



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

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

**THE INKATHA
FREEDOM PARTY**

The Inkatha Freedom Party

■ INTRODUCTION

1. The Inkatha Freedom Party (IFP) expressed reservations about the Truth and Reconciliation Commission (the Commission) process from the outset. In his submission to the Commission, the President of the IFP Dr Mangosuthu G Buthelezi said that he believed that it would 'neither reveal the truth, nor [would it] bring about the reconciliation we so desperately need in our land'. He went on to say:

I have decided to come here because we cannot in all conscience remain silent when no effort is made by this Commission to question who has killed 420 of the IFP's leaders and murdered thousands of its supporters. These serial killings are a crime against humanity and demand answers. (IFP Submission, 6 September 1996, p10)

2. Although the IFP appeared before the Commission, the party did not officially cooperate with either the Human Rights Violations Committee or the Amnesty Committee. When he appeared before the Commission, Dr Buthelezi used the opportunity to argue why members and supporters of his party had been drawn into acts of political violence. He told the Commission:

On no occasion has the Inkatha Freedom Party's leadership ever made any decision anywhere at any time to use violence for political purposes ... My own deep convictions that violence is evil and must not be used for political purpose and despite the Inkatha Freedom Party's constant vigil to keep violence out of Inkatha Freedom Party politics, I know that Inkatha Freedom Party members and supporters have been drawn into violence. I say that I am sorry to South Africa for this because, although I have not orchestrated one single act of violence against one single victim of the political violence that has cost us many lives, as the Leader of the Inkatha Freedom Party, I know that the buck stops right in front of me. (IFP Submission, 6 September 1996, p12)

3. The IFP expressed the view that the original source of the violent conflict in the then Natal and Transvaal lay in the adoption of differing strategies to liberating the country. These, the IFP claimed, dated from an historic London meeting in

1979 between the then Inkatha National Cultural Liberation Movement (Inkatha) and the African National Congress (ANC) in exile. The ANC, the IFP noted, chose to embark on a course of armed struggle aimed at destroying all forms of authority – including the homeland government of KwaZulu, the structures of traditional leadership through which local government was administered and the IFP itself. This culminated in the ANC's campaign to render South Africa ungovernable. This, in the IFP's view, was the root cause of the violence.

4. The Commission is of another view entirely. Evidence before its Committees and documents in its possession have shown that the IFP participated in state-sponsored violence and acted as a surrogate for the state against the ANC and its allies. It also sought and received training and arms from the security forces which assisted it in forming death squads. Furthermore, the evidence shows that members of the IFP and KwaZulu Police leadership knew of and participated in the planning of the violence and has no reason or justification in doubting or claiming ignorance of its causes.
5. Several officials of the IFP and the KwaZulu Police were implicated in hearings before the Amnesty Committee. These persons either denied all charges made against them or failed to respond to these allegations, despite the fact that they could potentially lead to their being prosecuted by the Directorate of Public Prosecutions.
6. In 1996, the ANC and the IFP instituted a peace process led by a national ten-a-side committee¹⁷⁰ This was subsequently expanded to include grassroots structures in KwaZulu-Natal. This process has been regarded as the main contributing factor in the decline of political violence in the province. In the interests of consolidating the peace process, the national leadership of the ANC and IFP has had extensive discussions about the granting of a special amnesty to those that did not appear before the Commission in the interests of consolidating the peace process. There has, however, been little public discussion about the nature of the amnesty to be granted or the process envisaged.

GENERAL OVERVIEW OF AMNESTY APPLICATIONS

7. The IFP's policy of non-engagement in the amnesty process adversely affected the numbers of applications received from IFP officials and supporters.

170 Helen Suzman Foundation, Briefing 14, Interview with S'bu Ndebele, www.hsf.org.za/Briefing_14.

8. The incidents for which applications were received took place between 1987 and 1994 when the conflict between Inkatha and the UDF (and later the IFP and the ANC) raged in urban and rural areas of KwaZulu/Natal¹⁷¹; Mpumalanga, KwaZulu near Pinetown, and the ANC-aligned communities and IFP-controlled hostels in the Transvaal.
9. Some of the applicants were in the service of the South African Police (SAP), the South African Defence Force (SADF) or the KwaZulu Police (KZP) at the time that they committed the offence/s and alleged that these bodies had colluded in incidents either by acts of commission or omission. Prior to the democratic elections in 1994, applicants applied for amnesty in conjunction with members of right-wing groups such as the Afrikaner Weerstandsbeweging (AWB) who were opposed to the ANC and its alliance partners.
10. All the applicants from the IFP were male. However, a few applicants implicated individual women in their human rights violations.
11. Many IFP applicants had been either convicted of the offences in question and gaoled, or had been implicated in investigations and anticipated prosecution.
12. A total of 109 applications were received from IFP members and supporters in the following categories:

Caprivi trainees

13. The Amnesty Committee received applications from eleven IFP members known informally as the 'Caprivi trainees' (individuals who had received paramilitary training by the SADF in the Caprivi Strip during 1986) or from individuals who later joined the 'Caprivi trainees' at different levels of the structure and were deployed in areas around KwaZulu/Natal. Some former Caprivi trainees, after consultation with one another, approached the Amnesty Committee as a group.
14. Mr Daluxolo Wordsworth Luthuli [AM4075/96], the political commissar and operational commander of the Caprivi unit, testified before the Commission that the Caprivi unit was a covert offensive paramilitary unit within the IFP. He testified that its members were trained by senior commanders of the SADF and

¹⁷¹ From 1972, KwaZulu comprised twenty territorial fragments scattered throughout the province of Natal. During the period of transition in the early 1990s and as the KwaZulu Administration was dismantled, all areas in the province came to be known as KwaZulu/Natal and, following the April 1994 elections, as KwaZulu-Natal.

deployed against the political enemies of the State, namely the United Democratic Front (UDF), the ANC and its allies. The Caprivi trainees were initially paid salaries by the SADF and were later incorporated into the KwaZulu Police, then headed by Dr Buthelezi as Minister of Police. The Amnesty Committee granted all these applicants amnesty, with one exception involving an incident of rape.

The South African Police

15. Two members of the SAP Riot Unit, two members of the SAP and two Special Constables (see below) deployed by the SAP Riot Unit in the Pietermaritzburg and KwaMashu area applied for amnesty for targeted killings. They claimed the killings were at least in line with police policy to support the IFP if not directly authorised by their superior officers in the police. The Riot Unit, the police members and one Special Constable were not categorised as IFP applicants and were later denied amnesty as they were found to have no political motive. However, three of the Special Constables were granted amnesty for their offences.

'Amasinyora' gang

16. One IFP member applied for amnesty for the killing of an ANC member in KwaMashu. He linked the activities of the IFP in this area to the notorious 'AmaSinyora' gang, which had been implicated in a reign of terror during the mid- to late 1980s.

IFP self-protection units

17. Six self-protection unit (SPU) members, who had been trained by the IFP at such informal and formal training facilities as the Mlaba or Amatikhulu camps, applied for amnesty. This number excludes the Caprivi trainees and their operatives who either provided training or attended these camps (together with former members of the SAP's Vlakplaas Unit).

IFP officials

18. The Amnesty Committee received eleven applications from political officials of the IFP. The majority of these were received from IFP Youth Brigade leaders or organisers. Three bodyguards of senior IFP leaders applied for amnesty, claiming they had acted under the instructions of their leaders. A further two applicants were leaders of the *amabutho* (the IFP local military wing).

19. The highest-ranking IFP political official to apply for amnesty was Mr James Mkhazwa Zulu [AM5864/97], regional leader of the lower South Coast. Mr Zulu applied for amnesty in conjunction with four right-wing applicants and another IFP member after all six had been charged with an attack at the Flagstaff police station to obtain weapons.¹⁷² However, Mr Zulu was shot and killed at a taxi rank in Port Shepstone before his amnesty hearing. Several victims testified before the Commission that Zulu had been implicated in a number of assassinations in the lower South Coast area after his family had been killed in political violence. Mr Zulu did not, however, apply for amnesty for any incidents other than the Flagstaff attack.

IFP ordinary members

20. The Committee received seventy applications from ordinary IFP members for human rights violations committed in areas all over KwaZulu/Natal.

ISSUES IMPACTING ON THE AMNESTY PROCESS

21. At the inception of the Commission, the IFP announced that it would not urge its members or IFP victims of gross human rights violations to participate in its processes. In spite of written representations and personal requests by senior members of the Commission, the IFP did not depart from this position until approximately one month before the cut-off date for the submission of victim statements. At this stage, the party called on its members to apply for reparations. Such a shift of position did not, however, occur with respect to the amnesty process.
22. In his submission to the Commission, Dr Buthelezi stated that IFP officials or members who had carried out illegal activities had been acting without instructions and on their own initiative, and had been responding to the violent conflict raging at the time. It is therefore unlikely that potential IFP amnesty applicants, whether or not they were in gaol, had been briefed about the amnesty process by their political leadership. With little hope that the party leadership would assist them, potential applicants faced the risk of having their political bona fides questioned by the Amnesty Committee.

¹⁷² See below. See also Chapter Six of this section.

23. Poor literacy amongst some potential applicants also seems likely to have been a factor in the low level of applications. This became clear when, on the eve of the cut-off date, officials of the Department of Correctional Services approached the Commission on behalf of imprisoned IFP members who had requested assistance in making amnesty applications. At the amnesty hearing of Mr Zakhele Amos Zulu [AC/2000/075; AM2099/96], it emerged that his co-accused was also in prison for the same offence¹⁷³ but had not applied for amnesty because he was illiterate and had been unable to fill out the necessary form.
24. The extent to which potential applicants were intimidated into not applying for amnesty is difficult to establish. This cannot be discounted, however, given the continuation of political violence during the life of the Commission, particularly in some areas of KwaZulu-Natal. IFP applicants who made allegations of intimidation were found to be in genuine danger and were placed in witness protection programmes.
25. Mr Mbuzeni Nsindane [AM4071/96, AM 3689/96 and AM 4071/96] alleged that a certain Captain Hlengwa had visited prisoners and told them that they should not implicate leaders in the killing of ANC member Mr Thabani Mghobozi at Amahlongwa reserve in Umzinto in 1990. Mr Nsindane told the Amnesty Committee that he feared that disclosing this information would endanger the lives of his family members:

MR WILLS: So I notice in both your application forms that you make no mention of one, the leadership who knew what you were doing, and second, the other persons, other than your brother, who were involved in the attack. They're not mentioned in your application form, can you explain that?

MR NSINDANE: Yes, it is the truth.

MR WILLS: But now why didn't you mention these people's names in your application form?

MR NSINDANE: I was afraid that they may actually attack my family.

MR WILLS: Did any of the parties that saw you from the IFP, influence you in regard to the omission of these names?

MR NSINDANE: Yes, it is like that.

MR WILLS: Well tell us, who?

MR NSINDANE: Mr Captain Hlengwa. He said we shouldn't include people's names. (Pietermaritzburg Hearing, 2 February 1999.)

¹⁷³ In an attack on ANC supporters in Ndwedwe in July 1992.

26. Many of the applicants were motivated to apply for amnesty because they were serving long prison sentences. Others had become disillusioned in some way with the part they played in the violent conflict. Mr Daluxolo Luthuli said in a statement attached to his amnesty application:

During the period that I was a hit squad operative I was proud to be a brave soldier fighting for the Zulu nation against communism. I felt my activities were justified and that it was incumbent on me to assist in the fight on the side of the IFP against the ANC. On many occasions, senior IFP officials who respected me for my total commitment to the Zulu cause congratulated me. I had the reputation of being one of the most loyal and effective operatives.

Since my arrest, however, I have had time to contemplate my past in circumstances where I am removed from the extreme political influences to which I was previously subjected. I have come to realise the horror of my past and deeply regret the extensive pain and suffering that I have caused my victims and their relatives ...

Whilst I cannot change the past I took a decision during 1994 to assist in whatever way possible to bring an end to the conflict that still rages in KwaZulu-Natal. (D W Luthuli, Statement)

27. Many applicants wished to dispel the notion that they were merely criminals acting in a personal capacity. Mr Gcina Mkhize [AM4599/96], a Caprivi trainee and leader of the Esikhawini hit squad, told the Amnesty Committee:

MR MKHIZE: *I will like to respond to the Chairperson first, before I get to the question. Chairperson, can I please say that the details that I am mentioning here, I do that because in this Commission and in the general public, I appear as a criminal.*

I appear as a person who because of his criminality just wiped out the entire community. Statements made by the IFP, B B Ndlovu that are broadcast on the media implicate me as a criminal.

I would like to make it clear to the Commission and the public that the criminality that they are according me today, started at that time before the training, during the training, and after the training, when I started killing people. That is when the criminality started.

That they taught me.

CHAIRPERSON: *You can proceed. I don't want to hinder you in your evidence,*

I am just saying we don't have to get the very fine detail as to the exact training that you received, but those points that you feel that you wish to stress, be free to do so.

MR MKHIZE: I would also like to say that coming to this Commission, is not just to seek amnesty. What is more important is to clear my name and explain to the public what happened. It is therefore important that I mention all the details so that everybody will know what happened. (Durban Hearing, August 1997)

SUMMARY AND ANALYSIS OF AMNESTY APPLICATIONS

Total number received

28. The Amnesty Committee received 109 amnesty applications from persons aligned to the IFP for offences committed between 1983 to 1994 in KwaZulu-Natal and the former Transvaal. In addition, four police officers and three right-wing applicants submitted applications, purporting to be acting on behalf of the IFP. These were not categorised as IFP applicants.
29. The Committee granted amnesty to sixty applicants (57 %) and refused amnesty to forty (38 %). Two applicants were granted amnesty for some incidents but were refused amnesty for others for reasons of motive and proportionality.
30. Most matters were dealt with in a hearing convened by the Amnesty Committee. A total of twelve matters were dealt with in chambers.¹⁷⁴ All applications except one were successful.
31. Three applicants withdrew their applications because they did not meet the legal criteria governing the amnesty process. One application was struck off the roll because the applicant did not attend the proceedings. By far the largest number of applicants had been convicted of their offences before making application to the Amnesty Committee. Some applicants gave testimony about incidents for which they had not been charged. Others were in gaol for offences committed after the Commission's cut-off date in April 1994.
32. The applicants who claimed allegiance to the aims and objectives of the IFP can be divided into the following categories:

¹⁷⁴ See this volume, Section One, Chapter Three for more information about chamber matters.

- a Caprivi trainees;
 - b Esikhawini hit squad;
 - c Self-protection unit members;
 - d Civilian IFP supporters;
 - e Political leadership of the IFP;
 - f KwaZulu Police;
 - g South African Riot Unit (including Special Constables);
 - h South African Police;
 - i The right wing, and
 - j IFP-linked vigilantes.
33. Many of the IFP applicants applying for amnesty testified that their activities were sponsored by the apartheid government and/ or the homeland government and/ or their political leadership. The Commission was required to investigate these allegations insofar as they shed light on the lines of command, motives and political context in which the IFP applicants were operating. This was particularly necessary in the light of the fact that the leadership of the IFP, unlike other groupings testifying before the Commission, gave no details of human rights violations committed by their members.

Those who did not apply

34. The Amnesty Committee did not receive amnesty applications from any high-ranking members of the national or provincial political leadership of the IFP, nor did it receive applications from senior officials of the KwaZulu Police. Several key members of these groups were implicated by the operational commander of the Caprivi trainees, Mr Daluxolo Luthuli, whose claims were corroborated by ten members of the paramilitary units under his command. The Amnesty Committee relied on these first-hand accounts as well as upon documentary evidence presented to it in order to make certain findings against the above individuals in their personal capacity or as functionaries of the then KwaZulu Government.
35. Similarly, Mr Luthuli and other applicants implicated several regional and local political leaders of the IFP, claiming that they had provided instructions in target selection and logistical support. None of the leadership figures implicated applied for amnesty.
36. The Amnesty Committee was thus presented with evidence from the 'military' operatives of the IFP but received no significant admissions from its political

leadership. The Committee found that the eleven Caprivi trainees had made a full disclosure of facts and were acting in accordance with a political objective, thereby acknowledging that there was sufficient viva voce and documentary evidence to support the veracity of their claims.

37. The Caprivi unit members' legal representative, Advocate A Stewart, explained how the applicants perceived the role of the political leadership of the IFP:

... in addition to which Mr Luthuli and then Mr Mbambo in particular, and some of the other applicants too, discussed really what they saw as the two faces, the private and the public face, to IFP policy. And the public face being one which said, we're a peaceful organisation, we embark only upon peaceful tactics and objectives. But the private face, the one being propagated from the meetings of the cabinet of the KwaZulu homeland through to public meetings, mass meetings, was one of anger and of revenge and of attack, and that was the very real experience of the applicants in the way in which they explained it to the Committee, that public and private face.

And so their understanding is that that was the policy that was being embarked upon and they had it confirmed to them in so many ways. In addition to which it was confirmed to them inasmuch as they were hidden and protected when the arm of the law was able to reach out to them. So in instances where Mr Khumalo was arrested, where Mr Dlamini was arrested, he was whisked out of hospital where he had been lying with his leg up in a sling and he was pulled out of hospital and taken away in a car and then hidden for a long period of time in different places including in Venda and in the Mkuzi camp.

The same with Mr Khumalo when it appeared the police were on his trail, in fact on the one occasion he was arrested and bail was paid, and then he was hidden away and instructed not to go back. And those activities, in hiding and protecting the applicants from the law, in those instances, that was done by senior members in the IFP itself and in the KwaZulu Police, and that gives credence to their claim that this was the policy and this was how they understood the policy to be, that these are the things they should be doing. (Pinetown Hearing, 8 March 1999)

38. A similar situation applied with respect to members of the self-protection units, who were trained in the early 1990s. While the political leadership admitted having trained thousands of people for defensive purposes at various camps in KwaZulu/Natal, not one member of the political or senior military leadership applied for amnesty for any unlawful activities.

39. None of the applicants in the service of the SAP or the KZP at the time of the incidents for which amnesty was sought (including the Caprivi trainees) was supported by applications from their senior officers. There were no applications from senior members of the KZP, despite documentation suggesting that, at the very least, they allocated resources or attempted to cover up the activities of their members. Nor did the Riot Unit members and Special Constables who applied for amnesty receive the support of their commanders.
40. At a local level, although some IFP political leaders assisted applicants in establishing a context for the political violence between the IFP and the ANC in support of their applications, few of those implicated applied for amnesty,
41. Corroborated victim statements before the Commission provide evidence that ordinary IFP members were involved in politically motivated illegal activities. Moreover, the correlation between victims' statements and amnesty applications demonstrates that a very small minority of perpetrators applied for amnesty.

Categories of violations

42. The IFP applicants applied for the following types of violations:
 - a targeted killings of ANC supporters;
 - b planned attacks on people believed to be UDF or ANC supporters and members of the Congress of South African Trade Unions (COSATU);
 - c spontaneous attacks on people believed to be UDF or ANC supporters and COSATU members;
 - d revenge attacks on UDF and ANC supporters;
 - e attacks on state officials;
 - f mistaken identity, and
 - g internal IFP attacks.

Attacks by IFP supporters

43. The Amnesty Committee heard that IFP applicants became involved in spontaneous attacks on people they believed to be UDF and/ or ANC supporters. The aim was generally to drive non-IFP supporters out of particular areas, thereby entrenching IFP strongholds. According to Mr Phumlani Derrick Mweli [AM0599/96], the UDF was a threat to the IFP and 'should cease to exist'. Mr Mweli spoke of receiving instructions to further this aim:

MR MWELI: The instructions would entail killing, to kill and eliminate UDF and in other words UDF should cease to exist.

MR SAMUEL: Why did you want UDF to cease to exist?

MR MWELI: It's because it was alleged that it was burning people's houses and that they will bring ideas of the communists.

MR SAMUEL: So was that your political objective in trying, in carrying out these orders to kill UDF people?

MR MWELI: Yes.

MR SAMUEL: Now without going into the specific instances that you were charged for, I'd like you to describe and set the background about these skirmishes, the fights that were going on. Without going into individual cases here, tell us ...(intervention)

CHAIRPERSON: What, are you talking about skirmishes in which he personally was involved?

MR SAMUEL: I want you to speak about those instances where you and the UDF people clashed, in which you were involved, without dealing with specific instances. Just tell us what used to happen when UDF members confronted ANC members, or IFP members. What happened then?

MR MWELI: Between IFP and UDF there was enmity, and the two groups were fighting against each other, and each time IFP member would be seen around the area of Penduka we would be killed by the others, and as well as vice versa, each time they would see the UDF members in ...(indistinct) would be killed. So there was that, and the fact that the IFP members, they wanted to eliminate UDF members and they will cease to exist, and ANC people as well, we aimed at killing. Sometimes there will be people killed from IFP's area who will be killed for no apparent reason, for the fact that that person is residing in the area of IFP will be killed for that, without any action whatsoever. (Pietermaritzburg Hearing, 11 February 1999)

44. Mr Mabhungu Absolom Dladla [AM4019/96] and Mr Nkanyiso Wilfred Ndlovu [AM4058/96] applied for amnesty for an attack on a taxi in the Table Mountain area in which ten people were killed on 5 March 1993.

MR ALBERTS: Yes, can you explain to us what you hoped to achieve by attacking this kombi?

MR DLADLA: Nkanyezini is an ANC stronghold and we people from Mboyi could no longer walk past there. We could no longer go to town to buy. We were imprisoned in our area. Our people would be free to walk after this. (Durban Hearing, 26 March 1998)

45. The applicants testified before the Amnesty Committee that they had carried out the attack with the intention of killing the occupants of the vehicle whom they believed to be ANC supporters on the grounds that an ANC member called Qeda Zulu had used the vehicle to transport members in the area. The attack had been triggered by an event three days earlier when unknown gunmen had shot and killed six children who were on their way to school. The parents of the children were all Inkatha members. The Committee heard that they and other residents of the Inkatha-controlled area of Mboyi were constantly attacked when they travelled through Nkanyezini, an ANC-controlled area. The applicants testified that, although they had not been instructed by their leaders to shoot and kill the occupants of the minibus, they had taken it upon themselves to do so.
46. The Amnesty Committee accepted the argument that they were 'caught up in the senseless violence in the area between members of the ANC on the one hand and the IFP on the other', and that the offences for which they were convicted and for which they were applying for amnesty were committed in the course of the struggles of the past and were associated with a political objective. Amnesty was granted to Mr Dladla and Mr Ndlovu for the killing of ten people and the attempted killing of six people in their armed ambush of the vehicle [AC/98/0012].
47. Mr Phumlani Derrick Mweli [AM 0599/96], IFP Youth Chairperson, applied for amnesty for killing seven ANC supporters. The killings were preceded by a series of attempted killings and assaults in Imbali, Pietermaritzburg.
48. At the time of the incidents, the Black Local authorities Act 192 of 1982 had come into effect, imposing town councils on a number of townships. In many areas in KwaZulu, the IFP had gained control of these councils, which were perceived to be illegitimate by supporters of the UDF. In Imbali, this manifested itself as a battle for territory between Stage 1 (a predominantly UDF area) and Stage 2 (a predominantly IFP area).
49. Phumlani Mweli was between 14 and 15 years of age when he committed offences that were directed indiscriminately at supporters of the UDF. He told the Amnesty Committee that he had received general instructions from IFP leader Mr Abdul Awetha and prominent IFP members Mr Jerome Mncwabe and Mr Gasela to attack members of the UDF who had been identified as 'enemies' because of their residence in an 'IFP area'. Mweli received firearms and ammunition from the IFP leaders. He was also given *muti* (traditional medicine), which

he claimed 'would give us a crave to kill and braveness to kill others but be protected at the same time...' [AC/1999/334]

50. Between 3 and 16 January, Mveli killed seven UDF supporters, including an 11-year-old child, Simphiwe Patrick Majozi, for which offences he was convicted in 1990. He was also responsible for the killing of Mr Stanley Shezi, four attempted killings and two assaults.
51. Mveli killed Mr Vikani Jacobs Sosiba near his home on the instructions of Mr Thu Ngcobo and Mr Gasela. He testified that Sosiba was bringing UDF 'comrades into Stage 2 to attack IFP members' [AC/1999/334]. After an attack on the car of IFP leader Mr Abdul Awetha near a garage in Stage 1, Mveli and Imbali (together with Mr Hoosain Awetha and Mr Bheki Zulu) shot Mr Thokozani Hlela and Mr Linda Moloi near a garage that was regarded as UDF-controlled. Mveli said that he did not know if the deceased had been involved in the attack on the vehicle but that they had killed them in order to send a message that they would defend themselves.
52. On the instructions of Mr Jerome Mncwabe, Mveli then embarked on a random killing spree to scare the UDF into leaving Stage 1. In the process, he killed Mr Sibusiso Mdluli, Mr Simphiwe Majozi and Mr Bhekizulu Gwala.
53. The families of the victims had reservations about whether the applicant had fully disclosed the facts but gestures towards reconciliation were extended between the parties. The Amnesty Committee granted Mveli amnesty on all counts, with the exception of the murder of 11-year-old Simphiwe Majozi. The Committee noted that this murder could not be regarded as an attack directed at a political opponent as there was no evidence connecting Majozi to the UDF.

Caprivi trainees

54. Mr Daluxolo Luthuli [AM4075/96], grandson of Chief Albert Luthuli, was trained in the Caprivi by members of the SADF. He applied for amnesty for twenty-one incidents of murder and attempted murder in KwaZulu/Natal and admitted to giving orders to ten other applicants who were involved in a total of 165 human rights violations. It emerged in his testimony before the Amnesty Committee that he was the political commissar and commander of hit squads that had been trained in the Caprivi in 1986 and at Mlaba camp in 1993.

55. Mr A Stewart, who represented Luthuli and some of the Caprivi trainees, argued before the Committee that structures had already been put into place for the deployment of the trainees once they returned from the Caprivi:

It was clear, in my submission, that on the Caprivi trainees returning to KwaZulu Natal there were structures in place, there was quite a sophisticated idea at least as to how those structures should work. The Caprivi trainees were split up into different groups, as the Committee is well aware, the offensive group, defensive group, contra mobilisation, and so on. And they were each supposed to have their own roles, and they were commanded, below Luthuli, by particular people, and there was the planning committee with the ongoing liaison between the IFP people responsible on the one hand, being chiefly MZ Khumalo and Mr Luthuli, and on the other hand the SADF and the SAP. (Pinetown Hearing, 8 March 1999)

56. Luthuli gave evidence about the first planning meeting he attended on his return from the Caprivi:

I was then taken by M.Z. Khumalo who asked me to go with him to a meeting. We went to 121 Battalion. The people whom I remember present there were Brigadier Van Niekerk, Louis Botha from the Special Branch, J.P. and Jerry. The last two men mentioned were also instructors at Caprivi.

What we discussed was that the trainees were back. In what way were they going to work and their safety was also an issue because they would be working covertly. How were they going to be protected?

This was discussed in detail. We then discussed that they should get contra-mobilisation and then we decided that we should open bases for them all over KwaZulu Natal so that they would be working in collaboration with the defensive group that used to pick up all troublesome individuals in the community. Secondly, the offensive group was supposed to stay in a particular area, because it wasn't supposed to meet with the other groups, because it was only used for attacks.

We found a base for them at Port Durnford where they stayed. We then discussed that since they had no identification, I was then asked with M.Z. Khumalo to talk to Brigadier Mathe, so that identity cards or documents could be made for those trainees. (Hammarsdale Hearing, 11-14 August 1998)

57. Mr Stewart noted that this method of operation worked initially but then began to change.

And at that time it seems that there was an attempt to implement those structures, and ensure that those groupings worked in the way in which it had been planned that they would work.

And the KwaMakutha massacre which took place relatively shortly after the return of the Caprivi trainees, and which was perpetrated in, initially at least, a model way inasmuch as it, there was prior surveillance, there was a reporting back, there was proper planning, there was a proper liaison between the military and military intelligence and SAP security branch on the one hand, and the Caprivi trainees on the other, and then the move in to hit the house. It turned out that it may have been the wrong house, but certainly it turned out that it may not have been planned that so many uninvolved people were murdered. But prior to that it seemed that it was implemented in the fashion that had been intended.

But we also know that, from what Luthuli has told the Committee, that he became, on returning from Caprivi and attending the first planning committee, and seeing the involvement of the SADF through military intelligence, and the SAP through the security branch, he became concerned about the extent to which, as he put it, the Boers were directing things, and the extent to which Inkatha was dependent on the Boers. And he then didn't attend planning committee meetings thereafter, save for one which he was called to, to attend to explain a certain incident.

And so right from then the channels of command started to disintegrate, and although we have statements in the affidavits and on record about how things were intended to happen, and how things were intended, and how orders were intended to be relayed, that as time goes on we see that those structures were operating in the initial planned fashion less and less. There was a level of disintegration, there was a level of informality, whereas at the beginning, for example, reports to MZ Khumalo were done only through Luthuli. It happened fairly soon after the KwaMakutha massacre, for example, that some of the Caprivi trainees were reporting directly to MZ Khumalo themselves. They were going direct to MZ Khumalo themselves to get weapons. (Hearing at Pinetown, 8 March 1990)

58. Many of the Caprivi trainees were then deployed in different units within the SAP or KZP and given appointment certificates.

There was an attempt to offer the Caprivi trainees some sort of cover under the auspices of the KwaZulu Police by the issue of appointment certificates, and even by the stationing of certain of the Caprivi trainees at KZP police stations.

Mr Mkhize, my learned friend Mr Wills' client, being stationed at the police station in Esikhawini, for example. And then, we saw an attempt, and now I use the word integrate, to integrate the Caprivi trainees into the special constable forces of the South African Police, and we have that particularly from Mr Khumalo and Mr Dlamini. Mr Khumalo explains how they were trained at Koeberg, they returned to Pietermaritzburg, they had certain duties there, but in respect of themselves and some of those that were with them, that only lasted a month or two and then they became disgruntled and they left. But all of that is an indication, in my submission, of this lack of formality in the lines of command, and the cross over in areas of responsibility between the formations of the South African Government on the one hand and the formations of the KwaZulu Government and the IFP on the other. (Mr A Stewart, Argument: Hearing at Pinetown, 8 March 1990)

59. The Commission's Final Report contains a summary of the incidents for which the Caprivi trainees applied for amnesty for training and assisting the IFP-aligned Black Cats gang to kill UDF/ANC supporters.¹⁷⁵ Mr Israel Hlongwane applied for amnesty for incidents in Ermelo. He was questioned by his Counsel about the interest the IFP political leadership showed in the activities of the Black Cats.

MR WILLS: *Now, you've indicated in your affidavit, whilst the Black Cats were being trained in Mkuze they were visited by certain person from Ermelo. Can you just tell us about those persons?*

MR HLONGWANE: *Yes, they were visit by Noah Mqobakazi.*

MR WILLS: *And who was he?*

MR HLONGWANE: *Noah Mqobakazi was the chairperson of the IFP and also Mkhonza. Mkhonza was the mayor of Davel.*

MR WILLS: *When you say Noah was the chairperson of the IFP, what area was he the chairperson of the IFP of?*

MR HLONGWANE: *In Ermelo and the surrounding areas. (Hearing at Ermelo, 14 September 1998)*

60. The nexus between the Caprivi trainees and the state and KwaZulu Government continued, despite the fact that many of them were dispersed into other structures. In Luthuli's amnesty hearing the following emerged:

MR STUART: *There was a time when you were sent into hiding by the Planning Committee, do you remember that?*

MR LUTHULI: *Yes, I do.*

¹⁷⁵ Volume Two, Chapter Five, p. 464 ff; Volume Three, Chapter Three, p. 220ff.

MR STUART: *Were you called to a meeting of the Planning Committee?*

MR LUTHULI: *Yes, that is true.*

MR STUART: *Where was that meeting?*

MR LUTHULI: *The meeting was in Durban, in one of the hotels although I cannot remember the name of the hotel. M.Z. Khumalo, Louis Botha of the Special Branch, Van Niekerk, JP and Kevin were present. It was discussed that because the trial was not going well, or this charge was not good, I wouldn't go back to report at Webber Police station as per bail arrangements.*

I was to be taken into hiding. In the meantime they would be trying to destroy this charge, to get rid of the charge.

MR STUART: *What did they fear would happen if the charge against you persisted?*

MR LUTHULI: *It would emerge that the IFP possessed AK47's that would lead to the disclosure of the Caprivi training.*

MR STUART: *Whereabouts did you go into hiding?*

MR LUTHULI: *I was taken into hiding in the mountains at a place called Cathkin Peak, towards Estcourt, in the mountains of Lesotho. There was a base that was controlled by the Military Intelligence. At this base I found the following people, the Lesotho Liberation Army that was trained there, but I was going to go under cover as a person from Rhodesia, Ndebele. (Hearing at Durban, August 1997)*

61. Key members of the Caprivi group, such as Daluxolo Luthuli and Zweli Dlamini, did not testify at the so-called 'Malan' trial and told their story publicly for the first time at the Commission's Caprivi hearing. Their Counsel argued on their behalf:

Members of other Amnesty Committees that have sat, have on occasion refused amnesty where clearly those were cases where someone's been convicted of something, they try and dress it up in political clothes in order to try and get out of prison. These in respect of those applicants that I represent, that doesn't apply. And in respect of most of the incidents, or certainly many of the incidents that they've been involved, they have been the only sources of information in the hands of the State, broadly speaking about these incidents. It's not as 'though they faced imminent prosecution. They've come in a genuine effort to tell their whole story. (Hearing at Durban, August 1997)

Vigilantes

62. A key technique of counter-revolutionary war was the mobilisation of sections of the community who were regarded as loyal to the government and could be

expected to resist pro-ANC groups by force. In some cases such elements were armed, as with the provision of arms and training to Inkatha. In others, vigilante forces were created.¹⁷⁶

63. IFP member Mr Conrad Bheki Magoso [AM4014/96] applied for amnesty for a number of offences related to a conflict between IFP supporters residing in an informal settlement in Richmond Farm near KwaMashu and ANC supporters residing in K-section, KwaMashu in the late 1980s and early 1990s. According to the applicant, members of a known criminal gang of dissident former UDF supporters, the '*AmaSinyora*', became an integral part of the IFP group. The conflict was sparked by arson attacks on the border between the two areas, culminating in the alleged 'necklacing'¹⁷⁷ of an elderly man by ANC supporters. The applicant was granted amnesty for a number of arson attacks and four killings [AC2001/054]. The Amnesty Committee had great difficulty in tracing some of the victims of these attacks due to the applicant's poor memory and the lack of documentary evidence.

Special Constables

64. Similar measures included the deployment of Special Constables. These included some of the 200 'Caprivi trainees' trained by the SADF in support of Inkatha. Several hundred Inkatha supporters were sent for Special Constable training at Koeberg during 1987. One hundred and thirty of these were Caprivi trainees.
65. At the end of 1987, the recruits were summoned back to Ulundi by Mr M Z Khumalo, at that time personal secretary to the Chief Minister. He informed them that, in view of the escalation of violence and the killing of Inkatha members in the Pietermaritzburg area, they would be sent on a six-week SAP Special Constables training course. They would then be deployed to the troubled areas in and around Pietermaritzburg.
66. Special Constables were first recruited in the Upper Vulindlela area near Pietermaritzburg in 1988. They were recruited on the recommendation of the local tribal authorities. The main criterion for recruitment was not education, standing in the community or reputation but simply membership of Inkatha.

¹⁷⁶ Major-General FMA Steenkamp, 'Alternatiewe strukture as Faktor in die Rewolusionere Aanslag teen die RSA', (Unpublished, SAP HQ, Pretoria, Feb. 1987).

¹⁷⁷ The 'necklace' method of attack was used mainly by UDF supporters in the late 1980s and involved burning a victim to death by placing car tyre filled with petrol around his/her neck. For the most part, victims were those persons regarded as collaborators and police informers.

After a brief training, they were attached to the Riot Unit of the SAP in Pietermaritzburg under the command of Major Deon Terblanche.

67. Mr Mduduzi Remember Ndlovu [AM1632/96; AC1998/0092] was a Special Constable in the KZP based at KwaMashu and a member of the IFP. Together with his late brother, Mr Thabani Ndlovu (chairperson of the Mpumzuza branch of the IFP Youth Brigade), Ndlovu had killed Mr Sibusiso Gumede (a reserve constable of the KZP) on 16 April 1991 and removed his HMC sub-machine gun. The weapon was later found at the Ndlovu house after a fire. Ndlovu was sentenced to 20 years' imprisonment for the murder. Whilst the Amnesty Committee noted that there were inconsistencies in Ndlovu's testimony, it was satisfied that the applicant had made full disclosure on all material facts and did not act out of ill will or for personal gain. Ndlovu was granted amnesty.

Esikhawini unit

68. Offensive actions by the Caprivi Trainees continued under the cover of the KZP force in the early 1990s. The Esikhawini hit squad, based near Empangeni, was composed of individual trainees and was controlled by a local committee of IFP leaders and senior KZP officers. The hit squad carried out a large number of attacks on ANC and COSATU individuals, resulting in many deaths. It was allowed to act with impunity and the KZP commander, Brigadier C P Mzimela, ensured that its activities were covered up. The few KZP officers who attempted to investigate its activities were either murdered or intimidated from acting.
69. Key figures in the KwaZulu government at Ulundi, including a cabinet minister, Prince Gideon Zulu, and the Secretary of the KwaZulu Legislative Assembly, Mr M R Mzimela, provided logistical support and direction to the hit squad. This was also a finding made by the Supreme Court in the Mbambo¹⁷⁸ matter for purposes of sentence. The state of affairs in Esikhawini in the early 1990s was similar to that in other areas.
70. The *modus operandi* of the Esikhawini unit emerged in cross-examination of Mr Daluxolo Luthuli at the amnesty hearing of Gcina Mkhize and others:

178 In 1995 the Durban Supreme Court found Romeo Mbambo, Israel Hlongwane and Gcina Mkhize guilty of murdering KZP Sergeant Dlamini on 19 June 1993. See Volume Two, Chapter Seven, pp. 633–5.

MR WILLS: *As I understand this military structure, or military struggle, certain people received training like for example Mr Mkhize was trained in Caprivi and in Koeberg and at Mkuze camp and at various other camps, by various people, the SADF?*

MR LUTHULI: *That is correct.*

MR WILLS: *The SAP at Koeberg?*

MR LUTHULI: *Yes, that is correct.*

MR WILLS: *And by Inkatha people at Mkuze camp?*

MR LUTHULI: *That is correct.*

MR WILLS: *But the policy of the IFP was that these people must be transferred into various townships and they must gather loyal and staunch younger IFP persons and give them similar training?*

MR LUTHULI: *That is correct.*

MR WILLS: *So when both Mr Mbambo and Mr Mkhize give evidence later to the effect that they were involved in setting up of another hit squad and specifically trained other persons and specifically people like Mkhana Lipo, Matenywa, Ben Mlambo, Lucky Mbuyasi, that these activities were done in the full knowledge and they were in fact part of the IFP policies at the time?*

MR LUTHULI: *That is correct.*

MR WILLS: *That wasn't against any policy or orders of the IFP?*

MR LUTHULI: *No.*

MR WILLS: *And again, this was well known by the leadership and encouraged by the leadership?*

MR LUTHULI: *That is correct.*

MR WILLS: *Now, unfortunately I am not in a position to know how high that leadership went, but to be specific, I know for example or I am told for example that this was encouraged by persons like BB Biyela and Mrs Mbuyasi in eSikhawini?*

MR LUTHULI: *That is correct.*

MR WILLS: *The way certain specific targets were identified, was also varied, but you mentioned something that Mr Mkhize alludes to in his affidavit, and I refer you to page, I refer the Committee to page 231 of the bundle.*

That is to the effect that the IFP leadership on the ground, would determine who the problematical UDF persons were? (Durban Hearing, August 1997)

Amatikhulu and Emandleni trainees

71. According to IFP senator Mr Philip Powell, the IFP started training IFP recruits in Patheni near Richmond at the end of 1992. The project was so successful that, after some months, another training camp was established at Elandskop.¹⁷⁹ Powell said that he helped train sixty volunteers at Patheni and a smaller group at Elandskop. According to media reports, by the time the self-protection unit (SPU) training project got underway at Mlaba Camp near Umfolozi a year later, about 1200 men had been 'informally' trained at both Patheni and Elandskop.¹⁸⁰ Training continued in other areas.
72. According to Mr Cyril Bongani Thusi, an IFP member in Richmond, IFP supporters grouped together to attack ANC supporters with homemade firearms in about 1991. ANC supporters left the area as a result and took up residence in Dambuza. Thusi testified before the Amnesty Committee that, in the same year, armed ANC supporters returned from Pietermaritzburg and retaliated by killing some IFP members. At this stage, some of the IFP youth joined the ANC because they felt that the IFP were inadequately armed with homemade firearms.
73. Thusi testified that he was informed that Nkosi Majozi had sent Chief Buthelezi messages that they were under attack. Majozi received a response that certain people were to be sent for training at Amatikhulu camp and that they should collect G3 rifles at the same time. He testified that six persons went for one week's training with Phillip Powell at Amatikhulu camp and were given five G3 rifles [AM8013/97; AC990217].
74. Mr Thulani Myeza, who was trained at Emandleni camp and applied for amnesty for a number of gross human rights violations in Eshowe, testified that the SPUs were trained in preparation for the 1994 elections. He gave evidence before the Amnesty Committee:
- ADV MOTATA: I take it, correct me if I am mistaken, that you were trained in handling firearms, how to kill, would I be right to say you're saying so?*
- MR MYEZA: Yes, we were told that we were trained for 1994 election, to kill.*
- ADV MOTATA: Could you just tell us more that you were trained for the 1994 elections to do what, to show people how to vote or to kill people not to vote?*
- MR MYEZA: To kill the ANC leadership.*
- ADV MOTATA: Did you know which leaders were you supposed to kill from the ANC?*

179 N Claude, KwaZulu-Natal Briefing, Number 4, October 1996 (Helen Suzman Foundation).

180 Ryan Cresswell, Sunday Times, 14 November 1993.

MR MYEZA: Yes, I know a few of them.

ADV MOTATA: Would you be kind enough to just give us the few you know?

MR MYEZA: The first one was Bongani Msomi in eSikhawini.

ADV MOTATA: Proceed.

R MYEZA: The second one was Bheki Ntuli in Mtubatuba.

ADV MOTATA: Can you remember only the two?

MR MYEZA: Mr Nxumalo, here in Eshowe. Given Mthethwa from Eshowe, Schoolboy from Eshowe, Mr Msweli in Mandini. Those are the only people who were disturbing the election in KwaZulu Natal.

ADV MOTATA: Now lastly, you mentioned that when you attacked you were accompanied by the KwaZulu Police ...(indistinct)?

MR MYEZA: Yes.

ADV MOTATA: And prior to your attack you held a meeting, do you recall that?

MR MYEZA: Yes.

CHAIRPERSON: Were the KwaZulu Police present in that meeting or if not when did they join you or how did they know that you planned this attack?

MR MYEZA: The KwaZulu Police would not be present when the decision is taken, but they would be told to go and raid the ANC members after we had taken a decision. The KwaZulu Police would then be led by Nr Nyawuza where they were supposed to raid.

ADV MOTATA: Would we understand you correctly that the police, that is the KwaZulu Police, were your allies when you attacked the ANC members, would we understand you to say that?

MR MYEZA: Yes. (Durban hearing, 26 March 1998.)

75. The trainees were receiving payments from the KwaZulu government in Ulundi until Mr Lombo allegedly absconded with this money.

MR MYEZA: We were being paid as SPU members. We received it from a certain person in Ulundi who was in charge of finances there. I cannot recall his name.

CHAIRPERSON: Was that every month or every week, how often was that?

MR MYEZA: After every two months.

CHAIRPERSON: I thought I heard you say during your evidence that this money that you were getting from Ulundi stopped when a middleman disappeared or left. Can you clear that up first of all? Who was the middleman and what do you mean by he disappeared or he left, what does that mean?

MR MYEZA: I did not know the name of this middleman. However, when all KwaZulu-Natal SPU members were called to Ulundi to get their monies that was Friday we went to camp at Emandleni. The following Saturday, we went to the soccer field in E section in Ulundi, and we were told that this person had run away. We barricaded the Parliament in protest of our salaries and demanded to

talk to Mr Powell himself. He came and told us that that person had run away. He left Ulundi. I did not know his name. (Durban hearing, 26 March 1998.)

76. Most of the trainees claimed that they had received instructions from the local political leadership of the IFP on a day-to-day basis.

CHAIRPERSON: *And as member of the SPU who did you take orders from?*

MR MYEZA: *We got some orders from Phillip Powell when we were still in training.*

CHAIRPERSON: *Would he come there to where you were and give instructions or were these instructions conveyed to you in some other way?*

MR MYEZA: *At Umfolozi where we received training, we had commanders who were working under him. We had commanders like 'Somatekisi' and others that I cannot recall their surnames.*

CHAIRPERSON: *But that was only during the time that you have for training but you were only for training for a short period?*

MR MYEZA: *Yes, ...[indistinct] six months.*

CHAIRPERSON: *After the training was over that did you get instructions from?*

MR MYEZA: *The person who organised training for us was Mr Nyawuza. (Durban hearing, 26 March 1998.)*

Self-protection units

77. In August 1993, IFP leader, Dr M G Buthelezi called on every Zulu to pay a R5 levy for the establishment of a 'private army' to 'guard against the obliteration of KwaZulu'¹⁸¹ In fact, the project was sponsored by monies drawn from the KwaZulu Government. At a KwaZulu Legislative Assembly (KLA) meeting on 25 August 1993 a resolution was taken to establish a self-protection unit training project.¹⁸²
78. In September 1993, the training of SPUs began at Mlaba Camp on the edge of the Umfolozi Game Reserve. Senior IFP member Philip Powell later acknowledged that, prior to the opening of Mlaba, training of IFP recruits had been going on for more than a year and about 1200 men had been 'informally' trained. Between 5000 and 8000 IFP supporters were trained at Mlaba camp. Certain Caprivi trainees were deployed to assist in the project. Trainees received instruction in offensive methods and the use of AK 47s. With the assistance of former Vlakplaas commander Eugene de Kock, Powell arranged for the delivery of a number of truckloads of sophisticated weaponry to be delivered to the region.

¹⁸¹ Report of the Civilian Component of the ITU, 27 January 1997.

¹⁸² Ibid.

79. On 15 March 1994, the KwaZulu Cabinet adopted a secret plan drawn up by Powell to circumvent legal restraints on the development of military force in KwaZulu. Powell's plan aimed to counter perceived threats that the ANC would make KwaZulu ungovernable. He claimed that, amongst other factors, there were internal problems within the KZP 'due to political allegiances of members to the ANC or the NP'¹⁸³
80. The plan involved the setting up of a 'battalion/ regimental sized paramilitary unit' within the KZP. The proposed unit would be structured in the following manner:
- (a) Five regionally recruited companies of approximately 200 men each. The unit would be drawn from the following elements:
 - 1000 selected graduates of the KZG self-protection unit-training project appointed as Special Constables ...
 - 100 KZP members who received counter-insurgency training from the SADF (non-commissioned element). These members would provide the basic leadership element at a section, platoon and company level ...
 - A small group of professional advisors drawn from former SADF or SAP officers ...
 - (b) The unit would be based at Mlaba camp with additional operational bases in the following areas:
 - (i) North Coast base (hand-written - Esikhawini)
 - (ii) South Coast base (Folweni)
 - (iii) Durban base (Folweni)
 - (iv) Midlands base (Madadeni)
 - (v) Northern Natal (Empangeni)
 - (c) Logistical Requirements:
 - (i) The unit would require 1000 G3 rifles ... These would have to be drafted from KZP strength or purchased urgently ...
 - (iii) Support weapons would have to be acquired for counter-insurgency operations. These include squad level weapons such as MAG type belt-fed machine guns and 60 mm mortars.
 - (iv) Uniforms: ... supplemented by 1000 sets of second hand canvas SADF style webbing (ammo pouches and packs), 1000 water bottles ...
 - (v) Specialised vehicles could be made available from the Dept of Works and Health and modified if necessary to a paramilitary role ...¹⁸⁴

183 Secret Memorandum prepared by Powell and introduced by him to a KwaZulu Cabinet meeting on 15 March 1994 (according to a hand-written note. The memo is dated 15/4/94.) (RPD, AG), Supplied to the TRC by the ITU.

184 Ibid.

81. KZP Commissioner During wrote a letter to Buthelezi dated 18 March 1994 in which he pointed out:

that the deployment of these trainees who have not had, even remotely, sufficient training in law or exposure to police procedures, could lead to extremely serious repercussions for which I, as Commissioner can be held responsible both criminally and civilly.

82. He expressed his concern about the ruling that he had to waive the standard requirements for qualification as Special Constables and opposition to the proposal to use Caprivi trainees as leadership for the platoons of Special Constables:

Your Excellency is well aware of the controversy surrounding the employment of Caprivi Trainees as members of the KZP and the allegations of hit squad activities ...

83. He was opposed to arming the Special Constables with G3s as 'the indiscriminate use of such a lethal arm can be expected from persons who have not been adequately trained ...'. With regard to the group of 'professional advisers drawn from former SADF or SAP officers', he advised that he did not know their identities or backgrounds.¹⁸⁵

84. Buthelezi overruled During and the implementation of the project commenced.¹⁸⁶

85. The Transitional Executive Council (TEC) led a raid on Mlaba camp on 26 April 1994, forcing its closure and bringing a halt to the plan to place 1000 Mlaba trainees into the KZP.

THE AMNESTY ARENA

Full disclosure

86. Some applicants approached the Amnesty Committee in the erroneous belief that it would offer them a hearing on what they believed to be false charges against them and for which they had been wrongfully imprisoned.

¹⁸⁵ Letter from During to Buthelezi dated 18 March 1994, entitled PROPOSED EMPLOYMENT OF 1000 MLABA TRAINEES AS SPECIAL CONSTABLES. (Ref 7/8/9, hand-written F.3/36).(RD, SM), Supplied to the TRC by the ITU.

¹⁸⁶ Resolutions of a Special Cabinet meeting held at Ulundi on 18 March 1994 (80/94): Appointment of special constables), supplied to the TRC by the ITU.

87. Mr Baba Langelihle Khomo [AM 4036/97], an ordinary member of the IFP, was convicted and sentenced to 20 years' imprisonment for the murder of eight people and the attempted murder of five people at a traditional function at Ndlovu's kraal in KwaNdeni Reserve in Mpumalanga near Durban on 7 March 1992. The trial court found that the applicant had acted in 'common purpose' in killing Mr Kati Ndlovu and others. The applicant testified that, although he had witnessed the attack, he had not taken part in it. He had admitted his involvement in his application with a view to protesting his innocence before the Commission. His application for amnesty was refused on the grounds that he had not disclosed any involvement in a politically motivated offence.

Furtherance of political objectives

88. Most IFP applicants were granted amnesty after testifying that their motivation for committing offences was linked to the general conflict and in the reasonable belief that a particular act was in furtherance of a political objective.

89. The Amnesty Committee frequently had to face the difficult question of making a finding in attacks that could be regarded as 'random' or 'indiscriminate' and where the applicant/s did not know for certain whether the victims were UDF or ANC supporters. In some such cases, attacks were launched upon people perceived to be UDF and ANC supporters in an effort to drive the UDF or ANC out of an area.

90. Acting for Mr Gcina Mkhize [AM4599/96] and other Caprivi trainees and KZP members, Mr John Wills testified before the Committee:

It's a unique feature of the Natal violence, in my submission, that the conflict relates so directly to territory, and the whole of the conflict was about dominance of particular geographical areas, to the extent, as I say in my heads, that one could more or less rely on the fact of if one lived in a particular area than one would be a member of the political party that was dominant in that area. This aspect of the conflict I submit is important particularly when one looks at what might, had it not been for that characteristic, be considered indiscriminate attacks. (Pinetown hearing, 8 March 1999.)

91. Other applicants testified that the aim of such attacks was to create terror in ANC-dominated areas, thereby making political organisation difficult and dangerous and making people afraid to live in the areas concerned. Moreover, such attacks amounted to a show of strength for Inkatha (the IFP) and a demonstration that the UDF (and later the ANC) was unable to defend its people in a particular area.

92. Some of the applicants had mixed political and personal motives, such as revenge for earlier incidents in which they or their relatives had been attacked.
93. Mr Vusi Thokozani Manqele [AM4037/96; AC1999/0016] killed ANC chairperson Mr E Bhengu in a spontaneous attack in KwaMakhutha during July 1991. The attack took place after Manqele's home had been attacked and his relatives killed by the deceased. The Amnesty Committee accepted that, although there was an element of revenge in the attack, there was sufficient political motivation to justify the granting of amnesty.
94. IFP member Mr Vusi Linda Hlengwa [AM 4687/97] was convicted of the murders of Mr Mahluleli Makhanya and Mr Bheki Zwane and the attempted murder of Mr Simiso Msomi of the UDF after unknown persons in KwaMakhutha attacked his home during April 1990. Mr Zwane was allegedly with the applicant at the time of the attack and was shot and killed by Hlengwa a week later.
95. The Amnesty Committee found that Makhanya's killing and Msomi's injury were motivated by revenge and did not disclose a political objective. The applicant withdrew his request for amnesty for the murder of Zwane after contradicting his application by indicating that the latter was killed accidentally.
96. Mr W Harrington [AM0173/96] and Mr F Erasmus [AM0174/96], both constables in the SAP Riot Unit, and Mr N Madlala [AM3432/96], recruited from the ranks of the IFP and employed as a Special Constable, applied for amnesty for the killing of Mr Mbongeni Jama in Elandskop near Pietermaritzburg on 24 February 1991. The applicants had captured, assaulted and killed Jama after an ANC rally in Noshesi and had been convicted of the offence. Counsel for the applicants argued that they had been indoctrinated to see the ANC as the enemy and that they had found a pocket book on the deceased revealing that he had been involved in attacks on IFP members. The Amnesty Committee concluded that the evidence suggested that the applicants had beaten Jama so severely that they had decided to destroy the evidence of their illegal conduct as they would not have been able to justify this to their superiors. For this reason, the Amnesty committee found that the act did not disclose a political objective.
97. The Amnesty Committee, relying on the testimony of applicants and witnesses and on background information on the area in question, refused amnesty to some applicants where it appeared that political violence was not rife in the area. Mr Nimrod Mbewu Mthembu [AM6683/97] and Mr Mshengu Ngobese

[AM6344/97], card-carrying members of the IFP, applied for amnesty for the killing of Mr Siya Enack Cele and Ms Elizabeth Zondime Khumalo and the attempted killing of Mr Mdikivani Mkhize on 24 August 1991 in the Mapumulo area, an IFP stronghold.

98. The applicants were on their way home from a traditional celebration held to celebrate a man's gratitude to his daughter for good behaviour. On their way home, they passed Mr Cele and Mr Mkhize who apparently insulted them, calling them 'Ukova', a derogatory name for IFP members.
99. The applicants stabbed Mr Cele, but Mr Mkhize managed to escape. They then went to the home of Ms E Khumalo, who they believed to be opposed to the IFP because she had protested against a tax levied on dogs. They shot her with a homemade weapon and then stabbed her.
100. The Amnesty Committee noted that there was no turmoil in the area at the time. They found that the applicants had not acted with a political objective since their acts were not directed at clear political opponents nor were executed in furtherance of the aims and objectives of a political organisation. They also noted that alcohol might have played a significant role in the incidents and denied amnesty to the applicants [AC1998/0009].
101. A factor mentioned in many incidents was the use of traditional medicine or 'muti' while preparing to perpetrate human rights violations. For example, Mr Phumlani Derrick Mveli, told the Committee:

MR MWELI: *The traditional healer will come. We did not know that person. We've never seen him or her before. Sometimes we will get Mr Themba Tjale and the traditional healer would arrive there, every after six months they will go and revive them.*

MR SAMUEL: *Why were you given muti by these people? What was the purpose?*

MR MWELI: *The purpose was to give us that crave to kill and give us that bravery to kill others but be protected at the same time from being shot and killed.*

MR SAMUEL: *So were you told that if you have this muti on you the opposition's bullets won't strike you?*

MR MWELI: *Yes, sometimes that happened. I'm one example, it has happened to me. I was never shot. There were places I could not receive, or bullets would not hit me. (Pietermaritzburg hearing, 11 February 1999.)*

Personal gain

102. The Committee refused amnesty to any applicant who clearly appeared to be motivated by personal gain when committing a human rights violation. Mr Mdu John Msibi [AM0624/96] applied for amnesty for the killing of ANC members Mr Mandla Alfred Mgudulela and Mr Mphiheleli Joseph Malinga in Piet Retief on 9 June 1993, for which he had been convicted and sentenced.
103. Msibi testified: 'The IFP contracted me to shoot the two leaders of the ANC as they were a threat to the IFP'. He told the Amnesty Committee that Mr Ali Msibi, an IFP leader and a Constable Mkhwanazi of the Crime Intelligence unit of the SAP had instructed him to do the killings. However, because he had admitted in his trial¹⁸⁷ that Mr Msibi had paid him R15 000, the Amnesty Committee found that he had acted for personal gain rather than with a political objective and he was refused amnesty.

Proportionality

104. Mr Phumlani Derrick Mweli [AM0599/96] was refused amnesty for the killing of Simphiwe Patrick Majosi in Imbali on 16 January 1989 (see above). Mweli claimed that he was instructed by Mr Jerome Mncwabe to do something that would 'scare' UDF people in Stage 1 and induce them to flee the area.¹⁸⁸ In the course of an indiscriminate attack, Majosi was killed. The Amnesty Committee found that the killing of a child could not be regarded as an attack directed at a political opponent. Ironically, the applicant at the time of this offence was himself only 14 years old [AC/99/0334].

THE RIGHT WING AND THE IFP

105. According to the statement of Patrick Dlongwane (known as Pat Hlongwane) in about February 1994, he, Mr Thomas Shabalala (IFP, Lindelani) and AWB members General Nick Fourie (who died in the Bophuthatswana coup), Mr Norman Starkey, Captain Schoeman, Brigadier van Vuuren, General Monty Markow and others met at Ocean Green in Point Road, Durban. Here it was agreed that the AWB would train IFP members and the Natal Liberation Army (NLA) was formed.

¹⁸⁷ Piet Retief Circuit Court, case number CC18/95.

¹⁸⁸ Hearing at Pietermaritzburg, 12 February 1999.

Attack on the Flagstaff police station

106. On 6 March 1994, an IFP official and AWB members attacked the Flagstaff police station with the intention of obtaining arms for IFP self-protection units.¹⁸⁹ In the course of the attack, they killed Constable Barnabas Jagers and wounded Constable Wele Nyangana and Inspector Mzingizi Mkhondweni. They removed a police van, six police heavy calibre rifles, some rounds of ammunition, a metal trunk and about R140 in cash.
107. The following persons were charged and convicted of murder, attempted murder and robbery: Mr James Mkhazwa Zulu (IFP Regional Chairperson, lower south coast); Mr Harry Marvis Simon Jardine (AWB); Mr Andrew Howell (AWB); Mr Morton Christie (*Veldkornet* in the AWB and IFP member), and Mr Christo Brand (Lieutenant in the *Ystergarde*, AWB). Mr Robin Shoesmith (IFP) and Mr Roy Lane (AWB) turned state witness.
108. According to the amnesty application of Mr James Mkhazwa Zulu [AM5864/97], who died before his amnesty hearing, Mr Robin Shoesmith approached him with the idea of forming self-protection units before the 1994 election. Because they had no firearms with which to train the units, Shoesmith's plan was to attack the Flagstaff police station and steal firearms.
109. According to the evidence led at the trial, Shoesmith approached AWB member Morton Christie and asked whether the AWB would be prepared to assist the IFP. Christie and Jardine of the AWB agreed. Flagstaff police station was selected because Mr Siphon Ngcobo, an IFP member, had told them that there would only be one police officer on duty late on a Saturday night and that he would probably be drunk. They were told that the weapons were kept in a steel trunk in the charge office. Later Howell, Christo Brand [AM6422/97] and Lane of the AWB joined the plot.¹⁹⁰
110. According to Morton Christie's amnesty application¹⁹¹, Nick Fourie¹⁹² and Patrick Pedlar were his superior officers in the AWB. Christie testified that the Security Branch in Port Shepstone encouraged the operation and monitored it while it was taking place. He also testified that Patrick Pedlar, the operational leader of the AWB, was an informer and that it was his role to ensure that the operation went ahead.

189 See also Chapter Six of this section.

190 See court records annexed to amnesty application of James Zulu.

191 Christie and others were also arrested for the bombing of the Seychelles Restaurant in Port Shepstone but were released. The restaurant was believed to be frequented by ANC members. Christie claims in his amnesty application that Roy and Rob Lane carried out the bombing (AM6610/97).

192 Fourie died in the Bophuthatswana Coup in 1994.

111. Christie testified that Shoesmith instigated the plan to raid the Flagstaff police station and that he, Harry Jardine, Corrie van der Westhuizen, Shoesmith and Patrick Pedlar discussed it at a meeting. Christo Brand was not at the meeting. About two weeks later, Pedlar told Henry Jardine and Morton Christie that they should assist the IFP with the operation and involve James Zulu of the IFP. In the meantime, Warrant Officer Ferdi Wentzel of the Security Branch had instructed Pedlar to ensure that the operation went ahead.
112. Christie testified that they were followed by a red Cressida on their way to the police station and had the impression that its occupants were trying to count the number of persons in the car. When they arrived, Howell went into the charge office but came out saying he believed that they had been 'set-up' as there were armed policemen on the premises. Inspector Mkhondweni, who was parked outside the police station, arrested the men. It was then that the shoot-out began.
113. Christie testified that, during the trial, the Port Shepstone Security Branch was unable to explain why, having had knowledge of the operation, it did not attempt to stop it and why it took nine months to arrest the known suspects. Pedlar was not charged and his role emerged for the first time at the amnesty hearing. Mr Barry Jardine [AM5864/97] of the AWB had this to say about Patrick Pedlar:

It later transpired, at the Criminal Case at the High Court in Bizana that Patrick Pedlar was a Security Police informant and that he revealed our plans to Inspector Wentzel. Inspector Wentzel informed the Flagstaff Police Station that APLA would attack the Police Station on the evening of the 5th of March 1994.

MR DE KLERK: *Can we just have some clarity here? Patrick Pedlar was your Commander?*

MR JARDINE: *That's correct.*

MR DE KLERK: *According to your information was he the man that said that you had to get the weapons?*

MR JARDINE: *That's correct.*

MR DE KLERK: *And later it became apparent that he was a Police informer because he conveyed to the police that you would fetch the weapons on a specific time?*

MR JARDINE: *That's correct, that APLA would attack the Police Station. As a result of this an ambush was set for us and that is why there were so many armed policemen at the Police Station. Here, I wish to refer to the judgment of Judge Beck, on page 1054, when he put forward his doubts as to why Inspector Wentzel allowed the attack to proceed, and did not try to prevent it. (Hearing at Durban, 24 April 1998.)*

114. The surviving victims objected to amnesty being granted on the grounds that the applicants did not disclose who killed the deceased and wounded the other victims. However, the Amnesty Committee found that Christie shot Mzingizi Mkhondweni and was satisfied that the other applicants could not testify who shot the other victims as it was dark when the shoot-out occurred. The applicants were granted amnesty.
115. In another incident, Mr Boy Vusumuzi Gwamanda [AM1972/96] applied for amnesty for the conspiracy to murder former Mpumalanga premier, Mr Matthews Phosa whilst he was incarcerated in Barberton prison in 1990. The applicant testified that he was trained by AWB-linked warders at Barberton prison in the use of firearms and hand grenades. Mr Gwamanda was granted amnesty.

MOTIVES AND PERSPECTIVES

116. In summary, the Amnesty Committee heard that most of the acts for which members and supporters of the Inkatha Freedom Party applied for amnesty were motivated by a sense of loyalty to an organisation which had embarked on what it perceived to be an alternative strategy for bringing about an end to apartheid. While senior members of the IFP claimed that there had never been an Inkatha decision to employ violence in this aim, amnesty applicants claimed that their use of violent means to achieve these aims were both authorised and sanctioned by the political leadership of the party.
117. The Commission took cognisance of the views expressed by leaders that the original source of the conflict in the then Natal and Transvaal lay in the opposition to the IFP's adoption of this alternative strategy.
118. In its 1998 Report, the Commission found that the IFP was responsible for gross violations of human rights committed in the former Transvaal, Natal and KwaZulu against persons who were perceived to be leaders, members or supporters of the UDF, ANC or its alliance partners, and persons identified as posing a threat to the organisation or whose loyalty was doubted¹⁹³. It was a further finding of the Commission that such violations formed part of a systematic pattern of abuse which entailed deliberate planning on the part of the organisation¹⁹⁴.

193 Volume Five, p. 233

194 Ibid, p. 234

119. The assertions by the Caprivi trainee amnesty applicants that they were acting as part of a well-resourced and orchestrated strategy coincided with the Commission's finding that in 1986 the SADF conspired with Inkatha to provide the latter with a covert, offensive paramilitary unit (hit squad) to be deployed illegally against persons and organisations perceived to be opposed to or enemies of both the South African government and Inkatha. The SADF provided training, financial and logistical management and behind-the-scenes supervision of the trainees who were trained by the special forces unit of the SADF in the Caprivi strip.¹⁹⁵
120. The purpose and nature of the training (which has been documented in Volume Two, Chapter Five and Volume Three, Chapter Three) was succinctly summed up by one of the military trainers, Colonel Jan Anton Nieuwoudt [AM3813/96; AC/2001/264], in his amnesty application, as being 'to identify and eliminate ANC, SACP and PAC targets'. Nieuwoudt also explained to the Commission how the trainees were taught the art of '*nie terug spoorbaarheid*' or how to cover up their crimes. It was hardly surprising that the military planners of the Caprivi project requested 'indemnity from prosecution for offences carrying the death penalty'.¹⁹⁶ Indeed the Operation Marion documents are littered with acknowledgements and references to the unlawful nature of the actions involved. The Commission found that probabilities that the Caprivi project amounted to a conspiracy to murder were overwhelming.
121. With regard to the KwaZulu Police, the Commission found that from the period 1986 to 1994, the KZP acted in a biased manner and overwhelmingly in furtherance of the interests of Inkatha, and later the IFP. This was a view that was also expressed by several amnesty applicants. Although there were exceptions to the following general statement, in that some members of the KZP did carry out their duties in an unbiased and lawful manner, the KZP generally was characterised by incompetence, brutality and political bias in favour of the IFP, all of which contributed to the widespread commission of gross human rights abuses¹⁹⁷.
122. With regard to the Esikhawini hit squad led by Gcina Mkhize, who applied for Amnesty along with others, the Commission found that in 1990, certain senior members of the IFP conspired with senior members of the KZP to establish a hit squad in Esikhawini township, to be deployed illegally against people perceived to be opposed to the IFP¹⁹⁸. Contrary to the claims of the IFP leadership that it

195 See Volume Three, Chapter Three, p. 221ff. and Volume Five, Chapter Six, p. 234.

196 UITERS GEHEIM ST-2/3/310/4/MARION/2/3.

197 Volume 3.

198 Volume 5, p. 235.

was never the policy of the organisation to engage in violence in furtherance of its political objectives, the Amnesty Committee accepted the evidence of amnesty applicants that they took instructions from certain senior members of the organisation, and that these activities resulted in the commission of gross human rights violations.

123. With regard to the self-protection unit members, the Commission found that during the period 1993–1994, the self-protection unit (SPU) project, although officially placed within the ambit of the Peace Accord and containing an element of self-protection, was also intended to furnish the Inkatha Freedom Party with the military capacity to, by force, prevent the central government and the Transitional Executive Council from holding elections that did not accommodate the IFP's desires for self-determination. Evidence from former members of self-protection units placed before the Amnesty Committee reinforced the finding of the Commission that such armed resistance would entail the risk of violence and injury to persons.
124. The Commission gave due attention to the response of the IFP to these and other findings of the Human Rights Violations Committee. However, the Commission is of the view that the evidence which has emerged through the amnesty process has done nothing to cause the Commission to change or moderate these findings in any way. On the contrary, on the completion of the work of the Amnesty Committee, the Commission is satisfied that the core findings made in its 1998 report are justified.

RECONCILIATION

125. During several amnesty hearings, the Amnesty Committee or the applicants' legal representatives facilitated meetings between applicants and the relatives of victims or the victims themselves. This occurred, for example, at the hearings of Mr Daluxolo Luthuli and others where the community of Esikhawini expressed forgiveness. A key precipitating factor for this reconciliation appeared to be the extent to which the applicant was regarded as having made full disclosure and his openness about his motives and lines of command.
126. For example, in Luthuli's amnesty hearing, his legal representative, Advocate A Stewart, said:

The position taken by Mr Luthuli has been one where he accepts moral responsibility for all the activities that the Caprivi trainees were involved in,

even where he didn't know what those activities were, or may not have given orders in relation to them. (Hearing at Pinetown, 8 March 1999.)

127. On the other hand, implicated persons who continued to deny their role in events made reconciliation impossible.
128. At the amnesty hearing of Mr 'Sosha' Mbhele, there were bitter words between the applicant and his former commander, Mr Bheki Mkhize:

MR MKHIZE: *Sosha, what I would like to tell the community is that you were a killer, you were even responsible for killing IFP. I don't know you to have been killing ANC members.*

MR LAX: *Do you want him to answer that? Are you putting that to him as a question, do you want him to respond to your comment? What is your response to that, Mr Mbhele? You see, you mustn't put too much to him, then it's too difficult for him to respond.*

MR MBHELE: *When I came here, I knew exactly what he is going to say, because when you are in such a situation as I am, you are regarded, or you are put to appear as a criminal. I know a lot of other people who are in prison and have been labelled criminals because of what the situation is now. When I was not in prison, when I was working for them, I was regarded as a comrade, but now that I am in prison and I have a sentence of life imprisonment, I am no longer useful to them. You came here and when you ... (indistinct) stood up, I knew what you were going to say, I knew what's your reason for coming in front was. When we are convicted, nobody admits that they know us, nobody admits that they know us, even in the organisation. I know all of this. When a person is in trouble, they're actually regarded as criminals. Even the people you are with now, if they get into trouble, you will deny any knowledge of them, but if you were to go to the IFP office now and inquire about me, they will tell you about me, I am a card carrying member of the IFP. You are a criminal. You have even acquired a shop, because you have forced people to donate money for ammunition allegedly. I have all the information about you. My family is in trouble because of what happened to me, because I am in prison, but you are free, because of you, whatever you have come for here is not true, because you want to appear to be God in front of the community's eyes. (Pietermaritzburg hearing, 18 December 1998.)*

CONCLUSION

129. Despite the relatively few applications from IFP members, the Amnesty Committee found that the evidence they contained was consistent with the trends and patterns revealed in the testimony of victims of human rights violations who appeared before the Commission and in the documentary material made available to the Commission by state officials.

Who I am.

I am the IFP, I am the soldier who I am. I am well trained. I am the son of Goodwill (The King of the Zulus.) Who I am, I am an incredible, you can't find me anywhere, but I am there for protection at iZingolweni. They know me. At Ulundi they saw me. Everywhere they know me, who I am. I am the one who was trained, trained at eMandleni at uMfolozi. (This place where I say I was trained at is not true. It is true that I was trained but not at this mentioned place).

When I am back, I spoke the misunderstood language. They said it is isigagaga, but I simply said ga-ga-ga. The answer was the G3. Who I am, I am the one who is fighting for my land. I am the one who was jailed for the truth. I am the one who was jailed for my friends. I am the one who was jailed for the death of my loving mother. I am the one who was tried to be killed every moment of my life. I am the physician of human life, I am the scientist of human training, I am the biologist of human thoughts. I am the fighter fighting for my eternal life. Who I am. Now you know who I am, for I am here for you my friends. Yes, I am here for my life to surrender. In death, pain I surrender. If I die for my rights, who I am.

My soul will cry no more, for though hearts are free to be stopped, for my eyes are free to be closed, for my feet will walk no more, but if my present is for the struggle of letting my friends in the hands of Buthelezi, who I am. Mothers, fathers, sons, daughters, brothers and sisters, I remember the spirit of Gqozo, who said the blood will heal the broken soul. Who I am. Some call me uklova, for though that is true, I am the son of the free area.

I am the son of liberation. (That is all).

Poem written by Mr Goodman Musawakhe Ngcobo [AM5632/97; AC1999/0339], Nkulu IFP Youth leader, while on death row for the assassination of ten ANC supporters in 1991

(...p375)