

Report of the Chief Executive Officer

■ INTRODUCTION

1. The activities of the Truth and Reconciliation Commission (the Commission) were suspended on 28 October 1998. Notwithstanding this suspension, the Amnesty Committee had to continue with its functions until a date determined by proclamation by the President. In addition, the Amnesty Committee was required to take over certain duties and functions of the other two statutory Committees, namely the Committee on Human Rights Violations (HRVC) and the Committee on Reparation and Rehabilitation (RRC). These duties were related to matters that had not been finalised before 31 July 1998, excluding enquiries and hearings and matters emanating from the amnesty process. To assist the Amnesty Committee in this regard, the President appointed two existing Commissioners to that Committee.
2. In 1988 an amendment to the Promotion of National Unity and Reconciliation Act No. 34 of 1995 (the Act) gave the President the power to reconvene the Commission to consider the Committee's report and determine a date for the dissolution of the Commission. On 16 November 2001, the President determined 31 March 2002 as the date for the final dissolution of the Commission.¹
3. The responsibility conferred by the amendment was far from simple. Indeed, the forty months that followed the suspension of the Commission were in many ways as challenging and in certain instances even more difficult and strenuous than the thirty-two months prior to the suspension. The Amnesty Committee became the administrative and operational centre of the Commission but was, at the same time, faced with drastic cuts in funding and human resources. It was also under continuous pressure to finalise the outstanding work in the shortest possible time, while at the same time being expected to deliver a product that would serve as a solution to national problems, especially with regard to the victims of gross human rights violations. Statistics show that more correspondence, telephonic enquiries and personal interviews with or in connection with victims were attended to after 1998 than before.

¹ Government Gazette No. 22833 dated 16 November 2001.

4. During this period the Commission experienced three events that affected the administrative operations of the Commission:
 - a Following the resignation of the former CEO, the Commission appointed Advocate Martin Coetzee as CEO with effect from 1May 1999.
 - b During June 1999, Dr P Maduna MP replaced Dr AM Omar MP as Minister of Justice and as minister responsible for the Commission.
 - c On 18 August 2000, Judge H Mall, Chairperson of the Amnesty Committee, passed away.
5. This report represents an effort by the chief executive officer (CEO) to reflect on the operational and administrative functions of the Commission for the period November 1998 to March 2002. Although an independent report, it may be read in conjunction with the report of the CEO in the Commission's Final Report², as matters dealt with in that report will not be revisited. It should also be read in conjunction with the report of the Executive Secretary of the Amnesty Committee.³
6. The section following this report contains the managerial reports of the various departments within the Commission (Legal, Information Technology, Media and Finance). These reports may also be read with the corresponding sections in the Final Report.⁴

MANAGING THE COMMISSION

7. Managing an unconventional institution born out of controversy and political compromise and tasked to find a common ground upon which to promote national unity and reconciliation in South Africa was never going to be easy. Doing it with dedicated Commissioners and Committee members and a corps of loyal managers and employees whose commitment and dedication were exceptional certainly made it a lot more bearable.
8. As a result of the very solid foundation laid by the previous CEO, the various organisational structures were well established, a sound fiscal policy was in place and the respective departments and sections had clear and well-defined areas of responsibility. This meant that the new CEO was able to focus on completing the outstanding work of the Commission as effectively and as quickly as possible.

2 Volume One, Chapter Nine.

4 Section One, Chapter Two in this volume.

5 Volume One, Chapters Ten to Twelve.

Management of the Commission was done by the CEO assisted by a corps of seven managers. Previously the Commission was managed by no less than a CEO and eighteen managers.

9. Apart from day-to-day management responsibilities, managing the Commission during this period involved ensuring the smooth operation of the following processes:
 - a Dealing with continuous public scrutiny and criticism. As an institution of national and international significance, the Commission found itself under constant, and sometimes unrealistic, public pressure to deliver quality outputs within the shortest period of time. To bear its impact, the Commission had to be transparent and accountable to the public through out its entire existence.
 - b Attempting to address the needs of those with a constitutional right to be acknowledged for the pain and suffering they had endured during the apartheid era.
 - c Providing the machinery for those persons who sought to receive amnesty for committing human rights violations.
 - d Establishing and maintaining an efficient and workable relationship between Commissioners, Committee members and staff members.
 - e Striving towards establishing and maintaining bilateral co-operation between the Commission and various government departments.
 - f Constantly assessing and analysing the Commission's objectives, bearing in mind the available resources and approaching and solving managerial challenges from an integral standpoint. It should be borne in mind that the Commission seldom had the privilege of applying proven and/or tested processes. Many of the Commission's processes had to be 'invented' in accordance with the theoretical and not always practical guidelines as provided by the provisions of the Act.
 - g Continuously evaluating the various processes of the Commission, attending to factors delaying these processes, and developing, implementing and maintaining mechanisms aimed at expediting the finalisation of these processes.
 - h Making decisions that were people-centred and blending individual needs and aspirations with those of the Commission and the public at large.
 - i Motivating staff who, for a period of almost six years, had to deal on a daily basis with the atrocities of the past and who dedicated all their time and energy to giving effect to the objectives and provisions of the Act, with no prospect of any incentive scheme, bonus, gratuity or future employment opportunities following the termination of their contracts.

- j Providing the proverbial 'shoulder to cry on' and serving as a 'punching bag' for those deprived and frustrated victims of gross human rights violations as a result of government non-delivery of reparation and rehabilitation.
- k Seeking a compromise between expectations and reality.
- l Striving towards delivering a product of which the nation could be proud, in the shortest possible period of time and operating within budgetary constraints.
- m Sharing joy and sharing sorrow.
- n Being proud and at the same time being humbled to have the honour and privilege to serve our country and to contribute towards understanding our past history and make present history.

OPERATIONAL AND MANAGEMENT ACTIVITIES

10. Some of the day-to-day management activities and operations of the Commission included:
- research activities, including the completion of the analysis emanating from amnesty applications, the political context to these applications, and matters arising from the work of the HRVC and RRC;
 - investigative activities, including the in-depth investigations of amnesty applications;
 - preparation for and finalisation of findings regarding 21 000 deponent statements by the HRVC;
 - summarising the contents of 21 000 deponent statements for inclusion in the report to the President;
 - analysis of more than 7000 amnesty applications;
 - preparation of more than 2500 amnesty applications for public hearings by the Amnesty Committee;
 - scheduling the public hearing of more than 2500 amnesty applications;
 - logistical and security arrangements pertaining to 255 public amnesty hearings, totalling approximately 1632 hearing days;
 - providing witness protection to amnesty applicants and to witnesses at amnesty hearings;
 - recording the hearings of the Amnesty Committee, simultaneous interpretations and transcription services;
 - further development of a coding framework to systematise the processing and capturing, cross-referencing, cleaning and analysing of data;
 - archiving and safekeeping of more than 3000 cubic metres of written documentation, tape and video recordings;

- preparation for and complete assessments of approximately 21 000 victims of gross human rights violations by the single remaining Commissioner of the RRC;
- facilitating the payment of urgent interim reparation to approximately 17 000 victims by the President's Fund;
- attempting to establish the whereabouts or correct addresses of almost 3000 victims of gross human rights violations;
- human resources-related activities, including streamlining the Commission's office layouts, structures, staff orientations, development of skills and the provision of service certificates and references for exiting staff;
- financial activities, including the development and implementation of measures aimed at effecting savings, budget forecasts, negotiations and allocations and the preparation and presentation of audited financial statements;
- attending to a constant flow of enquiries regarding the plight of victims and the issue of reparation;
- legal activities, including assistance to the various Committees and dealing with legal challenges to the Commission and the Amnesty Committee;
- media liaison and communication;
- safety and security of physical and intellectual assets, processes, activities and members of the Commission;
- audits, evaluations and appraisals of the Commission's activities, quality of work, staff performances, efficiency and productivity, and updates of registers, files, reports, financial statements and books, and progress in general;
- accounting and reporting to parliamentary committees on the Commission's activities, processes and progress;
- liaising with governmental departments with regard to issues emanating from the activities and processes of the Commission;
- financial and other support to the Commission by international donors;
- addressing and briefing international conferences, international visitors and interested parties on the functions, activities and processes of the Commission, and
- staff 'roll-out' and close-down plans for the Commission.

CHALLENGES TO THE COMMISSION

11. During its existence, the Commission was faced with numerous challenges, some substantial and others less so. Some of these are discussed briefly here.

Perceptions about the Commission

12. Although the Commission was established as a result of negotiations between the major political role players and owed its existence and functions to an Act passed by a democratically elected parliament, it still came in for a fair share of criticism. There were those who saw the Commission as the instrument of an ANC-led government and a witch-hunt. Others perceived it as perpetrator-friendly, insensitive to the plight of victims and biased towards the former regime and security forces, and some simply saw it as 'a waste of taxpayers' money'. Notwithstanding these negative perceptions, the Commission stuck to its mandate and its commitment to give effect to the letter of the Act and the needs of the majority of our nation.
13. The most difficult aspect to deal with was the granting of amnesty. Everything related to the concept was controversial even before the Act was promulgated or the Amnesty Committee established. Giving the Amnesty Committee the power to grant amnesty meant that a visible body was established that could now be blamed for setting perpetrators free. Throughout its existence, the Commission and its entire staff had to cope and deal with this negative sentiment. The work of the Amnesty Committee also seemed to contradict that of the other Committees of the Commission. The HRVC devoted its time and energy to acknowledging the painful experiences of victims of gross violations of human rights and to identifying those who had perpetrated these gross human rights violations. The Amnesty Committee, on the other hand, set many of these perpetrators of gross human rights violations free from prosecution and from prison on the grounds that they had acted with a political objective and had made full disclosure. In addition, in giving effect to the provisions of the Act, the Amnesty Committee had powers of implementation, whilst the RRC could only make recommendations. Some perpetrators were granted immediate freedom. Victims, however, were required to wait until parliament had accepted or rejected the recommendations of the Commission.
14. The Commission was constantly accused of being perpetrator-friendly and of being insensitive to the plight of victims. Looking back across the whole process now, it is clear that, on the physical side especially, more was done for victims than for perpetrators. Hundreds of thousands of rands and hours were spent on locating victims, transporting them to hearings and providing them with food and accommodation. The hours that were spent on foot trying to locate victims or hiring bulldozers to enable victims in flood-stricken areas to attend amnesty

hearings can certainly not be regarded as an insensitive attitude. The Commission is of the strong opinion that the total amount of time and resources spent on victims during the amnesty process was substantially more than that spent on amnesty applicants.

15. On more than one occasion, the Amnesty Committee subjected to severe criticism by individuals and the media, not because it had not done its work properly, but because it had applied the provisions of the Act and granted certain individuals amnesty. The Committee was also accused of being biased, sometimes in favour of the perpetrators, sometimes in favour of the victims; at times in favour of the liberation movements and at times in favour of the former security forces.
16. The Amnesty Committee tried its utmost to be as objective as humanly possible. Listening to evidence of horrendous acts of gross violations of human rights and to evidence of immense human suffering and inhumane treatment over a period of more than five years certainly did not make it easy. Notwithstanding this, the Amnesty Committee was always aware of the fact that it had to apply the provisions of the Act and that it had a role to play in unearthing the truth. It made it its responsibility to do exactly that. The Amnesty Committee was also very aware of the plight of victims, and everything possible was done to ease their suffering and to give them the recognition they deserved.
17. As has already been mentioned, the RRC was not an implementing body. Its responsibility was to identify those victims who were eligible for reparation and/or rehabilitation and to make recommendations in this regard. Despite this, the RRC was perceived as being responsible not only for identifying the interventions that were needed for reparation and rehabilitation, but also for their implementation. Notwithstanding this, the RRC and its staff never shirked their moral responsibility. They continued to listen to victims and tried their utmost to assist them in the absence of the acknowledgement and implementation of the recommendations made by the Commission in October 1998.
18. In many instances, however, negative perceptions about the Commission and its work arose out of ignorance about its objectives and mandate. At the same time, it was encouraging to experience the high regard in which the Commission was held in the international community. Not only did international delegations and visitors show a keen interest in and appreciation of the work of the Commission, but members of the Commission were also frequently invited to address international conferences on the work and experiences of the Commission.

Operational challenges

19. Operational challenges had the most profound impact on the process as they related to the urgency imposed on the Commission to finish a huge amount of work within the shortest period of time. They included:

Staff

20. In any institution staff members are one of the most valuable assets. Without the commitment and dedication of its entire staff complement, the Commission would not have been able to meet its objectives. Unfortunately, staff members were not always acknowledged for the invaluable role they played. Commissioners, Committee members and management were the public face of the Commission; staff maintained the engine room.
21. Because the Commission was initially expected to have a relatively short lifespan, all staff members were employed on temporary contracts. Ultimately, the Commission functioned for almost six years, and contracts were extended on no less than six occasions. With hindsight, this proved to be a very unsatisfactory situation. Because there was no employment security or certainty about when the process would end, staff members were understandably constantly on the lookout for permanent employment. They were paid only a basic salary; no service bonuses or other incentives were offered. As a result, the Commission lost experienced staff on a regular basis and it became increasingly difficult to fill vacancies.
22. Keeping staff motivated also proved to be very challenging. Lack of job and contractual security and incentives, constant criticism of the Commission, no employment offers from government despite six years' dedicated work seem finally to have filtered through to staff. Indeed, the only thing that kept staff going was their commitment to the Commission's objectives. It was therefore no surprise, when another employment opportunity became available, that staff had no hesitation in taking up that position. In many instances, the projects they were working on or their areas of responsibility had to be taken over by the already over-burdened remaining staff members. In certain cases, especially with regard to committee members, the individuals who left were the only ones able to complete or finalise a certain project or function. One then had to rely on the integrity and goodwill of those concerned. In the majority of instances

the work was satisfactorily completed, but in other instances the completion of a specific task was hamstrung by the non-performance of certain individuals.

Budgetary constraints

23. Without the luxury of precedents, and faced with uncertainties as to the financial implications of the activities of the Commission, it was often very difficult to budget accurately. For example, a public hearing might last less than a day or it might take weeks or even months to complete an application. Sometimes it would take only one telephone call to reach a victim; in other cases it could involve hiring a four-by-four vehicle to reach a victim in a rural area.
24. The requirement to 'do more with less' proved to be very frustrating and even counter-productive. The Commission is of the view that the process could have been finished much earlier had it been in a position to employ more personnel to attend to the professional and administrative aspects of its work. It was disappointing to know and accept that, whilst the Commission regarded itself as a project of national significance, it was regarded by government as only one amongst many national priorities to be financially resourced.
25. The government's failure to approve a severance package for deserving staff meant that management was unable to reward its best performers or to retain some of those who found themselves obliged to move elsewhere during the last crucial months.

Co-operation with the Commission

26. The Commission was an institution of national significance and, from the outset, it was clear that its failure or success would depend, to a large extent, on the co-operation it received from those with an interest in its proper functioning. The Commission relied heavily on the assistance and co-operation of, amongst others, government departments, political parties, victims, witnesses, legal representatives and non-governmental institutions and organisations.
27. Generally speaking, the Commission enjoyed the co-operation of many of the above. Unfortunately there were also instances where some of these deliberately or through a lack of commitment delayed the processes of the Commission. In certain cases it was clear that an uninformed perception about the Commission

played a role; in other cases it was resistance against or non-acceptance of transformation and the new democratic dispensation. Where the objectives of the Commission were not in line with certain party political objectives, co-operation was sometimes deliberately withheld. Finally, some individuals saw the Commission as an opportunity to further their own careers or to improve their financial status.

28. The Commission and its staff consequently had to put in a great deal of energy and effort into overcoming these obstacles, not for its own purposes, but for the benefit of victims, amnesty applicants and the country as a whole.
29. These are but some of the challenges the Commission was faced with. Fortunately they were not insurmountable, and the Commission was eventually able to complete its mandate.

Concluding remarks

30. In the belief and hope that South Africa will never again be required to set up a similar commission, it is sufficient to make only two general points about setting up any kind of commission of inquiry. First, care should be taken to provide for a proper and well-resourced infrastructure. Second, and more importantly, there should be proper acknowledgement of those who are not in the public eye, but who grind it out in the dungeons and machine rooms.
31. In preparing this report and reflecting on almost six years of serving this extraordinary Commission, it was ironic that all the negative experiences were completely surpassed and overshadowed by the positive experiences to such an extent that one is left with a feeling of fulfilment, satisfaction and achievement that can only be experienced and shared by those who also had the opportunity to serve in the same way.
32. It was a humbling experience to have had the opportunity to serve and to be led by a truly remarkable Chairperson assisted by a group of Commissioners and Committee members whose integrity, commitment and dedication have been unrivalled.
33. Tribute must be paid to those persons who decided to forsake their constitutional rights in the interests of finding the truth and striving towards unity and reconciliation.

34. Acknowledgement is also given to those persons who, for the sake of national unity and reconciliation, and despite humiliation and embarrassment, came forward and were sincere in admitting to horrendous acts of human rights violations.

35. Finally tribute is paid to all the staff members, interpreters, transcribers, technicians, lawyers and all those who came into touch with the Commission and who, through their commitment and dedication, and notwithstanding the huge demands that were made on their personal and family lives, played an integral part in bringing this process to a conclusion and contributing to the history of South Africa. [\(...p744\)](#)