

## TRC FINAL REPORT

### Summary and Guide to Contents

#### SUMMARY OF CONTENTS

The report of the Truth and Reconciliation Commission (the Commission) consists of five volumes, each with a particular focus. It is important to note that, once the Amnesty Committee finishes its work, an additional volume will report on the work of that Committee, based on amnesty hearings conducted and findings made. That volume will also include summaries of the statements of those people the Commission found to have suffered gross violations of human rights. While the current report contains a full list of the names of those in respect of whom such findings were made, the codicil will include details of the violations.

The bulk of the findings of the Commission may be found in the final volume, as indicated below. However, specific findings are made in individual chapters throughout the report.

The logical sequence of the five volumes of the report is as follows.

Volume One is an introductory volume, containing important discussion of key concepts and debates within the Commission itself and in society at large. It provides the basis and rationale for the work of the Commission, as described in the chapters that appear in the following volumes. It also describes the way the Commission worked and the methods it used in order to fulfil its mandate.

Volume Two addresses the commission of gross violations of human rights on all sides of the conflict. The first and greater part of the volume deals with the period between 1960 and 1990, while a separate chapter is dedicated to the unique political environment of the 1990s. The role of the state in the

perpetration of gross violations of human rights is, for practical reasons, divided between violations committed outside South Africa and those committed inside South Africa. The homelands and their unique circumstances are described in a separate chapter, as is the role of the liberation movements.

Volume Three, which addresses gross violations of human rights from the perspective of the victim, is a companion to Volume Two. For reasons of space, accounts which are described in detail in one are frequently simply referred to in the other. The chapters in this volume are regionally structured, reflecting the regional structure of the Commission. This allowed for a targeted focus on distinct geographical area and a detailed examination of variations between different parts of the country.

Volume Four seeks to address the nature of the society in which gross violations of human rights took place, reporting on a series of 'institutional hearings' which sought to explore the broader institutional and social environment. In the process of conducting these hearings, the Commission sought to provide opportunities for self-examination by the various sectors, as well as discussion of their possible role in the future. In addition to hearings on the various sectors, the volume includes reports on three special hearings: on compulsory military service, children and youth and women.

Volume Five, the final volume of the report, contains the conclusions reached by the Commission, including analyses and findings and recommendations. It also includes the Minority Position of Commission Wynand Malan and the Commission's response to this.

A Guide to the Contents

## Volume One

Volume One opens with the Chairperson's Foreword (Volume 1, Chapter 1, para 1) in which Archbishop Tutu assesses the work of the Commission. He highlights the options available during the transition to democracy and explains why the choice of a Truth and Reconciliation Commission was the best possible option in the South African situation. He stresses the difficulties that faced the Commission in a sharply divided society and its dedication to the principles of fairness and even-handedness, buffeted as it was by criticism from all sides.

"Some of the criticism levelled against the Commission has been legitimate. However, there has been much which was merely political point scoring, ignoring the facts in favour of taking up cudgels against us" [paragraph 34]

He also touches on the important distinction, discussed at length later in the report, between just cause and just means.

"A venerable tradition hold that those who use force to overthrow or even to oppose an unjust system occupy the moral high ground over those who use force to sustain that same system ... This does not mean that those who hold the moral high ground have carte blanche as to the methods they use" [paragraph 54]

Finally, he makes an urgent appeal for tolerance and reconciliation, concluding:

"Having looked the beast of the past in the eye, having asked and received forgiveness and having made amends, let us shut the door on the past – not in order to forget it but in order not to allow it to imprison us. Let us move into the glorious future of a new kind of society where people count, not because of biological irrelevancies or other extraneous attributes, but because they are persons of infinite worth created in the image of God ..."  
[paragraph 91]

Historical Context (Volume 1, Chapter 2, para 1) sets out the historical context of the mandate period 1960 to 1994 and the roots of the conflict that emerged during that period. It draws attention to the fact that the origins of the South African conflict began much earlier than 1960 and stresses that the Commission's brief was to report only a small part of the much larger story of human rights abuse in this country. Thus:

"The importation of slaves to the Cape and the brutal treatment they endured ... The many wars of dispossession and colonial conquest dating from the first war against the Khoisan in 1659 ... The systematic hunting and elimination of indigenous nomadic peoples ... The Difaquane or Mfecane where thousands died ... The South African war of 1899-1902 during which British forces herded Boer women and children into concentration camps in which some 20 000 died ... The genocidal war ... directed by the German colonial administration in South West Africa at the Herero people, which took them to the brink of extinction"  
[paragraph 7]

The chapter describes how Parliament transformed the laissez-faire pattern of pre-1948 legislation into a systematic pattern of legalised racial discrimination, and constructed and armed an internal security apparatus with legal power to crush opposition. The chapter concludes:

"To many, notably those in the leadership in the government and security forces in the 1980s, the conclusion that the state sanctioned murder may and probably will be an unpalatable assertion. It is also probably not what the Commission expected to find when it started work two years ago. It is, however, a 'truth' to which it has been drawn by the evidence" [paragraph 80].

Setting up the Commission (Volume 1, Chapter 3, para 1) describes the practical steps taken when setting up the Commission and details the roles and responsibilities of the Commissioners.

The Mandate (Volume 1, Chapter 4, para 1) is critical to understanding the way in which the Commission grappled with and interpreted its mandate, and how it dealt with the complexities that attended this process. The chapter explores the origins of the Commission and the political processes that brought it into existence. It provides some background as to how the Commission approached its work and takes up some of the important debates that provided the framework within which the Commission operated. These include a discussion on terminology; the debate on the definition of victims in an apartheid society and the necessarily narrow focus of the Commission ("Who were the victims of gross violations of human rights?"):

"... It can never be forgotten that the system itself was evil, inhumane and degrading for the many millions who became its second and third class citizens. Amongst its many crimes, perhaps the greatest was its power to humiliate, to denigrate and to remove the self-confidence, self-esteem and dignity of its millions of victims ..." [paragraph 51]

The chapter points out that while:

"The Commission was obliged by statute to deal even-handedly with all victims ... this does not mean ... that moral judgement was suspended or that the Commission made no distinction between violations committed by those defending apartheid and those committed to its eradication" [paragraphs 60-61]

The chapter discusses the distinction between just ends and just means, indicating that the Commission was guided by criteria derived from just war theory. Thus:

"Justice of war evaluates the justifiability of the decision to go to war. The two basic criteria guiding this evaluation are: first, the justness of the cause (the underlying principles for which a group is fighting), and second, whether the decision to take up arms was a matter of last resort ... The doctrine of justice in war states that there are limits to how much force may be used in a

particular context and places restrictions on who or what may be targeted ..." [paragraphs 66-67]

In this respect, the chapter points out that, although state and non-state actors could both commit human rights violations:

"... those with the most power to abuse must carry the heaviest responsibility" [paragraph 80]

The chapter describes the debate within the Commission about definitions of gross violations of human rights, including the approach it adopted in respect of combatants and non-combatants. Thus:

"Armed conflicts between clearly identified combatants thus provided the only exception to the Commission's position that victims of gross violations of human rights should include all who were killed, tortured (and so on) through politically-motivated actions within the mandated period" [paragraph 92]

The chapter reports on the interpretation and definition of categories of gross violations of human rights and how the Commission made findings in this respect. It discusses political context and motivations, with particular reference to labour conflicts, racism, criminality and convictions for politically motivated acts. It also discusses issues of accountability,

particularly as they relate to legitimate self defence, the exercise of police powers, non-state perpetrators, the impact of naming perpetrators and, critically, how the Commission resolved this issue.

The Appendix to this chapter – Apartheid as a Crime against Humanity (para 1) traces the development of international legal opinion in respect of the declaration of apartheid as a crime against humanity:

"... the Commission ... affirms its judgement that apartheid, as a system of enforced racial discrimination and separation, was a crime against humanity ... At the same time, the Commission acknowledges that there are those who sincerely believed differently and those, too, who were blinded by their fear of a Communist 'total onslaught'" [paragraph 1]

Concepts and Principles (Volume 1, Chapter 5, para 1) discusses the conceptual framework within which the Commission operated.

The chapter discusses the promotion of national unity and reconciliation, including reconciliation as a goal and a process and the different levels at which reconciliation takes place – namely, coming to terms with painful truth, reconciliation between victims and perpetrators, reconciliation at a community level and reconciliation and redistribution. Thus:

"Given the magnitude of this exercise, the Commission's quest for truth should be viewed as a contribution to a much longer-term goal and vision. Its purpose in attempting to uncover the past had nothing to do with vengeance; it had to do, rather, with helping victims to become more visible and more valuable citizens through the public recognition and official acknowledgement of their experiences ... In addition, by bringing the darker side of the past to the fore, those responsible for violations of human rights could also be held accountable for their actions. In the process, they were given the opportunity to acknowledge their responsibility to contribute to the creation of a new South African society" [paragraphs 27-28].

The chapter discusses the different manifestations of truth as explored by the Commission: factual or forensic truth, personal or narrative truth, social truth and healing and restorative truth.

In the section on the relationship between truth and reconciliation, the report stresses that:

"The road to reconciliation requires more than forgiveness and respectful remembrance. It is, in this respect, worth remembering the difficult history of reconciliation between Afrikaners and white English-speaking South Africans after the devastating Anglo-Boer/South African War ... Despite coexistence and participation with English-speaking South Africans in the political system that followed the war, it took many decades to rebuild relationships and redistribute resources ... Reconciliation requires not only individual justice, but also social justice" [paragraph 52].

The chapter describes the tensions between amnesty, truth and justice, including a discussion of the implications of the present process for the future administration of justice.

The concept of ubuntu (people are people through other people) is discussed and the report quotes Ms Susan van der Merwe whose husband disappeared in 1978 after allegedly being abducted and killed by an Umkhonto weSizwe unit:

"The survival of our people in this country depends on our co-operation with each other. My plea to you is, help people throw their weapons away ... No person's life is a waste. Every person's life is too precious" [paragraph 88].

The principles of restorative justice are discussed, as they relate to victims and perpetrators:

"Restorative justice demands that the accountability of perpetrators be extended to making a contribution to the restoration of the well-being of their victims ... The fact that people are given their freedom without taking responsibility for some form of restitution remains a major problem with the amnesty process. Only if the emerging truth unleashes a social dynamic that includes redressing the suffering of victims will it meet the ideal of restorative justice" [paragraph 100].

Finally, the chapter discusses responsibility and reconciliation, concluding that:

"... those who have benefited and are still benefiting from a range of unearned privileges under apartheid have a crucial role to play ... This means that a great deal of attention must be given to an altered sense of responsibility; namely the duty of obligation of those who have benefited so much (through racially privileged education, unfair access to land, business opportunities and so on) to contribute to the present and future reconstruction of our society" [paragraph 111].

Methodology and Process (Volume 1, Chapter 6, para 1) describes the way the Commission met its responsibilities and approached its work. It describes some of the practical arrangements the Commission made – particularly in respect of the process it followed in the gathering, organisation and corroboration of information and how this translated into the findings process. The chapter details the different kinds of hearings conducted by the Commission and the investigations it conducted; its research, the amnesty process and the different phases of work.

The appendix to this chapter, Methodology and the Information Management System (para 1), describes the work of the Commission's Database Development Group in detail, describing the eight-stage information management process adopted by the Commission. It highlights the fact that this has resulted in an:

" ... unequalled collection of data on a set of events that took place during a unique period of South Africa's history. It may only have scratched the surface, but that surface has been scratched in unprecedented detail" [paragraph 21].

Appendix 2, Who Came to the Commission (para 1), provides a detailed overview and breakdown of who came to the Commission and an analysis of what they reported.

Legal Challenges, (Volume 1, Chapter 7, para 1) describes the legal challenges the Commission faced – from early challenges that questioned the constitutionality of the amnesty process, through challenges to section 30 of the Act which, in the final opinion of the court, imposed certain obligations on the Commission in respect of the right to information and response. This latter judgement had far-reaching effects on the work of the Commission, requiring it to inform and respond to enquiries by all perpetrators named in the report. Other challenges include that brought by the National Party against the Commission, challenges to amnesty decisions and matters relating to Mr PW Botha's refusal to appear before the Commission and the challenges brought by Dr Wouter Basson.

"During its lifetime, the Commission was so often involved in litigation that one could be forgiven for thinking that it was under siege" [paragraph 6].

Amongst other things, the chapter describes a series of challenges brought by Gideon Nieuwoudt, a member of the Port Elizabeth Security Branch, highlighting the fact that he ultimately applied for amnesty for:

" ... the kidnapping and killing of Siphwe Mthimkulu and Topsy Madaka in April 1982; the kidnapping and death of the 'Pebco three' in May 1985; the Motherwell incident in which four people were killed in December 1989; the assault on Peter Jones and Steve Biko in September 1977 and the assault on Mkhuseleli Jack in August 1985" [paragraph 76].

The Destruction of Records (Volume 1, Chapter 8, para 1) describes and details the Commission's investigation into the records of the former state and of the process whereby so many crucial state records were destroyed, particularly in early 1990s when the destruction of documents was undertaken on a massive scale. The chapter records that the NIA was still destroying records as late as 1996, some two and a half years after the first democratic elections. The chapter ends with the Commission's findings, including the finding that:

"The mass destruction of records ... has had a severe impact on South Africa's social memory. Swathes of official documentary memory, particularly around the inner workings of the apartheid state's security apparatus, have been obliterated ... Ultimately, of course, all South Africans have suffered the consequences – all are victims of the apartheid state's attempted imposition of a selective amnesia" [paragraphs 104 and 106].

The Report of the Chief Executive and Accounting Officer (Volume 1, Chapter 9, para 1) is the key management report, detailing the structures, processes and methodology of the Commission. Its appendices include an organisational plan of the Commission, a map indicating where activities took place and list of staff and others who assisted the Commission in its work.

This is followed by a series of administrative reports, including the Administrative Reports of Statutory Committees (Volume 1, Chapter 10, para 1) which includes an account of the working life of the Human Rights Violations Committee, the Amnesty Committee and the Reparation and Rehabilitation Committee; the Management and Operational Reports (Volume 1, Chapter 11, para 1) and the Regional Office Reports (Volume 1, Chapter 12, para 1).

The Volume closes with a Chronology of Apartheid Legislation (page 448) and Commissions of Enquiry from 1960 – 1995 (page 498).

## Volume Two

The focus of Volume Two is on the perpetrators of gross violations of human rights and attempts to understand patterns of abuse, forms of gross violations of human rights, and authorisation of and accountability for them. Volume Two is complementary to Volume Three which deals with the experience of victims in the Commission's different regions.

Volume Two is divided as follows:

The National Overview (Volume 2, Chapter 1, para 1) seeks to provide an overview of the context in which the conflict developed and gross violations of human rights occurred. It outlines the social and political background to the southern African conflict, highlighting the role of racism, decolonisation and the Cold War as determining features of the conflict.

The chapter provides an overview of insurgency and counter-insurgency strategies, tracing their development from internal repression and the emergence of armed opposition movements (1960–1964); the regionalisation of conflict (1965–1973); the collapse of the buffer and the re-emergence of internal opposition (1974–1978); 'total strategy', regional destabilisation and resistance (1979–1984); the war comes home (1985-1989) and the transitional phase (1990-1994).

The State outside South Africa (1960-1990) (Volume 2, Chapter 2, para 1) reaches the conclusion that, although few statements were received from deponents and victims outside South Africa, the majority of victims of gross violations of human rights were residing outside the country's borders at the time the violations were committed (paragraph 1).

One of the biggest single incidents of gross violation which occurred during the mandate period was the assault by the SADF (Operation Reindeer) on a SWAPO base at Kassinga, Angola in 1978 in which more than 600 people were killed. In this respect the Commission made a finding that:

" ... Operation Reindeer was a violation of the territorial sovereignty of the Republic of Angola and that it resulted in the commission of gross human rights violations against the civilian occupants of the Kassinga camp which entailed deliberate planning on the part of the following persons who are held accountable: Prime Minister BJ Vorster in his capacity as Head of State (Principle III); Minister of Defence PW Botha in his capacity as political head of the SADF; General Magnus Malan in his capacity as chief of the SADF; Lieutenants General Constand Viljoen and RH Rogers in their capacities as chiefs of the army and air force respectively" [after paragraph 48].

The chapter traces the involvement of South African security forces and reports that evidence was gathered of violations committed by South African security forces or their agents and/or surrogates in nine regional states – Botswana, Lesotho, Swaziland, Angola, Mozambique, Zimbabwe, Zambia, Tanzania, and the Seychelles – and in Western Europe – in the United Kingdom, France, Belgium, the Netherlands and Scandinavia.

The State inside South Africa (1960-1990) (Volume 2, Chapter 3, para1) traces the different forms of violations conducted by the state inside South Africa. These include bannings and banishment; judicial executions, public order policing, the use of auxiliary forces, torture and deaths in custody. The various methods of torture are discussed, amongst others, beating, the imaginary chair, electric shocking and the incidence of sexual torture:

"Cases of sexual torture included forcing detainees (both male and female) to undress; the deliberate targeting of genitals or breasts during torture; the threat of and, in some instances, actual rape of detainees (male and female); the insertion of objects such as batons or pistols into bodily orifices and placing detainees overnight in cells with common-law prisoners known to rape newcomers" [paragraph 115].

There are detailed accounts of a number of targeted killings including that of Florence and Fabian Ribeiro, Joe Cele, David Webster. Cases of abduction, interrogation and killing described include ambushes, entrapment killings, killings of state players, including the killing of Robert and Jean-Cora Smit. In respect of this latter case, the report discusses a submission made by the Smit's daughter Liza who described attempts on her life as a consequence of her attempts to uncover the killing of her

parents. Although the Commission was unable to solve the mystery that continues to surround these deaths, it found that:

"... Robert and Jean-Cora Smit were killed by members of the security forces and that their deaths constitute a gross violation of human rights" [follows paragraph 431].

The chapter reports on the identification of targets and the role of TREWITS and describes the attempted sabotage of COSATU House and Khotso House. In the section on contra-mobilisation, the chapter discusses the role of STRATCOM and the different forms of contra-mobilisation adopted by the state, including the activities of various gangs and vigilante groups.

An appendix to the chapter, State Security Forces: Directory of Organisations and Structures (para 1) describes the development of the state security forces over the mandate period and the role players.

The Liberation Movements from 1960-1990 (Volume 2, Chapter Four, para 1) describes the Commission's investigation into the ANC, the PAC, the Azanian National Liberation Army and the Mass Democratic Movement.

The chapter begins with a key finding that:

In reviewing the activities of the African National Congress (ANC) and the Pan Africanist Congress (PAC), the Commission endorsed

the position in international law that the policy of apartheid was a crime against humanity and that both the ANC and PAC were internationally recognised liberation movements conducting legitimate struggles against the former South African government and its policy of apartheid.

Nonetheless, the Commission drew a distinction between a 'just war' and 'just means' and has found that, in terms of international conventions, both the ANC, its organs the National Executive Council (NEC), the National Working Committee (NWC), the Revolutionary Council (RC), the Secretariat and its armed wing Umkhonto weSizwe (MK), and the PAC and its armed formations Poqo and the Azanian People's Liberation Army (APLA), committed gross violations of human rights in the course of their political activities and armed struggles, acts for which they are morally and politically accountable [after paragraph 2].

In this respect, the Commission explored reports of gross violations of human rights in the ANC camps, particularly Quatro. It also sought to give some context to the circumstances in which these events occurred and noted that the ANC itself had provided extensive details and provided the Commission with the reports of its own enquiries which were unparalleled by any other body with whom the Commission had to deal.

In accordance with its distinction (described above) between just ends and just means, the Commission made findings of gross violations of human rights in respect of the ANC, the PAC, the Azanian People's Liberation Army and the chief player in the Mass Democratic Movement – the UDF.

An appendix to the chapter, Organisational structures and names of people holding office (page 393) provides details of the leadership of the ANC and PAC leadership structures.

The Homelands from 1960 to 1990 (Volume 2, Chapter 5, para 1) records violations committed in the homelands in the period. It describes the development of homeland police forces and armies and their role in the conflict, and details activities in the various homelands, including the Pondoland Revolt, events in the Ciskei, the rebirth of Inkatha and KwaZulu in the 1970s and the fall-out with the ANC; the beginnings of institutionalised violence within Inkatha; Inkatha collusion with the South African security forces in the late 1980s, and a brief summary of the 1990s (expanded in Chapter 7). The role of Charles Sebe and an account of the Katzen Plan and Sebe's in the Ciskei is recorded (paragraphs 132-155).

The chapter also includes a detailed description of the activities of the Imbokodo vigilante group in KwaNdebele and the attempts to incorporate Moutse:

"Over 250 statements were made to the Commission regarding the conflict in KwaNdebele and Moutse in the mid-1980s. Collectively, the statements report almost 700 gross violations of human rights. In those statements that name a perpetrator (involving a total of 421 alleged violations), the Imbokodo is listed as the responsible organisation in over half of the incidents" [paragraph 295].

Special Investigations (Volume 2, Chapter 6 para 1) includes a series of special investigations conducted by the Commission. These include:

\* The Death of President Samora Machel (page 494 para 1) in respect of which the Commission reported that:

"This Commission's investigation into the matter did not find conclusive evidence to support either of these conclusions. Circumstantial evidence collected did, however, question the conclusions reached by the Margo Commission ... [and that the] investigations conducted by the Commission raised a number of questions, including the possibility of a false beacon and the absence of a warning from the South African authorities" [paragraphs 3 and 48].

The special investigation into the Helderberg Crash (page 503 para 1) on 28 October 1987 showed that many questions and concerns remain unanswered, including the fact that:

"The Director of Civil Aviation (DCA) neglected to secure all documentation and recordings as required by the FEA regulations: the cargo manifests were missing ... Mr Jimmy Mouton of the Flight Engineers Association [FEA] alleges that the FEA was requested by the lawyer acting for the DCA, as well as by Justice Margo himself at a later stage, to withdraw its submission indicating that there may have been two fires on board... The tape, which would have recorded contact between the Helderberg and Springbok Radio Control, remains missing... Eyewitnesses of the crash were not called to give evidence before the Margo Commission... The Margo Commission did not call members of Armscor to give evidence" [following paragraph 26].

In respect of the special investigation into Chemical and Biological Warfare (page 510 para 1), the Commission found, amongst other things, that:

"Scientists were recruited to the CBW programme from universities and research institutions in South Africa because of their 'patriotism' and loyalty to the government of the day. They were lured by generous conditions of service, facilities, working arrangements and pay packages.

"Overall understanding of the programme and its co-ordination and direction were vested in the hands of one person, Dr Basson, whose ability and (it is assumed) integrity were unquestioned both by those who served under him and by those to whom he had to report. It emerged in the hearings that the military command was dependent on Dr Basson for the conduct and command of the programme, even at a time when there were sufficient indications that Dr Basson might not be trustworthy and that there were serious aberrations in what was happening.

"The military command, and pre-eminently the Surgeon-General Dr DP Knobel, were grossly negligent in approving programmes and allocating large sums of money for activities of which they had no understanding, and which they made no effort to understand.

"The CBW programme made the self-enrichment of individuals possible and opened the way for a cynical subversion of its ostensible aims in the production of murder weapons for use against individuals.

"A Byzantine arrangement of front companies supported the programme, a part of whose intention was a plan for its own ultimate privatisation. This, it appears, was intended from the start.

"The development of the programme would not have been possible without some level of international co-operation and support" [following paragraph 49].

The special investigation into Secret State Funding (page 524 para 1) concluded that:

"The need clearly exists for the President to appoint an appropriate committee to enquire further into covert funding – not least with a view to ensuring that, where possible, funds in covert accounts were paid back to the treasury. Where such funding continues to be absolutely necessary, clear guidelines need to be put in place and the nature and extent of such funding reported to Parliament on a regular basis. This requires an evaluation of existing structures and regulations governing the use of secret funds" [paragraph 4].

The special investigation into Exhumations (page 543 para 1) provides details of the secret burials of a number of people who were later exhumed during the lifetime of the Commission. The secret burial of Ms Phila Portia Ndwandwe in KwaZulu-Natal on 12 March 1997 was described as follows:

"She was held in a small concrete chamber on the edge of the small forest in which she was buried. According to information from those that killed her, she was held naked and interrogated in this chamber, for some time before her death. When we exhumed her, she was on her back in a foetal position, because the grave had not been dug long enough, and had a single bullet wound to the top of her head, indicating that she had been

kneeling or squatting when she was killed. Her pelvis was clothed in a plastic packet, fashioned into a pair of panties indicating an attempt to protect her modesty" [paragraph 1].

The special investigation into The Mandela United Football Club (page 555 para 1) examined complaints and allegations made against the Club, particularly as they related to the role of Ms Winnie Madikizela-Mandela. A series of findings were made in respect of each incident investigated.

The final chapter in Volume Two, Political Violence in the Era of Negotiations and Transition (1990-1994) (Chapter 7, page 583 para 1) deals with the crucial four years leading up to the first democratic election. The chapter notes that of 9 043 statements received on killings, over half of these (5 695) occurred during the 1990 to 1994 period.

Different aspects of this period are dealt with under the following headings: the Security Forces, Homelands: Transition and Incorporation, the White Right Wing, the Liberation Movements and the Third Force.

With regard to torture by the Security Forces, the Commission noted with concern that, although it fell outside its mandate period:

" ... the ongoing reports of torture and deaths in custody, which have reached alarming levels ... It has been suggested that such methods were and are routine methods in police criminal investigations and to a large degree replace routine investigative work. The Commission recommends that the police services

undertake urgent measures to halt these practices [after paragraph 35].

The Commission also, inter alia, made a finding that, in the post-1990 period, the SAP

" ... continued to carry out extra-judicial killings and attempted killings, both internally and externally. Targets included high-profile political activists predominantly associated with the ANC. The Commission finds that such extra-judicial killings took the form of assassination, ambushes and entrapment killings, as well as killings and attempted killings by way of parcel bombs. The Commission finds that these acts constituted gross violations of human rights for which the SAP are held accountable" [after paragraph 77].

With regard to the Transkei and Ciskei homelands, the report details the Duli coup attempt, Operation Abbot, the killing of Charles Sebe and Onward Guzana, the activities of the African Democratic Movement and the Bisho Massacre. The chapter records the events in KwaZulu-Natal and the violence in the Transvaal, including the activities of hit squads and train violence.

The section on the white right wing describes the various right-wing groupings and its links with other groups. It details various incidents including the pre-election bombings and other violations committed by the right wing.

The section on the Liberation Movements describes, amongst other things, Operation Vula and the negotiations process and violations committed by SDUs and other ANC members on the East Rand. The activities of the PAC and APLA are described and findings made.

Finally, the section on the third force addresses the contention, expressed throughout this period, that a third force was behind much of the violence during this period.

### Volume Three

The focus of Volume Three is on victims of gross violations of human rights and consists of profiles of the various regions into which the Commission divided its work. These were the eastern Cape; the former Natal province and KwaZulu; the former Orange Free State, the former western Cape and northern Cape area, and the former Transvaal area. Homelands are located within the regions described.

Volume Three is complementary to Volume Two which deals with the perpetration of gross human rights violations.

The Introduction to Regional Profiles (Volume 3, Chapter 1, para 1) provides a statistical overview of violations and is followed by National Chronology (page 12) of events.

Each of the regional chapters deals with a series of periods within which gross violations of human rights took place. The periodisation is as follows: 1960 – 1975, 1976 – 1982, 1983 – 1989 and 1990 to 1994. Within each period, the role of different players in the conflict is explored and the nature of gross violations of human rights analysed. Important events and cases

that came before the Commission are described in some detail. Graphs and statistics provide a key to patterns and trends.

Chapters include Eastern Cape (page 34 para 1), Natal and KwaZulu (page 155 para 1), Orange Free State (page 329 para 1), Western Cape (page para 1), Transvaal (page 528 para 1).

## Volume Four

The focus of Volume Four is on the various hearings the Commission conducted into the political, economic and social environment that gave rise to or allowed for gross violations of human rights. The Foreword and Context of Institutional and Special Hearings (Volume 4, Chapter 1, para1) poses the question:

"How did so many people, working within so many influential sectors and institutions, react to what was happening around them? ..." [paragraph 3]

An appendix to the chapter (page 5) provides the names of organisations and individuals that made submissions to the Commission.

The institutional hearing on Business and Labour (Volume 4, Chapter 2, para 1) explores the role of white business, black business and labour during the mandate period. It looks at issues such as culpability, collaboration and involvement (paragraphs 6-

47) and the costs and benefits of apartheid (paragraphs 48-112), highlighting the fact that, according to statistics, the average growth rate and the per capita income of all population groups in the poorer sections of the population, except Asians (paragraphs 111-112).

The chapter describes business in the 1980s and the involvement of business in the National Security Management System (paragraphs 113-123). It questions whether business could have done more and discusses the various options for business in the future, including those proposed by the Apartheid Debt Co-ordinating Committee, Professor Sampie Terreblanche, Mr Bob Tucker of the Banking Council and Mr Stephen Mulholland. It concludes:

"There is no doubt that business could and should play an enormously creative role in the development of new reconstruction and development programmes. Funding for this could come from business itself ... from the state ... from loans or from a combination of these" [paragraph 159]

The institutional hearing on The Faith Community (Volume 4, Chapter 3, para 1) explores the role of faith communities in South Africa and the role they played during the mandate period. It describes the various faith communities, and explores their role as "agents of oppression", stating that:

"... contrary to their own deepest principles, many faith communities mirrored apartheid society, giving the lie to their profession to a loyalty that transcended social divisions" [paragraph 29].

The military chaplaincy is discussed, concluding that:

"In general ... apart from the intentions of individuals within it, the chaplaincy was a tool in the hands of the military, and thus an important cog in the apartheid machine..." [paragraph 57].

The chapter also considers the quest of faith communities as "victims of oppression" and describes attacks on members and organisations, the closure of buildings, repression and victimisation. It outlines the role of faith communities as "opponents of oppression", weighing the role of the different faith communities and the changing environment of the 1980s. The chapter then discusses faith communities and the South African transition.

In the chapter on the institutional hearing into The Legal Community (Volume 4, Chapter 4, para 1) the Commission records its disappointment that the judiciary failed to appear before the Commission:

"The Commission finds that an appearance before the Commission ... would have demonstrated accountability and would not have compromised the independence of judiciary. History will judge the judiciary harshly. Its response to the hearing has again placed the questions of what accountability and independence mean in a constitutional democracy in the public domain for debate" [paragraph 107].

The Commission also expressed a strong view on the "almost complete failure of the magistracy to respond to [its] invitation":

"... the more so considering the previous lack of formal independence of magistrates and their dismal record as servants of the apartheid state in the past ..." [paragraph 48].

The institutional hearing on The Health Sector (Volume 4, Chapter 5, para 1) highlights the problem of health workers with dual obligations, citing the performance of the doctors in connection with the death in detention of Stephen Biko (paragraph 12) and Ms Elda Bani (paragraph 19) as cases in point. It concludes that "there are numerous accounts of districts surgeons who failed to fulfil their moral and ethical duties".

The chapter provides an historical overview of health care in South Africa and highlights the roles of the various state health organisations in this respect. The role of the South African Medical Services is described, concluding that:

"Military health professionals had a particularly difficult time in upholding international standards of medical ethics and human rights. While they were supposed to follow the same ethical codes as civilian medical workers, they were, at the same time, required to follow orders given by superiors. This created an atmosphere of dual loyalty for these individuals" [paragraph 38].

The chapter describes the misuse of medical and scientific information (which should be read in combination with the report on Chemical and Biological Warfare in Volume 2). The section on medical schools underlines the disparities in education between black and white medical students. The role of the nursing profession, mental health professionals and other health professionals is explored.

The chapter includes findings on all these bodies.

The institutional hearing on The Media (Volume 4, Chapter 6, para 1) explores the role of the different media organisations. It describes the various attempts by the state to control the media. The hearing heard, for the first time, that, in terms of the SABC Staff Code:

" ... between 1975 and 1985, if people were fortunate enough to be called to a disciplinary hearing, they could choose to be sjambokked (whipped) rather than fired. Those who refused to be sjambokked were dismissed without a proper disciplinary hearing. This startling revelation about sjambokking at the old SABC was confirmed after the hearing, when MWASA produced a list of those who had been punished in this way" [paragraph 32].

Findings on the media included, inter alia, the following:

"The management of the mainstream English language media often adopted a policy of appeasement towards the state, ensuring that a large measure of self-censorship occurred ... The role of the Newspaper Press Union – not least concerning security matters – reflects willingness by the mainstream media not to deal with matters that exposed the activities of the security forces ... [paragraph 113]

"The Afrikaans media (at least until the last few months of PW Botha's tenure as State President) chose to provide direct support for apartheid and the activities of the security forces ... [paragraph 115]

"The employment practices of the newspaper industry, with few exceptions, reflected the racial and gender discrimination that characterised South African society ... [paragraph 116]

"The SABC willingly co-operated with the security forces of the former state in the conscious employment of and/or co-operation with SAP and SADF spies, making it a direct servant of the government of the day ... [paragraph 117]

"With the notable exception of certain individuals, the mainstream newspapers and the SABC failed to report adequately on gross human rights violations. In so doing, they helped sustain and prolong the existence of apartheid" [paragraph 120].

In the chapter on institutional hearings on Prisons (Volume 4, Chapter 7, para 1), the Commission reports that its focus was on the testimony of sentenced political prisoners rather than detainees. This necessarily restricted agenda excluded pass law offenders, people detained without trial and farm prisons.

The chapter reports on the link between the prison system and apartheid, racial segregation in prisons and on the special treatment of political prisoners. The testimony of Ilse Wilson, the daughter of Bram Fischer, confirms that "political prisoners were consistently treated with unusual cruelty" (paragraph 30).

In the section on women in prison, the Commission concludes that:

"Their conditions were different to those of men and were very severe ... Women were deliberately 'diminished', subjected not only to physical discomfort and torture but also to extreme mental torment" [paragraphs 35 and 38].

The experience of Ms Zahrah Narkedien is described in detail in the chapter (paragraphs 38-43):

"I've been out of prison now for more than seven or ten years, but I haven't recovered and I will never recover ... I had to accept that I was damaged. A part of my soul was eaten away as if by maggots, horrible as it sounds, and I will never get it back again" [quote following paragraph 43].

After an account of death row, after a submission by Paula McBride, the report quotes the words of Ms Machabane Theresa Ramashamola, a member of the Sharpville Six who spent time on death row:

"At the present moment, I don't want to live, as far as life is concerned, if they would have hanged me at that time, it would be much better. It would have been painful then, but that would be it."

The chapter discusses the testimony of two witnesses who spoke about the ANC camps in Angola. (This section should be read in combination with the chapter on the Liberation Movements in Volume Two in which issues relating to the camps are discussed).

In addition to its institutional hearings, the Commission held three special hearings: on Compulsory Military Service, Children and Youth and Women.

The chapter on Compulsory Military Service (Volume 4, Chapter 8, para 1) describes the circumstances which gave rise to the social isolation of white youth, resulting in their preparedness to meet the state's military requirements. Again the role of the chaplaincy is raised (see also Faith Community earlier in this volume).

The role of the various war resisters is discussed, followed by individual experiences of Dr Ivan Thoms, Mr Peter Moll and others. The issue of post-traumatic stress disorder is discussed, illustrated, amongst other things, by a letter from "a mother" to Archbishop Tutu, in which she describes the problems her son developed:

" ... serious drinking, trying like so many others to forget. He could not come to terms with the horrors of war ... His wife divorced him, leaving a seven-year-old son without a father ... One morning a 'bum' will be found dead – a child of God whose only mistake was to fight for his country ... somewhere, someone should start a place for such boys, because when he marches his troops through the night there must be many others doing similar things" [paragraphs 49 and 51].

The special hearing on Children and Youth (Volume 4, Chapter 9, para 1) provided an opportunity to focus on the impact of apartheid on children and youth who were victims of or witnesses to gross violations of human rights.

The Commission's data base demonstrates that:

"... by far the largest category of victims to report to the commission fell into the thirteen to twenty-four age bracket" [paragraph 47].

The chapter describes the various forms of violations experienced by youth, and provides a focus on children and youth in exile and the hardships they suffered, often with lasting effects. Ms Dee Dicks, who was arrested and charged with public violence at the age of seventeen, is quoted as saying:

"I am not in control of my crying ... my self esteem and confidence is very low at present and it is very difficult for me ... And it has become quite difficult for me to cope and it is making me very angry, because at that time I could and now I cannot" [paragraph 89].

The chapter concludes that while:

"... those who grew up under conditions of violence will carry traces of their experiences into adulthood ... the period of struggle also nurtured resilience, wisdom, leadership and tolerance ... Many of these young people have become men and women of extraordinary calibre. Despite their suffering, they have shown extraordinary generosity and tolerance and have reached out to their former oppressors in a spirit of reconciliation" [paragraphs 117-118].

An appendix to the chapter describes a special investigation into the Bonteheuwel Military Wing (page 278).

The chapter on the special hearings on Women (Volume 4, Chapter 10, para 1)) records that, when the Commission became aware that, although over half of those who spoke to the Commission were women,

" ... the overwhelming majority of women spoke as relatives and dependants of those (mainly males) who had directly suffered

human rights violations, [while] most of the men spoke as direct victims ..." [paragraph 6].

The chapter draws attention to the silence of women in the face of gross violations of human rights. One area in which women were silent was on sexual abuse. And indeed, some of the women who testified, spoke of their sexual abuse for the first time (see paragraphs 51 and 69). The chapter contains reports of sexual humiliation to which women were subjected and their ever-constant fear of rape. It reports how women were degraded when menstruating.

The chapter records that psychological abuse was frequently used in the torture of women who were threatened with harm to their children and members of their family. It tells too of the experiences of women who were banished, abducted and in exile.

Finally the chapter reports on women who were perpetrators. However, it records that of the 7,128 applications for amnesty received by the Commission, only fifty-six (or one per cent) were known to come from women. Women spoke of cruelty by women warders, although Stephanie Kemp (paragraph 137) and Ivy Gcina (paragraphs 138-40) remembered acts of kindness.

## Volume Five

Volume Five consists of the concluding chapters of the report of the Truth and Reconciliation Commission, and includes findings, recommendations and the Minority Position of Commissioner Wynand Malan.

Analysis of Human Rights Violations (Volume 5, Chapter 1, para 1) describes the work of the Commission in respect of conducting hearings, corroborating evidence and making findings. It describes how statements were gathered, how hearings were advertised and prepared for and how witnesses were prepared for public testimony.

The first appendix to the chapter is a Coding Frame for Gross Violations of Human Rights (page 15), which demonstrates how the Commission defined gross violations of human rights. The second appendix provides a list of HRV hearings (page 24).

Victims of Gross Violations of Human Rights (Volume 5, Chapter 2, page 26) is a list of the names of some of those who were found by the Commission to have suffered gross violations of human rights. The introduction notes that there are thousands more names to come and that a complete list, together with a brief summary of findings, will appear in the codicil to the report.

The Interim Report of the Amnesty Committee (Volume 5, Chapter 3, para 1) reports on the status of the Amnesty Committee's work. It does not comment on or analyse its decisions as a full list of decisions will accompany the final report of the Committee when it has completed its work. The appendix to this chapter (page 119) contains a list of all amnesty applications granted at the time of publishing. An audit of amnesty applications can be found in Volume 1, Chapter 10.

Consequences of Gross Violations of Human Rights (Volume 5, Chapter 4, para 1) contains an account of psychological consequences and physical consequences told through the stories of those who suffered as a result of apartheid, including a description of family life and community life.

Reparation and Rehabilitation Policy (Volume 5, Chapter 5, para 1) proposes reparation and rehabilitation in five categories:

urgent interim reparation, individual reparation grants, symbolic reparation, community rehabilitation and institutional reform. It recommends urgent interim reparation and individual reparation grants to those found by the Commission to be victims of gross violations of human rights.

Findings (Volume 5, Chapter 6, para 1) contains the primary finding of the Commission (page 212), and is followed by findings in the following categories:

- \* findings in respect of the state and its allies (paragraphs 77-99), including the SSC and the policy of elimination ),
- \* the state and unlawful activities (para 100-101),
- \* former President PW Botha (para 102),
- \* former President FW de Klerk (para 103-104),
- \* destruction of documents (para 105) – see also relevant chapters in volumes 1, 2 and 3);

- \* findings on the role of allies of the state (paragraphs 106-109), including

the homelands,

- \* the Inkatha Freedom Party (paragraphs 110 - 122),
- \* right wing opposition groups (paragraphs 123-125),
- \* the 'third force' (paragraphs 126-129) – see also relevant chapters in Volumes Two and Three;

- \* findings on the liberation movements (paragraphs 130-135), including
- \* the ANC (paragraphs 136-138),
- \* the PAC (para 139-140),
- \* the UDF (para 141-144) – see also relevant chapter in Volume Two;

- \* findings in respect of civil society (starting para 151), including
  - \* the health sector (page 250),
  - \* faith communities (page 251),
  - \* the business sector (page 252),
  - \* the media (page 252),
  - \* the judiciary (page 250) – see also relevant chapters in Volume Four.

- \* Further findings (pages 254–257), including
  - \* children and youth (para 159-160),
  - \* women (para 161),
  - \* conscription (page 257).

Causes, Motives and Perspectives of Perpetrators (Volume 5, Chapter 7, para 1) examines who the perpetrators were and what 'made' them, stressing that such a diagnosis is of paramount importance in seeking to prevent future violations of human rights.

Recommendations (Volume 5, Chapter 8, page 304) opens with a request to the President to call a National Summit on Reconciliation (page 304).

The chapter includes recommendations on:

- \* the prevention of gross violations of human rights in the future (para 14),

- \* accountability (page 309),
- \* healing and rehabilitation (para 15),
- \* reparations and rehabilitation (para 22),
- \* Organisation, administration and management (para 24),
- \* prisons (para 25),
- \* faith communities (para 32),
- \* business (para 38),
- \* legal and judicial (para 47),
- \* security forces (para 62),
- \* the health sector (para 79),
- \* media (para 93),
- \* archiving Commission material (para 100),
- \* destruction of documents (para 105),
- \* the liberation movements (para 109),
- \* international human rights (para 112).

Reconciliation (Volume 5, Chapter 9, para 1) reports on the experience of reconciliation, chiefly through the stories of people who approached the Commission, both victims and perpetrators. It discusses the concepts of forgiveness and the value of acknowledgements and apologies and looks at the issues of reconciliation between victim and perpetrator, reconciliation without forgiveness and restitution or reparation. It also gives some examples of initiatives, in the faith, health and business sectors.

The volume ends with the Minority Position submitted by Commissioner Wynand Malan (page 436) and the Response of the Commission (page 457).

ends