted amnesty for five attacks on white civilians, mainly living on farms, during the period January to March 1990 [AC/1999/0277]. The applicants were Messrs Randile Bhayi [AM0122/96], Jimmy Nokawusana [AM1977/96], Mziyanda Ntonga [AM2018/96], Melumuzi Nokawusana [AM2009/96] and Bonakele Bhayi [AM2770/96].
120. In their applications, they sketched the turbulent political history of the township since 1985, including serious clashes with security forces. They testified that local farmers served as police reservists and had played a role in other forms of political repression. As a consequence, groups of up to forty youths, including the applicants, had embarked on raids and robberies on white farmers. In most instances, the motive was to acquire weapons and ammunition. In some of the attacks, farmers or farm workers were shot and injured. Amnesty was granted for four of the attacks and refused for one.
121. In a similar case, three UDF supporters applied for amnesty for an attack on a farm in Paarl outside Cape Town on 15 April 1986. The three applicants, Mr P Maxam [AM1283], Mr T Madoda [AM0865/96] and Mr CS Ndinisa [AM3802/96], were members of the UDF-affiliated Paarl Youth Congress in Mbekweni township outside Paarl. The three applicants testified that the purpose of the robbery had been to obtain weapons to defend themselves against the police and the Azanian People's Organisation (AZAPO), which they believed was being supported by the police.
122. The three applicants, together with four or five other 'comrades', set out to rob the farm where they had been told weapons were available. During the robbery, Maxam shot and killed the domestic worker, Ms Anne Foster, and the gardener, Mr John Geyser. Madoda and Ndinisa expressed their shock at the killings, which had not been part of the plan. The group fled and several were later arrested, convicted and sentenced for the robbery and the killings. All three were granted amnesty for the robbery, but only Ndinisa and Madoda were granted amnesty for their role in the killings.

## **PART THREE: PERIOD OF TRANSITION: 1990–1994**

### **■ INTRODUCTION**

123. While it was possible to draw a sharp distinction between those involved in the clandestine military operations of MK and those engaged in other forms of protest in the pre-1990 era, such distinctions become far less clear in the early 1990s. During this period, the borders began to blur as MK operatives became involved in community SDU structures and activities and civilians were increasingly drawn into paramilitary activities. The categories described in this section must, therefore, be seen as overlapping, with players moving from one to another and frequently inhabiting two or more simultaneously.
124. The Pretoria Minute between the former government and the ANC was signed on 6 August 1990. It included an announcement that the ANC would suspend its armed struggle with immediate effect, based on the presumption that the negotiations process would, amongst other things, lead to a suspension of 'armed actions and related activities' by the ANC and its military wing MK.
125. However, in the light of the widespread violence that almost immediately erupted in the Pretoria-Witwatersrand-Vereeniging (PWV) area and spread to other parts of the country, the ANC gave its support to the formation of SDUs in order to protect communities from violent attack.
126. In September 1990, Mr Nelson Mandela publicly pledged the support of MK members to help form and train SDUs. The violence was so extensive that the ANC's Consultative Conference in December 1990 asserted that, 'in the light of the endemic violence and the slaughter of innocent people by the regime and its allies, we reaffirm our right and duty as a people to defend ourselves with any means at our disposal'. The Conference resolved 'to mandate the NEC to take active steps to create people's defence units as a matter of extreme urgency for the defence of our people.'<sup>148</sup>
127. The SDUs were conceived as tightly structured paramilitary units with a specific command and control system. Their members were to be highly trained and

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<sup>148</sup> Conference resolution on negotiations and suspension of armed actions, in the report on the ANC National Consultative Conference, *Advance to National Democracy*, Johannesburg, 14–16 December.

subject to a high degree of discipline. MK members were envisaged as playing an important role in the establishment of these structures.

128. While the ANC was concerned that formal MK involvement would jeopardise negotiations, it approved the involvement of individual MK members in community defence. MK Military Headquarters (MHQ) was to play a limited and secondary role, although certain members of MHQ were given the task of assisting SDUs with organisation, training and the provision of weaponry. Various clandestine units were set up for these purposes. The general approach, however, was that the overall control of the SDUs was to remain with community structures and that MK operatives were to participate as members of the community.
129. The ANC told the Commission that it had no records of MK's role in the SDUs, since they were not HQ-controlled structures:

*MR ISMAIL: Senior ANC leaders decided that selected SDUs should be assisted in those areas of the Reef which were hardest hit by destabilisation. Selected members of MK, including senior officials from the Command structures, were drawn into an ad hoc structure to assist with the arming of units and to train and co-ordinate efforts in self-defence in these communities; this was done on a need-to-know basis. (Pretoria hearing 4 May 1998.)*

130. Although the conflict in the 1990s took place primarily between the IFP and the ANC, its roots were deeply complex. Ethnicity, age, gender, language and social position played their part in the upheaval and fed into long-standing differences between urban dwellers and rural migrants. Migrants found themselves in conflict with town dwellers. In the reports of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation<sup>149</sup>, Justice Richard J Goldstone commented at length on the structural, linguistic and social cleavages that fed into the conflicts in the Tokoza<sup>150</sup> area. The Goldstone report into violence in Tokoza noted that

*the political rivalry between hostel-dwellers and shack-dwellers, Zulu-speakers and Xhosa-speakers, Zulus and Xhosas, and migrant workers and those who have their families with them, all tend to resolve themselves into a very simple IFP/ANC tension.*

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149 1992-95.

150 Report of the Committee of Inquiry into the Phenomenon and Causes of Violence in the Thokoza area, under the chairmanship of Mr MNS Sithole, November 1992.

131. These deep-seated dimensions of the conflict are a significant feature of the amnesty applications by SDU members (and many applications from all political groupings relating to the 1990s). While inherently a political conflict, testimony by applicants points to a range of complex social and other factors that formed part of the warp and woof of local conflicts.

## **CATEGORIES OF VIOLATIONS COMMITTED BY MK**

### ***Offensive armed actions***

132. Some applications for armed actions apply to the period January to August 1990, before the suspension of armed struggle. Thereafter, certain MK operatives engaged in armed actions on their own initiative, often based on what they described as the 'command initiative' delegated to MK operatives. Although the bulk of MK applications relate to the activities of SDUs, a small number relate to incidents undertaken at the initiative of MK operatives. On the whole, these were 'own missions', unauthorised by the ANC. They include assassinations, armed robbery, skirmishes with security forces, internal clashes and the possession and provision of firearms, ammunition and explosives.
133. On 25 May 1993, the ANC Youth League (ANCYL) and the Congress of South African Students (COSAS) organised a march to the Bophuthatswana Consulate in Kimberley in the Northern Cape to hand over memoranda of protest to the Consulate and the SAP. As the marchers began to disperse, one of the protesters threw a hand grenade at the building. It bounced back towards the crowd and exploded, killing ANC marcher Mr Ezekial Mokone and wounding up to forty others.
134. Northern Cape Regional MK Commander Khululekani Lawrence Mbatha [AM3363/96] and ANCYL member Walter Smiles [AM3365/96] applied for amnesty for the incident. Mr Siphosiso Moses Mbaqa [AM0010/96] and Mr Nkosinathi Darlington Nkohlhla [AM0013/96], who were convicted of the attack, also applied for amnesty although they denied involvement in the incident.
135. Mbatha told the Amnesty Committee that he had instructed Smiles to throw the grenade. He said that as commander he had discretionary powers to act in circumstances where no direct instructions from the civilian leadership (from whom he took instructions) could be obtained, and that he had acted within the scope of his express or implied authority.

136. This operation was contrary to the ANC's suspension of armed struggle. It was not committed in the execution of an order on behalf of or with the approval of his organisation. On the contrary, the local ANC leaders under whose authority he fell conceded that he had given an assurance to the local Peace Committee<sup>151</sup> that the march would be a peaceful event. Indeed, the grenade was thrown while the local chairperson of the ANCYL was asking marchers to disperse peacefully.
137. Thus Mbatha acted contrary to the express undertakings given by his organisation. Any bona fide belief that he was acting within the scope of his authority was further contradicted by his behaviour after the event. He did not report to his leaders about the event which, had it been carried out within the policy of the organisation, would surely have been approved by them.
138. The Amnesty Committee found the evidence of Walter Smiles to be contradictory and unreliable. Both he and Mbatha were denied amnesty [AC/2000/053 and AC/2000/241]. Mbaqa and Nkohla were also refused amnesty as they maintained that they had not committed any offence or delict and thus fell outside the ambit of the requirements of the Act.

### **Robberies**

139. The transition period (1990 to 1994) was a difficult time for many MK operatives. In exile, the ANC had provided basic necessities and provisions and supplies for operational purposes. Back home, MK structures dissolved, MK operatives dispersed and the old support base fell away.
140. In testimony before the Commission, it emerged that while robbery remained contrary to ANC policy, the ANC turned something of a blind eye to acts of robbery for operational purposes – that is, robberies to secure weapons or money for logistics.
141. For example, a senior MK operative, Mr Japie Aaron Mkhwanazi [AM6215/97] deployed an MK operative to establish an SDU to counter the IFP-aligned 'Black Cats' gang in Ermelo in the Transvaal. At the Ermelo hearing on 28 August 1998 he testified that he was aware that the operative had engaged in armed robberies:

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151. Peace Committees were established across South Africa during the early 1990s to monitor political protests and state action and ensure liaison between the various groups involved so as to avoid violent confrontations.

*I know that that is not the policy of the ANC; but the situation under which we lived at the time was that we had no alternative ... The instruction that I gave was that he [MH Gushu] should form and arm the self-defence units. It was therefore up to him to take the necessary steps as to how the self-defence units should be armed and that's what decision he took: armed robbery.*

142. Mr VL Dlamini, an MK operative who was active in SDUs in the Transvaal, concurred:

*There is no policy [supporting] robbery in the ANC but with regards to the needs of the units on the ground you would try to raise funds in any way. Even then the leaders would not expressly give you authority to involve yourself in robberies but would only say that whatever you do you should not compromise the movement ... (Johannesburg hearing, 30 September 1999.)*

143. The security forces were the most obvious and popular targets for such robberies, although private persons and businesses were also targeted for vehicles and money. As a result, there were several amnesty applications for acts of robbery by both MK and SDU personnel, some of which resulted in injuries and deaths.

144. Mr Pumlani Kubukeli [AM5180/97], an MK operative deployed in Umtata in the Transkei, was tasked with the training and provisioning of new recruits. Due to budgetary constraints, it was decided that alternative means of obtaining the requisite finance should be employed. Kubukeli and two others robbed the Engcobo Wiers Cash and Carry store. There were no injuries or damage. The three were later arrested, convicted and sentenced to prison terms for armed robbery.

145. On 17 August 1992, four ANC members, including at least two MK members, shot and killed Mr André de Villiers outside his farmhouse in Addo, Port Elizabeth. Mr de Villiers was due to testify at the forthcoming inquest into the killing of activist Mathew Goniwe and others. Mr Thamsanqa Oliver Mali [AM0124/96] asserted that they had been told by Chris Hani to use their own initiative to acquire arms.

146. The robbery went wrong and Mr de Villiers was fatally wounded and other family members were fired at. A few days later the group was arrested and eventually sentenced to long prison terms. The leader of the group, Mr Xolani Ncinane, died in prison; another member escaped. The remaining two, Mali and Mr Lindile John Stemela [AM0125/96], applied for amnesty. Mali was granted

amnesty; Stemela, who was not an MK member but a recent SDU recruit, was refused amnesty [AC/1999/0234].

147. The ANC distanced itself to some extent from their application. At the Port Elizabeth hearing on 19 January 1999, ANC representative Thembisi Mbatha told the Commission that:

*Our investigation with our Port Elizabeth office could not establish that a meeting between SDUs and the late comrade Chris Hani was held in early 1992. Secondly, it is sad that the name of Chris Hani, because he is not there to answer for himself, should be used to support the amnesty applications. According to our comrades in Port Elizabeth, the motive for the incident was armed robbery and not political at all. We have unfortunately not been able to trace the Xholani Tjebilisa to which they refer as their commander.*

148. A more common form of robbery was to attack police or police stations in order to secure weapons. Mr Moses Vuyani Mamani [AM6141/97] was part of a group of four MK operatives who attacked and robbed the Frankfort police station in the Ciskei on 12 August 1992 in order to acquire weapons. One police officer was shot and wounded in the attack. Mr Mamani was granted amnesty [AC/1999/0354].

### **Skirmishes with police**

149. Skirmishes with police usually occurred when operatives were in possession of weapons and wished to avoid arrest or were being pursued by police.
150. Mr Wilson Mokotjo Sebiloane [AM1701/96], a former COSAS activist, left South Africa to join the ANC in 1986. On 25 May 1991, one month after his return from exile, his vehicle was pulled over by the police. Fearing arrest, he attempted to shoot his way out, injuring both police officers. He was captured, convicted and sentenced to 13 years' imprisonment. Sebiloane was granted amnesty [AC/1997/0035].

### **Possession and distribution of arms and ammunition**

151. Thirteen applicants applied for amnesty for the possession of arms and ammunition, while another seventeen applied for the infiltration and supply of arms.

### **Shell House shooting**

152. Perhaps the best-known case involving ANC trained personnel in this period was the shooting outside the ANC headquarters at Shell House and its offices at Lancet Hall in Johannesburg on 28 March 1994. The event, in which IFP marchers were shot dead by ANC security guards, took place one month before the first democratic elections of April 1994.
153. Ten ANC security personnel applied for amnesty for the Shell House shooting, and three applied for the shooting outside the Lancet Hall offices. Two of the latter subsequently withdrew their applications.
154. Although it is clear that the applicants believed that they were under attack, the Amnesty Committee found no evidence of an attack on Shell House by the IFP marchers. Objective ballistic and medical evidence indicates that the shooting was without justification as most of the deceased were shot after they had turned back. The applicants admitted that they might have shot at the marchers as they were running away. All eleven applicants were granted amnesty [AC/2000/142].

## **SELF-DEFENCE UNITS 1990–1994**

### **Background to self-defence units**

155. In the period 1990 to 1994, self-defence units (SDUs) emerged in many urban townships in the PWV, Eastern Cape, Transkei and Ciskei, Western Cape, Orange Free State and in both urban and rural areas of KwaZulu and Natal. In the PWV and KwaZulu/Natal, the SDUs clashed primarily with the IFP. Elsewhere, a range of localised conflicts involving different protagonists took place. These included clashes with gangster and vigilante groupings (sometimes linked to the IFP), with more anonymous groups and with the police.
156. As violence engulfed many areas, it became increasingly clear that communities could not rely on the security and legal structures of the state to protect and defend them. As a result, many felt compelled to take steps to protect themselves. At the Durban hearing on 1 December 1998, amnesty applicant Jeff Radebe [AM7170/97] argued that:

*These self-defence units in fact were imposed on us, by the inability of the security forces that were supposed to protect our people. Instead of protecting*



*our people, they were the ones that were guilty of atrocities against our people. As a result we had no choice but to make sure that we assist our people in defending themselves. I believe that it is a right of anybody in South Africa to defend himself or herself when attacked. That is the background against which we operated as the ANC.*

157. The ANC submission to the Commission is frank about the direction SDU activity took:

*Before long there were two kinds of SDUs in existence: genuine community defence groups, and violent gangs presenting themselves as ANC-aligned SDUs ... Some SDUs became little more than gangs of criminals at times led by police agents, and inflicted great damage on popular ANC aligned-community structures.*

158. Then Deputy President Thabo Mbeki told the Commission that:

*there was a basic assumption ... that there would be in those communities local political structures, local structures of civil society strong enough to be able to constitute these committees that would then take charge of the self-protection units. I'm saying that was an assumption ... when that didn't happen and we moved in a different direction, its clear that we should perhaps have reviewed the matter of that control but we continued to proceed as though you could as ANC arm the units and surrender them to these local civil and political structures to control. An attempt was made to keep an eye on them. I am talking now from the national leadership, from headquarters, and there are instances where we had to intervene when there were all sorts of crazy things that were planned. It may very well be that we should recognise that the situation having changed from the original conception we needed to have taken steps in terms of a control which would be consistent with the changed circumstances, but there was a carry through of a particular concept of self-protection units which was perhaps then not founded on reality with regard to the control and so on within those communities. (Oral evidence at HRV hearing on ANC.)*

159. It is probably in the supply of weaponry by MHQ that the strongest case for a link between the ANC and SDUs can be made. According to Mr Ronnie Kasrils [AM5509/97; AC/2001/168], the ANC established an MK unit to assist in arming the SDUs. The unit was made up of himself, Mr Aboobaker Ismail [AM7109/97; AC/2000/153] and Mr Riaz Saloojee [AM7158/97; AC/2001/128]. This unit created DLBs ('dead letter boxes', or arms caches) in the areas badly affected by

violence – including Durban, Pietermaritzburg, Vaal Triangle, East and West Rand, Eastern Cape, Ciskei and the Western Cape. Kasrils liaised with other MK personnel including Mr Jeff Radebe in Natal, Mr Robert McBride [AM7032/97; AC/2001/128] in the East Rand, Ms Janet Love [AM5509/97; AC/2001/028] in the Transvaal and Ms Felicity 'Muff' Andersson [AM6210/97; AC/1997/0057]. Mr Chris Hani also played a crucial role in passing on DLB diagrams and sketches to those responsible in the areas concerned. All of these persons applied for and were granted amnesty. According to Kasrils, the supply of weapons to SDUs throughout the country had ceased by the end of 1993.

160. Aside from three applications from KwaZulu and Natal, the Amnesty Committee dealt with applications from MHQ personnel administratively as they were not directly linked to gross human rights violations. There is, as a consequence, little detail available on the quantities of weaponry involved, the frequency of handover or the subsequent management or retrieval of such weaponry. There are indications that the distribution of weaponry to SDUs by MHQ was done in a fairly limited way. According to then Deputy President Mbeki, who gave oral evidence at the human rights violations hearing on the ANC:

*There was not a big massive distribution of weapons by the ANC or MK to ordinary cadres, there wasn't. As that violence from 1990 onwards was mounting one of the strongest demands that came from within the constituency of the ANC was arm the masses. Many of us sitting here had to do very stormy and rowdy and heated meetings contesting that, saying that there are no masses that are going to be armed. But it was a demand to say here we are, you people in the midst of all of this violence you decide to suspend armed action and therefore you demobilise or deactivate MK, and then here we are being killed, and where are the weapons, arm the masses so that the masses can defend themselves. As I say, that many of us sitting here participated in many public meetings where this demand was made very strongly and then we said no, there are no masses that are going to be armed because we are concerned about the consequences of arming everybody. ... As a movement we resisted the notion of arming too many people.*

*When weapons were distributed by people from MK ... they were in fact distributed to specific people. It was not like sort of handing out sweets in the street, and clearly the people to whom those weapons would be given would be people that in your best judgement are people who have got the necessary political capacity and the discipline to handle those weapons properly.*

161. This assertion is to some extent borne out by the amnesty applications received from MK Command personnel and operatives. Testimony from amnesty hearings indicates fairly strongly that SDUs acquired the majority of their weapons from private sources<sup>152</sup> and not from the ANC.
162. Although the ANC kept its distance from the command and control of most of the SDUs, it was forced to intervene in several instances when SDU structures drifted into criminality or internecine conflicts.

### **Lines of command and operational practices**

163. SDUs were by no means a homogeneous category. Rather they reflected the character of local political developments in particular townships and the diversity of the conflicts they engaged in.
164. In most cases, SDUs had some form of contact with ANC structures, albeit in an *ad hoc* and unstructured way. Some existed in areas where there were no strong ANC branches that could provide political leadership. Some of these were led by MK operatives who had returned from exile and faced strong pressure to initiate and train SDUs. Such MK operatives were unlikely to be high-level ANC personnel.
165. Some – notably the Tokoza SDUs and some of the KwaZulu and Natal SDUs – worked closely with the ANC's political structures. Regular meetings and liaison took place between the ANC branch and the SDU commanders. In many instances the local political ANC structure might even have initiated the formation of the SDU and was able to play a monitoring and disciplinary role. Yet even in these cases, the political link with the ANC was primarily local rather than regional. It was the local ANC branch that played the supervisory role, and the quality of that supervision depended largely upon the quality of leadership and political maturity of the branch leadership. Moreover, the existence of such political control did not lessen the ferocity of the conflicts or the offensive character of the attacks carried out by the SDUs. Thus, despite political control, the Tokoza SDUs engaged in extreme forms of violence.
166. A third version of SDUs may have regarded itself as part of the ANC but, in reality, had little structural or political connection with the organisation. Such SDUs

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<sup>152</sup> See, for example, AM5594/97.

tended to be established by local communities through civic organisations, street committees or mass meetings. These SDUs might borrow the language and sometimes the structure of more formal ANC SDUs, using terms such as 'orders' and designations such as 'commander'. Such SDUs were particularly evident in the informal settlements in and around townships. Incidents associated with these SDUs tended to be characterised by spontaneous crowd activity and violent collective action. The weaponry involved was often unsophisticated.

## **Types of violations**

167. The SDU amnesty applications cover a very wide range of offences and attacks on a range of targets. Each region had its own particular features. The offences applied for fall into the following broad categories.

### ***Arson attacks on homes and communities***

168. Arson attacks were employed as a means of forcibly displacing opponents or suspected 'collaborators' from their homes or, in the case of informal settlements, from entire areas.

169. Mr JM Mabuza [AM7633/97; AC/1999/0053], applied for and was granted amnesty for several arson attacks on homes in the Katlehong area that were believed to be occupied by IFP members or supporters. Some of the attacks were carried out with the assistance of local residents. In his testimony at the Palm Ridge hearing on 8 December 1998, he describes one such incident:

*MR MABUZA: Yes, I was at school, just before lunchtime, as we are still busy at school, we were hearing gunshots outside and we were quite uncomfortable and we couldn't go on. We just decided to go home. On my way home, I was seeing hit squads and the people were being shot at, but fortunately I managed to get home unharmed, but just before I could get home, I saw a house that was on fire. Next to that house, there was a dead body. I went into the house and I put my books there and I took my pistol and I went out. Just in front of my house, there was a group of people that were known to me. I enquired about what was happening in the community. They told me that the fight between the ANC and IFP had started. They said to me I must stop asking questions because things were bad. We went to house number 256 at Hlongwani, that was the same street where I was residing. There were IFP members that were residing there, we used to see them going to the rallies, IFP rallies and meetings*

... We wanted to destroy IFP, because it also managed to destroy us in 1990 as we were unarmed as a community.

MR SHEIN: But who did you find there?

MR MABUZA: We got women there, there were women and children, but I am not a coward, I don't kill women ... The community was very angry, as I was still talking to these people, they started to stone the house, and I had to get out of the house. When I went out to the group of people, some women followed me and though the community was very angry, they did no harm to women. I know that my community is not composed of cowards, they don't kill women. .... That is when the house was set alight and the windows were already broken. I can't remember whether it was Aubrey or someone else who put petrol in one of the bedrooms and the dining room. .... I am the one who set the house alight.

### **Attacks on hostels**

170. Hostels were also attacked. Applicants applied for amnesty for attacks on IFP hostels, which usually involved an exchange of gunfire between SDU members and IFP hostel-dwellers. In one unusual incident, Tokoza SDU members attacked a police patrol and took control of a Casspir<sup>153</sup> Amnesty applicant Mr Radebe [AM0200/96] describes the attack:

*We decided that we will shoot the police because of their acts. We shot indiscriminately, we kept shooting, until we got an opportunity to injure some of the policemen. But one policeman I saw in the morning, I realised he was dead. We decided to take the Casspir and use it for counter attacks to the hostel-dwellers, because they had attacked previously during the day. Nyauza was the name of the colleague who drove the Casspir. We proceeded to Kатуza hostel, alighted from the Casspir and we knocked at the doors and the windows of the hostel, and we shouted they should wake up and open the doors, we are here to attack. And as they woke up they switched on the lights and we started firing towards them and threw the petrol bombs into their room. It took about some time because we did that to numerous hostel rooms, and we decided it's time to go back now. We went back to the Casspir and we drove towards the first hostel, and we found them standing there amazed as to what was happening, and I do believe that they thought these were police and we started at shooting at them since they were not running away. We shot towards them and we drove towards Phola Park. Just towards Phola Park we decided to stop the Casspir and alight from the Casspir, and walked into the neighbourhood. (Hearing, 8 February 1999.)*

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153 Armoured personnel carrier.

## **Abductions followed by executions**

171. Abductions of suspects were a particular feature of the East Rand SDUs. The suspects would be taken for questioning and assaulted in order to extract a confession. These appeared invariably to be followed by summary execution. Amnesty applicants often asserted that, after abduction and assault, victims would admit or 'confess' to being IFP members.

## **Targeted killings**

172. Particular persons who had been identified as IFP members or supporters would be targeted for assassination. A public assassination might take place on the spot or at some later date.

173. In one incident, Mr Jerry Chimanyana Motaung [AM5594/97], an MK operative in an SDU in Vosloorus, targeted and attacked two women suspected of being IFP members and of having provided information to IFP hostel-dwellers. However, when questioned at the Johannesburg hearing on 13 October 1998, the applicant was unable to provide any evidence for his suspicions:

MR MHLABA: *Did Patricia and Gladness pose any threat to the wellbeing of the political organisation which you were trying to further the objectives thereof?*

MR MOTAUNG: *They never had any interference in our work.*

MR MHLABA: *Then why were they attacked Mr Motaung, can you just recap on that, because it is not very clear?*

MR MOTAUNG: *Patricia Motshwene and Gladness Mvelase were members of the IFP, we saw them at the funeral of the IFP and we at the township were fighting against the IFP and these people of the IFP were attacking people and killing people in the township. That is when we realised that the people who were staying in the township, were giving information to other people in the hostel, who were members of the IFP. That is why we took a decision that these people should be killed, because they were giving out the information to the people who were staying at the hostel. These were the people who were more dangerous because they would monitor our movements and give information to those who were living at the hostel.*

ADV GCABASHE: *Could I just ask Mr Motaung, did you have evidence that Patricia and Gladness were involved in those spying activities, that they were giving information to people at the hostel?*

MR MOTAUNG: *We didn't have evidence to that effect, but our understanding*

*was that the people who were staying in the township were more dangerous than those in the hostel.*

### **Internal clashes**

174. The SDUs were vulnerable to infighting and internal clashes, both amongst themselves and with other ANC members or structures such as the ANCYL. The Tokoza SDU regarded this problem so seriously that it adopted a policy of an 'eye for an eye' or 'kill and be killed': that is, any SDU member that killed another SDU member would himself be killed.

*MR SOKO: Such a policy helped us not to lose a lot of our members, especially the SDU members. We laid this rule down so that there could be some semblance of order and there should be a framework within which we worked as SDU members not to kill each other, so that people could be prevented from killing each other. (Lucky Soko, Hearing at Palm Ridge, 30 November 1998.)*

*MR RADEBE: I explained earlier on that there was a hard and fast rule or policy, that is you had taken somebody's life, your life should also be taken. (Patrick Mozamahlube Radebe, Hearing at Palm Ridge, 24 November 1998.)*

175. The most notorious example of this type of intra-organisational conflict was the abduction and killing of nine ANCYL members by a Katlehong SDU on 7 December 1993. The victims, some of whom were 17 years old and younger, were shot, hacked and stabbed to death. Thirteen SDU members were refused amnesty for this violation [AC/1998/0013].
176. The ANC established an SDU in Khayelitsha, Cape Town, to take control of a situation in which local ANCYL members had engaged in violent and/or criminal activities. However, the SDU itself became involved in incidents of violence. Mr Zwelitsha Mkhulwa [AM0665/96] and Mr Ndithini Thyido [AM0755/96] applied for amnesty for the attempted killing of ANC member, Mr Bongani Mpisane, in 1993. A young child, Solethu Ngxumza, was accidentally shot dead in the shooting. Amnesty was refused [AC/1997/0034].
177. Members of an SDU in Philippi, also in Cape Town, were involved in the killing of senior ANC and MK member Mziwonke 'Pro' Jack, in Nyanga on 19 June 1991. Mr Jack's nephew, Andile, was wounded in the attack in which three men opened fire on their vehicle at close range. This was portrayed at the time as an assassination by the security forces or their 'surrogates'. However, the ANC

came to suspect the involvement of its own members and instituted an inquiry. Mr Xola Tembinkosi Yekwani [AM7970/97] applied for amnesty for his role in the shooting. His application was refused [AC/2000/003].

### **Crowd killings**

178. Although SDUs were usually small units, some of the less structured SDUs seem to have operated in conjunction with larger groups of residents or crowds in 'collective action'.
179. Amnesty applicant Foreman Mngomezulu [AM0187/96; AC/2000/048] described himself as a member of the ANC and a deputy commander in the SDU 'responsible for protecting the community'. He applied for and was granted amnesty for his role in an incident that took place in Mandela Section, Daveyton, Transvaal, on 21 March 1992.
180. Patrick Khumalo and Mr Absolom Mnyakeni, who were suspected of killing the Secretary of the Youth League in the area, were violently assaulted and abducted from their home along with two others who were believed to be harbouring them. The four were taken to a nearby sports ground where they were further assaulted with iron bars and sjamboks in front of a 'large crowd of 'comrades' and the community'. Petrol was then poured over them and they were burnt alive.

MS LOCKHAT: *And whose decision was it to burn the two victims?*

MR MNGOMEZULU: *All the 'comrades' took that decision ... It was the street committee that came up with the idea and we all agreed. ...*

JUDGE DE JAGER: *Could you tell me, did you – were they still conscious when you poured the petrol on them and burnt them, or were they in a coma or unconscious at that stage, what was their physical state when you started the burning?*

MR MNGOMEZULU: *They were still alive.*

JUDGE DE JAGER: *Still standing upright?*

MR MNGOMEZULU: *Yes, they were still conscious. ...*

MS LOCKHAT: *Tell me, wasn't it you, you also, I think one of the deceased asked for water and you said that they should give them petrol to drink rather? Is that true?*

MR MNGOMEZULU: *No, it was the street committee. (Johannesburg hearing, 1 November 1999.)*



## ***Armed robbery***

181. SDUs executed a number of armed robberies, targeting both civilians and security forces. Applicants explained that they needed money to buy weapons.
182. Mr Mlungiselele Ndamane, an SDU member in Katshele [AM3124/96; AC/1999/0231], applied for and was granted amnesty for the armed robbery of a branch of Volkskas bank in February 1992. Mr Zakhele Jan Simelane [AM3122/96; AC/1999/0209] applied for and was granted amnesty for the robbery of vehicles and a bank to obtain money for arms on SDU orders. Mr Molife Michael Selepe [AM7154/97; AC/2000/139] described how a group of Tokoza SDU members staged an armed robbery on the Klipriver police station in order to acquire weapons. Similarly, four members of a newly formed SDU in Heilbron, Orange Free State, robbed a police station of weapons on 8 July 1992.
183. Mr SM Manyamalala [AM3150/96] explained that he was recruited to an SDU in Soweto in 1992. He was ordered to fetch weapons and, in order to obey this order, hijacked a vehicle on 3 February 1993, killing the civilian driver, Mr WS Froneman, and injuring the passenger, Ms Ruth Jennifer Barker.

## ***Attacks on police and skirmishes***

184. A number of skirmishes took place between SDU members and the police, often while police were attempting to make arrests. Mr Mxolisi Duma [AM3145/96; AC/1999/0210] was granted amnesty for a shoot-out with police while he was transporting weapons near Soweto in November 1990.
185. SDU members also launched offensive attacks and ambushes on police while engaged in defensive skirmishes. Mr Mhlabunzima Phakamisa [AM0660/96] and Mr Two-boy Vakele Jack [AM0919/96], members of an SDU in Khayelitsha, Cape Town, concealed themselves in a shack and opened fire on an Internal Stability Unit (ISU) patrol on 22 July 1992. Four members of an SDU in the Transkei abducted two policemen from the Bhongweni police station near Kokstad, Transkei, on 17 October 1993. The two police officers allegedly attempted to escape from the vehicle and the SDU members shot them dead. The SDU members claimed that these abductions were in retaliation for the SADF attack on the home of a PAC member in Umtata on 8 October 1993 in which five sleeping youths, including two twelve-year-old children, were shot dead.<sup>154</sup> The two applicants were granted amnesty [AC/1998/0029].

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<sup>154</sup> See Volume Two, Chapter Seven, p. 600.

### **Attacks on vigilantes and criminal groups**

186. In the period 1990 to 1994, a number of anti-ANC criminal and vigilante groups engaged in attacks on ANC members and supporters. Mr Sandile Birmingham Garane [AM5474/97; AC/2000/117] and Mr Joel Mhlahleni Sishaba [AM5186/97; AC/1999/232] were granted amnesty for the killings of two 'Toaster Gang' members in 1990 and 1993 respectively.

### **Attacks on transport routes**

187. In the Katorus area, particular transport routes became associated with one or other political grouping. Residents of Katlehong became extremely concerned and upset when the railway line that ran past their homes to the hostel became a site of violence. Shots were fired at residents as the train went past and commuters were thrown to their deaths off the train. At the Johannesburg hearing on 24 November 1998, SDU member and amnesty applicant Jeremia Mbongeni Mabuza [AM7633/97] described the reaction of the residents:

*We had a meeting one morning. [The residents] would wake up to dead bodies in the morning, these people whose houses were facing the railroad, and we decided to come up with a strategy to stop this from continuing.*

188. The residents' first response was to shoot at the train as it went past. Later they decided to destroy the railway line itself.

*We went to the railroad as the community and we took the first line, we also used hammers. We counted three times, and we bent the railroad or the rail itself, but that didn't help us in any way. On taking that resolve, we took a cutting torch from some of the Shangaan-speaking or Tsonga-speaking group and we went straight to the rail line. We used this cutting torch to break down this rail line, or to cut this rail line. We did not remove the one piece that we had cut from the line, we just left it there to appear as if there was nothing wrong with the line. This piece remained, the train came as usual and when the train came to the spot, two coaches were derailed, and as this was happening, the shooting was going on.*

### **Lesser offences**

189. Offences that did not fall into the category of gross human rights violations included the illegal possession of arms and ammunition, the collection of money

from residents for the purchasing of weapons, reconnaissance work, incitement, public violence and the obstruction of the police in the performance of their duties.

190. Three amnesty applicants, Mr Simphiwe Godfrey Ndlovu [AM7075/97], Mr Thulani Richard Mbatha [AM7027/97], and Mr Aubrey Matlema Maile [AM7694/97], applied for amnesty for doing reconnaissance work, cleaning weapons and similar work with the Tokoza SDUs while they were between the ages of ten and twelve. The three were granted amnesty for the unlawful possession of AK47s and a number of other firearms and ammunition and for obstructing the police in the performance of their duties [AC/1999/0243].

### **Features of the conflict**

191. Spontaneous violence by crowds continued occurred during this period, making political control extremely difficult. Many incidents reported to the Commission took place at the hands of large groups of people engaged in collective action. Crowds had a spontaneity and momentum of their own and were unlikely to conform to the discipline of ANC policy or wait for orders or approval.

MR MSIMANGO: ... *we did not plan as such. We would react to what will be happening at the time. We will not sit down and plan the attack but we will just revenge as it happens. (Hearing at Palm Ridge, 23 November 1998.)*

MR MOPEDI: *Why was it necessary to attack the house in Dube Street?*

MR NDLOVU: *The attack on that day was prompted by the fact that we lost five of our members the previous Friday and therefore it was necessary for us to avenge their death so that they could learn from this experience that we too can fight back, we are not happy about this. (Hearing at Johannesburg, 24 November 1998.)*

192. Suspicion and unsupported rumour thrived in this tense atmosphere. Mr Bongani Nkosi [AM7268/97], one of the chief commanders of the SDUs in Tokoza, described an incident in which he executed an unidentified person on the spot:

MR NKOSI: *It was in the morning, I was in my house, I heard a noise outside, I went out. I was wearing nothing on my upper body. I saw people chasing a person. They told me that it was an informer that was there to survey the place, therefore they were chasing him. I went back to my house. Under the table, I took my AK47 ... They brought this person, I gave them the firearm, they*

*misfired four times and Sicelo also misfired with four bullets. I took back my firearm, I bridged this firearm. He was at a distance of about 20 meters. I shot only once on the head and he fell. ....*

MR SHANE: *Did you know who this person was, the one who died? Did you know his name, did you see him before?*

MR NKOSI: *I just saw this person for the very first time, I did not search for his identity card or something else. We would just do the work, without looking for further details. (Johannesburg hearing, 9 February 1999.)*

193. Many applicants would state that 'it was common knowledge' that so-and-so was an IFP member. Any form of association with the IFP could result in a death sentence. A variety of social and physical markers were used to determine the possible affiliation of a suspect, including clothing, language, physical features, and being seen in a suspect area or suspect taxi.

194. In this heightened atmosphere of revenge and rage even the remains of suspected IFP members were targets of attack. Bodies of 'the enemy' were dug up out of their graves and burnt or dismembered. In several instances, the coffins of deceased persons were seized from hearses and set alight. SDU members described attacking a body in a hearse:

MR MADONDO: *It was myself and Jamani who dragged the coffin out of the hearse. I don't even know where the petrol came from but I saw petrol there and the person was in flames, the dead body was in flames. The only thing that I did was to drag the coffin out of the hearse and it broke.*

MR MOPEDI: *And do you know who was in the coffin?*

MR MADONDO: *No, I did not know. I had Jamani who told me that it was an IFP commander. (Johannesburg hearing, 24 November 1998.)*

195. The polarisation of physical space took extreme forms. Not only in residential areas but on public transport, separation became necessary in order to ensure survival.

196. While the main protagonists were IFP and ANC supporters and members, it was mainly ordinary residents who suffered arson attacks, injuries and even death during the protracted conflict. Taxis, trains, funeral vigils, taverns, the places of ordinary daily life became sites of attack. Residents or visitors who happened to cross into 'enemy' territory were likely to become victims.

197. On the one hand, one of the most significant features of the violence of the 1990s is the total anonymity of the victims from the point of view of the applicants. Civilians were killed simply because they were in the wrong place at the wrong time or because there were suspicions about their allegiance.
198. Furthermore, because clashes between IFP and ANC supporters took the form of skirmishes, with groups opening fire on each other, often at a distance, applicants were frequently unable to state conclusively whether anyone had been injured or killed as a result of their actions, even if they assumed or speculated that deaths and injuries must have occurred. As applicants were usually barely able to recall the year of an incident, let alone the month or day, tracing victims through police and mortuary reports was virtually impossible. Similarly, although the Commission received a number of human rights violation statements relating to these very conflicts, the absence of information about when events took place meant that very few links could be made between victims and amnesty applications.
199. In other cases, victims were well known to perpetrators and life-long neighbours became enemies on the basis of suspect allegiances. In one such case, SDU member Sidney Vincent Nkosi abducted his former friend and neighbour Jabulani from a tavern after his allegiances became suspect. Although Jabulani pleaded for his life, he was taken behind a nearby stadium and shot dead. At the Johannesburg hearing on 2 February 1999, Mr Nkosi, himself a Zulu, told the Commission that:
- MR NKOSI: He had Zulu friends, and other 'comrades' turned against him because they could see that this person had another agenda that was different from ours. That's when the people started to distance themselves from him. We heard that from other 'comrades' that they could no longer trust him because of his movements. I would like to ask for forgiveness more especially his mother, the one I grew up in front of and his sisters, the whole family. I would like to ask for forgiveness.*
200. The interweaving of local issues with national political issues emerged regularly in the amnesty hearings. Traditional and magical elements were not confined to the witchcraft hearings described in the previous section. Even ANC SDU members drew on traditional and magical elements to protect their members and advance their cause. Several SDU applicants referred to *ntlesi* or other magical dimensions in their testimony.

201. Mr Victor WM Mabaso, who participated in the killing of Mr Stephen Radebe, whom he knew personally, spoke about the role of *ntlesi* at the Johannesburg hearing on 2 February 1999:

MR MABASO: *First of all, he was a member of Inkatha. Secondly, he was an inyanga of Inkatha, and an informer of Inkatha. And he's one person who used to provide them with 'ntlesi' on their attacking sprees or going out to shoot a person. ... Something that happened, something that I witnessed, he cut somebody's private parts, a person who was alleged to be an Ikosa (sic) who had alighted from a taxi, and he cut his private parts after he was shot. That is one thing that I witnessed him doing. He also used to give them 'ntelezi' when they went out to attack Phola Park.*

CHAIRPERSON: *What is ntelezi?*

MR MABASO: *Ntelezi is a medicine, a kind of medicine that one would use going out to attack, so that the targets should get drunk and not see what's happening, and to protect oneself against bullets in a war situation, and one would easily come back safe.*

202. Inevitably the violence began to eat into the soul of its perpetrators and victims. Many SDU members spoke of the merciless and hard attitude they developed towards their 'enemies'. One SDU member in Katlehong described this attitude while describing the abduction and killing of Mr Beki Khanyile at the Johannesburg hearing on 23 November 1998:

MR MABASO: *Yes he apologised profusely. I was supposed to be sensitive towards his apology, but because we had been harassed and we had suffered a lot, so that we no longer had mercy, we no longer cared, we no longer cared about everything, we had lost heart. And anybody who was operating within the IFP could not have survived, and therefore I issued this order [for his death] after his plea. He cried pleading with us, but then because of the things that he did, remembering the many people who died on Sam Ntuli's memorial service, these were old people who were shot simply because they were wearing Mandela T-shirts.*

CHAIRPERSON: *One last aspect I want to cover with you. It is perhaps a sensitive issue, but I need to know what your attitude would be. When you killed these two deceased, how did you feel yourself?*

MR MABASO: *As I've already explained that the heart, I did not have the heart. I felt nothing. I was not even guilty. Whatever I feel it's now I'm thinking for Beki's family and Stephen because they have lost, I had lost and I know there's*

*always a gap when someone dies but at that time I did not have a problem. If it was possible I would kill even ten people because I did not have a heart at that time. I was hurt because of my parents that were killed. I did not have a heart. I was going to do whatever so as to protect myself. (Hearing at Johannesburg, 02 February 1999.)*

MR SIBEKO: Are you by any chance saying the way you were so affected or the way this violence affected you there was no other way in which your community and yourselves could have defended your property without resorting to arms?

MR MBATHA: No, there was no alternative because the violence affected everybody, young and old. It is like something that creeps so that when it crawls into a group of people it just destroys everybody.

## **POPULAR PROTESTS 1990–1994**

203. The Commission received a number of applications from local civilian ANC members or supporters. In the main, these applications cover local level conflicts with perceived enemies and political opponents, as well as incidents of arson and public violence relating to national campaigns and protests.

### **Clashes with the PAC**

204. While clashes with the IFP dominate the picture in the 1990s, there were also several serious outbreaks of conflict between the ANC and PAC – mainly between the youth organisations linked to these bodies, COSAS and the ANCYL on the one hand, and the Pan Africanist Student Organisation (PASO) on the other. This conflict manifested itself in the Eastern Cape, Transkei and PWV townships.

205. In Fort Beaufort in the Eastern Cape, conflict broke out between PASO and COSAS, spilling over into the community. There were attacks on both ANC and PAC members. On 21 February 1993, a large crowd of ANCYL supporters, including Mr Thobani Makrosi [AM0362/96], abducted two women, Ms Nomsa Mpangiso and Ms Nomangwana Mandita. Ms Mandita was later found dead in a street, partially burnt, with a motor vehicle tyre around her neck and a large bloody stone near her head. Medical evidence indicated that she had been set alight while she was alive and had sustained serious head wounds. Ms Mpangiso, who was pregnant, managed to escape. Makrosi was granted amnesty for his role in the abduction of the two women [AC/1997/0022].<sup>155</sup>

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<sup>155</sup> See also AM3125/96.

## Clashes in the homelands

206. Rank and file ANC membership, particularly youth, clashed with the traditional authorities and their political structures in the former homelands, particularly in the Ciskei and Bophuthatswana, which resisted free ANC political activity and threatened to oppose participation in the 1994 democratic elections.
207. Amnesty applications were received in respect of two attacks on suspected African Democratic Movement (ADM) members in the Ciskei. On 26 April 1993, the ANCYL resolved to kill 51-year-old Ms Nohombile Ntombazembi Mphambani, in the belief that she was an ADM member recruiting others to the party in order to attack the ANC. The following day, a group of over 100 youths chased Ms Mphambani and two of her teenage children towards the forest. When they caught Ms Mphambani she pleaded for her life, begging for forgiveness and promising to join the ANC. At its East London hearing on 18 March 1997, the Amnesty Committee heard that her pleas had failed:
- MR MPHAMBANE: We continued to throw stones at her. She fell on the ground. The others arrived. She was already on the ground. They continued to throw stones at her. Some were beating her on the head with canes. After that when we were sure that she died we left as the 'comrades', we left her body there. We saw her children on the way. They asked if we'd killed their mother. We told them that we'd killed her and we then proceeded to ask which side they belonged to. The daughter then said she is an ANC member. Then she was asked to sing one song of the struggle. She sang.*
208. Seven youth were convicted for the killing. At their hearing the amnesty applicants spoke with remorse about their actions. They were granted amnesty and released from prison.<sup>156</sup>
209. ANC supporters in Bophuthatswana, another homeland ruled by conservative traditional authorities, faced a similarly restrictive political environment post-1990. Two members of the Bafokeng Action Committee and the ANC, Mr Boy Diale [AM0081/96] and Mr Christopher Makgale [AM0080/96], applied for amnesty for the killing of the tribal chairman, Mr Glad Mokgatle, in the Bafokeng district on 29 October 1990.

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<sup>156</sup> Mzwimhle Elvis Bam [AM0101/96], Sakhumzi Bheqezi [AM0105/96], Andile Namathe Gola [AM0106/96], Dumisani Ernest Mbhebe [AM0102/96], Ndumiso Mdyogolo [AM0103/96], Sikhumbuzo Victor Mphambani [AM0104/96] and Mvuyisi Raymond Ngwendu [AM0100/96].



210. The Amnesty Committee heard testimony on the political and immediate context of the killing. In 1990, the former Bophuthatswana was caught up in struggles to destroy the homeland government of Mr Lucas Mangope and his political representatives. Mangope's appointment of Glad Mokgatle as tribal chairperson was bitterly opposed by the Bafokeng, whose rightful leader had been forced into exile. A group of people, including the two applicants, decided in a tribal meeting to kidnap Mokgatle and wrest from him the keys of the Phokeng Civic Centre from where the tribe's affairs were administered. It was during this attempt that he was killed.
211. Members of the Bafokeng tribe, including the sons of Glad Mokgatle, testified in support of the amnesty application. They argued that amnesty would foster reconciliation and unity in their community. The two were granted amnesty [AC/1996/0001].

### **Incidents arising from national protest action called by the ANC**

212. Several amnesty applications were received in respect of incidents in response to national events or campaigns called by the ANC. For example, the two-day national strike on 3 and 4 August 1992 during the campaign of 'rolling mass action' called by the Tripartite Alliance<sup>157</sup> saw widespread protest.<sup>158</sup> In one incident, two ANC members were granted amnesty for an arson attack on a building society in Ciskei and seven others for an arson attack in King William's Town, Eastern Cape.

### **Action in the wake of the assassination of Chris Hani**

213. The wave of protest and violence that followed the assassination of Chris Hani in April 1993 resulted in large numbers of convictions for public violence, arson and other violence. Amnesty applications were granted for acts of public violence committed by ordinary ANC members at this time.

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157 ANC /SACP /COSATU.

158 After the collapse of the negotiations process following the Boipatong massacre, the ANC alliance embarked on a campaign of 'rolling mass action' in an attempt to bring pressure on the National Party to revise its negotiating positions and stop the violence.

## **KWAZULU AND NATAL AMNESTY APPLICATIONS 1990–1994**

### **Introduction and findings**

214. KwaZulu and Natal has been selected as a case study for a number of reasons. First, the violence in KwaZulu was more extreme and widespread than in any other part of the country. Second, the conflict that had begun between the UDF, the unions and Inkatha in the 1980s had, by the 1990s, spread far beyond the urban townships into the rural villages, homesteads and kraals of the region. Third, Inkatha was virtually synonymous with the KwaZulu government and, emerging in the 1990s as the Inkatha Freedom Party (IFP), opposed the positions taken by the ANC throughout the negotiations process. Hence the hostilities continued unabated throughout the early 1990s.
215. The ANC was also an active participant in the conflict, as reflected in the amnesty applications relating to this region. The scale of the violence drew in ANC members at every level: some as active participants in the conflict, some as refugees, others as peacemakers. At a local level, where conflicts erupted in urban townships and rural kraals and villages scattered across the remote hills of the region, there was no possibility of remaining outside the fray. For many, fight or flight became the only options. Self-defence units, made up primarily of young local men, mushroomed in these areas.

### **Statistics**

216. One hundred ANC-linked persons applied for amnesty in respect of seventy-two incidents consisting of 200 separate acts that took place in the KwaZulu and Natal areas in the 1990 to 1994 period. They include fifty civilian ANC members or supporters, twenty MK operatives (including three senior ANC regional leaders) and thirty SDU members. Applications were made primarily by people who were in custody or facing prosecution.

217. The 200 acts included:

Killings	89
Attempted killings	81
Attempted killings <sup>159</sup>	1
Robbery	13
Abductions	1
Assault	1
Arson, public violence	1
Distribution of weapons	4
Possession of weapons	7
Other	2

218. Of these one hundred applications, ninety-three involved hearable matters involving gross human rights violations, while seven were dealt with administratively in chambers. These seven non-hearables involved primarily the illegal possession of arms and ammunition, and were all granted. Of the applications that involved hearings, sixty-eight were granted. Twenty-two were refused. A further three were partially granted and partially refused.

### **Structures of the ANC and the nature of the conflicts**

219. Evidence from applicants suggests that ANC branch structures in KwaZulu/Natal, as elsewhere, played a mixed role regarding the activities of the SDUs. Branches could be and were used to launch attacks in the name of the ANC, but many SDUs appear to have had little or no relationship with their local branch, if indeed there was one. SDUs also emerged in areas where no ANC branches existed.

220. Not one amnesty applicant said that s/he had received authorisation from the ANC regional leadership for these attacks. Several, however, claimed authorisation by their ANC branch or local ANC leader. Regional leadership played a role in the provision of weapons and the training of SDUs.

221. In one of the most direct cases of ANC authorisation at branch level, SDU member Khetha Mpilo Khuzwayo [AM6175/97; AC/2000/004] was granted amnesty for the assassination of Mr Eliakim Makhosi Mthembu and the attempted killing of Mr Amos Sibiya at Mankwanyaneni Reserve, Empangeni, on 3 May 1994. The attack took place between the elections of 27 April and the inauguration of Nelson Mandela as President on 10 May.

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<sup>159</sup> Unspecified – in other words, the victim was not identified.

222. Mr Khuzwayo and five other SDU members set themselves up beside a road and opened fire on Mthembu's vehicle as he drove by. Mr Sibiya, a passenger, managed to escape. At the Johannesburg hearing on 15 November 1999, Mr Khuzwayo told the Amnesty Committee that he had been given a hit list by his ANC branch chairperson.

MR KHUZWAYO: *After the training, I received a list of people who were supposed to be killed because they were destabilising the ANC campaign which was geared towards the 1994 election. I was informed that by the time the elections come, these people should have been removed.*

MS LOONAT: *Who gave you this list?*

MR KHUZWAYO: *From Shadrack, the chairperson of the ANC at the time.*

MS LOONAT: *Before we proceed with this list, did you always receive instructions only from Shadrack or from other people to commit these attacks on the IFP members?*

MR KHUZWAYO: *Shadrack, as the chairperson of the area, was the one responsible for giving reports to the ANC office and he would also give us feedback on the information he had received from the ANC office.*

MS LOONAT: *How did you get the information from Shadrack? Was it given personally, or did you have rallies, or how was it communicated to you?*

MR KHUZWAYO: *I was not alone, but everyone who had been trained internally received a list of people who should be targeted and killed.*

223. Historical fiefdoms and allegiances in KwaZulu and Natal made it impossible for residents to remain neutral. People's identities were tied to where they lived, to their families, their clans and to local authority figures such as *indunas*<sup>160</sup> and chiefs.

224. This confluence of place and political allegiance could have fatal consequences, as simply being found or seen in the wrong area could result in death. On 28 September 1991, Ms Thembi Victoria Mzquso Mthembu, an ANC supporter, was apparently seen in the HRH compound hostel in Greytown. Because the compound was an IFP bastion, she was assaulted and stabbed to death by ANC members who suspected her of collaboration with the IFP. Three ANC supporters were granted amnesty for the killing [AC/2000/017].

225. The conflict also threw up old rivalries. In some cases, the roots of conflict were found in clashes between extended families. Traditional structures featured prominently

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160 Local headmen.

in incidents described by amnesty applicants. While chiefs, *indunas* and other such traditional structures were more common to the IFP, in some cases chiefs were ANC supporters, or different members of a chief's family supported different parties.

226. Mr Celinhlanhla Zenith Mzimela [AM0435/96], the son of an ailing IFP-supporting chief, was an ANC supporter. In 1990, one of his brothers, also an ANC supporter, was killed by local IFP members, including a Mr Gumede, councillor to his father. The dead man was the rightful heir and was killed in order to prevent his succession to the chieftainship, to clear the way for an IFP-supporting brother, Mr Boozi Mzimela.
227. In February 1992, Gumede and his people struck again, killing another of the brothers, also an ANC supporter and next in line to the chieftainship.
228. CZ Mzimela then decided to act. He and another brother went to Mr Gumede's house and shot him dead while he was washing. Mzimela was granted amnesty for the killing [AC/1997/0037].
229. This case raises one of the difficult issues that the Amnesty Committee had to deal with in respect of KwaZulu Natal applications in particular – that of personal revenge. In terms of the amnesty criteria, revenge does not qualify as a political objective, and yet it emerged that many incidents occurred in response to previous acts of violence against a perpetrator or his family members. The Amnesty Committee noted, however, that while personal revenge was a feature of the conflicts in the region, the issue had to be seen against the wider backdrop of political conflict and the cycle of violence that gripped villages and townships during this period. Revenge, personal and political, was part of the fabric and momentum of the conflict and could not be separated out from it.
230. In the urban areas, several incidents were connected with crime, migrancy and labour disputes. Some incidents also intersected with other running disputes, such as access to land, or economic conflicts that acquired a political dimension, such as taxi conflicts. In some cases, however, victims disputed the political dimensions of the incidents, arguing that the conflict was simply a faction fight arising from local disputes such as demarcation problems.
231. Many ANC applicants in KwaZulu and Natal acknowledged the gap between the ANC's organisational national policies and the imperatives of the violent situation in which they lived at local level. Thus:

MR MSANI: *It was not the ANC's aim that we should kill people. But it was the situation that forced us to fight IFP. Any ANC member, bottom or up, knew that if you are ANC, you shouldn't attack your political opponent, but because of the situation, we were forced to kill each other, IFP and ANC, because a lot of people were killed, it was the situation that forced us to do that. (Durban hearing, 24 November 1998.)*

MR LUTHULI: *It wasn't my organisation which sent me to kill him, but it was the situation in that area. (Caprivi hearings at Johannesburg and KwaZulu-Natal, 7 April 1998 to 14 September 1998.)*

MR NCOKWANE: *I know that the ANC does not kill, but we killed because we were forced by the situation, where we were being killed without a place where we could voice this out. (Hearing at Durban, 29 April 1999.)*

MR MATJELE: *Since it was twenty days before the elections of 1994, the first elections of this country, the honourable President of the African National Congress, your organisation, President Mandela and other respectable leaders, they were passing information that people should not resort to violence, that was the policy of the ANC, isn't that so sir?*

MR SIMA: *Yes, that is so. But people at grassroots did not actually take it that that should be the case, they were actually perpetrating violence. (Hearing at Pietermaritzburg, 3 February 1999.)*

232. Most ANC perpetrators were themselves victims of the conflict. Several had lost members of their families in the violence. They were often refugees, having been violently evicted from areas, their homes and property destroyed. Some had narrowly escaped death themselves. These applicants repeatedly described the failure of the security forces and the judicial system to take steps against the IFP or other perpetrators. As a consequence of the failure and betrayal by state structures, applicants took up arms in the belief that they were compelled to do so to secure and protect their own lives and property. This 'right to self defence' did not require ANC policy approval.
233. Applicants also interpreted many attacks as defensive, even if they involved offensive means, such as launching an attack on the homestead of an IFP member. They argued that a particular killing or attack was self-defence, in order to halt the source of ongoing attacks on themselves.
234. Several applicants applied for incidents in which they were in fact victims of attacks. The attack on COSATU regional chairperson Muntukayise Bhekuyise Ntuli [AM5201/97] by members of the IFP Esikhawini hit squad on 26 August 1992 is a case in point (see below).

235. Many applicants displayed deep regret and remorse for their involvement in the conflict between the ANC and IFP in the region and explained their actions in terms of the situation that prevailed at the time. They spoke of a yearning for reconciliation.

MR MZIMELA: *Mrs Gumede, I respect you very much. I just want to say how deeply hurt and regretful I am because you have lost your husband and a friend. That was not my aim to just kill your husband. It was the situation that forced me to behave in the manner that I did. ... I wish to express my sincere apologies to you. I thank this honourable Commission for having granted me the chance to address Mrs Gumede. (Hearing at Pietermaritzburg, 22 May 2000.)*

MR HLENGWA: *I would like to say to the family and the relatives of Mbeko that I am here today to apologise to them for my actions, and I took the law in my hands, and I'm asking them to please forgive me. It was because of the situation at Umgababa. IFP and ANC were in conflict. Even our minds were not working very well. Therefore I would please like them to forgive me. (Hearing at Pietermaritzburg, 1 February 1999.)*

236. In particular, conflicts that had divided families showed evidence of healing relationships.

ADV MPSHE: *What is the relationship between yourself now and Becker Phoswa's family?*

MR PHOSWA: *I do not know very much, because I am still in prison, but my brothers who are outside and my children, they are saying they have a peaceful relationship. They even visit each other and live together.*

ADV MPSHE: *And I can take it that you are also in a position to, if you are released, if you meet them to go back to them and to get engaged in some kind of reconciliation with them? You prepared to do that?*

MR PHOSWA: *Yes, I will have to continue where they are from now. I also wanted to add Indaba Zimboeza Phoswa came twice to me in prison. We shake, we shook hands and he said, he asked for forgiveness that his son has killed my son and that we were also affected by the political situation and this what created this. This was not supposed to have happened and that he is sorry about it. We shook hands and he also gave me money and food. (Hearing at Pietermaritzburg, 30 July 1997.)*

237. The father of one of the victims responded to Mr Phoswa:

ADV MPSHE: *Now, how did you, how did the death of your son affect you, if it did affect you?*

MR MTHEMBU: *This hurt me a lot, because he was about to be married, but I blame the political situation, because before this political activity in the area, we were living in peace. There was not an IFP or ANC, it was a peaceful situation. Therefore, I blame politics and the organisations which had caused the death of my son.*

ADV MPSHE: *Mr Mthembu, part of the mandate of the Truth Commission is to foster reconciliation particularly between or amongst people who have been torn apart by politics. Do you understand?*

MR MTHEMBU: *That is correct.*

ADV MPSHE: *Now, what is your view about this reconciliation?*

MR MTHEMBU: *I knew that we were not enemies. It was only the politics which infiltrated the area and at the moment, I will say, we have reconciled in the area. People at Patene and Richmond have reconciled and even at Gengeshe and I would like to see peace in this area, because we are not enemies, but the organisations made us to be enemies. Although I lost my son I will still think we should be reconciled.*

ADV MPSHE: *The two applicants, whose evidence you listened to today, they are before this committee, particularly, for amnesty and they are also asking for forgiveness. What is your attitude towards that?*

MR MTHEMBU: *I do forgive them, because I knew we were not enemies. It was politics that caused the animosity in the whole world and even today when we talk to them, they are so nice to us and they also wish for reconciliation.*

MR WILLS: *I have no questions. I would just like to express my great respect for the witness at this stage.*

JUDGE WILSON: *Mr Mthembu, I would like to express the view of the committee, that we sympathise with you in your very tragic loss and we admire this forgiving approach that you have adopted and respect you for the honesty that you have shown in coming to tell us all what your feelings are today. We would like to thank you very much for all you have done here. (Hearing at Pietermaritzburg, 30 July 1997.)*



## Types of violations

### Group attacks

238. Many applications involved incidents in which groups of ANC supporters clashed with IFP supporters in skirmishes. These attacks took the form of pitched battles and formed part of a cycle of attacks and counter-attacks. Several incidents also involved attacks on individuals by large groups.<sup>161</sup> Such attacks sometimes led to fairly indiscriminate killings, often including the killing of women and children.
239. On 15 March 1992, a group of ANC members launched an attack on Ngcobo's kraal at Nomhele reserve in the Maphumulo district, described by amnesty applicant Mkheyi Khanyile [AM0288/96] as a 'counter-attack'. A 73-year-old woman, a 38-year-old woman and a two-year-old boy were killed in the attack. Amnesty was refused, as the testimony of a young male survivor contradicted the version presented by Khanyile [AC/1997/0045].

### Assassinations

240. Most amnesty applications in the KwaZulu and Natal region related to assassinations carried out chiefly by SDU members.
241. Five SDU members in Umkomaas on the Natal south coast targeted and killed a prominent IFP leader, Mr Mkhize, on 7 November 1990, believing that he had led attacks on the ANC in the area. Mr Phelela Bhekizenzo Vitalis Hlongwa [AM3684/96], Mr Fani Simphiwe Mbutho [AM4164/96] and Mr Kwenzakwakhe N Msani [AM3473/96], applied for and were granted amnesty for the attack, for which they had been convicted [AC/1998/0102]. At the Durban hearing on 24 November 1998, Mr Msani described the determination of their group to kill Mr Mkhize:

*We have been trying for several times to kill Mkhize, but in vain. We have been shooting at him and actually throwing stones at him, but in vain. It was not that on that day we actually took a decision on that particular day, we have been trying for several times to shoot at him. ... We met at a place, at a hill, a sort of a hill place. We held a meeting there and strategised how to attack Mkhize and we knew that he had a gun and he had the official gun and then there and there*

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<sup>161</sup> See for example AM4297/96, AM4314/96, AM0409/96, AM3665/96, AM5023/97, AM3480/96, AM3641/96, and AM3095/96.

*we left to attack him ... Myself, I shot him, he ran away. I initially explained that Palela Hlongwa and Mabuno actually shot as well, and I actually took the bush knife from Jogolo Cele and then I hit him because he was still moving by then. Then I struck him, using the knife and then I ran away because the police were by then approaching.*

242. Suspected informers or ANC members believed to have defected to the IFP were also especially targeted for attack. Mr Thulasizwe Philemon Moses Cele [AM5498/97; AC/1998/0105] was granted amnesty for assaulting and stabbing Mr Zulu to death in Nokweja Location, Ixopo, on 15 July 1993. This was a voluntary application as Mr Cele had never been charged for the offence that he and two other SDU members committed.

### **Ambushes/attacks on vehicles**

243. Some of the most indiscriminate attacks to take place were ambushes on vehicles. In one case, Mr Aaron Zibuse Zulu [AM2186/96] was one of a group of ANC supporters who opened fire on a bakkie<sup>162</sup> in the Table Mountain area near Pietermaritzburg on 2 February 1993. The attackers believed that the vehicle was owned and driven by a local IFP warlord who had attacked ANC supporters. In fact, the bakkie was taking schoolchildren to school. Six children were killed and fifteen survived with serious injuries. Mr Zulu, who has never been charged for this incident, was refused amnesty [AC/2000/162].
244. Three members of an SDU applied for amnesty for an attack on a bus in the Umkomaas area on 27 April 1992. Mr Jabulani Doda Cele [AM3682/96], Mr Jabulani Tunene Ncokwane [AM3694/96] and Mr Isaac Mhlekona Shange [AM3384/96] had been convicted of the attack. They were aged 18, 23 and 18 respectively and had only very recently joined the ANC.
245. They stopped the bus as it drove along a rural road and ordered women and children to get off. They then allowed passengers who were not from that area to get off as well. They opened fire on the remaining passengers, killing six and injuring eight. Amnesty was granted [AC/2001/088].

MR WILLIS: *Did anybody order you to do this attack, or to perform this act?*

MR SHANGE: *We decided as a group, no-one told us. We decided as a group,*

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162 A light truck or van.

*all of us, we agreed on one thing ... The reason we attacked the bus was because we were trying to fight back to the people who forced us to leave our area, or our places. We wanted to stay there as ANC members, freely, and also we wanted to kick out Inkatha members because they were the reason why we were out of our places. We were born there and it was sad and difficult for us to leave our homes. We were forced and we were attacked. That's why we saw it necessary for us to go back. (Hearing at Durban, 26 April 1997.)*

### **Internal clashes**

246. Some of the conflicts in KwaZulu/Natal relate to internal disputes within the ANC and its allies. Two ANC members, Mr Thulani Christopher Madlala [AM5993/97] and Mr Happy A Mngomezulu [AM7322/97], were granted amnesty [AC/2000/104] for fatally shooting Mr Mpumelelo Phewa at Wembezi, near Estcourt, on 25 March 1994. The incident took place in the context of violent clashes between ANC members and former ANC members who had joined the South African Communist Party (SACP). Despite the intervention of the ANC, which explained that the ANC and SACP were allies, the fighting continued and more people were killed.

### **Acting in 'self-defence'**

247. Several applicants sought amnesty for incidents in which they themselves were victims of attacks. Regional COSATU chairperson, Mr Muntukayise Bhekuyise Ntuli [AM5201/97], was the victim of an attack by members of the IFP Esikhawini hit squad on 26 August 1992.<sup>163</sup> Union leaders in particular were targeted for attack by IFP members during this period and most had been assigned bodyguards by the ANC, usually former MK members.

248. Mr Ntuli's home was surrounded in the middle of the night and he threw a hand grenade belonging to his bodyguard at the attackers, injuring several of them. Several other homes were attacked by the hit squad that night, and eight people were killed. Mr Ntuli applied for and was granted amnesty for the possession of a hand grenade and the attempted killing of four of his attackers [AC/1998/0061].

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<sup>163</sup> Members of the IFP's Esikhawini hit squad applied for and were granted amnesty for the attack on Mr Ntuli's home.

### **Clashes with police**

249. Five persons applied for amnesty for incidents involving clashes with police. All were granted. In the main, these clashes took place when applicants were attempting to avoid arrest. For example, MK operative Joel MC Makanya [AM6627/97; AC/2000/058] was granted amnesty for a shoot-out with police in the Umzumbe area while he was transporting weapons from Gamalakhe, Port Shepstone, in July 1991. ANCYL and SDU member Frank B Khanyile [AM6108/97; AC/2000/014] was granted amnesty for an incident in October 1991 when he and others opened fire on a prefabricated police station in Greytown.

### **Attacks on criminals**

250. Eight people applied for amnesty for killing persons whose criminal activities impeded political activities in the area. Mr Bongani Sydney Dunywa [AM7623/97; AC/2000/103] was granted amnesty for his role in implementing 'popular justice'. He participated in the panga<sup>164</sup> killing of Mr Nyani Xolo on 26 October 1990 at Thelawayeka Ward, Paddock, near Port Shepstone. Mr Xolo was believed to be a criminal aiding the IFP and police.

251. In a different type of incident involving 'popular justice', Mr Joe Ngema [AM8078/97; AC/2000/033], who described himself as an SDU commander and a chief marshal in the Umgababa area near Durban, applied for amnesty for two incidents in which alleged criminals were sjambokked<sup>165</sup> and beaten to death in front of residents in June 1993. Mr Ngema alleged that, after incidents of rape and robbery, the perpetrators were found by 'comrades' and brought to a stadium for punishment in the form of lashes. When supporters of the criminals came to intervene, they too were beaten. Two died. The following day, after a second reported rape, the 'comrades' took a man called Etosh to be disciplined. He too was lashed and died of his injuries.

### **Armed robberies**

252. Nineteen persons applied for amnesty in respect of a number of armed robberies. The Amnesty Committee found the majority of these to be criminally rather than politically motivated and consequently refused amnesty. Four ANC

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164 A large broad-bladed knife, originally introduced for cutting of cane or bush and often used as a weapon.

165 A sjambok was originally a stout rhinoceros or hippopotamus hide whip. Now often made of other materials, they are used to 'horsewhip' or sjambok victims.

members were refused amnesty [AC/2000/123] for the fatal shooting of Mr Victor Lembede at Ngonyameni Reserve on 21 June 1991 during an armed robbery of his shop.<sup>166</sup> The applicants claimed that the attack was a political assassination as Mr Lembede was allegedly an IFP member. Mr Lembede's son, who was present during the attack, disputed their version and denied that his father was an IFP member. The Lembede family was in fact related to Anton Lembede, a former ANC president. The Amnesty Committee rejected the applicants' version.

### ***Self-defence units and weapons supply***

253. The most senior ANC applications received in respect of this region relate to the provision of weapons and training of SDUs by three ANC leadership figures. Mr Jeff Radebe [AM7170/97], Mr Ian Phillips [AM5951/97] and Mr Siphso Sithole [AM5950/97] served on the ANC South Natal Regional Executive Committee in a political capacity and also gave military support to the SDUs involved in the conflict.

254. The method adopted for weapons provision was that a vehicle with weapons loaded into secret compartments was left at a specified site in Durban. Radebe passed the car keys to Sithole who collected the vehicle, offloaded the weapons and secured them. He then distributed them to persons he had identified as trustworthy in different areas, mainly people he had worked with in exile. These persons would then distribute weapons on the ground. At the Durban hearing on 1 December 1998, Sithole told the Amnesty Committee:

*I was responsible for setting up structures to ensure that those weapons were infiltrated down into areas, trouble spots where our own people were under attack.*

255. Sithole estimated that some 150 AK47s with ammunition and a smaller quantity of grenades were brought in through this arrangement. Around twenty Stechkin and ten Makarov pistols were also brought in, although these were specifically for command personnel's own protection. However, he testified:

*The amount of weapons was about 100 to 150 which was very little by the demand that we were getting from the communities. In fact we would run dry most of the time, so we were not in a position to actually effectively organise our own communities in terms of self defence. (Durban hearing, 1 December 1998.)*

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<sup>166</sup> FT Meyiwa [AM4505/96], FM Ndimande [AM6456/97], E Nyawuza [AM3010/96] and NE Nyawuza [AM7807/97].

256. A second regional MK commander also applied for and was granted amnesty for his role in the training of SDUs and the supply of weapons. Mr Ntela Richard Sikhosana [AM6332/97; AC/1999/290] was the Natal Midlands regional commander of MK. He testified that he was involved in the training of SDUs in the Midlands area from November 1992 to April 1994. Mr Sikhosana died in 1998.
257. As in the Transvaal, the evidence from amnesty applications suggests that communities and SDUs also sourced weapons from a variety of other sources, particularly Mozambique. Two members of an SDU in KwaMashu, Mr Thami Peter Mthunzi [AM5259/97] and Mr Timothy Mjabulelwa Tembe [AM5171/97], under the command of MK operative Linda Geoffrey Xaba, were arrested returning from Mozambique on 16 November 1994 in possession of AK47s hidden in their car door. Their passports revealed that they had made many visits to Mozambique during the 1992 to 1993 period.
258. Khetha Mpilo Khuzwayo [AM6175/97; AC/2000/004] was an SDU member in the Empangeni area who received training both locally and in Mozambique in 1992. He was arrested in a stolen vehicle provided by his commander Shadrack in early May 1994. At the time of his arrest he was in possession of two AK47s and ammunition, one Makarov pistol and ammunition, hand grenades and camouflage uniforms. He testified at the Amnesty Committee hearing in Durban on 15 November 1999:

*After a while a need arose for us to be able to use bigger firearms, that was the time when we were dispatched to Mozambique, so that we could receive training in bigger firearms as well as in explosives, because our enemies used to attack us using bigger firearms ... At that time we were running short of bigger firearms in our area so I had to go to Mozambique to fetch bigger firearms so that our area and other neighbouring areas could receive such weapons for protection ... I did not question it when Shadrack gave me a vehicle to take to Mozambique and I would do so as he instructed. On my arrival to Mozambique, I will give that car to Steven Nkenyene and he will return the car with the firearms inside and I would drive the car back into South Africa.*

## **WITCHCRAFT APPLICATIONS 1990–1994**

259. While the Amnesty Committee did not initially consider witchcraft to be a political matter, closer study and expert input made it clear that many of these cases were embedded in a political context. As elsewhere in South Africa,

issues of local significance intersected with and were in many ways inextricably locked into national political expression and activity. The motives for the decision to hold a special hearing on witchcraft are argued in the Amnesty section in this volume.<sup>167</sup>

260. In 1979 Venda, the epicentre of witch-hunting cases, became an 'independent' homeland under Chief Patrick Mphephu, later declared President for Life. After his death in April 1988, he was succeeded by Chief Frank Ravele, who ruled until he was ousted in a military coup in April 1990.
261. The period 1988 to 1990 saw an escalation of political unrest and mobilisation in Venda. Much of the protest against the Venda authorities centred around the issue of ritual killings, in which those in power were believed to be implicated. Officials such as cabinet ministers, directors-general and chiefs were alleged to have used ritual murders to achieve their prestige and fortune. Thus ritual killings were a source of both social and political discontent.
262. Professor VN Ralushai, who testified as an expert witness at the Thohoyandou witchcraft amnesty hearings which took place from 8 to 19 May 2000, defined a witch in the context of Northern Transvaal beliefs as 'a person who is believed to be endowed with powers of causing illness or ill luck or death to the person that he wants to destroy'.
263. The February 1990 lifting of the ban on the liberation movements and the release of Mr Nelson Mandela precipitated an extensive mobilisation of youth, who embarked on a number of activities to express their opposition to the old order in Venda. Apartheid legislation had largely transformed traditional leaders into political functionaries who were seen not only as corrupt and self-serving but also as lackeys of the apartheid regime. Accusations of witchcraft were used to destabilise the Ravele government and to focus political protest in an effort to root out traditional superstitious beliefs. Mr Rogers Khathushelo Ramasitsi [AM2723/96] testified as follows at the Thoyohandou hearing on 12 July 1999:
- The time [Mandela] was released, I still remember every feeling of the youth here in Venda, particularly in our region, there was a general feeling that we have to be free and that freedom was to come through our contribution ... In the urban areas the youth were involved in many things to render the country ungovernable as such. So in the rural areas there came to be a time when things weren't going right, as I can say.*

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167 Section One, Chapter Three.

264. Part of this wave of political energy was expressed in attacks and attempts to expel suspected witches. Belief in witches, wizards and related supernatural occurrences had long formed part of the fabric of rural Venda life. The association of witches with the political order had politicised the issue. Supporters of the liberation movement in areas where witchcraft was prevalent regarded the chiefs and traditional leaders as the protectors of witchcraft. At the same hearing, Mr David Makana Nemakhavani [AM2725/96] testified that:

*Well we actually wanted to evict these people from our village because ... those who were ruling were in the old order and as such the central government would then be able to realise that we were not pleased with the way the old order was behaving.*

265. Fifty-four individuals submitted applications in respect of twenty-one incidents or attacks linked to witchcraft. All of the incidents took place in the period 1990 to 1994. Of the twenty-one incidents, fourteen took place in Venda, two in the KwaNdebele homeland, one in Gazankulu, three in Lebowa and one in the Eastern Transvaal. Thirteen of the fourteen Venda incidents took place between February and April 1990, shortly after the unbanning of the ANC and other organisations. These applications covered some forty-eight separate acts, including thirty-two killings and three attempted killings or injuries and twenty-three arson attacks on homesteads and kraals. Of the deceased victims, eighteen were female and fourteen were male. Fifteen applicants were refused amnesty in respect of twenty acts – that is, sixteen killings, three cases of arson and one attempted killing. The remaining twenty-eight applications were all granted.

266. The large crowds that took up witch-hunting between February and April 1990 consisted mainly of youth. The majority of the victims were female. In scores of villages in Venda, people accused of engaging in witchcraft were burnt or stoned to death. Others were injured, lost their homes in arson attacks or were forced to flee to distant safe havens. Most of these killings took place in the most remote rural areas of Venda rather than the more urbanised areas of Thohoyandou or Sibasa. The Commission of Inquiry into Witchcraft Violence and Ritual Murders in the Northern Province of the Republic of South Africa<sup>168</sup> reports thirty-six registered cases of ‘witch killings’ in Venda in 1990 alone. A smaller number of attacks took place in other predominantly rural Northern Transvaal homelands such as Lebowa and Gazankulu.

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168 The Commission was appointed in 1995 by the Member of the Northern Province Executive Council for Safety and Security, Advocate Seth Nthai. It submitted an interim report in July 1995 and a final report in January 1996.



267. Several amnesty applicants, residents of remote rural Venda villages, explained that, through their actions, they sought to emulate the progressive protest activities of their urban counterparts and shed the label of rural backwardness. In this way, they aimed to contribute to the national democratic struggle. At the Thoyohandou hearing, Mr Ramitsi said:

*During that time, it was the time that everyone said that there was a quest for freedom, so there came to be a time when we had to strategise so as to be in form with those 'comrades' in the urban area. As I still remember, our 'comrades' in the urban areas were involved in rent boycotts, consumer boycotts, strikes and all the likes, whereas here in the rural areas there were no such things, so there came to be a time when we thought that for us to contribute in our struggle, we have to remove such obstacles that were making it difficult for us to be free as such, as everybody was thinking that now Mandela is out, we are going to be free.*

*In the rural villages it was different from urban areas. In the rural areas we grew up with the belief that there are witches surrounding us. They are people who have the power to practice supernatural powers that we cannot see by our naked eyes ... So sometimes you found that they were jealous, they inflict diseases on other people, they are causing death to other people. They were crippling people somehow, so they felt that before we get this freedom we are talking about, we must be free of ills amongst us, that's why we said that those witches have to be eliminated before we get that freedom because it is no use getting freedom with obstacles on our doorsteps.*

268. Twelve members of the Mavungha Youth Organisation<sup>169</sup> applied for amnesty for the killing of Mr Edward Mavhunga which took place in the Mavhunga area, Venda, on 6 April 1990. Mr Mavhunga was a member of a high-profile family in the area, related to the headman and linked to government. During the celebrations and political activity that followed the unbanning of the ANC and the release of Mandela, he interfered with youth activities and was believed to have been involved in the stoning and beating of youth gathered at a meeting. Village residents called for him to be expelled from the area but he refused to leave. As a consequence, a crowd of thousands of residents descended on his home-stand. He was stoned and burnt to death. Amnesty was granted to the twelve applicants [AC/2000/094].

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<sup>169</sup> AM2717/96,AM2718/96,AM2719/96,AM2720/96,AM2723/96,AM2724/96,AM2725/96,AM2726/96,AM2727/96,AM4300/96, AM4319/96 AM7348/96.

269. Mr Avhaphani Joseph Lukwa [AM3278/96] and Mr Tshamano Edson Tshibalo [AM3277/96] killed nine people and burnt eleven properties at Folovhodwe and Muswodi Dipeni areas, Venda, on 10 March 1990. The two were part of a large crowd that went from house to house. They even targeted Tshibalo's own father's house. Their applications were refused due to lack of full disclosure [AC/2000/094].
270. Mr Josia Mauludzi [AM3282/96], Mr Norman Ramalata [AM3283/96] and Mr Samuel Matala [AM3284/96] applied for the killing of Ms Munzhedzi Emely Makulana in Mufunzi village on 21 March 1990. Members of an informal youth congress met and discussed the relationship between witchcraft and political repression, and decided that witches should be killed. Armed with petrol and tyres, a large group went to the home of Ms Makulana. She was pulled out of her home and assaulted with a sjambok, and petrol was poured over her. She was then burnt to death. Amnesty was granted [AC/2000/094].
271. Mr Marobini George Leshaba [AM4313/96], Mr Harriot Mathebula [AM4188/96] and Mr Muvhulawa Johannes Makananise [AM4301/97] applied for amnesty for the killing of Mr Johannes Soidaha Silema-Malatsi (also referred to as Malatsi or Malatjie) in the Ha Maila area on 19 March 1990. At a youth meeting held that day, four people, including Mr Malatsi, were identified as people who used witchcraft to assist government officials to retain their power. Money to buy petrol and other materials to kill them was collected at the meeting. At a second meeting, involving the wider community, it was resolved that the four who had been identified should be killed. Mr Malatsi, who was at the meeting, was attacked. A tyre was placed around his neck and lit. Mr Malatsi managed to get the tyre off and ran away burning. He was pelted with stones by the crowd, hit with sticks and stabbed. He was further questioned about his alleged witchcraft activities and identified others who worked with him, allegedly the same people identified earlier by the meeting. Tyres and petrol were fetched and he was ordered to drink the petrol. When he refused, petrol was poured over him, he was set alight and tyres were placed on top of him. Finally he died. Leshaba and Makananise were granted amnesty for this incident, but Mr Mathebula, who denied his role in the events, was refused amnesty [AC/2000/094].
272. The Amnesty Committee did not accept that all witchcraft incidents had a political orientation. Some accusations and attacks were clearly rooted in personal jealousies, feuds, local dynamics or relationships. For example, Mr Magome Freddy Tladi [AM2043/96; AC/2000/112] was refused amnesty for the killing of Ms Matule Bapela. Ms Bapela was doused with petrol and set alight in Marishane Village in the Nebo district, Northern Transvaal, on 20 August 1992.

Mr Golden Holiday Sekgobela [AM1026/96; AC/2000/113] was refused amnesty for hacking Ms Poppy Seerane to death on 15 December 1990 in Leboeng, Lydenburg District, Eastern Transvaal.

273. These 'witchcraft killings' were evidently the initiative of youth and residents responding at a local level to a period of political turmoil and transition. Through their actions they sought to express their opposition to the old homeland order and its social underpinnings. The killings provide a good example of how the banners of the UDF and the ANC were used to mobilise and embrace forms of collective social action against perceived oppression. Although the T-shirts, banners, songs and slogans of political organisations were worn, carried or sung during 'witch-hunts', there were virtually no links to formal ANC structures. Most of the killings were essentially spontaneous. There is, indeed, evidence that the UDF and the ANC intervened during the early 1990 wave of witch-hunts in an effort to halt them.

## CONCLUSION

274. Amnesty applications in respect of ANC operatives, members and supporters reflect the fact that the ANC was both a formal liberation organisation with an armed wing, as well a 'social movement' that mobilised ordinary citizens who fell outside its formal structures. The ANC sought to spearhead a 'people's war' and to provide the banner under which widespread and varied forms of protest could be enacted by a range of participants. The ANC thus embraced those who acted in concert with its goals although outside its formal discipline.

275. Amnesty applications run the full gamut from leadership figures, MK operatives and SDU members to ordinary rank and file ANC supporters on the fringe of or even outside the organisation. Clearly, the ANC cannot be held accountable to the same degree for the activities of all these groupings.

276. Formal MK operatives constitute the group with the most direct line of command and control within the ANC. The ANC clearly has the highest level of authority in respect of its own trained military operatives who had the most direct line of command and control within the ANC. Secondly, there are SDU members, who clearly had some level of practical and moral authorisation from the ANC, and indeed the ANC Declaration embraces SDU members. Lastly, there are ordinary civilian applicants who acted in the name of or in support of the ANC. The ANC has the most remote level of responsibility for this group.

277. The findings made by the Commission reflect this range of levels of accountability, and have been confirmed. [\(...p338\)](#)