

Justificatory Discourse of the Perpetrator in TRC Testimonies:
A Discourse-historical Analysis.

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DECLARATION

By submitting this thesis electronically, I declare that the entirety of the work contained therein is my own, original work, that I am the owner of the copyright thereof (unless to the extent explicitly otherwise stated) and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

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ABSTRACT

This study investigates the ways in which former South African Police (SAP) perpetrators of human rights violations justify their criminal actions in testifying before the Amnesty Committee (AC) of the South African Truth and Reconciliation Commission (TRC). In particular, attention goes to the testimonies of former Commissioner of Police Johan van der Merwe, and former member of the Security Branch section of the SAP, Jeffrey Benzien. A key assumption in the study is that the justification of human rights violations is a discursive practice that is largely language dependent (Reisigl & Wodak 200: xi).

The research draws on the theoretical aims and methods of Critical Discourse Analysis (CDA). It refers largely to Benke and Wodak's (2003) discourse-historical study on the justificatory discourse of ex-Wehrmacht officers of the Austrian army. This study therefore takes a discourse-historical approach to discourse and the data, an approach which takes into consideration the surrounding political and historical context of the selected texts, which are, in this case, the testimonies of perpetrators at the AC hearings. Besides an analysis of the justificatory discourses produced by two former police officers, the study reflects on how the discursive strategies of the apartheid perpetrators compare with one another and with the ex-Wehrmacht officers.

CDA and the discourse-historical approach provide interdisciplinary angles on linguistic analysis of a text. For this reason, a review is given of literature which relates the study to political, historical and philosophical insights. The analysis particularly makes use of Foster et al.'s (2005) socio-political study of apartheid perpetrator narratives.

The study reveals that perpetrators used a fixed set of justificatory discursive strategies to talk about human rights violations, and their role in such violations. These linguistic strategies are used for a number of different reasons, including reducing personal responsibility, avoiding talking about past atrocities, saving face where personal malicious and degenerate behaviour is made public and diverting feelings of personal guilt. On a discourse theoretical level the study eventually convinces that there are generic strategies typically used in justificatory discourse, whether it be in response to Wehrmacht atrocities of the Second World War or to security force excesses in repressing aspirations of disenfranchised citizens during the last thirty years of the Nationalist government in South Africa.

*Some stories don't want to be told.
They walk away, carrying their suitcases
held together with grey string.
Look at their disappearing curved spines.
Hunch-backs. Harmed ones. Hold alls.*

*Some stories refuse to be danced or mimed,
drop their scuffed canes
and clattering tap-shoes,
erase their traces in nursery rhymes
or ancient games like blind man's bluff.*

Excerpt from "Parts of Speech"
by Ingrid de Kok

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ABBREVIATIONS

AC – Amnesty Commission

ANC – African National Congress

CDA – Critical Discourse Analysis

COSATU – The Congress of South African Trade Unions

IFP – Inkatha Freedom Party

SACP – South African Communist Party

SADF – South African Defence force

SAP – South African Police

SFL – Systemic Functional Linguistics

TRC – Truth and Reconciliation Commission

NP – National Party

CHAPTER ONE

Introduction to the research problem

1.1 Background

For at least the past twenty years, scholars within the field of Linguistics have directed attention towards the discourse of abuse and violence, particularly as it relates to countries with turbulent political histories (see, for e.g., Van Dijk 1985; Wodak 1989; Martin and Wodak 2003; and Anthonissen and Blommaert 2007). Within the South African context, attention has been focused on the discourses of apartheid and the Truth and Reconciliation Commission (TRC) hearings. Such studies are concerned with how, after a history of brutality and violence, individuals come to terms with the traumatic events of their respective pasts (e.g. Ross 2006). This inevitably includes a strong focus on the narratives of the victims (e.g. Blommaert et al. 2006; and Van der Merwe and Gobodo-Madikizela 2007). However, from a linguistic perspective, there is comparatively little contribution with regards to the testimonies of the apartheid perpetrators, or regarding the ideologies, subjectivities and discourse of the perpetrators themselves¹.

The aim of this thesis is to present a discourse analytic study of some of the perpetrator testimonies that were presented during the Amnesty Committee (AC) hearings of the TRC. More specifically, attention will go to how the perpetrators justify their role in particular human rights violations. This study would, however, be incomplete without an investigation into the historical, psychological and sociological aspects of the ‘perpetrator’ and ‘truth’ as well as relevant aspects of the South African TRC process and the Amnesty Committee hearings. These various aspects are addressed below and in Chapter Two.

1.2 Situational context

In 1995 the Promotion of National Unity and Reconciliation Act assigned the TRC the duty of helping South Africans come to terms with the actual facts of critical events of their apartheid past, events which may be otherwise denied or forgotten, with detrimental effects

¹ In fact, Foster et al. (2005:42) bring to light the moral questions and difficulties surrounding studies on the perpetrator, and explain that an attempt to understand the perpetrator may reduce the attention given to the victims, diminish public outrage towards their acts, or potentially draw sympathy - particularly in situations where their actions are not justified.

to all who were engaged.² More specifically, the TRC was given the task of investigating human rights violations that occurred during the period between 1960 and 1994, and to help the nation understand the circumstances and motives that led to gross human rights violations, as well as the persons, institutions and organisations involved. The TRC was created to reveal the truth about the past and foster a sense of healing and reconciliation amongst the people of South Africa. The TRC compiled a report of seven volumes of their findings; the fifth volume outlines the motives and perspectives of the perpetrator and is the most relevant volume to this study. The fifth volume suggests that the task of the TRC was to bring to light the underlying factors that contributed to the violence and state excesses of the former government in such a way that it would prevent history repeating itself. The ideal was to promote an “understanding which transcends the conflicts and divisions of the past” (Desmond Tutu in Doxtader & Salazar 2007: xi).

The Amnesty Commission was largely responsible for dealing with the stories and testimonies of the perpetrators. Strict guidelines were developed for assessing the perpetrators before the amnesty hearings began. In order to be considered for amnesty, the applicant was required to fit into one of the prescribed categories, the incident must have been associated with a political objective and at the same time had to relate to the political context of apartheid (TRC Report, Vol 1: 82). The applicants had to fall in at least one of the categories of supporter, member or employee of one of the political parties involved in the political conflict of the thirty four years preceding 1994. Certain criteria were set out for assessing whether an applicant’s crime was politically motivated (TRC Report, Vol 1: 52). These included an analysis of the applicant’s motives, the context in which the incident occurred, the objective of the crime, the existence of orders given to the applicant leading up to the crime being committed, and whether the crime was proportional to the needs of the political party of which the perpetrator was a member. The applicant was not given amnesty if s/he had acted for personal gain, out of hatred, ill will or spite towards the victim (Doxtader & Salazar 2007: 260).

Amnesty applicants were legally required to provide a complete and honest account of the incidents for which they required official pardon, a “full disclosure” concerning their involvement, a description of the role of others involved in the planning and execution of the relevant incidents, as well as any attempts at concealing or destroying evidence relating

² For a more comprehensive account, or historical and social aspects of South Africa’s apartheid past, see Asmal, Asmal & Roberts 1996; Posel 1997; Sparks 1991; Bell & Ntsebeza 2001 and Giliomee 2003.

to the incidents (TRC Report, Vol 1: 7). If the applicant acknowledged involvement but denied guilt regarding an incident, the application would not be considered for amnesty. Applications that did not amount to a gross violation of human rights were granted amnesty without a hearing; acts that were not associated with a political objective were refused amnesty (TRC Report, Vol. 5: 13,29,30). Furthermore, the incident had to have occurred within the specified time period mentioned above, specifically: 1 March 1960 (the date of the Sharpsville massacre) to 10 May 1994 (the date of the inauguration of Nelson Mandela) (TRC Report, Vol 1:136).

By the closing date of 30 September 1997, the AC reported 7116 applications for amnesty (TRC Report, Vol 6: 182). A total of 256 came from members of the former South African Police (SAP), 229 of which were from the Security Branch sections, and roughly half of the applications for amnesty were related to Eugene de Kock³. Thirty one applications were received from members of the former South African Defence Force (SADF) (Foster et al.. 2005: 15). All of the applications from former members of government were from males, 86 percent of whom were white (Foster et al. 2005: 15). Seven black Security branch operatives and five black *askaris*⁴ - all from Vlakplaas⁵ - submitted applications (Foster et al. 2005: 15). Only three applications were received from top-ranking officials. This thesis will look closely at the testimonies of one such top-ranking official, and one SAP Security Branch member.

1.3 The language of the apartheid perpetrator

This study is largely shaped by a Critical Discourse Analytic (CDA) view of language, which draws on Halliday's Systemic Functional Linguistics (SFL) and which claims that the speaker's lexical and syntactic choices are indicators of their respective world-views and ideologies. In accordance with the general ideas of CDA, Sornig (1989: 95) states that

³ Eugene de Kock joined the SAP in January 1968 and was one of the operatives who took part in (among other events) the bombing of the ANC offices in London. For this he was awarded the highest decoration, the SAP Star for Outstanding Service. In May 1994, de Kock was arrested, tried in criminal court, and subsequently sentenced to two life sentences. He applied for amnesty for incidents associated with over seventy killings (TRC Report, Vol 6: 219-220).

⁴ An Arabic-derived East African name for a soldier or a policeman. During the period of internal conflict, the term referred to former members of the liberation movements who came to work for the Security Branch in providing information and identifying and tracing former comrades (TRC Report, Vol 6: 217).

⁵ A 44-hectare farm and Security Branch centre outside Pretoria which was mostly used as a basis for illegal operations (TRC Report, Vol 6: 217).

“there is no such thing as a ‘pure’ unbiased statement: the process of verbalising thoughts and transmitting ideas involves the simultaneous (signalling) of purposes, aims and wishes along with the message itself.” This means that during the “speech event”, the speaker consciously or unconsciously focuses on certain semantic features of an utterance, while others are obscured by the context in which the utterance occurs. The ideologies of both the speaker and the hearer are instrumental in manipulating the focus given to semantic features (Sornig 1989: 95).

With this in mind, the testimonies of the perpetrators are viewed in this study as justificatory “narratives”⁶ about a particular event. The speaker draws on a set of argumentation strategies that are less typical of narrative in the traditional sense of the word. In the amnesty hearings applicants put forward evidence that would limit their culpability; in complying with the requirement of “full disclosure” they offered a particular version of, or perspective on, an incriminating event while at the same time attempting to justify their role or participation in that event. According to social constructionist perspectives, narratives do not only work as representational devices, but also as ways of constituting reality. This does not mean that what actually happened is altered by the use of words, but rather that the hearer’s outlook on reality and their interpretation can be controlled by narratives and through discourse (Sornig 1989:96). Reality is thus constituted through the depiction of a particular version of an event or person, and these depictions are powerful enough to organise both experiences and memories (Foster et al. 2005: 274).

During their testimonies, perpetrators may view certain components of the story as optional, or may order the narrative in a particular way. Arranging a sequence of events, re-framing them, or even omitting certain components of the story, are strategies which occur in the perpetrators’ testimonies for a number of reasons - often in order to justify certain actions, or legitimise the speakers connection to the events. Perpetrators may also alter their narratives due to external, situational restrictions, such as fitting the overarching “discourse of reconciliation” that dominated the TRC hearings, the presence of judges who could interrupt them, and probing questions from the victims⁷. This has been contrasted to the hearings of the victims, who were allowed the freedom of uninterrupted monologue. The perpetrators may also have

⁶ The concept of ‘narrative’ is arguably a more appropriate term for the discourse of the victims as they rarely worked with prepared written statements; the term “narrative” is used to describe accounts which justify an applicants actions and which serve as arguments in favour of the granting of amnesty, and so do rely on the speaker’s particular perspective (see Reisigl’s (2004) notion of ‘argumentation’). Therefore, ‘narrative’ is conceptualised in a more narrow sense than in, for example, Narrative Theory or SFL (see Labov 2002).

⁷ See, for example, the questions posed by Ashley Forbes and Toni Yengeni to Jeffrey Benzien, the policeman responsible for their torture (Section 4.2).

organised their narratives to avoid further prosecution, since a full disclosure could still lead to further legal embattlements (Foster et al. 2005: 276). Furthermore, since the fall of apartheid, not many would admit their willing involvement in the crimes of that regime, or admit to being avid supporters of its policies (Foster et al. 2005: 276). The unwillingness to deal with the past, as well as feelings of guilt, were contributing factors to the ways in which perpetrators used particular discursive strategies in order to justify or excuse their actions – usually by claiming to have followed orders, denying to have caused serious injury, avoiding to acknowledge personal involvement, or claiming that proper information was not supplied to them (Foster et al. 2005: 274).

1.4 Research aims and questions

The aim of this study is to present an analysis, by means of a discourse-historical approach, of the TRC testimonies of the perpetrators of human rights violations that occurred during the designated period. The main question of the study is:

How do the perpetrators of apartheid crimes discursively justify or legitimise their role in human rights violations?

In particular, this study focuses on the narratives of white perpetrators who were part of the South African Police (SAP) force from 1970 to 1990. This is done both to narrow the field of study, and to assure comparative equality in linking this to with the Benke and Wodak study (2003) on how Austrian ex-Wehrmacht officers remember, talk about and justify human rights violations during the Holocaust. During their testimonies, the perpetrators used numerous linguistic strategies, including rationalisations, equating strategies and denials, to present themselves in a particular way (see Chapter Three). These discursive strategies will be analysed according to how they justify the speaker's role in human rights abuses, how they differ amongst the perpetrators studied, as well as how they differ in comparison to the ex-Wehrmacht perpetrators in Benke and Wodak's (2003) study.

1.5 Methodology

The methodological framework of this study is predominantly the discourse-historical approach to discourse which provides an interdisciplinary and crossdisciplinary perspective on discourse (Benke & Wodak 2003: 120; Reisigl & Wodak 2001: xi). This means that the theories, methods and insights of other fields besides Linguistics are used to analyse the

sworn statements of the perpetrators in the TRC hearings. I propose that the discourse-historical approach is a method of linguistic analysis that allows for the identification of particular linguistic strategies or “discursive macro-strategies” (Wodak 2001b: 71) in the confessions of the perpetrators during the TRC hearings. My thesis will attempt to show how these linguistic strategies work, their particular structural and linguistic features, and how, in particular situations, they achieve understanding or forgiveness in the minds of the victims or the audience. I also look at how these devices used by apartheid perpetrators compare to those used by ex-Wehrmacht officers.

A linguistic strategy may be both consciously and unconsciously applied in discursive acts, and can be defined as the means by which social ends are realised (Benke & Wodak 2003: 121). These social ends may be embedded in the use of language (Benke & Wodak 2003: 121). For example, the phrase “I was just doing my duty” can be seen as a linguistic strategy to uphold the speaker’s self image and present themselves in a positive light. Benke and Wodak (2003: 121) group linguistic strategies in four groups according to their dominant social function. These four groups are constructive strategies, perpetuation strategies, transformation strategies and destructive strategies. Constructive strategies construct groups, self-images and identities. Strategies of perpetuation, also termed “preservative strategies”, try to maintain already established groups and images and aim to conserve and reproduce identities or narratives of identity (Wodak 2001:71). Transformative strategies try to transform the current state of affairs or national identities, while destructive strategies are used to destroy an already established state of affairs or image (Benke & Wodak 2003: 121; Wodak 2001: 71-72).

As with the ex-Wehrmacht officers, it will be shown that the apartheid perpetrators generally try to create a particular image of themselves and the past using constructive strategies. They defend their self-image and the image of the police force or the special force teams of which they were members using perpetuation strategies. Finally, the perpetrators may attempt to create a new image of the past, either through a transformation strategy or the discursive destruction of an old image, thus using destructive strategies (Benke & Wodak 2003: 122).

During the TRC hearings, perpetrators were expected to acknowledge the reality and full extent of their crimes in exchange for amnesty. In accordance with the findings of Benke and Wodak (2003: 117), many apartheid perpetrators resisted acknowledgement, behaving

as if they felt threatened or as if they themselves were victims of some circumstance. At his hearing, Joe Mamasela⁸ maintained that he was a victim of the political system of the apartheid government: “I am a victim. Victim. Victim” (quoted in Foster et al. 2005: 47). Other perpetrators, at times, focused on their financial losses and relationship difficulties suffered after the fall of apartheid and their own fall from protected positions:

In person I've gained nothing. I've lost all I had. I am 51 years old, I haven't got a house, a car. Not I think that I deserve one, I am just saying. I didn't end up with golden handshakes of R1,2 million and R2 million, and luxuries. (Dirk Coetzee⁹)

Many perpetrators felt uncomfortable when confronted with direct questions about the disappearance or death of a victim. This would change the way in which they narrate their story. In such situations, there is an increase in justificatory and legitimising discourse and a stronger inclination to talk about themselves rather than the actual events of the incident (Benke & Wodak 2003: 119).

1.6 An interdisciplinary perspective

This thesis is not an attempt to understand the “inscrutable machinery of politics” (Krog 2002: 101). Rather, it is an attempt to understand what kinds of words and identities lurk behind the atrocities of political violence and how individuals justify such violent acts. In doing so, it does not provide a singular explanation for violence and moves away from biased, stereotyped perceptions of the perpetrator. Drawing on Foster et al.’s (2005) study of the political violence in South Africa, the thesis will problematise and question the discursive construction of common conceptions of perpetrators (see section 2.1), particularly those that were instigated and proliferated during the TRC hearings. The aim of this study is not to assess the statements of the perpetrators as “true” or “false”, as “good” or “bad”, as “credible and justified” or “incredible and lacking any justification”; rather it is to examine the construction of various perceptions, realities and forms of subjectivity through discourses, as well as the purposes they serve.

⁸ Described by Antjie Krog as “the mouth of Black evil” (2002: 170), Mamasela was an *askari* on Vlakplaas and was held accountable for the deaths of many black South Africans including Jeffrey Hlophe, Samuel Ledwaba, Matthews Lerutla and the human rights lawyer Griffiths Mxenge.

⁹ Quote taken from Dirk Coetzee’s AC testimony: <http://www.doj.gov.za/trc/amntrans/durban/coetzee1.htm>. Dirk Coetzee was a co-founder and a commander at Vlakplaas. He was involved in, and requested amnesty for, a number of human rights violations including the killing of Sizwe Khondile and Griffiths Mxenge.

Besides presenting an enquiry into the discursive construction of stereotypes regarding the apartheid perpetrator, this study questions the discursive construction of a singular reality, perspective or “truth”. During the TRC hearings, the narratives of the perpetrator were contrasted with those of the victim, casting doubt on the existence of an impenetrable and unchanging “truth”. Furthermore, the act of “telling” the truth is never neutral, and the selection and ordering of narrative sections determines the interpretation of the hearer (Krog 2002: 85). In fact, the truth appears to be an outlook from a particular spatial and moral position, a position that differs between genders, races and theoretical approaches (Foster et al. 2005: ix). For the sake of clarity, I take a hermeneutical approach to truth which conceptualises ‘truth’ as a creative activity that occurs both linguistically and historically (DiCenso 1990: xvi). This theoretical approach to the notion of truth is compatible with the hermeneutic basis of CDA in general, and the discourse-historical approach in particular, and provides the means through which understanding the “truth/s” of the perpetrator can take place (Reisigl & Wodak 2001: 27; Wodak 2001: 4; Meyer 2001: 16).

Finally, I briefly consider the role that the stories, the confessions, or “truths” of the perpetrators played with regards to South African national identity and South African collective memory. This is a question that Benke and Wodak (2003: 117) introduce in relation to the narratives of the Austrian soldiers. Re-shaping a South Africa collective memory is part of what the TRC and the notion of “telling the truth” was aiming to do, because a shared memory can serve as a means of laying a contested past to rest and create a positive self-identity. I question whether the truth about the crimes of apartheid contributed to or challenged the creation of a positive collective South African identity. The TRC hearings articulated the voice of individual memories in 1996 (the year of the first public victims’ hearings) and in the context of developing a “new South Africa” or “rainbow nation” in the collective memory. Many perpetrators were granted amnesty in the hopes that this would contribute to the development of a new, brighter future. However, each of the perpetrator’s “truths” presented a narrative about a lived history and contributed to the construction of history, in a way that emphasises the conflicts about differing interpretations and narratives of past events, and the past in the collective sense (Benke & Wodak 2003:116). Therefore, although the issue of memorialisation is considered, it is not a central focus of this study.

1.7 Chapter Outline

In this final section of Chapter One definitions are provided of particular terms that are used in this study. Chapter Two gives a critical overview of the cross-disciplinary literature relating to the topic of the study. First, Chapter Two examines the notion of a one, all-

encompassing ‘truth’ that is often problematised during an analysis of the narratives of the perpetrator, particularly when they are contrasted with the narratives of the victims. In Chapter Two, I also cover and problematise common perceptions of the perpetrator, and I provide a critical outline of discourse analysis, the Critical Discourse Approach (CDA) and the discourse-historical approach. Chapter Three gives a synopsis of the research methodology used in this project, which is predominantly based on the discourse-historical approach and Benke and Wodak’s (2003) study of the narratives of ex-Wehrmacht officers. Benke and Wodak’s (2003) study works as a model for highlighting possible methods of linguistic analysis that uncovers explicit and implicit justification of human rights violations within the discourse of the perpetrator. Chapter Four provides the relevant data and an analysis of two case studies of justificatory discourse by two apartheid perpetrators during the TRC commission, namely those of Johan van der Merwe and Jeffrey Benzien. Finally, in Chapter Five, I present some concluding remarks on findings of the study and suggest areas for further research of the same nature.

1.8 Core terminology

(a) Apartheid

The Afrikaans word “apartheid” literally means “separateness” in English and refers to a system of legalized racial segregation instituted by the governing National Party in South Africa between 1948 and 1990.

(b) Discourse

In this study I use the term “discourse” to refer to a particular type of language that is used to talk about a particular subject. This involves a concern with the context of the occurrence of certain utterances - in this case the TRC hearings. A particular discourse has an affect on the way people think and articulate their thoughts. Discourses are not only mirrors of social relations, but also carriers of political and ideological beliefs that represent power relations which are not often evident to the participants in a conversation (Jaworski & Coupland 2006: 474). A particular discourse can be said to encode a speaker’s way of looking at the world and his/her organization or representation of experience, the source of which is “the communicative context within which the discourse is embedded” (Fowler quoted in Mills 2004: 5). This is why discourse is said to be “a way of signifying a

particular domain of social practice from a particular perspective” (Fairclough in Wodak 2001b: 66).

(c) Hermeneutics

Rooted in the problems of biblical interpretation, hermeneutics developed into the theory and method of interpreting all texts as well as human action and experience (Abercrombie, Hill & Turner 2006: 181).

(d) Human rights violations

A “human rights violation” can be defined as a breach of the rights and freedoms set out in the UN in the Universal Declaration of Human Rights in 1948. These encompass different categories of entitlements, ranging from the protection of life and limb to the prohibition of torture or arbitrary detention, the right to a fair trial, and freedom of opinion, assembly and religion. Such rights include a range of economic, social and cultural rights, also the right to work, food, health and education (Kälin, Müller & Wyttenbach 2004: forward).

(e) Ideology

Simply put, an ideology is a set of beliefs or attitudes shared by members of a particular social group. Ideologies are created and recreated, and are a type of social practice which produces social meanings and distributes them through society via discursive and non-discursive practices (Hall 2006: 397-398). Ideologies produce various forms of social consciousness, and tend to be taken-for-granted forms of reality that take the form of unconscious, naturalised representations to members within a particular society (Hall 2006: 397). An ideology is not always self-evident to the individual; they are deeply ingrained in thought-patterns, beliefs and language and are usually created by the more powerful members of society. This is why ideologies can produce unequal relationships of power, domination and exploitation (Wodak 1996: 18). One of the main aims of Critical Discourse Analysis (CDA) is to make explicit the ideologies that are hidden in social interaction (Bloor & Bloor 2007: 10).

(f) Perpetrator

A perpetrator is commonly conceptualised as the doer or performer of an evil act. In this case evil can be defined as intentionally behaving in ways that demean, dehumanize, harm

or kill innocent people or victims (Zimbardo 2004: 22). In this study I problematise and question common connotations associated with the word “perpetrator” (see section 2.2).

(g) Social constructionism

This term refers to the view that aspects of the world are artefacts of social practices, including language and institutionalised worldviews (Blackburn 2005).

(h) Structuralism

From a sociological perspective, structuralism views societal structures as prior to individual action. Structuralist theorists hold that there is a set of social structures that are not directly observable, but which generate observable human phenomena (Abercrombie, Hill & Turner 2006: 383).

(i) Terrorism

Terrorism includes those acts which are intended to create fear (terror), are perpetrated for an ideological goal (as opposed to an isolated attack for selfish gain), and deliberately target or disregard the safety of non-combatants. Some definitions also include acts of unlawful violence and war. The ANC was classified as a terrorist organisation by the South African government as well as by some Western countries allied to South Africa.

CHAPTER TWO

Literature review

Chapter Two focuses on literature that is pertinent to this study. Considering that this study is on generic features of justificatory discourses produced by perpetrators of violent crimes, it is necessary to clarify what the concept ‘perpetrator’ entails. Also, it is necessary to give a clear exposition of the theoretical framework, Critical Discourse Analysis (CDA) and specifically the approach identified as “discourse-historical”, that will be used in analysing the texts illustrative of the kind of justificatory discourse typically found in TRC hearings.

From the literature regarding the perpetrator of apartheid crimes, major issues arise regarding the notion of the ‘perpetrator’ and the concept of ‘truth’. First, I shall consider the meaning of the term “perpetrator” in the apartheid context, and who is to be included when this term of reference is used. In my investigation of this topic, I draw predominantly on a study of apartheid perpetrator narratives by Foster, Haupt and de Beer (2005), who question and problematise common conceptions of the apartheid perpetrator, mainly from a social-psychological perspective. Second, I shall consider the question of one all-encompassing truth, of whether only one version of a narrative can be “the truth”, when dealing with the narratives of the perpetrator (Posel & Simpson 2002 & Posel 2002). The ‘truth’ was a highly contested concept at the TRC hearings since it was represented in often conflicting personal accounts of both the victims and the perpetrators. Third, I shall consider what a hermeneutic approach to ‘truth’ is, i.e. a reflexive approach which is potentially able to offer a solution to the problem of multiple perceptions that dominated the TRC hearings. Finally, I shall describe the relevant aspects of the field of Critical Discourse Analysis, and show how the theoretical frameworks developed by i.a. Wodak (1989; 1996), Van Dijk (1985) and Fairclough (1989, 1995), founded on work of the philosopher Foucault, are useful for analysing the discursive data from the Amnesty Committee hearings.

2.1 The perpetrator

“What kind of man are you?”¹⁰

In terms of the binary oppositions that are usually associated with the word “perpetrator”, the person identified as ‘perpetrator’ is often thought of as the active subject in a violent confrontation, who is contrasted with the victim, or the passive opposite and the recipient of undeserved harm (Foster et al. 2005: 2-63). The perpetrators are the performers or executors of the action, those responsible for the crime or accountable for deliberately inflicting harm. On the other hand, the victims are those who are harmed by an act, the ‘sufferer’ who experiences the power of the perpetrators. In many ways the TRC was heavily dependant on simplistic binaries between “victim” and “perpetrator” and “right” and “wrong.” According to Posel & Simpson (2002:8) the TRC process proceeded without an investigation into the complexities and ambiguities of the apartheid system, or ambiguities regarding collaboration and participation with the apartheid regime. Furthermore, the TRC did not adequately explore the complexities of the perpetrator, a situation where individuals were caught up in systems that both motivated and constrained their actions in ways that may not have been known or identified by the perpetrators themselves. This point is taken up again by Geschier & Lubbe (2002: 277):

The individual, encapsulating different voices thus is “the meeting point of many, sometimes conflicting socially and historically defined discourses”...The complexity of an individual’s make-up, his different ‘voices’, combined with the identities attributed to different groups by the apartheid narrative, has serious implications for the success of a process such as the TRC.

The TRC defined the perpetrator as those responsible for human rights violations and who had a political motive for such violations. Foster et al. (2005: xi) express concern towards the term “perpetrator” as it is applied to those responsible for violence, arguing that it places onus squarely on those who committed the violent deeds, and simultaneously disregards the political and cultural circumstances of those concerned. Foster et al. (2005:58) argue that “the perpetrator is fundamentally an ordinary person who is transformed through complex situational circumstances which enable violent deeds”. For this reason, they conceptualise the perpetrator as a protagonist, an actor in a theatre of

¹⁰ Toni Yengeni to Jeffrey Benzien, the policeman responsible for his torture (see Section 4.2).

conflict in which politics shape and constrain certain circumstances. By doing so, Foster et al. (2005: xi) achieve their aims of treating violence in relational terms:

Preoccupied with the important need to identify *who* did *what* to *whom*, we often fail to realise how few political perpetrators and protagonists were either psychopaths or predisposed in some obvious way to violence. In many instances, they are normal, socially balanced people who are responsible for violent deeds. They were exposed to a range of experiences and conditions that opened for them the possibility of deviant behaviour. Perhaps the potential for perpetrations is more widespread than we would like to believe.

Foster et al. (2005: 63) suggest a wider range of subject positions beyond simply perpetrator, such as facilitator, gatekeeper, go-betweens and those that contribute to, or enable, violence and human rights violations. Foster et al.'s (2005) study also questions the role of the bystander with regards to human rights violations¹¹. By doing so, Foster et al. (2005: 63) aim to question and problematise the common conceptions of the perpetrator, by drawing the reader's attention to how the stereotype of the perpetrator change throughout history. These changes in perception are often linked to the political climate of the time and images proliferated by the media.

Foster et al. (2005: 44 – 52) draw attention to common representations of the apartheid perpetrator that were created by the media, by the public through collective consciousness and memory, and by the perpetrators themselves - particularly at the Amnesty Committee hearings. Stereotypical representations of the perpetrator during the apartheid-era are that of undisciplined, mindless, black and male, for example, the apartheid-era representation of Nelson Mandela as a terrorist, a depiction which was enhanced by the media who focused on his violent reactions against the apartheid government as well as the attacks on civilians. After the fall of apartheid, the Afrikaner white "right winger" was perceived as the archetype of the perpetrator, in particular, the image of 'prime evil' Eugene de Kock. Perpetrators are also often represented and conceptualised as religious (especially after providing pious reasons for their actions); as a good, kind person; as a victim; as obedient servants and professionals; as mad; as fearless and to be feared, as criminals, as evil, as cruel, savage and brutal, and as monsters.

¹¹ Many questioned whether the white community during the era of apartheid, particularly those who witnessed atrocities but never questioned them or actively fought against them, must also be considered perpetrators. The same question is often asked concerning the passivity of gentiles during the Holocaust, a phenomenon which led Zygmunt Bauman to claim: "Mass destruction was accompanied not by the uproar of emotions, but [by] the dead silence of unconcern" (Quoted in Waxman 2008:3).

Foster et al. (2005: 24-43) point out that all the interviewees involved in their study refused the label of perpetrator. This label was often refused at the TRC hearings as well, on both sides of the racial divide. Black men who are usually given the label of “perpetrator”, those who fought on the side of the liberation movements, maintain that they were fighting a just war against the hegemony of the apartheid regime, and can therefore not be called perpetrators (Foster et al. 2005: 43). Even the TRC Report admits that in some cases there were perpetrators who were simultaneously victims (TRC report Vol 5: 134). For example, Joe Mamasela, maintains that he was a victim of the apartheid state and claims self-defence, even after confessing to responsibility for over 30 deaths. “He justifies his position as ‘a mere *askari*’ by presenting himself as a prisoner of war, who ‘had not alternative to obey’” (Vollenhoven quoted in Foster et al. 2005: 47).

The majority of people associated with the apartheid regime do not consider themselves perpetrators either. Particularly during the TRC commission, not many were willing to admit their involvement in apartheid crimes. There was outright denial from many people involved in the atrocities of the past, as well as denial by South African citizens that these atrocities even existed. The TRC Report provides an explanation for this: that the mobilisation of members of the white community to uphold the system began when they were still children and that the apartheid media presented a distorted view of South Africa and South Africans, who were also encouraged to become cadets and forced to join the apartheid forces through conscription (TRC Report Vol 5: 167). This “distorted view” is most evident in the TRC testimonies of some Afrikaans right-wingers.

We couldn't allow the Whites here at the southernmost point of Africa to disappear. Africa would then lapse into its dark years, the light would disappear...so at that stage the view was also that we should inform people about the bloodbath, that we were 100% sure of what would follow the ANC takeover, that every White man would be murdered here, and then we should call for a Volkstaat, a place of safety for the Afrikaner, and apart from that, on a more international level, we wanted to become involved in the overall struggle on behalf of the Whites that the struggle for Whites in South Africa would serve as an example of that struggle.

The extract above is taken from the testimony of Cornelius Johannes van Wyk¹², who later testified that he became influenced by right wing beliefs at the age of twelve, beliefs that

¹² <http://www.doj.gov.za/trc/amntrans/pta/vanwyk.htm>

led him to commit, and admit to, heinous crimes while at the same time resisting the label of perpetrator. Refusal of the label is done in many ways, such as resisting acknowledgment, not claiming responsibility, or outright denial - strategies which will be covered in more detail during the outline of the discourse historical approach and the analysis of further testimonies (Chapter Three and Four). Foster et al. (2005: 276) comment that during their own study of perpetrator narratives “all the protagonists convey the impression of quite reasonable and indeed pleasant and engaging people, who generally offered reasonable and sensible accounts of their involvement”. This may not be a conscious distortion of the truth, but an example of the complexities of individual experiences during apartheid. Those given the label of perpetrator don’t often see themselves as inherently bad or evil, but as rather ordinary, loyal workers who felt duty-bound to obey instructions from apartheid leadership (Foster et al. 2005: 55). This is why many perpetrators justify gross human rights violations with statements similar to “I was just doing my job.”

Furthermore, Foster et al. (2005: 56) point out that, in modern times, violence has been transformed into a “technique” – a “reasonable” set of actions, and a bureaucratic dissociation that occurs in three ways: (1) Divisions of labour which create distance between people in a command chain as well as distance to the outcome, (2) a larger focus on efficiency over moral responsibility and, (3) the dehumanisation or objectification of people (Foster et al. 2005: 56). This view is in accordance with Hannah Arendt’s analysis of ex-Nazi officer Adolf Eichmann¹³ in her book *Eichmann in Jerusalem: A report on the banality of evil* (1963). Arendt hypothesizes that extreme acts of evil, in this case the Holocaust, are often performed by ordinary people who accepted the ideologies of their state and subsequently felt that their actions were normal, or merely part of their duty. According to Arendt, Eichmann’s actions resulted from a lack of reasonable judgment, that he was merely following orders without thinking about the effects this might have on the people he harmed. Arendt thus understands the term “perpetrator” as those who refuse to

¹³ Eichmann is often referred to as “the architect of the Holocaust” since he was responsible for planning and implementing the deportation of Jews to extermination camps. After the end of WWII, Eichmann escaped to Argentina, where he was found by the Israeli government and subsequently tried in Israel. He was convicted of crimes against humanity and hanged in 1962.

make moral judgments (Waxman 2008: 10). In this case the extermination of the Jews became indistinguishable from any other bureaucratic duty¹⁴.

Foster et al. (2005:66) suggest that the origins of apartheid violence are not to be found within the individual perpetrator, but in the complex relationships between individuals and their society, as well as the influence of social and political ideologies like those apparent in the time of apartheid. The TRC Report (Vol 6: 262) also emphasised that individual identity is not self-constituted, but is based upon social and cultural interaction which has a strong influence on an individual's behaviour. In the case of the police force, lower ranks were inducted into covert and unlawful operations via their normal command structures, thus legitimising and normalising such activities. Combined with the heightened sense of being at war and the hierarchical structure of the Security Branch, those who were drawn into such operations in the end had feelings of pride and honour.

Foster et al's relational model for understanding the perpetrator emphasises the individual as a social, cultural being who is immersed in complex power relations in which language is used to constitute reality (Foster et al. 2005: 66). Importance is placed on ideology, the construction of identities and subjectivities as well as the construction of the image of the 'other,' which in this case is the 'victim' or the 'enemy' (Foster et al. 2005: 71). This relational model is in agreement with current theories of social psychology¹⁵ which emphasises the psychological transformations that can occur once individuals are embedded in situationally defined roles (Miller 2004: 8)

Critical Discourse Analysis represents an analytic approach that considers social and psychological aspects of the context in assigning meaning and attributing intended, even if indirect meanings to particular discourses. Therefore, in the analysis of the perpetrator discourses, this model is particularly helpful. Considering that almost one fifth of the perpetrators who applied for amnesty were members of the police force, it is important to reflect in more detail on the role of members of the police force in human rights violations

¹⁴ Arendt's claims were also corroborated by Milgram in the same year, who after performing a study where participants were coerced by an authoritative figure to shock a volunteer, 65% of participants obeyed orders, even if they were uncomfortable doing so. This led Milgram to claim that "if in this study an anonymous experimenter could successfully command adults to subdue a fifty-five year old man, and force on him painful electric shocks against his protests, one can only wonder what government, with its vastly greater authority and prestige, can command of its subjects" (Miller 2004: 1993).

¹⁵ A branch of psychology which emphasises the influence of the person's context or social environment on his/her behaviour. Social psychology focuses on the normative behaviours characteristic of most people rather than a specific type of person (Miller 2004: 2-4).

that were investigated by the TRC. The following section will attend to this kind of perpetrator.

2.1.1 Police as perpetrators: The role of the police force in human rights violations.

The 1980s was a time of extreme violence and turmoil within South Africa. Resistance from the side of the oppressed increased in order to counter the oppressive regime of apartheid, while violence on the side of the SADF and the SAP increased in order to counter the “revolutionary” and “terrorist” aims of the ANC and other liberation movements. The source of the violence was attributed to different sides of the divide, depending on individual perspectives and political loyalty.

While blame was commonly attributed to the side of members of the ANC or the “terrorists” during apartheid, the testimonies at the TRC hearings after apartheid revealed another cause for the violence – the side of the former police force. This new truth allowed for those who were formerly conceptualised as “terrorists” to be conceptualised as “freedom fighters” – people who were forced into positions of resistance due to the enforcement of unjust and discriminatory laws.

The TRC found the state, its security agencies and policy and strategy formulation committees to be the primary perpetrators of gross violations of human rights (TRC Report, Vol 6: 181). Police violence was viewed as “excessive” by the TRC, as well as disproportional both in number and methods, particularly when compared to violence directed towards the police (TRC Report, Vol 5: 263). The TRC was of the opinion that the development of counterrevolutionary warfare against the ANC and its armed forces provided the framework in which gross violations of human rights took place, particularly since individual police officers saw it as their duty to enforce laws that many of them did not see as unjust (TRC Report Vol 6: 182). In most of the inquests involving allegations of excessive force, the police members involved were cleared of any misconduct. These included the well-publicised events of Sharpsville, the Soweto uprising and the “Trojan Horse” incident (TRC Report Vol 1: 88-90). The Commission found that, although the South African laws at that time might not have been broken, fundamental human rights were often clearly violated (TRC Report Vol 1: 88).

Types of human rights violations committed by the police force and its members include (1) Killings and attempted killings, particularly those associated with public order policing

or so-called “riot control” as well as bombs or other lethal explosive devices detonated in townships during 1986 and 1987. (2) Torture and assault, including torture which took place in formal custody. (3) Intimidation and disinformation which includes harassing individuals by damaging their property; constant and obvious surveillance; making threatening phone calls; firing shots at houses, or throwing bricks through windows. (4) Finally, the TRC found the police force guilty of provoking and increasing violence in a number of ways, most notably by providing support, arms and training to the IFP which was to be used to combat the ANC (TRC Report, Vol 6: 189-191).

At the completion of the AC hearings, the TRC concluded that “the security forces used unlawful and criminal actions, particularly extrajudicial killings, to respond to the political situation. By now, the condonation and tolerance of extrajudicial activity had led to a culture of impunity throughout the security forces” (TRC Report Vol 6: 251). The absence of recrimination towards violent policemen from the relevant authorities was a contributing factor towards the continuation of violence in South Africa. While the testimonies at the TRC hearings, and subsequent investigations, revealed the existence of human rights violations on the side of the apartheid police force, this study (particularly chapter 4) investigates how former members of the police force justify their involvement in these violations.

2.2 The notion of ‘truth’ in TRC discourses

“Is the truth only known to the dead?”¹⁶

“The idea that reconciliation depends on shared truth presumes that shared truth about the past is possible. But truth is related to identity. What you believe to be true depends, in some measure, on who you believe yourself to be. And what you believe yourself to be is mostly defined in terms of who you are not”¹⁷

This section elaborates on a particular understanding of what ‘truth’ is and how it can be represented in discourse. Critical Discourse Analysis has been developed since the 1970s as a hermeneutical instrument which is particularly helpful in laying bare the complexity of

¹⁶ Antjie Krog (2002: 197).

¹⁷ Ignatieff in Geschier & Lubbe (2002: 277).

meanings that a single text can contain. For this reason I have chosen to consider a hermeneutical approach to the notion of ‘truth’ that may inform the analysis to be undertaken in Chapter Four.

The Amnesty hearings aimed to give the perpetrator a voice, an opportunity to narrate their stories or “truths”, but many have claimed that it was only within the contextual limitations of granting amnesty, promoting reconciliation and developing a new and democratic South Africa in the collective consciousness (Posel & Simpson 2002; Du Pisani & Kim 2004; Foster et al. 2005; Krog 2002; Rotberg and Thompson 2000). Furthermore, the perpetrators were limited by the overarching discourse of reconciliation, as well as the “dangling carrot” of amnesty (Du Pisani & Kim 2004: 79; Sarkin 2004).

The context and pre-requisites for the granting of amnesty at the Amnesty hearings meant a full-disclosure could lead to prosecution and imprisonment. The participants were restricted to a specific period of history (1 March 1960 to 10 May 1994) and to a specific type of past event (those that constitute a gross human rights violation that was politically motivated). The TRC commissioners and the participant’s lawyers often guided the perpetrator and their respective stories in a certain direction (see, for e.g., Dirk Coetzee’s testimony¹⁸). This means that the perpetrator did not always take a subjective, narrative approach during their account of what happened because the “quasi-legal” approach to the procedures largely impaired the possibility for them to fully tell their story in their own terms (Foster et al. 2005: x-11).

The truths of the perpetrators were not only externally bound by the rules and regulations of the Amnesty hearings, but internally by the perpetrators themselves. This is partly because a narrative about a particular event is shaped by the nature of the audience and through negotiating with the listener, by “a propelling force determining what is left out, what is used and how it is used” (Krog 2002: 85). Telling is therefore never neutral, and the selection and ordering try to determine the interpretation of the hearer (Krog 2002: 85). Therefore, a final version of reality is predominantly a negotiated version: other tales could be told to another audience. A story is “only one of a potential array of versions that could be told” (Foster et al. 2005: 274). By depicting a certain version of an event, a narrative organises human memories in such a way as to shape and create reality (Foster et al. 2005:

¹⁸ <http://www.doj.gov.za/trc/amntrans/durban/coetzee1.htm>.

274). This means that, if the truth was present at the TRC hearings, it was potentially concealed behind an impenetrable veil of language and discourse (Du Pisani & Kim 2004: 78).

The study of the confessions of the perpetrator questions the existence of a singular reality, perspective or “truth.” In fact, the truth seems best described as an outlook from a particular spatial and moral position, a position that differs between genders, races and theoretical approaches (Foster et al. 2005: ix). This is because “every narrative carries the imprint of its narrator” (Krog 2002: 88). Each of the perpetrator’s “truths” presented a narrative about history and contributed to the construction of a history that had previously been suppressed or silenced (Du Pisani & Kim 2004: 77). The contrasting testimonies of the perpetrators and the victims during the TRC hearings often represented conflicts about differing interpretations and narratives about the past. By presenting the narratives of both the victims and the perpetrators, one wonders if the TRC could only render up a range of fractured, incomplete and selective “truths” since both narratives are clouded by ideologies and subjective realities (Posel 2002: 11). In this way, the TRC could be said to represent “the tension between the pursuit of objective factual truth and the acknowledgment of various subjective truths” (Du Pisani & Kim 2004: 80). The problem is defining truth in such a way that it is able to reconcile the two contrasting “subjective realities” of the victim and the perpetrator.

The TRC Report was articulate about the notions of truth underlying the TRC, and officially distinguished between four kinds of truth, namely: Objective or factual truth, personal or narrative truth, social or discursive truth and restorative or healing truth (Posel 2002: 154). Each different kind of truth was, according to the TRC Report, present at different stages of the amnesty and reconciliation process. For example, factual truth dominated the amnesty hearings and dealings with the perpetrators. This type of truth involved the verification of statements from the accused by an investigative unit in order to match stories between the victims and the perpetrators (Foster et al. 2005: 15). Narrative truth dominated the testimonies of the victims since an assumption of the TRC was that the uninterrupted victim’s account of what happened would restore their human and civil dignity (Foster et al. 2005: 22). Social or discursive truths were defined as that created through debate, interaction and discussion in order to promote reflection, participation and democracy (Foster et al. 2005: 15). And restorative or healing truth was defined as a

preventative measure against the reoccurrence of past events, an act of acknowledgment in order to restore human dignity and contribute to healing (Foster et al. 2005: 22-23).

These four “modalities” of truth did not go without criticism (Foster et al. 2005: 23; Posel & Simpson 2002: 4). Some felt it was an opaque representation, and a poorly constructed conceptual grid with no mention of competing forms of truth and with no integrated or comprehensive definition of truth (Posel 2002: 155). Foster et al. (2005: 23) question whether the four forms of truth stipulated by the TRC are really as distinct and separate as they are made out to be, and suggest the presence of a hierarchal relationship where one form of truth was valued over another. Furthermore, different forms of truth are not neutral, impartial or objective, but are invested with different interests or are used to obtain different goals and are therefore never purely objective (Foster et al. 2005: 24).

Positivists would say that the only form of knowledge, or truth, is that which is provided by the senses, that which is positively given (as apposed to theologically or metaphysically given) (Blackburn 2005). The TRC sought positivistic knowledge about the causes of violence in order to prevent its occurrence in the future. On the other hand, narrative or dialogical truths serve interests of achieving understanding (this kind of truth was usually reserved for victims, whose accounts were usually accepted without questioning), but can also achieve practical tasks such as denial, or to escape criticism or judgment (Foster et al. 2005: 24). This form of truth is also clearly evident in the discourse of the perpetrator, and can be linked to the presence of linguistic devices that are able to control the hearer’s impressions of the confessions. This indicates that the TRC’s approach to truth was not always within the clearly demarcated boundaries that were originally set up, since the Report claimed that it was forensic truth that was reserved for amnesty applicants, and whose accounts were subjected to various tests of truth or falsity.

Furthermore, Foster et al. (2005: 24) question the TRC interest or investment in the four kinds of truth listed above. While the TRC claimed to promote positivistic truth in order to prevent future atrocities, another objective was to promote reconciliation. This means that a restorative truth eventually dominated the presence of forensic truths – explaining why many perpetrators in the apartheid regime were given amnesty in the hopes of creating national unity (Foster et al. 2005: 24). Foster et al. (2005:24) also argue that the positivistic form of truth, the TRC’s “factual or forensic truth” was in the end privileged by the TRC, which placed the TRC Report, somewhat inaccurately, as the official, objective and

authoritative view, overlooking the presence of contradictions and assumptions within the TRC itself which contributed to producing collective meanings and ‘truth’ (Foster et al. 2005: 24; Posel 2002: 150). An example which is pertinent to this study is the TRC’s definition of “perpetrator”, which many people, on both sides of the political divide, refused (Foster et al. 2005: 24;25).

While the TRC Report made no mention of these discrepancies, it did assert that truth-telling was not a once-off event or cure, but a process that must continue into the future (Foster et al. 2005: 23). The TRC, and the Amnesty Commission in particular, must be commended for its constant confidence in searching for the truth concerning the atrocities of the past, and for recognising truth discovery as being central to reconciliation. Furthermore, praise must be given for providing the platform for the telling what previously could not be told and for inserting “truth” declarations into the public domain so that the distorted version of the past that proliferated during apartheid could be discredited (Du Pisani & Kim 2004: 79; Posel & Simpson 2002: 3). However, more often than not it proved difficult to verify the facts of a certain event that occurred under the censorship of apartheid, never mind those concerning the perpetrators from police backgrounds who had become accustomed to the discourse of secrecy and adapted to concealing the truth behind military language. Furthermore, during their hearings, perpetrators also admitted to changing their perspectives, or “truths” in relation to the changing status quo since individual motives change over time, becoming contradictory and “unreliable” (Posel 2002: 12). These factors could explain why the commission did, at times, contradict itself with regards to the nature of truth. It seems that definitions of the truth can always be **apposed** and met with resistance, or counter examples.

Perhaps truth is best tackled when it is conceptualised as something which is not absolute, complete, changeless and empirically verifiable, but something which is illusive, capable of being misrepresented and distorted and “the widest possible compilation of people’s perceptions, stories, myths and experiences” (Krog 2002: 16). My aim is to present a multi-dimensional approach to truth which can account for different subjectivities and perspectives, most importantly that of the victim and the perpetrator, since “a shared understanding of our history requires an understanding of different perspectives... Presenting ‘the truth’ as a one-dimensional finding is a continuation of the old frame” (Wynand Malan, a TRC commissioner, quoted in Du Pisani & Kim 2004: 79).

2.2.1 A Hermeneutic approach to “truth”

“History is itself interpretive and takes the form of cultural reflection upon culturally interpreted streams of events. From this it does not follow that there can be no historical truth but rather that the truth at this level requires an attention to hermeneutics”¹⁹

Since the methodological framework of this study is largely rooted in social constructivism, structuralism and hermeneutics, the present section describes a hermeneutical approach to truth that is compatible with the discourse-historical approach to discourse (Reisigl & Wodak 2001: 27). Schleiermacher (in Blackburn 2005) claimed that every problem of interpretation is simultaneously a problem of understanding, and defined hermeneutics as the art of avoiding misunderstanding. Applied to social life, hermeneutics involves cultivating the ability to understand things from somebody else's point of view, and to appreciate the cultural and social forces that may have influenced their outlook.

The main question arising out of the TRC discourses is this: If truth is given from a particular perspective, either that of the perpetrator or that of the victim, can there be one, all-encompassing truth? Heidegger's notion of “truth as disclosure” is able to offer a solution to the problems of perspectivalism that troubles other approaches to truth, such as correspondence theories (which sees truth as that which corresponds with reality) or as coherence with a system of true ideas (DiCenso 1990:xiv). “Truth as disclosure”, a hermeneutical and existence-orientated approach to truth, is applicable to levels of existence that involve the presence of cultural differences – or the presence of contrasting frameworks which delimit our capacity to experience one another (DiCenso 1990:xiv). These frameworks, or cultural matrices, are not only culturally and historically determined, but also established and sustained linguistically (DiCenso 1990: xiv). A major premise is that the ways in which people comprehend reality and other people are created by collective and cultural forces that are best understood using historical and existential theoretical frameworks (DiCenso 1990: xv).

According to the general ideas of hermeneutics, an enquiry into truth must take into account the interpretive nature of human perceptions, since “human beings live in cultural worlds which are formed by language and which provide contextual perspectives that

¹⁹ DiCenso (1990: xv).

inform and condition participation in reality” (DiCenso 1990: xv). Hermeneutics represents a theoretical framework which views our cultural worlds or experiences, our ideologies or the “presuppositions and prejudices that affect our judgments and relations” as mostly hidden from the subject; therefore, they are not produced by the subject themselves but by the existence of cultural forms which govern their behaviour (DiCenso 1990: xv). In the case of most of the apartheid perpetrators, their judgments were affected by the overarching ideology of apartheid and white supremacy. A hermeneutic approach to truth enables a reflexive approach to truth, which “discloses” or reveals the limited and distorted paradigms which govern our existence in, and perception of, the world (DiCenso 1990: xv). Hermeneutics thus addresses the problem of relative perspectives that pervaded the TRC hearings and human relations in general.

According to hermeneutic theory, both the testimonies of the victims and that of the perpetrators offered a version of events so far as they each perceived it, which is as far as it fitted into their predetermined “world of significance”. These “worlds of significance” or “interpretative modes” usually have a shared cultural dimension and, provided facts were not deliberately withheld, each of their respective worldviews provides the parameters to how their story will be told (DiCenso 1990: 39). Therefore, the constrictions placed upon social interaction “will not necessarily be conscious but derive from a lack of reflection upon the interpretative modes governing one’s activity” (DiCenso 1990: 39).

An interpretation of a particular event is never a “presuppositionless” apprehending of something (DiCenso 1990: 40). Each perception is a structure of meaning that is created through cultural and historic activities. “By denying that there is an interpretative and perspectival nature to all immediate experience, the individual who relates to something ontically²⁰ becomes fixed in a specific mode of being” (DiCenso 1990: 40). In the apartheid era, many perpetrators operated within predisclosed parameters, and their activities remained valid as long as the overriding paradigm remained valid. The fall of the ideology of apartheid does not entail the subsequent denunciation of its beliefs in the mind of its followers. The AC hearings provided an opportunity for these ideologies to be voiced in a time when their power was becoming diminished, a shocking portrayal that had a huge

²⁰ In hermeneutics, the term “ontic” is a word used to describe the apprehension of something as real, as immediate or present-at-hand (DiCenso 1990: 39).

affect on the South African public. Interpreting the stories or “truth/s” of the perpetrator as different modes of experiencing and relating to the world, does not mean that we condone their behaviour, but it does lead to a sense of understanding rather than judgment (DiCenso 1990: 41).

2.3 Critical Discourse Analysis (CDA) and the discourse-historical approach

2.3.1 Discourse and CDA

Discourse analysis is the study of the functions of language – what language can do and what it can achieve (Foster et al. 2005: 275). More specifically, it is a social and linguistic description of social norms that govern the production of narratives, including the hidden propositions that relate to class, gender and race (Blackburn 2005). Like discourse analysis, Critical Discourse Analysis (CDA) aims to make explicit the “taken-for-granted” versions of reality or “truths” and to show how they contribute to particular power relations (Foster et al. 2005: 275; Wodak 2001: 5). CDA is concerned with the ways in which social meaning is constructed and proliferated through discourse. It aims to study in more detail the relationship between discourse and societal reality and how power is anchored in societal reality: who exercises it, over whom, and by what means (Wodak 2001b: 5-10; Jäger 2001: 36).

CDA is often associated with 1970’s Critical Linguistics (CL), whose proponents developed systematic ways of analysing the political and social origins of a text (Wodak 2005: xi). CDA and CL’s shared perspective lies within the term ‘critical,’ meaning “critique” or having distance to the data and embedding the data in the social and political context in which the discourse was created (Wodak 1989: xv; Wodak 2001a: 2-9). Therefore, CDA does not only focus on the text (as a realisation of language) itself, but on the social processes and structures that led to the production of the text; CDA also aims to uncover the means by which individuals, conceptualised as historical subjects, create meaning in their interaction with the text.

Ever since the work of the critical linguists, the concept of ‘power’ has remained at the forefront of an analysis of discourse (Jaworski & Coupland 2006: 473). Power is viewed as a permanent condition of social life, and discourse is conceptualised as the means through which individual and institutional ideologies are reproduced and reinforced. In other words, discourse is able to establish, manipulate and legitimize social hierarchies and power relations (Wodak 2001a: 2-10; also see Van Dijk 2006 in Jaworski & Coupland

2006: 474, 546). Language is thus not in itself powerful, but gains power in the hands of the powerful, and a specific language is seen as a signifier of the person or group who uses it (Sornig 1989: 96; Wodak 1989: xv; Wodak 2001a: 10). By having the ability to induce certain behaviours and create names for subjects, discourses “systematically form the objects of which they speak” and therefore produce societal realities (Foucault in Jäger 2001: 39). Human speech is thus regarded as a societal activity that is connected to the historical discourse of the more powerful group (Jäger 2001: 37). Therefore, an analysis of a particular type of discourse is not only about interpretations of a text, but an analysis of the “production of reality” by discourse through its speakers (Jäger 2001: 36).

A critical analysis of discourse would constitute an analysis of opaque hierarchal relationships of domination and control as it is manifested through language; as well as explaining how meaning is constructed on a societal level (Wodak 2002: 2 – 7). A major premise is that individual and social meaning is expressed through language in systematic ways and CDA is the study of how ideologies and power relations affect societal structures through the use of language (Wodak 2001a: 5-6). An analysis of discourse also addresses the issue of how power becomes legitimised through discourse and conversational exchange: Who starts a conversation and who ends it, who initiates a new topic and who gets interrupted, who is active and who is passive.

CDA emphasises the need for an interdisciplinary approach in order to gain a proper and broader understanding of how language functions in society and how it conveys and organises knowledge and meaning (Wodak 2001a: 11; Meyer 2001: 15). According to Wodak (1996: 7), Jaworski & Coupland (2006) and Jäger (2001), the social philosophy of Habermas; Foucault’s structuralist theories of power, knowledge and discourse; Pierre Bourdieu’s social theory and theory of language; Billig’s theory of rhetoric and Hallidayan systemic functional grammar, amongst others, have all been crucial in the development of CDA. The manner in which these theories have influenced the development of CDA is covered in the following paragraphs.

Habermas identified three cognitive interests that are common to all human beings. These are (1) the interest in knowing and controlling the external world, (2) the interest in understanding each other, and (3) the interest in improving our self-understanding (Blackburn 2005). Proponents of CDA see these “cognitive interests” as objectives that are linked to the way we use language. Drawing on this, Halliday emphasised the relationship

between grammar and the social needs that language must serve, by highlighting three connected “metafunctions” of language: (1) language assists in structuring experience (the so-called ideational function), (2) language forms and sustains relationships between speakers (the interpersonal function), and (3) language is comprised of coherence and cohesion within texts (the textual function) (Wodak 2001a: 8). According to SFL, written and spoken texts can be examined with respect to each of these metafunctions (Halliday 1994: 15).

According to Foucault, power is present in all social exchanges and is a force that enables certain actions, while at the same time preventing others (Jaworski & Coupland 2006: 475). Foucault’s theory of knowledge and discourse is also central to CDA, including his concern with how knowledge is created, how it evolves and how it is passed on, as well as how knowledge constitutes subjects and shapes and develops society (Jäger 2001: 32). For Foucault, “knowledge” refers to all ‘contents’ which constitute individual consciousness, and all kinds of meanings used by historical subjects to interpret and alter their surrounding reality. Furthermore, this knowledge is derived “from the respective discursive contexts to which they are born in and in which they are involved in for their entire existence” (Jäger 2001: 33).

Drawing on the idea of Foucault, CDA views speakers of a language as being conditioned by their social surroundings. This is why, speakers “do not exclusively make use of their individual experiences and strategies, they mainly rely upon collective frames of perceptions, called social representations... (these are the) concepts, opinions, attitudes, evaluations, images and explanations which result from daily life and are sustained by communication” (Meyer 2001: 21). These “collective frames” or “collective symbols” are cultural stereotypes, and are handed down and used collectively (Drews et al in Jäger 2001: 33). Here, the terms “frame” and “collective symbol” refers to a cognitive model or mental structure that links together separate ideas within the mind and that shape the way we perceive reality. These cognitive models are known to all members of a given society and are activated through the use of certain words (Lakoff in Bloor & Bloor 2007: 11; Jäger 2001: 33). Drawing on this, CDA views knowledge and experiences of social reality as being able to influence the way we use and interpret certain words (Bloor & Bloor 2007: 11).

For Bourdieu, language is related to his notion of ‘habitus’, or the societal norms individuals have internalised and which regulate and generate their actions and perceptions.

Language is therefore seen as a site of struggle for power since some types of language are seen as more prestigious or “correct” than others, and the “correct”, or more acceptable language exerts a greater amount of control. Bourdieu likens verbal communication to a “market” where certain languages are considered to have more value, and gain more “profit” (Jaworski & Coupland 2006: 475, 546): “Utterances are not only (save in exceptional circumstances) signs to be understood and deciphered; they are also *signs of wealth*, intended to be evaluated and appreciated, and *signs of authority*, intended to be believed and obeyed” (Bourdieu 2006: 480).

Finally, the influence of studies of rhetoric in CDA can be seen in the general concern with persuasive communication and how speakers are able to control the interpretation and actions of their listeners. Successful rhetoricians are usually associated with the ability to manipulate and influence an audience, and this manipulation is linked to their particular ideology. The study of rhetoric involves an analysis of certain rhetorical devices that are used to construct a certain message and create meaning. These rhetorical devices include metaphor, personification and agentless passives: devices which are also essential to a proper analysis of particular discourses, particularly those in the political and advertising domains. (For a broader analysis of these devices see Bloor & Bloor (2007: 67 – 84) and Sornig (1989: 95 – 114).)

Because CDA is also a linguistic approach to the study of discourse, a proper analysis would include the incorporation of linguistic categories, such as deictical expressions and pronouns, as well as theories of argumentation and grammar which serve to explain patterns of language systems and communication (Meyer 2001: 16,20). Some of the key linguistic/discursive features discussed by critical linguists and proponents of CDA are nominalisation (how persons are referred to and named linguistically), passivisation (speaking of an event in passive rather than active terms, thereby deferring responsibility) and sequencing (arranging and re-arranging the order of events). These devices are used to create a certain image of the event, to hide certain elements of the event, and to withhold the identities of those involved (Jaworski & Coupland 2006: 474).

As a strict linguistic analysis, CDA moves beyond Generative Grammar and formal descriptions of language that describe the speaker’s linguistic competence and which are removed from actual language use. According to the general assumptions of CDA, hearers are not passive recipients in their relationship to texts (Wodak 2001a: 6). CDA also has

roots in Systemic Functional Linguistics (SFL), which moves beyond words and sentences and focuses on larger realisations of language (“texts”) and stresses the importance of social context in the production of language, both historically and momentary individual discourse events (Bloor & Bloor 2007: 2). While CDA shares a pragmatic concern with language and context, it moves beyond sociolinguistic research aimed at explaining language variation and change and rather focuses on language as a social phenomenon (Wodak 2001a: 5). This is why CDA takes a hermeneutic approach to text analysis, a method of textual analysis that is also central to the discourse-historical approach and one which is covered below (Meyer 2001: 16).

Critical discourse analysis as described above has been used in various contexts for analysing discourses as different as parliamentary debates (Van Dijk 2000), media representation of violent histories (Pollack 2003), and corporate environmental reports (Skulstad 2008). As it is a decidedly interdisciplinary approach it has been used in conjunction with a number of other theories such as Foucault’s social philosophy, Halliday’s Systemic Functional Grammar, Genre Theory and certain kinds of Narrative Theory. The analysis presented in this study specifically makes use of the discourse historical approach developed by Reisigl & Wodak (2001), therefore the following section will attend to this in more detail.

2.3.2 The discourse-historical approach

From the broad array of approaches to discourse, the discourse-historical approach is the most useful for analysing the discourse of the apartheid perpetrator because it is sensitive to context, offers social critique, and focuses on the historical and political dimensions of discourse (Reisigl & Wodak 2001: xii; Wodak 2001a: 7). Also referred to as the broader “Discourse Sociolinguistics”, the discourse-historical approach aims to understand the ways in which language affects, and reflects, society (Anthonissen 2006: 72). Critical Discourse Analysis in general, and the discourse-historical approach in particular, takes on a social constructionist view that sees written and spoken language as a form of social practice (Benke & Wodak 2003: 120; Jaworski & Coupland 2004: 474; Wodak 2001a: 1). For this reason, the discourse-historical, apart from taking a linguistic and discourse approach to the text, also integrates political science, historical studies, cultural studies and semiotics (Wodak 2006: 127).

As pointed out earlier, the TRC provided the means through which South Africans could learn the truth about their apartheid past, a past that was largely based on racial discrimination. For this reason the TRC hearings give one access to the convictions and ideologies of the apartheid regime, and to the perpetrators of apartheid crimes, since their discourse provide the means through which shared knowledge and beliefs are conveyed and proliferated. Reisigl & Wodak (2001: 1) show that racism, and its very nature as a social practice and an ideology, manifests itself through discourse. Racist beliefs are produced and reproduced through discourse, and discriminatory practices are developed and legitimised through discourse. Moreover, the justification and rationalisation of racism and human rights violations are also developed and legitimised through discourse.

Reisigl & Wodak (2001: 31) illustrate the theoretical and methodological grounds of the discourse-historical approach, and indicate how four previous analytical approaches to discourse have influenced their theory. The discourse-historical approach to discourse (1) sees prejudices as a means of achieving solidarity amongst members of a particular group, (2) goes beyond analysis on the sentence level and takes into account the less apparent and more complex notions of discourse, and (3) takes a more social-constructivist approach to discourse, and avoids a relativist postmodern view (Reisigl & Wodak 2001: 31). This means that the discourse-historical approach takes a pragmatically orientated approach to the analysis of discourse, which avoids context-less hypotheses and speculation and rather focuses on the conceptual tools that are most relevant to the problem at hand (Wodak 2001b: 64). Such an approach avoids a problem often apparent in the social sciences, which is the abstraction of “real world” dilemmas into complex theoretical generalisations that are not useful (Wodak 2001b: 64). Due to the socio-philosophical orientation (the obligatory application of social theory) of the discourse-historical approach, a major concern is “demystifying” the “persuasive or manipulative” nature of discourse (Wodak 2001b: 65). This does not imply an evaluation of “right” or “wrong” on the part of the researcher, whose role is to rather make transparent the choices of the discursive strategies at hand, and to investigate the historical and political background in which the discourse is embedded (Wodak 2001b: 65).

The discourse-historical approach is based on the assumption that texts, rather than sentences, are the most critical units of communication. As a method of textual analysis, the discourse-historical approach aims, as a “multi-level” approach which goes beyond a

description of sentence analysis (i.e the choice of particular words, and the order of words), to include textual categories, their various components, as well as the ways in which they function (Anthonissen 2006: 76). Furthermore, the meaning of texts cannot be thoroughly described without an analysis of the social and political context in which the text was produced (Anthonissen 2006:76). The discourse-historical approach thus offers a new perspective on the idea of context, the four components of which are described by Wodak (2001b: 67): (1) the language or text internal co-text; (2) the intertextual relationship between utterances, texts and discourses; (3) the extralinguistic social variables and institutional frames of reference; and (4) the broader socio-political and historical context in which the discourse is embedded.

Apart from awareness of the context in which the discourse was produced, the discourse-historical approach also calls for an awareness of the intertextual nature of discourse. This means that every discourse is related to other discourses, which may have been produced by the speaker, or by a similar institution on a comparable topic (Anthonissen 2006: 84).

The development of the discourse-historical approach was influenced by the Duisburg group's study of discourse semantics and grammatical features (Reisigl & Wodak (2001: 26). Discourse semantics is an extension of semantics to include the relationship between a sentence and the context or discourse in which the sentence is realised (Blackburn 2005). It also aims to uncover the collective symbols ("topoi") that are linked in a "thematically interrelated sequence of a text or part of a text (a 'discourse fragment') that deals with a specific topic" (Reisigl & Wodak 2001: 26; Wodak 2001a: 9). Here, a collective symbol refers to a cultural stereotype, usually in the form of a metaphor, which is immediately understood by members of a particular group (Reisigl & Wodak 2001: 26).

Topoi can also be described as parts of the argumentation that belong to the explicit or inferable premises. They are "content-related", and connect the argument/s to the conclusion, and justify the movement from the argument to the conclusion (Wodak 2001b: 74). The study of grammatical features involves the analysis of pronouns, the connotations of specific verbs, nouns and adjectives, as well as the syntactic structure of an argument. These grammatical features are all a means of presenting the self and the other, the in-group and the out-group through discourse, particularly in argumentation strategies (Reisigl & Wodak 2001: 26).

2.4 Concluding remarks.

I set three objectives for this chapter. On the one hand, I aimed to present and highlight some common themes in the literature regarding the perpetrator of apartheid crimes - which included the notions of 'truth' and 'perpetrator' itself; on the other hand I aimed to present a synopsis of CDA and the discourse-historical approach to discourse. In the course of this discussion, I distinguished between popular representations of the perpetrator, and more theoretical and philosophical representation, which characterises the perpetrator as an ordinary subject who is compelled for certain reasons to act in a violent way. I also analysed the concept of truth as it related to the AC testimonies, and outlined a hermeneutic approach to truth which tackles the presence of varying perspectives that pervade human reality. Finally, I described why and how CDA and the discourse-historical approach to discourse provide useful tools for analysing the sworn statements of the apartheid perpetrator.

CHAPTER THREE

Research methodology

In this chapter I provide an outline of the methodology used in analysing and interpreting the perpetrator testimonies. These testimonies have been selected to illustrate pertinent features of justificatory discourse as it occurred in TRC amnesty hearings. The study of Benke and Wodak (2003) entitled “The discursive construction of individual memories. How Austrian “Wehrmacht” soldiers remember WWII” will serve as a model for the use of the discourse-historical approach to CDA in analysing discourses of justification. In order to describe more of the discursive context, I shall briefly refer to a number of pertinent similarities between apartheid South Africa and Nazi Germany²¹, and note specifically certain events of the conflict generated by apartheid and events that eventually became identified as the Holocaust. I shall also briefly draw significant parallels between post-apartheid South Africa and post-war Germany. A synopsis of Benke and Wodak’s work will be given, and finally, a detailed analysis will be provided of the linguistic strategies identified by Benke and Wodak (2003) as ones that typically occur in justifications put forward by the perpetrator, and which I will use in the analysis of the discursive data selected from TRC testimonies.

3.1 Parallels between the oppression of black citizens in apartheid South Africa and Jewish citizens in Nazi Germany

A number of historical and political studies have produced evidence that the phenomena and social problems that occurred in Germany during and after the Holocaust, bear resemblances to the social and personal turmoil within more recent past and present day South Africa (see Peires 2006). The ideology and practice of anti-Semitism (largely conceptualised as religious and cultural discrimination) can be correlated with that of racial discrimination, and the perpetrators of both these kinds of discrimination appear afterwards to share similar emotions of guilt and culpability, or alternatively, denial of participation in acts of gross human violations. For this reason, at least, the theoretical framework of the discourse-historical approach is useful for analysing discursive data that topicalises

²¹ There are of course also differences between the two states and political systems; however, to justify extensive reference to research on discourses that originated in holocaust memorialisation, attention here is directed only at the pertinent similarities. For a detailed analysis of the differences between the two systems, see Adam (1997).

apartheid atrocities, particularly those referred to in discourses of the perpetrators during the AC hearings.

While the violence that erupted in systematic defence of apartheid can by no means be equated with the excesses of the Holocaust, many correlations can be drawn between Nazi Germany and apartheid South Africa and their respective social and political ideologies. These include the following:

- implementation of laws which oppressed a specific sector of society,
- violent actions towards the identified sector,
- overarching Nationalist ideals and Nationalist discourse in the public sphere, and
- government articulation of a “new moral language” with which to legitimise the radical reconstruction of society.

Interestingly, Giliomee (2003: 375, 391) defines both nationalist discourse and legitimising of improper social reconstruction as crimes against humanity. In the aftermath, in remembering the years of the most brutal oppression, German and Austrian Jewish citizens were commonly conceptualised as “the victim” in a manner similar to the construction of Black South Africans; also, white (“Arian”) German Nazis, similar to white South Africans, were commonly conceptualised as “the perpetrator”.

Just as comparisons have been drawn between Nazi Germany and apartheid South Africa, comparisons have also be drawn in terms of “in-group” and “out-group” in referring to the positioning of various communities by means of social and political policies. During the time of apartheid or the Holocaust, the in-group was, on the one hand, the (mostly Afrikaans) white South Africans and, on the other hand, German or Austrian Nazi sympathisers. The out-group was made up largely of black or “non-white” South Africans and Jewish citizens within Germany and Austria, respectively.

3.2 Synopsis of Benke and Wodak’s (2003) study

The discourse-historical approach to CDA gives a framework that was effectively used to analyse discourse and relate it to data on World War II and the Holocaust as well as on historical and present-day discriminatory situations in both Austria and Germany. This approach developed by Reisigl & Wodak (2001) within Discourse Sociolinguistics, was used again by Benke & Wodak (2003) in the study I will describe here.

Apart from adhering to the general principles of the discourse-historical approach to discourse analysis, this thesis will take as its point of departure Benke and Wodak's (2003) study on how Austrian "Wehrmacht" soldiers remember their participation in WWII and their participation in human rights violations. Benke and Wodak's (2003) study was largely an analysis of documented discourses surrounding a photo exhibition on behalf of the Hamburger Institute for Social Sciences entitled "*Vernichtungskrieg – Verbrechen der Wehrmacht*" ("War of Annihilation – Crimes of the German Wehrmacht"). The exhibition began in Hamburg, Germany in 1995, before moving to various Austrian cities later that same year. Prior to being opened in New York in 1999, the exhibition was discredited due to the fact that nine pictures (out of more than a thousand) were not labelled correctly. While the exhibition was subsequently put on hold, the incorrectly labelled pictures sparked debates throughout Germany and Austria regarding the role that the Wehrmacht played in Nazi war crimes (Benke and Wodak 2003: 115-116).

Benke and Wodak (2003: 116) distinguish between two major narratives amongst attendants at the exhibition: those that acknowledged the involvement of the German army in war crimes²² and those that refuse to acknowledge the Wehrmacht's involvement in these crimes. The second narrative implies that only a few, mostly high-ranking police officials, could be found guilty. Many individuals claimed to have never seen anything, not to have known anything and to have been forced to do what counted as their duty, either physically or by mental indoctrination. Benke and Wodak (2003) focus on a close analysis of the discourses of former Austrian soldiers who were questioned while visiting the exhibition, and how their discourses fit into the "semantic domain of 'knowing' or 'not knowing'" about war crimes and who was responsible for them (Benke and Wodak 2003: 116). These narratives were seen as being representative of the broader conflict surrounding different interpretations of the past (Benke and Wodak 2003: 116).

3.3 Selection of Justificatory Discourses from TRC files

The discursive justification of violent and discriminatory acts (human rights violations or war crimes) was topicalised by Benke and Wodak (2003). In their study, the recorded interviews with ex-Wehrmacht officers are viewed as a particular type of text which

²² According to Wodak (2006: 126) the exhibition presented evidence in such a way that the involvement of the Wehrmacht in war crimes can no longer be questioned. Unwillingness to deal with, or acknowledge "the officially proven facts" is evident only in those people who are still influenced by Nazi ideologies or who suffer from individual repression.

portrayed similar events and which were presented within the same context (the photo exhibition of war crimes). Furthermore, the texts were thematically arranged according to the dominant occurrence of justificatory strategies on behalf of the speaker. Following Wodak (2006: 135), one could characterise the act of taking part in an event like giving testimony (particularly with the structure set out by the TRC) as a social practice with an affiliated genre, which is the testimony itself. The activity of testifying at an AC hearing has a number of linguistically relevant properties, including long, uninterrupted monologues (or “narratives”), as well as probing questions where one person is in control and the other simply responds (Wodak 2006: 135). The TRC testimonies or “texts” have similar thematic structures in that they are all emblematic of the ways in which perpetrators viewed their roles in certain events (which were later labelled as “human rights violations”). Furthermore, the testimonies were all presented orally, under the same kinds of circumstances and within the same situational context (the AC hearings).

The testimonies of the perpetrators will be examined in order to disclose certain trends or tendencies. I work with the hypothesis that most perpetrators will justify their crimes in ways that reduce their culpability. While Benke and Wodak (2003) limit themselves to elaborating on strategies of positive self-presentation, of claiming victim-hood, of “others forced us”, and of claiming ignorance (partly because these occurred the most frequently in their data), this study will look at all of the linguistic features distinguished by Benke and Wodak (2003) and highlighted in Chapter Three. These strategies include those that acknowledge that the crimes really happened and those that deny them, or the speaker’s participation in them.

This study focuses on two perpetrators in particular, Johan van der Merwe and Jeffrey Benzien. While it has been noted that the testimonies were often badly recorded or badly transcribed, they are still authentic and reliable enough to be used in this kind of research. These two persons were chosen for the frequency with which they used justificatory strategies, and also for the unique ways in which such strategies were used. They are also well-known members of the previous government’s police force, and their testimonies relate to well publicised incidents. This is not to say that justificatory linguistic strategies were not present in other police TRC testimonies²³. On the contrary, the justification of

²³ See, for example, the TRC testimonies of the policemen involved in the 1989 Motherwell bombing (in particular Gideon Nieuwoudt), as well as those responsible for the killing of Matthew Goniwe, Fort Calata, Sparrow Mkonto and Sicelo Mhlauli (otherwise known as “the Cradock Four”). The testimony of Colonel

human rights violations occurs widely in the hearings where people suspected of playing an active role in excesses on either side of the struggle, testified. There are many parallels and similarities in the discourse produced by former SAP perpetrators. The most notable discursive strategies that occurred or justifications put forward by members of the security forces are

- (i) the use of a particular “specialised” police language, i.e. security force jargon, to avoid talking directly about the events or human rights violations themselves,
- (ii) claims of speakers that they were merely performing their duty or following orders, and
- (iii) the use of particular stereotyping terms, i.e. referring expressions, which are reminiscent of the apartheid era, to describe victims, such as the loaded word “terrorist” which conceptualises the victim as a rebel and an activist, and thus aids in avoiding responsibility or deferring responsibility to the victim.

3.4 Linguistic strategies identified in Benke and Wodak’s (2003) study

As stated during my synopsis of the discourse-historical approach, traditional Linguistic approaches to the notion of ‘context’ are insufficient for an adequate discourse-historical analysis of the narratives of the perpetrator. For the discourse-historical approach to discourse analysis, ‘context’ includes the particular perspective of the speaker as well as the linguistic strategies that the speaker may use to propagate his/her perspective. Linguistic strategies can be defined as consciously and unconsciously applied discursive acts that provide the means through which social ends are realised. These social ends can be pursued both consciously and unconsciously, or they may be embedded in habitualised social practices like language. The linguistic strategies include self-presentation strategies, argumentation strategies, mitigation strategies and intensification strategies. For example, “Doing my duty” can be seen as a linguistic strategy to uphold the speaker’s self image and present him-/herself in a positive light (Benke & Wodak 2003: 120, 121).

Linguistic strategies occur through the process of naming, through the use of specific adjectives and through particular argument schemes which encourage the hearers to make certain connections and which persuade them to accept a specific interpretation. According

Winter, head of security police at the time of the killing of the Cradock Four, (later dubbed “Colonel Can’t Remember” by journalist Sam Sole) also provides an interesting case study of justificatory discourse (see Nicholson 2004: 118).

to Reisigl & Wodak (2001: 44) these references are usually drawn from illogical inferential processes. Benke and Wodak (2003: 121) classify linguistic strategies into four groups according to their dominant social function. As pointed out in chapter one, these four groups are (i) constructive strategies, (ii) perpetuation strategies, (iii) transformation strategies and (iv) destructive strategies. Constructive strategies attempt to create entities like groups, as well as psychological states like self-image and identity. Strategies of perpetuation try to sustain already established groups and images. Strategies of transformation try to transform the current state of affairs, while destructive strategies are used to destroy an already established state of affairs or image (Benke & Wodak 2003: 121).

To illustrate: during the interviews with the ex-Wehrmacht officers and during the testimonies of former police officers at the TRC hearings, the perpetrators generally tried to create a particular image of themselves and the past (constructive strategies). They defended their self-image and the image of the police force or the special force squads of which they were members (perpetuation strategies). They also attempted to create a new image of the past, either through a transformation strategy or through the discursive destruction of an established image (Benke & Wodak 2003: 122).

Foster et al. (2003: 85) located four kinds of grounds for gross violations of human rights during the TRC hearings. These correlate well with the strategies outlined by Benke and Wodak (2003: 122), First, the justificatory phrase “we were at war” occurred frequently, particularly from heads of security divisions, police commissioners or Generals. An example of such justification is found in the testimony of General Constand Viljoen²⁴ where he claimed:

The liberation struggle used revolutionary methods to coerce. This was a new kind of total war, not total in its destructiveness but total in its means of applying different ways of coercion: political, psychological, economic, propaganda. It was a new kind of war (Quoted in TRC Report, Vol 5: 263).

²⁴ Viljoen was former military commander and leader of the right-wing party the Freedom Front. The TRC held Gen. Constand Viljoen along with Eugene Terre'Blanche “accountable for the reign of terror carried out by the various groups and their individual supporters” (TRC Report, Vol. 6, Ch 6, p2). Viljoen refused to attend the special hearing on military conscription, saying his presence would only give legitimacy to a “one-sided programme which did not analyse the past honestly” (TRC Report, Vol 4: 224).

Second, top leaders denied giving orders or denied that they were aware of the circumstances under which general orders were executed, even while lower-ranked officials claimed that they were following orders from higher up. For example, former president F.W. de Klerk claimed that “I have never myself approved murder or the random killing of anybody, or gross violations of human rights.²⁵” In answering questions on widespread torture during the 1980s in the NP submission to the TRC, De Klerk claimed that “detailed operationalisation (of security policy) takes place at a much lower level ... that is where, either through over-zealousness or a male fide approach, where things get out of hand” (TRC Report, Vol 5, 267).

Third, many admitted that mistakes had been made in their acknowledgement that wrongdoings had taken place, but at the same time they denied personal responsibility:

- (i) “I’m not saying we were perfect ... I’m not saying we didn’t make mistakes” (F.W. de Klerk quoted in TRC Report, Vol 6: 262).
- (ii) “Errors were made, I made them too” (Johan van der Merwe A1: 17).

Fourth, many claimed a lack of discipline or restraint on the side of their supporters. For example, F.W. de Klerk suggested that violent activities were unauthorised and undertaken by groups of renegades or “bad apples”²⁶(TRC Report, Vol 6:262-263).

As in the Benke and Wodak study (2003: 122), and as will be made clear in the analyses in chapter four, a substantial number of perpetuation strategies were used by the perpetrators during the TRC hearings. As stated earlier, strategies of perpetuation try to preserve and uphold already conventionalised groups, images and discursive practices. In a context like the TRC, the justification of these groups and images is imperative if they are to be maintained. Given the context and the discourse of reconciliation of the TRC, the perpetrator discourses were investigated to determine the occurrence of constructive strategies and strategies of transformation – regardless of whether these expressed the true ideals of the speaker or not.

²⁵TRC (Vol 6: 262).

²⁶ The fact that over 50% of applications for amnesty came from higher-ranked police officials challenges the view that violations were committed by small “renegade” groups of operatives (TRC Report, Vol 6: 188). Officers who had a long history of committing abuses were promoted to high positions in Security Branch Headquarters which suggests that those in power were well aware, and condoned, the existence of aggressive operations (TRC Report, Vol 6: 262-263).

Diagram 1 on the following page is adapted from Benke and Wodak (2003: 124) in order to accommodate the aims and focus of this study. It presents a variety of discursive strategies developed by Wodak et al (1990) and Reisigl & Wodak (2001) that were used by the speakers to justify war crimes, or in this case, human rights violations. These discursive strategies are explained and elaborated below. In their study, Benke and Wodak (2003) draw a major distinction between those interviewees who orientate themselves towards the context and acknowledge the involvement of the German army in war crimes and those who dissociate themselves from the context and persist in denial of the crimes. Likewise, my study will focus on whether the selected perpetrators of violence condoned by the apartheid state orientate themselves towards the context, and in doing so acknowledge their involvement in human rights violations or not. These two major attitudes or stances are depicted in diagram 1.

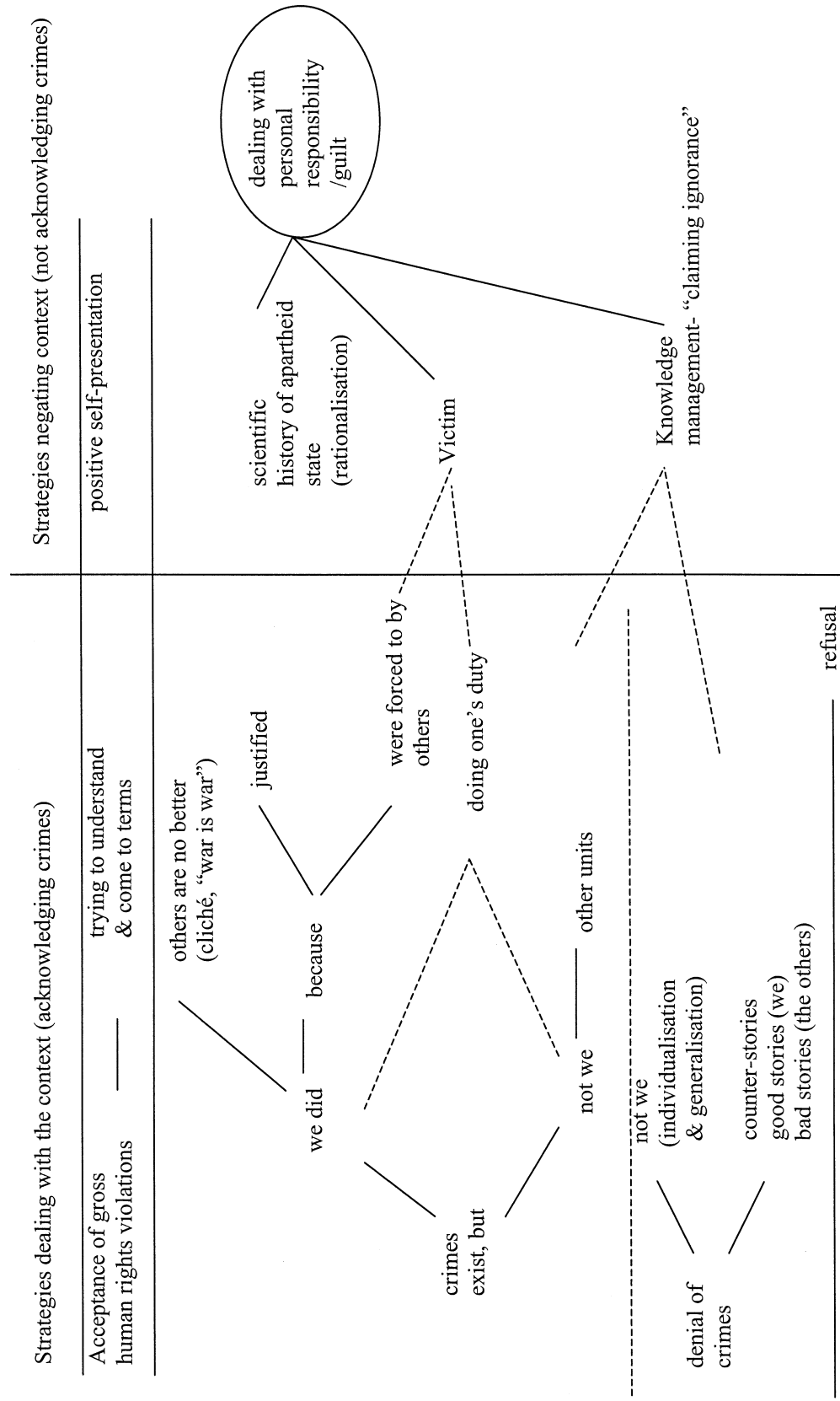
Beyond the two stances of (i) conceding that there were excesses of state violence and (ii) denying that there were excesses of state violence, five kinds of linguistic strategies have been identified. These strategies, discussed below, are important methodological instruments that will be used in the analysis of the TRC discourses of justification in Chapter four.

1. The first kind of strategy is one in which the speaker explicitly negates the context. In other words, individuals do not acknowledge that war crimes occurred in the case of The Austrian Wehrmacht, or that human rights violations occurred in the case of the South African security forces. This kind of denial is done in three different ways:

- a) Refusal to face the issue at all.

Benke and Wodak's (2003: 122) study draws attention to the irony that individuals arguing to put an end to the past actually came to an exhibition of war crimes, a contradiction that they themselves were not aware of. The South African context was different, thus a similar irony cannot be identified. While there were a few individuals who refused to submit applications or attend the AC hearings, one of which was the former president P.W. Botha, many perpetrators attended solely because they had been subpoenaed or feared disclosures that would implicate them. For them their attendance was an attempt to avoid the threat of prosecution and to acquire amnesty.

Diagram 1



b) Claiming ignorance.

This strategy is associated with vagueness on the part of the speaker, who may provide elaborate and often unsolicited stories about why people in their position were unable to know what was going on politically (Benke and Wodak 2003: 123). Speakers may also claim that the evidence presented is not reliable and that those who have come up with it cannot know the truth because they were not there and do not have first hand experience of the time of the alleged atrocities.

c) Claiming victim-hood.

The speakers provide their own histories of terrible events that happened to them during the war in Germany, or during the conflict preceding eventual democratic elections in South Africa. By doing so the speaker is avoiding dealing with the war crimes of the German army, or the human rights violations during apartheid.

2. The second kind of strategy is identified as one of scientific rationalisation. This involves an extensive analysis of the National Socialist or National Party governments, and is used to explain how National Socialism came about in Austria, or how apartheid policies developed in South Africa, and why people supported the various policies. This strategy is also one where speakers do not orientate themselves towards the reality of war crimes or human rights violations, but it is done on a more general level where there is a negative evaluation of National Socialism, in the case of the Wehrmacht, and a negative evaluation of apartheid ideals in the case of South African forces.
3. Strategies of the third kind are ones of positive self-presentation. They are used by speakers to acknowledge war crimes or human rights violations, but at the same time to deny that they themselves played a part in them. This is achieved by telling “good” stories about themselves, as well as portraying themselves as highly moral individuals.
4. Strategies of the fourth kind acknowledge claims of violent crimes by the state at some level, and involves perpetrators trying to understand what had happened. Some visitors to the Austrian exhibition or perpetrators during the TRC hearings emotionally accepted that war crimes had occurred as part of the German army actions, or that human rights violations had occurred as part of the South African

defence force actions. These participants responded to the context with emotional narratives by means of which they reflected on and tried to understand the past²⁷.

5. Fifth, analysis discloses that different strategies of denial were developed. Mostly, individuals visiting the exhibition of Wehrmacht excesses found ways to avoid confronting the atrocities of the past, and made use of strategies to justify or deny war crimes. Similarly, those testifying as perpetrators at the Amnesty hearings of the TRC found ways of avoiding direct reference to human rights violations.

(a) Relativising. This strategy involves a comparison and enumeration between the crimes that were committed and the crimes of other nations. I also argue that, during the AC hearings, participants relativised their actions in comparison to other groups, particularly the ANC or MK²⁸. The speaker might also use clichés that relativise the past, for example: “every war is horrible” (Benke and Wodak 2003: 123).

(b) According to Benke and Wodak (2003: 123-125), there are two predominant discursive strategies that aim to provide a “(pseudo-)” rational causal explanation for war crimes and apartheid human right’s violations. Firstly, there is an “undisguised continuing use of NS ideology” (or apartheid ideology in this case) that was introduced at the time to justify the war or the policies of apartheid (Benke and Wodak 2003: 125). The second strategy “others forced us” also stems from NS or apartheid ideology, but implicitly acknowledges the questionable morals surrounding the past by claiming that they were forced to act the way that they did: “If it weren’t for the aims and policies of the ANC, we wouldn’t have acted the way that we did.”

(c) While the next strategy does acknowledge the existence of war crimes and human rights violations, and that the army or apartheid regime and apartheid forces or structures may be held responsible, the speaker attributes the

²⁷ The testimony of John Deegan, member of the SAP’s counter-insurgency unit “Koevoet”, is one of the few TRC testimonies in which the speaker made extensive use of the discursive strategy of “trying to understand”. Deegan’s testimony provided an emotional account of his role in human rights violations, describing members of the police force as “automatons” who “would just kill” (see TRC Report, Vol 4, Ch 8).

²⁸ Abbreviation for “Umkhonto we Sizwe” meaning “Spear of the Nation”, the military wing of the ANC which was formed in 1961 with Nelson Mandela as its first leader.

responsibility for the action to someone else: “I was only doing my duty.” Through the use of this strategy, the speaker “foregrounds himself as individual and backgrounds his association with the army” (or, in this case, his association with the police department or special forces) (Benke and Wodak 2003: 125). Benke and Wodak (2003: 125) locate this strategy between the domains of accepting responsibility (“we did”) and denying responsibility (“not we”), since the speaker does not take a stance as to whether the army was involved in war crimes, or whether other groups are responsible.

- (d) Speakers may use a strategy which acknowledges the crimes, but attributes them to other units such as Vlakplaas, the defence force or the government itself. The police department was not itself involved, or only one misguided unit is to blame. Benke and Wodak (2003: 125) refer to this strategy as “not ‘we’ but ‘them’”.
- (e) Finally, speakers may deny that war crimes or human rights violations even existed. This may be achieved through a process of claiming that such crimes were unthinkable, or by using exemplary stories of the good one’s own unit did, and the bad things other groups did which could be misattributed to the Wehrmacht or the SAP.

During their study of apartheid perpetrator narratives, Foster et al. (2005) found that their participants frequently use denial as a strategy to avoid talking about violence or their involvement in violent acts. Their findings correlate remarkably with that of Benke and Wodak (2003), who found that perpetrators of war crimes usually display an inability to admit to their direct involvement in such crimes. Similarly, denial was a dominant strategy during the testimonies of apartheid perpetrators.

According to Foster et al. (2005: 82) denial can be seen as a particular language, story, version, representation or description that we tell ourselves or others, or even fail to tell ourselves or others. “Particularly in relation to grim deeds such as mass violations of human rights, the more habitual response is to take up a range of stances beyond the correspondence position” (Foster et al. 2005: 82). Foster et al. (2005: 83) elaborate slightly further than Benke and Wodak (2003), and group denial strategies into four main categories, which include: (i) outright denial in

which the person claims nothing happened at all; (ii) discrediting the source of information, such as the report on which the claim is based; (iii) concurring that an event took place, but reframing the incident in a different way to what is claimed, and; (iv) admitting an event took place, but justifying it through moral grounds or claiming that it was a war situation (Foster et al. 2005: 82).

Furthermore, there are three main positions regarding the content of denial: (i) literal or factual denial, which claims that the event did not happen and is a denial of the facts; (ii) interpretative denial which involves providing different interpretations of the event, “it’s not what it looks like”, and; (iii) implicatory denial involves minimising or shifting the implications of the event through a process of rationalisation (Foster et al. 2005: 83). These various forms of denial include denial on a cognitive level (“not knowing”), denial on an emotional level (not empathy or sympathy), denial on a moral level (not recognising one’s responsibility) and finally, denial by not taking “active” steps (Foster et al. 2005: 83).

3.5 Concluding remarks

The main objective of this chapter was to present a summary of Benke and Wodak’s (2003) study of the justificatory discourse of ex-Wehrmacht officers. I also aimed at demonstrating some of the similarities between Nazi Germany and apartheid South Africa, as well as the similarities between the ways in which ex-Wehrmacht officers and former members of the SAP justified their roles in war crimes or human rights violations. Finally, a summary and brief description was given of the linguistic strategies used by the perpetrators to present themselves in a particular way, and to avoid claiming responsibility.

CHAPTER FOUR

Analysis of data

As was found in Benke and Wodak's (2003) study of how ex-Wehrmacht officers remember WWII, linguistic strategies used to justify crimes are prevalent and persistent in the sworn statements of the apartheid perpetrators. This chapter aims to identify and describe the linguistic devices and strategies that were used to perform a particular function, namely, the justification of human rights violations where the speaker is implicated as one of the perpetrators. The discourse of perpetrators of gross human rights abuses will be examined to determine trends or tendencies among perpetrators which show the strategies they regularly use to justify their crimes in ways that would reduce their culpability.

As has been indicated in par. 3.3 above, this study focuses on the discourses produced by two perpetrators in particular, namely Johan van der Merwe and Jeffrey Benzien. In the analysis below, the statements of these two persons are analysed by invoking the analytical concepts used in Benke and Wodak's (2003) study, but also by taking such concepts further in a manner that is still compatible with the discourse-historical approach. These include concepts formulated within studies on rhetoric, as well as socio-psychological ones introduced by Foster et al. (2005), who list six major devices that are apparent in perpetrator narratives. The aim is to provide an analysis of the generic linguistic devices used by the perpetrators not only in the TRC testimonies, but most possibly more generally in justificatory discourse that occurs in other contexts as well. These devices include the speaker's use of adjectives, verbs and nouns that contribute to the justification of acts of violence as well as their use of linguistic strategies and the effects such strategies might have had on the hearers. Further aims are to consider how speakers' intentions are directly and indirectly, overtly and covertly, articulated, and to identify specific grammatical structures which explicitly or implicitly indicate the illocutionary force²⁹ of the utterances used in justificatory expressions.

²⁹ In terms of Austin's Pragmatic theory of language use, the illocutionary force of an utterance is an aspect of meaning that indicates the speaker's intention in producing that utterance (Green 1989: 35). For example, the illocutionary force of (i) and (ii) marks them respectively as a request and a promise made to the receiver of the message.

(i) I need your help with moving the piano.

The following sections will analyze the discourse of General Johan van der Merwe and second police officer Jeffrey Benzien. In the conclusion in Chapter Five, the testimonies of these two amnesty applicants will be corroborated to show how they jointly represent discourses of justification that occurred widely in the amnesty hearings of the TRC.

4.1 Testimony of General Johan van der Merwe, former Commissioner of Police

In 1996, General Johan van der Merwe was an amnesty applicant of very high rank in the security forces, who applied for amnesty for twelve incidents that occurred between 1977 and 1988. These incidents included

- placing a vehicle with an explosive device outside the Basutoland National Party (BNP) offices in Lesotho,
- providing hand grenades to MK activists who were misled into attacking their own supporters' houses,
- bombing COSATU house in Johannesburg, and
- bombing several cinemas around the country that were scheduled to screen a relatively provocative movie, *Cry Freedom*³⁰.

Van der Merwe received amnesty for ten of the incidents he specifically brought to the TRC. His testimony highlights, and also attempts to justify, the role that the police played during one of the most aggressive times in apartheid history, and was subsequently attached to most Security Branch applications in order to explain their motives and actions (Foster, Haupt and De Beer 2005: 105).³¹

(ii) I'll never let you down.

In terms of Speech Act Theory we are able to derive meaning out of indirect utterances by means of a cooperative process which allows coding and decoding of multiple illocutions. Understanding an utterance involves the hearer making inferences about what function the speaker intends the utterance to have (Green 1989: 35).

³⁰ A movie directed by Richard Attenborough about the life and activism of black consciousness leader Steve Biko, who died of injuries sustained in police custody.

³¹ The illustrative data used in sections 4.1 and 4.2 is taken from the TRC hearings – either the special hearing regarding the armed forces of the SAP held in Cape Town on 9th October 1997 (in the case of Van der Merwe) or the amnesty hearing on 14th July 1997 (in the case of Jeffrey Benzien). Reference is made to the attached Appendix One (A1) or Appendix Two (A2) as well as the page number on which the quotation can be found.

4.1.1. Linguistic realisation of strategies used in negating the context

While Van der Merwe generally acknowledges that human rights violations did take place, he does, at times, revert to strategies which deny the existence of crimes committed on behalf of the police and his role in either directly or indirectly instructing and condoning such crimes. This is done through the use of a number of different strategies described below and listed as (i) to (iii).

(i) Constructing the police as victims

Van der Merwe claims victim-status for the police force by focusing on the difficulties that policemen had to face, and the “superhuman” (A1: 7) tasks they had to perform where “the other side followed no rule”(A1: 7). In this case people introduced at the TRC as victims are portrayed as ones who created widespread “terror and violence” (A1: 7). No reference is made to the fear that the police force instilled in the mind of ordinary, law-abiding members of the black community in the country - a reality that was beginning to come home and become part of a wider public consciousness at the time of Van der Merwe’s testimony.

In his testimony, Johan van der Merwe often uses the passive voice to describe the actions of the police force. He and his fellow policemen are presented as passive victims who were affected by, and had to respond to, the actions of others. The police “were faced with a superhuman task” (A1: 7) and “were expected to maintain law and order” (A1: 7) whereas the SACP is presented as aiming to “overthrow the government” (A1: 7). Here not only the police force, but the government itself is presented as a passive entity. The agents, in this case the UDF, are clearly noted, although there are times when the agents portrayed as the provocative side in the conflict are not explicitly named, but are referred to with phrases such as “the other side” (A1: 7) or “the enemy” (A1:7). Victim-hood is also claimed implicitly by underscoring that none of the policemen started the struggle precipitated by apartheid policies, but that they were forced by political circumstances to be there. They were portrayed as having innocently landed in a situation where “more strong or harsh action” was needed to combat the “deteriorating” situation (A1: 12).

Van der Merwe represents the police force as doing no more than performing their duties to protect the country from the “intimidation” of the SACP and UDF:

In 1985 the SACP held a conference in Zambia where it was decided that the difference between hard and soft targets no longer applied. Violence increased and many civilians, women and children were wounded or killed. The SACP, UDF and other bodies following the same aims tried their best to make the country ungovernable and to alienate the black community from the police. Large scale intimidation was used to try and prevent the SAP from operating efficiently (A1: 7).

(ii) “I am not aware”: claiming ignorance

According to Van der Merwe, neither the government nor high ranking police officials had authorised human rights violations. If serious human rights violations, such as bodily harm or even death, did take place, Van der Merwe claims ignorance regarding who gave the orders for their execution. This strategy allows him to attribute responsibility for the acts to an unnamed and unidentifiable person or organisation:

I am not aware that the State Security Council during this period issued any instruction or gave any approval for any action which could be seen as a serious violation of human rights (A1: 8).

...

On no occasion was there ever an open decision by the State Security Council, or any level that I am aware of in government, that we went over to the killing of people (A1: 17).

Van der Merwe does concede that by the late 1980s, the boundary between lawful and unlawful actions had become blurred in the context of an escalating and unconventional war waged by the ANC, and that the SAP and the Security Branch had at times acted “unconventionally” in their attempts to restore and maintain law and order. Van der Merwe thus justifies the actions of the SAP by claiming that its members were simply carrying out their duties as law enforcers under severe provocation by criminal forces. The bureaucratic function of the SAP dedicatedly caring for the security of citizens, becomes a dominant motif in his testimonies. He implicitly and explicitly emphasises the authorisation of actions that would protect law-abiding citizens, and denies that improper actions were authorised:

Since the SACP decided to overthrow the government, the police were faced with a superhuman task. On the one side they were expected to maintain law and order in a legal way and on the other hand to protect the society against terror and violence in circumstances in which the other side followed no rule and even where the boundaries of ordinary warfare were exceeded. So it was the point of departure from the government of the day that for all practical purposes we were in a war situation and that the enemy had to be defeated at all costs (A1: 7).

(iii) Reverting to ‘Scientific Rationalisation’

While Van der Merwe does not explicitly deny the existence of human rights violations, he does provide interpretations of highlighted events which, through a process of rationalisation, cast a more sympathetic light on the atrocities. He tries to justify the aims of the apartheid state and the police force by providing an analysis of the NP government and South Africa at the time at which the conflict occurred. Benke and Wodak (2003:123) refer to this strategy as one of “scientific rationalization”. It is materialised in Van der Merwe’s explanation of the apartheid state in theoretical, neutral terms and his attempt to clarify its aims and the support for their intentions and actions, particularly from the perspective of the police force.

Since 1948 the NP government saw itself as an ally of the West which, as it was then seen, was involved in a cold war with the East bloc. The ANC/SACP saw themselves as part of the East bloc countries. And the struggle between the SA government and the SACP/ANC was seen as an East-West conflict (A1:8).

South Africa with its mineral wealth and strategic location was seen as the last bastion of civilised Christian norms of the Western world, and the government used everything in its power to convey the message that if South Africa should fall prey to Communism it would be a disaster for the Western world too (A1: 8).

The strategy of “scientific rationalisation” also occurs in sections of the discourse that can be termed “multi-functional” in that it not only pretends to give a neutral, objective description of a given state of affairs, but at the same time attributes the responsibility for the crimes to the ideas and ideals of the government of the time. In his own words:

There is no police force in a country which can completely detach itself from a government, from any government (A1: 17).

Therefore, Van der Merwe does not only defer responsibility downwards onto the victims, but also upwards to those who were in a position higher than himself (as indicated in 4.1.2 below in (iii) and (iv) respectively).

4.1.2 Linguistic realisation of strategies used in acknowledging context

In his testimony, Van der Merwe generally acknowledges that human rights violations did take place, but he avoids taking personal responsibility for these crimes through the use of a number of different strategies described below and listed as (i) to (v).

(i) Doing one's duty as a loyal and dedicated officer

The role that he played in his organisation, as well as the general aims of the police force, is central to Van der Merwe's justification of his actions. For him, the task of the police was to "ensure law and order", (A1: 8) "maintain law and order", (A1: 17) and to "ensure the security of the civilian population" (A1: 8). The police force's role was also to "avoid the ANC/SACP achieve their revolutionary aims", (A1: 8) to "counter (the) onslaught by the SACP/ANC" (A1: 9) and to "combat the situation which was deteriorating" (A1: 12). Any violations of human rights on behalf of the police are justified by the construction of the ANC as a dangerous threat who instigated the violence, and who the police were obligated to control - thereby deferring responsibility for any atrocities to the aggressive actions of the ANC and SACP.

(ii) Downplaying the role of the police: "Others forced us"

As a former commanding officer of the Security Branch of the SAP, Johan van der Merwe's testimonies to the TRC shed light on the inner workings of the police force and the Security Branches. His testimony is inexorably tied up with the ideology prevalent in the police force at the time, thus he is found very limitedly to speak in personal, first person terms making use of "I". Rather, Van der Merwe foregrounds his association with the police force, and backgrounds his personal role in human rights violations. He achieves such backgrounding by frequently making use of distancing devices, euphemisms and minimalist-type language in his depiction of state violence. These include the use of the first person singular pronoun in passive processes "I saw" and "I witnessed", but the use of a collective first person plural pronoun when it came to active processes "we detained

terrorists” (Foster et al. 2005: 281). Van der Merwe defers personal responsibility for violent forms of policing to the “revolutionary” actions of the ANC, as well as to the aims and policies of the NP government.

(iii) Assigning blame downwards to the victims

Van der Merwe assigned blame to the victim through regular repetition of “us” versus “them” to paint a picture of the police as “merely reactive”. According to Foster et al. (2005: 284), it is common to include extreme case examples in the rhetorical device of victim-blaming, as well as in framing the victim as the aggressor, in order to draw sympathy from the audience. There is a calculated distinction between activists in the black community and apparently innocent bystanders manipulated by fear into supporting or at least tolerating the activists. This allows the speaker not only to cast blame on community leaders in the townships, but also to cast a positive light on the police (and by extension on himself) as the protector of the innocent. Reference to the oppressed black community as “people in black townships lived in fear of their lives” (A1: 7) is a strategy to frame himself as a reasonable, caring man. He also frames the SAP as an institution that was intent on its role “to ensure the security of the civilian population”. In his own words:

From the viewpoint of the SAP and the special branch the government was - the aim was to ensure law and order and to ensure the security of the civilian population. This was so closely allied with the activities of the police that the police regarded itself as an ally of the government inevitably (A1: 8).

Van der Merwe discredits the role and aim of the ANC, and in doing so is able to legitimise the role the police force as a reactionary force whose task was to counter the violence of the ANC and SACP (Foster et al. 2005: 285). He constructs the ANC as a dangerous threat who instigated the violence, thereby deferring responsibility onto the actions of the ANC and SACP.

Concerning the topic of human rights violations, and the police force’s connection to them, Van der Merwe reverts to the use of euphemisms:

All the powers were to avoid the ANC/SACP achieve their revolutionary aims and often with the approval of the previous government we had to move outside the boundaries of our law. That inevitably led to the fact that the capabilities of the SAP,

especially the security forces, included illegal acts. People were involved in a life and death struggle in an attempt to counter this onslaught by the SACP/ANC and they consequently had a virtually impossible task to judge between legal and illegal actions (A1: 8).

The euphemisms of “movi(ng) outside the boundaries of our law”, (A1: 8) “illegal acts”, (A1: 9) and “other methods apart for the *constitutional solution*” (A1: 13) work in drawing a veil over police violence. Indeed, there is no direct mention of police violence throughout Van der Merwe’s testimony (Foster et al. 2005: 280). Furthermore, Van der Merwe frames the event in terms of “others forced us” and repeatedly claims that the violence of the police were merely instigated to counter the violence of the ANC and SACP, which could not be combated effectively “through legislation”:

We were almost busy with a civil war. If we look at the civil disobedience on the wide level and organisations when they were all united by the UDF it could not have been able to combat that effectively through legislation. That's why the government used other methods apart for a constitutional solution (A1: 13).

...

And whether one could say that it did influence the moral fibre of the South African police, that it requires certain deviation, that was not a general rule and it was not so that it was allowed, in general, that people could act unlawfully. I wish to assure you that if that was the case it would have been a worse situation than in Bosnia (A1: 16).

...

Security legislation could, in this war situation where intimidation was used so that the greatest deal of the masses were forced to use civil disobedience then legislation could not be the solution (A1: 13).

Describing the time period as a “war situation” (A1: 7) and claiming “we were almost busy with a civil war” (A1: 13) is a strategy to justify police actions with reference to the cliché “war is war”. Van der Merwe is thus able to relativise the actions of the police by framing the situation as “others are no better” – not other countries, nor the other side involved. By drawing a comparison with Bosnia, Van der Merwe is able to assert that the police force assumed some form of rational control over the situation, thus painting himself in a positive

light. The comparative device also works to frame the situation in South Africa as less problematic, or less severe, than it actually was.

(iv) Assigning blame upwards onto the state

Deferring responsibility for human rights violations to the ideals of the government is a dominant strategy in Van der Merwe's testimony. In his own words:

As Mr de Klerk said that the South African Police should not move in the political terrain but the security forces were still trapped into the political struggle in which the interests of the former government were the most important aspects (A1: 8).

Van der Merwe highlights his perceived role of the SAP, which was to "maintain law and order," (A1: 17) but also the promotion of the interests of the former government. He also goes into some detail about how the strategic planning within the police department took place. According to Van der Merwe, decisions were made from above on behalf of both the Commissioner (himself) and the Minister – so he found it reasonable to share (if not shed) any responsibility for human rights violations:

For most of the people in the SAP it was about more than just law and order. The promotion of the interests of the former government was an important consideration and there was a close relationship between the Commissioner and his Minister and this attitude played a very important role in which the planning occurred in the various structures (A1: 8).

(v) Using extreme terms of reference: Relativising

In using non-specific phrases that often refer rather vaguely to offensive actions of the ANC, SACP or UDF, such as "large scale intimidation" (A1: 7) and "many civilians, women and children were killed", (A1: 7) Van der Merwe relativises the harsh actions of the police force, by contrasting them to extreme cases of unrest instigated by the other side. This is what Foster et al. (2005: 279) refer to as "extreme case formulation", a device wherein the most atrocious acts by the opposing side are presented in order to provide justification for police violence. In doing so, Van der Merwe indirectly claims that the police were forced to act the way that they did due to the actions of the opposition. In doing so he is able to present the police force as well as himself in a positive light - as saviours to those being brutally killed by the onslaught of destructive forces. He describes members

of the police force in similarly hyperbolic terms as “totally devoted to their task” and as “people with a sense of responsibility” who “tried to promote the country's interests” (A1: 17). In referring to protest groups whose actions got out of hand and were indeed most distressing, such as the necklacing of suspected sellouts, Van der Merwe claims that “it (was) even more cruel than anything the Nazis did” (A1: 7). In Van der Merwe’s own words:

The notorious necklace method, which is even more cruel than anything the Nazis did, was used to kill many people who were seen as collaborators. The police were regarded as hard targets which could be killed at will. More and more people became victims of violence. People in black townships lived in fear of their lives (A1: 7).

Using such a comparative device not only frames the opposition as cruel and aggressive, thus justifying forceful acts against them; it also inverts an often invoked parallel between the apartheid state and the national socialist government in 1940s Germany. The desperation of poor and oppressed communities is constructed as equivalent to a systematic, institutionally calculated extermination programme of a sophisticated state, while the South African state oppression of its overstretched communities is constructed as valiant opposition to such excesses.

The above citation illustrates the multi-functionality of many utterances used in justificatory discourse: not only does it selectively refer to oppositional groups in excessive terms, as in “the notorious necklace method” (A1: 7); it simultaneously (and repeatedly) continues the strategy of constructing the perpetrators as victims, as in “the police...could be killed at will” (A1: 7), and in emphasising the need for the police to do its regular duty to protect innocent citizens, as in “more and more people became victims of violence” (A1: 7).

Interestingly, many AC testimonies that described the role of the police in apartheid violence gave evidence of police instigation of violence in the black communities themselves. For example the policeman Gary Pollock who testified at the Security Forces hearing in November 2000, referred to the police supplying weapons to the IFP, discharging fire arms in Alexandra township at night to intensify residents’ insecurity, and furnishing the IFP with the names of ANC members (TRC Report, Vol 6: 211). Notably, General Van der Merwe was completely silent on these matters; he made no mention of any of these practices.

Although he maintained silence on extremely provocative and illegal actions of the police, Van der Merwe did use extreme terms in referring to the circumstances of the police, such as “a life and death struggle” (A1: 9) and “very difficult circumstances” (A1: 17). Thus extreme terms were used not only in negatively constructing the other, but also in positively constructing the police force – and by extension also himself as a senior police officer.

4.2 Testimony of Jeffrey Benzien, former member of the Security Branch section of the SAP

In July 1997, officer of the Security Branch section of the SAP, Jeffrey Benzien, sought amnesty for his participation in the torture and killing of black activists in the Western Cape during the 1980s. Benzien became notorious not only for apprehending Umkhonto weSizwe (MK) members, but specifically for his use of the “wet bag method” of torture, which entailed that he would cause anxiety by bringing a detainee to near suffocation with a wet bag. Benzien was involved in the killing of MK member Ashley Kriel³². His testimony at the TRC concerned this crime, as well as the torture of Toni Yengeni³³ and Ashley Forbes³⁴.

In order to fit the requirements of the AC, Benzien had to provide information as to the political objectives for the killing of Ashley Kriel. Providing a political objective can simultaneously supply an opportunity to justify the particular crime. Benzien makes use of various strategies in order to create his preferred version of the events. In his testimony, Benzien – perhaps more than Van der Merwe – acknowledges involvement in human rights violations, but he justifies such involvement by relying on a number of fairly generic strategies. These will be listed and discussed in the same way as was done in the presentation and analysis of Van der Merwe’s justification; however, the strategies are organised according to frequency and prominence.

³² In 1987, twenty-year-old Ashley Kriel was shot and killed in Cape Town by members of the Security Branch. For a more in-depth analysis of Benzien’s testimony regarding the death of Kriel, see Bock, M. “Multiple representations of a human rights violation: competing discourses in TRC narratives and related media texts” (Unpublished).

³³ Toni Yengeni was a MK operative who was detained and severely tortured by Security Branch operatives. He was held in custody for six months, and then again for three years while on trial for terrorism. Two members of the Security Branch (one of whom was Jeffrey Benzien) were granted amnesty for his torture (TRC report, vol 7).

³⁴ Ashley Forbes was a MK operative who was detained in 1987 and held for 6 months and severely tortured by Security Branch operatives. He was charged with terrorism and sentenced to 15 years imprisonment. Jeffrey Benzien was granted amnesty for his torture (TRC report, vol 7).

4.2.1 Linguistic realisation of strategies used in negating the existence of human rights violations

While Benzien does orientate himself towards the context of the hearing, he at times reverts to justifications which explicitly deny his part in such violations. He does this by telling stories which present him in a positive way (with no mention of human rights violations), claiming victim-hood, and finally, claiming ignorance through the use of various strategies such as (1) vagueness or non-directiveness; (2) the use of verbs that do not express certainty, for example “think” and “concede”; (3) the use of modal auxiliaries like “may” and “could”; (4) the use of adverbs like “quite” and “specifically” which are used to indicate that something is almost in a particular state or condition; and finally (5) the use of hedging disclaimers such as “as far as I know”, and “if I am not mistaken”. Through the use of a number of different strategies listed and described below and listed as (i) to (iv), Benzien avoids explicitly acknowledging human rights violations, or his part in these violations.

(i) Positive self-presentation

The strategy of “positive-self presentation” (Benke and Wodak 2003: 123) is one that Benzien uses frequently in his testimony. It links up closely with the justification that he was merely doing his duty as a policeman. While he does mention that his violent methods were “unorthodox”, (A2: 7, 39, 47) and therefore does not always deny the context, Benzien also tells the audience about the awards he received for his work, which portrays him in a positive light and shows that, rather than perpetrating human rights abuses, he was a hard-worker who contributed effectively to the aims of the police force.

Benzien presents himself as a hard, efficient worker, who got the “job done” (A2: 39) and who went “the extra mile” (A2: 49) for his employers, irrespective of “the consequences” (A2: 49). By claiming that he disregarded potential personal negative outcomes while performing his duty, he is able to imply that he was a good policeman who put the needs of his job before his own. Benzien also suggests that he may have been “patriotic” or “naïve” (A2: 39) during the time in which abuses took place, thus potentially allowing him to be excused from any blame, and portraying himself as someone who has changed for the better over time.

By mentioning “innocent people” (A2: 47) and his goals to protect “the public”, (A2: 47) and to “prevent deeds of terrorism”, (A2: 47) Benzien portrays himself as having done “good and valuable things” (Benke and Wodak 2003:123). He himself refers to his actions as “barbaric” and “unorthodox” before adding “to put it lightly”³⁵ (A2: 47). These statements may work as an admission of guilt, or admission or wrongdoings, but, more pertinently, they also serve to represent himself as a reasonable man who is able to change and who is willing to admit to past atrocities. At times, Benzien does apologise for his actions; however, it is never a complete apology, since he simultaneously constructs himself as innocent and constructs his actions as lawful and acceptable:

I apologise to any person or persons whom I have harmed and I specifically apologise to the families of Ashley Kriel for the death of their son and brother. Although I deny that I killed him unlawfully and wrongfully, he did however die as a result of an action on my part and for that I apologise (A2: 2).

Geschier and Lubbe (2002: 284) state that “the authenticity of (Benzien’s) appeals to change are marred by the way Benzien professes to understand the concepts of ‘forgiveness’ and ‘reconciliation’...Benzien believes that forgiveness has to do with forgetting about the past, letting bygones be bygones and not taking responsibility for past actions.”

Avoiding responsibility is a common strategy in Benzien’s testimony, and he does so in a way that simultaneously presents him in a positive way. In order to avoid personal culpability, Benzien requests that the audience thinks of his actions in terms of “the context of the time we were living in then” and adds that he hopes “the people here could see the predicament that (he) was in” (A2: 47). He also makes appeals to the “spirit of reconciliation” (A2: 55) and “the spirit of honesty and reconciliation” (A2: 56) and claims that “it is now reconciliation, forgive and forget at its best” (A2: 3) as a way to avoid talking about the past, or dealing with the past altogether. In doing so, Benzien acknowledges the context at the time of his testimony – that is, the TRC and the larger discourse of reconciliation - but he avoids dealing with the past context of human rights

³⁵ This description of his own actions can be contrasted with other portrayals of himself in which he overtly expresses a sense of pride and satisfaction in his work. Many have commented on his tendency to talk shamelessly and excessively about past “achievements”, most notably during his demonstration of the wet bag method at his hearing (see Krog 2002: 73-78).

violations. This strategy is again used when Benzien states: “I out of my own free will have approached this Commission to see if we can't build, and forget about the hardships” (A2: 40). He describes that his “greatest fear” was “a SPM limpet mine” being detonated in the Golden Acre³⁶ - a situation that he described as “catastrophic” (A2: 47). Through such statements, he frames himself as a man who was concerned with the public at large, not merely his own safety and security.

During his testimony, Benzien refuses to acknowledge claims by Forbes regarding his role in abuses. He achieves this by reminding Forbes of how he, on more than “one occasion”, and on his own accord, “contrary to police regulations”, brought him Western novels to read. Benzien also reminds him of how he “used to go visit him on a Sunday afternoon”, take him “fresh fruit”, and give him cigarettes (A2: 58). The lack of personal culpability on Benzien’s behalf is amplified during his denial of circumstances around an event described by Ashley Forbes (A2: 57-62). Forbes claims that Benzien threatened to torture him on the 16th of every month. After first accusing Ashley Forbes of lying, Benzien denies having made the statement by providing a different interpretation of the event – an elaborate one in which he paints himself as a good and reasonable man. Apart from claiming “one of us two are lying”, (A2: 55) Benzien appeals to the “spirit of reconciliation” (A2: 55) in his reply, and reminds Forbes of having provided him with a steak to eat, of having given him “the most Kentucky Fried Chicken (he had) ever eaten”, (A2: 55) of the time he allowed Forbes to play in the snow and of the time Forbes “braaied with him and the rest of the (police) Unit” (A2: 56) in an effort to justify and avoid talking about the role in played in the torturing of Frobes.

Benzien twice mentions the “certificates” (A2: 9, 10) and “medals” (A2: 9, 10) he received for “the combating and tracing of terrorists” (A2: 9). Apart from listing his achievements, Benzien presents himself in a positive light and justifies his “absolutely unorthodox methods” (A2: 39) by claiming that his torturing methods and policing duty led to the confiscating of Toni Yengeni’s gun, which prevented him from “being branded a murderer” (A2: 40). This is an attempt to simplify and disregard the severity of his own actions, a strategy which Benzien uses frequently. Benzien also claims that his “sole purpose” was to take ammunition and weaponry from “the freedom fighters” who were not only targeting the military, but “innocent people” and “the public at large” (A2: 47). Benzien makes an

³⁶ A shopping centre in the centre of the city of Cape Town.

extensive list of the ammunition used by members of the ANC: “SPM land mines, mini limpet mines, SPM limpet mines, mini limpet mines, handgrenades, AK47's and what all” (A2: 47), in order to paint the victim as dangerous and perilous, and represent himself as a saviour and protector.

The use of the word “freedom fighter” in place of the often-used “terrorist” can also be seen as a strategy to represent himself as someone who is aware of, and has come to terms with, the new political climate in South Africa. At times, Benzien often corrects himself after using the word “terrorist” in an effort to dissociate himself from old ideology and overtly take a stance (whether authentic or not) towards a new one; for example: “Cape Town, thank God, did not have the terrorist or freedom fighter actions of a Bloed Street, Church Street, Magoo's Bar and one of those places” (A2: 47). However, Benzien often makes claims which are reminiscent of apartheid ideology by means of the discursive strategy identified by Benke and Wodak (2003: 123) as “scientific rationalisation”.

(ii) Reverting to ‘Scientific Rationalisation’

Benzién saw it as his duty to “combat threat(s) posed by the communist expansionism”, “to protect South Africa against a communist take over”, “to fight for the continued existence and preservation of what (he) saw as a normal Western democratic lifestyle” (A2: 8). Furthermore, Benzien saw it as his duty:

To fight for the right of myself, my family and the general public to continue to live in South Africa in the way that our forefathers lived, with special reference to our heritage, background, culture and political lifestyle. And to try to preserve everything created on the South African soil mainly by Whites, to preserve this and to maintain the status quo in terms of what we in the Security Forces, saw as the normal South African lifestyle (A2: 8).

As with most of the testimonies of former policemen, the term “apartheid” is hardly ever uttered, since most make an effort to explicitly distinguish themselves from the dominant political ideologies of the past (Foster et al. 2005: 281). In general, there is an avoidance of terminology that will incriminate or demean the speaker’s side of the political divide. However, Benzien’s testimony offers a clear distinction between “black” and “white” individuals, along with statements that constitute undisguised continued use of apartheid ideology. For example, he saw it as his task as a police officer to “preserve everything created on the South African soil mainly by Whites” (A2: 8) while his actions “led to the

death of an innocent Black person who was foraging in a dirt drum for food” (A2: 40). He also claims “there was only loss of one life...and that was one unfortunate Black man” (A2: 47).

While this is not a direct expression of racism, it is resonant of the racist distinctions of apartheid, and the pre-1994 mode of distinguishing between “black” and “white” and “us” and “them”. Apart from making clear distinctions along racial lines, Benzien refers to the victim as “unfortunate” meaning “unlucky” or “ill-fated” which allows him to defer responsibility onto an abstract entity (i.e. fate), and thus avoid taking personal responsibility. Mention of “White soil” is a measure of self-glorification and grandiosity, and harks back to the history of the Great Trek and the Anglo-Boer War, where many Afrikaners constructed themselves as a small, just and talented nation, standing alone against the massive forces of darkness, evil and incompetence³⁷. By using the adjective “innocent” to describe the victim, Benzien is able to present himself in a positive way, but at the same time, mention of the poverty of the victim indicates a sense of arrogance and self-glorification – it is as if the fact that the deceased was poor and Black excuses his own actions. Benzien describes his privileged position under the apartheid regime, and the reversal of roles in the new dispensation as follows: “each person had to have his place in the sun in South Africa” (A2: 40). Thus, Benzien frames himself as a rational and reasonable man who believes and accepts destiny, even if destiny seems to be working against him.

Benzien’s statements are multi-functional in that they simultaneously provide a scientific explanation of human rights violations, and a “pseudo-” rational causal explanation which presents an undisguised use of apartheid ideology (Benke and Wodak 2003: 125). Therefore, Benzien often acknowledges human rights violations, and refuses to acknowledge such violations, within the same utterance. According to Geschier and Lubbe (2002: 282) Benzien’s Amnesty narrative “situates him in an uneasy position between his old apartheid-era Afrikaner identity, and a possible new identity to be taken up in a new democratic African situation.” Geschier and Lubbe’s (2002) paper links Benzien’s position and his inability to move forward convincingly into a new political and social context to his inability to take full responsibility for his apartheid era acts.

³⁷ H.W. Van der Merwe (1974:13): “During the first decades of the nineteenth century the line separating White and Black on the Eastern frontier had been drawn on all levels. The Whites were the civilized people, Christians and Europeans – synonymous concepts. Opposed to them were the uncivilized, the heathen and Natives, who were all coloured or black.”

(iii) Claiming victim-hood

Unlike Van der Merwe, who claims victim-status for the police, Benzien explicitly and unequivocally claims victim-hood for himself. This can be seen as an effort to avoid dealing with the past and to represent his actions as less significant than they are:

That was after the African Youth League threatened to have demonstrations on my front lawn. Yes, Mr Yengeni, I did terrible things, I did terrible things to members of the ANC, but as God as my witness, believe me, I have also suffered.

I may not call myself a victim of Apartheid, but yes Sir, I have also been a victim (A2: 40).

While Benzien explicitly affirms that he is not a victim of apartheid, he claims he is a victim of the ANC Youth League as well as the police force who used him to do their dirty work. Benzien may be a victim in this regard, but claiming victim-hood under these circumstances works as a justification for his role in human rights violations.

(iv) “I cannot remember”: claiming ignorance

The use of certain words allows Benzien to affirm a certain degree of expertise, while at the same time disclaiming sufficient knowledge about an event— often within the same speech event – This is representative of the discursive strategy of “claiming ignorance” (Benke and Wodak 123). For example, when questioned by Toni Yengeni and Ashley Forbes and asked to confirm their statements, Benzien answers saying first that the statement might possibly be true, or that it might have happened, thus modifying the statement to give it a modality of uncertainty or probability, so that the truth of the proposition is not confirmed. Then, almost as an afterthought, he might close such an approximating response with the confirmative – saying “yes” to indicate agreement:

“TY: Now, you used this method on me, but before you put the black bag on my head, you blindfolded me. Is that correct?

JB: I am not hundred percent sure, but I could have, yes” (A2: 42).

Here, Benzien introduces two different expressions of uncertainty before affirming with “yes” at the end of the utterance. This technique, used at various times, serves functions and may be used for a number of reasons. Firstly, Benzien avoids claiming complete and

absolute responsibility by placing himself in a space between remembering and not remembering. This raises uncertainty with the audience about Benzien's position – he could be denying the truth of what has been proposed, or he could be raising doubt about the factuality of the proposition. Then, after expressing such uncertainty, Benzien comes with an affirmation of what Yengeni is proposing. This works as a face-saving strategy, creating an impression with the audience that Benzien is a man who is willing to accept his own wrong-doings and take responsibility.

The frequency of Benzien's use of this structure is most apparent during questioning by Ashley Forbes. This session of interrogation reveals another function of introducing modifying phrases before giving confirmation, namely that it is difficult for Benzien to admit to his own crimes, both on a personal level to the audience. The modifying phrases of uncertainty can therefore also be read as indirect acknowledgement of his embarrassment at having to own up to his improper actions. The excerpts below show how confrontations from his former victims expose him and the way in which he answers are attempts to alleviate that part of the experience.

AF: Can I also ask that when I was arrested, do you remember saying to me that you are able to treat me like an animal or like a human being and that how you treated me, depended on whether I co-operated or not?

JB: I can't remember it correctly Sir, but I will concede, I may have said it (A2: 54).

In this statement, Benzien first claims lack of memory, but then reluctantly admits to having said such things. Throughout this part of the hearing he often uses the verb "concede". His reluctant admittance is followed by the modal verb "may" which tones down the confirmation, but also indicates that he cannot directly contest the proposition.

AF: Do you remember that when the wet bag method was used, that people are also undressed? That I was undressed, that my pants was pulled towards my ankles and that in that way, and thereafter the wet bag was pulled over my head and suffocated?

JB: I cannot remember it specifically, but I am willing to concede. If you can remember that aspect, I may concede, yes (A2: 55).

...

AF: Do you remember for example that my clothes were removed and that the wet bag method was again used on me?

JB: I would concede it could have happened (A2: 56).

...

Adv. DeJ: So, wouldn't that be a torture (indistinct), not leaving marks, physical marks, but mental torture?

JB: I am sure it could be.

Benzien acknowledges his unlawful acts and at the same time claims mitigation by minimising the longer term effect of his actions:

The legal and factual nature, as well as the gravity of the offences were per se unlawful and serious. Nobody was however seriously injured or sustained lasting physical or mental harm or damage as far as I know. Ashley Kriel, unfortunately was killed (A2: 9).

The use of “per se”, meaning “in itself”, works as an avoidance device through which Benzien evades acknowledging the “unlawful(ness)” and severity of his actions. Benzien gives a statement of fact, categorically saying “nobody” sustained long-term negative effects, but then ends the sentence with the hedging disclaimer “as far as I know”. The hedging disclaimer undermines the factuality of the statement. The final statement of the extract, “Ashley Kriel, unfortunately was killed” also negates the earlier claim that “nobody was... seriously injured”. Benzien’s testimony is characterised by very many such contradictions that could not have gone by unnoticed.

While the above utterances work as a way for Benzien to claim ignorance regarding certain events, in some cases he also simultaneously denies the existence of human rights violations. Galasinski (2000: 55) questions whether evasive utterances such as the ones discussed above, should be seen as a form of deceptive communication. Evasive utterances have the quality of ambiguity or equivocality and can take the form of non-answer responses, which are “those that relate coherently to the act of questioning yet not to the question-sentence” (Galasinski 2000:55). Thus he finds that evasion is strictly a part of question-answer exchanges and only occurs under certain circumstances, the most important of which is that the speaker fully understands the question. A person “cannot

evade and not realize it” (Galasinski 2000:56). Evasion is thus a conscious activity, and an evasive message is an interactional move or strategy by the speaker, who intends the message to be irrelevant and to be interpreted ambiguously (Galasinski 2000:55). Evasion can also be seen as the speaker’s endeavour to control the flow of discourse which, in overtly evasive utterances, usually entails the speaker questioning the accuracy of the question (Galasinski 2000:70).

Evasion for the purpose of deception can be a covert motive and will thus also be disguised by the speaker. In Benzien’s case responses to the questions were evasive in that he did not answer the questions in a way that satisfied the demand for information. Benzien evades answering the question by following strategies identified by Galasinski (2000: 62-65), i.e. by changing the textual context of the question or by changing the focus of the question. Benzien’s evasive statements work as a deceptive strategy in the sense that they deny the central role he played in torturing the victims, work as a means of avoiding telling the truth, and direct attention away from his own embarrassment at being confronted with aspects of his past he would prefer to be forgotten.

Claiming ignorance occurs again in Benzien’s testimony after having been questioned about a detainee who committed suicide after he was tortured by Benzien. While Benzien does claim that he was aware of the suicide, he defers responsibility by not acknowledging that it may have been he himself that caused the suicide; rather, he lays the blame on the “method of detention” which “was a draconian law instituted by the then Nationalist Government”:

Chairperson: Were you aware of the fact that he tried to commit suicide?

JB: I was so informed Mr Chairman. What actually led to that, I cannot say, except that I concede the method of detention was a draconian law instituted by the then Nationalist Government, Sir (A2: 58).

4.2.2 Linguistic realisation of strategies used in acknowledging the existence of human rights violations

In his testimony, Benzien acknowledges that human rights violations did take place and that he was personally involved in actions that he finds to be constructed *ex post facto* as human rights violations. He maintains that his actions were not motivated by personal feelings of vengeance – he was convinced his duty as an SAP officer was to protect the state and innocent citizens from real threats to their future security and quality of life. Through the use of a number of different strategies listed and described below as (i) to (v), he acknowledges the existence of human rights violations, but denies being personally responsible for them.

(i) Doing one’s duty as a loyal and dedicated officer

Similar to Van der Merwe, Benzien claimed that he was merely performing his duty as a “policeman and upholder of the then law of the country” (A2: 47), and that he was forced to act the way he did due to the actions of others – either those above him through their policies or those below him through their provocative actions. Benzien provides his own elaborate perspective on the role that he played in the SAP during the later years of the struggle. He provides reasons for his actions and his use of “unconventional” (A2: 6-7) methods of torture during interrogations.

Benzien felt that he had fulfilled his task as a policeman, which was “the protection and maintenance of the previous government and constitutional dispensation” (A2: 8), as well as “preventing the opposition from enlarging their political power base” (A2: 8). He also felt it was his duty “to prevent deeds of terrorism” (A2: 47), “to prevent the country and its people being overcome by a series of attacks, both military or political” (A2: 8), and “averting of the onslaught from the ANC/SACP” (A2: 8).

(ii) Downplaying personal culpability: “Others forced me”

Related to the claim “I was only doing my duty” is the justification “I was forced to by others”. This claim also attributes the responsibility for the action onto some other person or group, in this case the victims as well as higher officials within the SAP, while at the same time denying personal culpability for an action.

(iii) Assigning blame downwards to the victim

Benzien frames the NP government as a “constitutional dispensation” (A2: 8) whose aim was to prevent the possible achievement of the ANC’s goals of “overthrowing” (A2: 8) “destroying” (A2: 8) this constitution through “violent means” (A2: 8) that generated terror and panic. No mention is made of the intimidation and fear generated by the NP government, knowledge of which, at the time of his testimony, was beginning to come to the surface and enter public discourse. He refers specifically to the “fear” and “intimidation” (A2: 8) caused by the armed forces of the ANC and SACP. Benzien’s word choice is pertinent to the justification discourse he produces in defence of his part in the crimes. By avoiding references to fear and intimidation of the township communities by the police, Benzien foregrounds other responsibility and backgrounds own responsibility. By pointing to atrocities of the anti-apartheid activists Benzien uses the justificatory strategy identified by Benke and Wodak (2003) as “others forced us”, which attributes the responsibility of the action onto someone else.

(iv) Assigning blame upwards onto higher-ranked officials, organisations, and the state

At times Benzien acknowledges that human rights violations did occur and that the SAP may be held responsible, yet he attributes the responsibility for the action to someone else, for example his Commanding Officers, or the SAP as a whole. Benke and Wodak (2003: 125) identify this strategy as one between “we did” and “not we”. Benzien does this by not take a firm stand in indicating whether the police force was involved in the crimes, or whether groups within or without the police should be held responsible. With this strategy, Benzien foregrounds his personal position, and backgrounds his association with the SAP.

Benzien justifies his role in human rights violations by claiming that he was forced to act the way he did by other, higher ranked officials within the Security Branch, and that he was merely following orders:

I did not take part in the decision making process due to my junior rank. I only learnt of these things from my Commanding Officers (A2: 8).

The acts were committed on the orders of my immediate Commanding Officer, Lieutenant Liebenberg (A2: 9).

I believed on reasonable and bona fide grounds that I was acting within the cause and scope of my duties and within the scope of my express or implied authority (A2: 10).

My seniors condoned my acts (A2: 9).

In his response to Toni Yengeni, Benzien states that he was taken advantage of or “used” by the Security Branch (A2: 39), thereby framing himself as someone who was not aware or did not know the full extent of what was going on around him. While this may also be seen as a strategy of “claiming ignorance”, the most salient interpretation of the statement is that Benzien was compelled to act the way he did because of others. Here, he frames himself as a passive victim to the active, powerful role of his superiors:

It was my contention that the Security Branch were using me to do the dirty work and what my motivation, I tried to explain just now, could be patriotic to the then South Africa of the day, as much as I now realise that you gentlemen must have been just as patriotic to your country of birth. I think this was latched onto by members of the South African Security Branch who then allowed me to do this and by so doing, not dirtying or bloodying their own hands as regular members of the Security Force, for security reasons (A2: 49).

(v) Relativising: “Every war is horrible”

Like many police perpetrators of the apartheid regime, Benzien claims he was forced to act the way that he did due to the behaviour of others, or the circumstances at the time. He thus avoids claiming responsibility, and relativises his actions by claiming his methods were proportional to the circumstances and the required outcomes:

JB: As I explained before Sir, these were difficult times and difficult methods had to be used” (A2: 66).

4.3 Concluding remarks

The aim of this chapter was to provide an analysis of the discourse of two former SAP perpetrators, namely Johan van der Merwe and Jeffrey Benzien. In particular, I aimed to identify and analyse the justificatory strategies used by these two former policemen during their TRC testimonies, as well as how the strategies were used and why. This included an analysis of strategies that both acknowledge the existence of human rights violations and those that do not. In the following chapter, I compare and contrast the two testimonies, and also show how the use of justificatory strategies compares to those used by the ex-Wehrmacht officers in Benke and Wodak’s (2003) study.

CHAPTER FIVE

Comparison of testimonies and conclusion

This study set out to present an analysis by means of a discourse-historical approach to the TRC testimonies of the perpetrators of human rights violations that occurred between 1960 and 1994. The main question guiding the study was how the perpetrators of apartheid crimes discursively justify their role in human rights violations. In Chapter Two the central concepts and theoretical framework of the study were set out. Particular attention was given to the study of Benke and Wodak (2003) on how Austrian ex-Wehrmacht officers remember, talk about and justify human rights violations committed during the Holocaust. Benke and Wodak's (2003) study was used as an analogy for a similar kind of analysis, i.e. for considering how perpetrators of crimes committed during violent national conflict justify their abuses once the conflict has become part of a contested history. The Benke and Wodak study also served for providing analytic devices for identifying the kinds of strategies customarily found in discourses of justification.

In particular, this study focused on the narratives of two white former members of the South African Police from 1960 to 1990. Their testimonies were analysed in Chapter Four as discourses that are representative of the kinds of discourse broadly used before the Amnesty Committee of the TRC. During their testimonies, the perpetrators used several linguistic strategies, including rationalisations, equating strategies and denials, to present themselves as less culpable, as respectable members of society, and as people who in the given circumstances were bound to their duty in service of a legitimate government. These discursive strategies have been analysed according to how they justify the speaker's role in human rights abuses, how they differ amongst the perpetrators studied, as well as how they compare to the ex-Wehrmacht perpetrators in Benke and Wodak's (2003) study.

In this chapter I shall compare the testimony of Johan van der Merwe with that of Jeffrey Benzien in order to draw a representative profile of the strategies that were used more generally in justificatory discourse that was embedded in perpetrator testimonies. Finally, I shall indicate that there are significant similarities in the justificatory strategies used in responses to pictorial reminders of World War II atrocities and the justificatory strategies used in responses to confrontations reminding of SAP atrocities. Such similarities allow

one to claim that there are generic structural and linguistic features typical of discourses of justification that will most probably also occur in other settings where other kinds of human rights violations are made public and are institutionally confronted.

5.1 Structural and linguistic features of justification discourses

Both Benzien and Van der Merwe justify personal involvement in human rights violations and police violence through the use of a wide array of discursive strategies – in fact, all of them already listed by Benke and Wodak (2003:123-125). These strategies both orientate the speaker towards the context (where they confirm the existence of human rights violations) and negate the context (denying in some way what they are confronted with). Paradoxically, this often happens within the same utterance. Both Van der Merwe and Benzien offer a wide range of subject positions – ranging from claiming responsibility and apologising, to outright denial of their role in the violations. In the analyses done in Chapter Four, I have aimed to distinguish between these as far as possible, and while there is some overlap between strategies that orientate towards the context and ones that negate the reality with which the perpetrators are confronted, the findings are as follows:

Both Van der Merwe and Benzien present themselves in a positive way, particularly by drawing comparisons to the violent actions of those they prosecuted, namely, members of the ANC, IFP and SACP. Van der Merwe presents the police force as overwhelmingly good and honourable and as dedicatedly caring for the security of South African citizens. Benzien presents himself in a positive light by telling stories that paint him as a good, moral and rational man who was willing to go “the extra mile” for his job. Unlike Van der Merwe, Benzien explicitly apologises for his role in abuses, and makes reference to the surrounding context of “reconciliation”. Although this seems to show some contrition on his part, I argue that these are more likely strategies to avoid dealing with the past and intended to present himself as a good policeman who should be considered morally upright.

Both Van der Merwe and Benzien claim victim-hood in order to justify their actions. It is interesting to note the discrepancy between Benzien’s and Van der Merwe’s testimonies in this regard. Van der Merwe claims victim-hood for the entire police force which is indicative of his general avoidance of the use of “I”. Van der Merwe also refers to the “superhuman” tasks of the police force, and speaks of the actions of the police in the passive voice. He constructs police force members as passive recipients of undeserved

harm, versus the harsh actions of the ANC/SACP. In contrast, Benzien overtly claims victim-hood for himself (“I have also been a victim/ I have also suffered”) as a means to avoid dealing with the past and to down-play his personal responsibility in human rights violations.

Van der Merwe and Benzien claim ignorance with regards to specific human rights violations. Van der Merwe uses euphemisms to talk about state violence, a device which aids in avoiding dealing with human rights violations directly. To him the police may have moved “outside the boundaries of (the) law” and used “unconventional methods” outside the “constitutional solution”. No mention is made of what these actions entailed, or who gave orders for their execution. In a manner which is quite a unique manifestation of this general strategy of claiming ignorance, Benzien justifies his role with regards to human rights violations in a number of ways: he is vague and uses language which does not express certainty, including the use of modal verbs such as “think” and “concede” and the use of hedging disclaimers such as “as far as I know”, in order to seem unsure about the exact details of an event.

Van der Merwe and Benzien both employ the strategy of scientific rationalisation by describing the origins of apartheid in theoretical and neutral terms. Both see the struggle of the former dispensation as a fight between communism and Christianity, as an “East versus West” conflict, where South Africa is seen “as the last bastion of civilised Christian norms of the Western world” (Van der Merwe). Van der Merwe constructs both himself and the police force as saviours of civilised society in alliance with the great powers of the Western world, while Benzien describes his duty as a policeman as one intended to end the “communist expansion” and “to preserve everything created on the South African soil mainly by Whites”. This is the first statement of many where Benzien makes reference to apartheid racial distinctions in order to justify his role in human rights abuses.

In addition to negating the context, both Van der Merwe and Benzien acknowledge that human rights abuses took place, but in ways that justify their personal role in such abuses.

First, both Van der Merwe and Benzien portray themselves as loyal and dedicated officials. If any mention is made regarding their involvement in human rights violations, Van der Merwe and Benzien often revert to justifications similar to “I was just doing my duty”. Van der Merwe justifies human rights abuses with reference to the requirements of his job,

which was to “maintain law and order” and to ensure the security of the civilian population. Benzien claims that human rights violations were a result of his responsibility and obligation to his duty as a police officer. Both emphasise their function as a police officer, and down-play personal responsibility in human rights violations.

Second, Van der Merwe and Benzien both use the discursive justificatory strategy of “others forced us” – either those in a position higher than themselves, or their victims. Van der Merwe justifies police violence by claiming he was forced to act in an illegal manner due to the actions of others –either the “revolutionary” actions of the ANC and SACP, or the policies of the government as well as senior government officials. Benzien implicitly claims that he was forced to act the way that he did because of direct orders from his superiors (whom he explicitly names), or because of the “fear”, “intimidation” and violence of the ANC and its armed forces.

Third, both Van der Merwe and Benzien relativise their actions by drawing comparisons between their own actions and those of the victims, or, more broadly, the South African violent conflict and other violent conflicts. Van der Merwe frames the violence in war terms, claiming the police were “in a war situation” which portrays the police as “merely reactive” – both in relation to past instances of war, and in relation to the actions of the ANC. Drawing on the stereotype “every war is horrible”, Benzien justifies human rights violations by claiming “these were difficult times and difficult methods had to be used”.

Finally, both perpetrators deny their involvement in human rights abuses, or deny the severity of the abuses. Van der Merwe denies authorising crimes, even though he was a high ranked official in the police force, while Benzien uses a series of evasive statements to deny the facts and provide a different interpretation of an event.

5.2 Relating justification discourses produced in TRC testimonies to ex-Wehrmacht officer discourses

The aim of this study was to provide a linguistic analysis of how apartheid perpetrators, from the police sector in particular, justify human rights violations committed at the time of their AC testimonies. Based on the discourse-historical approach to discourse developed by Wodak (2000) and used by Benke and Wodak (2003) to analyse the justificatory discourse

of ex-Wehrmacht officers, this study indicates that perpetrators use a set of fixed, conventionalised linguistic strategies to justify their role in human rights violations.

Benke and Wodak studied the responses of five participants collected during unstructured interviews with people visiting a photo exhibition that documents World War II human rights abuses. The justificatory discourses produced in these interviews were not prompted by any threat of prosecution as were the TRC testimonies. Also the interviewed persons presenting justifications for violations during a time of intense conflict were not directly or personally implicated in the crimes; in contrast, the perpetrators testifying at the TRC were directly and personally implicated. Thus there are a number of contextual differences in the two sets of post-conflict discourses. Nevertheless, the strategies of justification that Benke and Wodak identified and categorised in the course of analysing ex-Wehrmacht officer interviews are largely similar to the ones found in ex-SAP officer testimonies.

From the five interviews chosen for analysis in their study, Benke and Wodak (2003: 127-128) identify strategies of victim-hood, ignorance, positive self-construction, and finally, attributing responsibility onto other units within the NS state. As with the testimonies of Van der Merwe and Benzien, the strategies used by ex-Wehrmacht officers both recognize and repudiate the existence of war crimes, often within the same utterance. While the linguistic strategies used to justify human right violations are remarkably similar between the two studies, Van der Merwe and Benzien were also found to use strategies of “scientific rationalisation” (Benke and Wodak 2003: 123) and the discursive strategy of “denial” (Benke and Wodak 2003: 124) during their TRC testimonies.

5.3 Summary of research aims and achievements

The notion of the perpetrator and the existence of one all-encompassing truth were problematised during this study. I have attempted to provide an understanding of the perpetrator which goes beyond stereotypes and popular representations. In doing so, the perpetrator is presented as an ordinary person who is influenced by his circumstances; or even as a victim of organisational routines, hierarchies, ideologies and secrecy (Foster, Haupt and de Beer 2005: 321). I also presented various approaches to the concept of “truth”: those offered by the TRC, academic perspectives on the issue and, finally, a hermeneutic approach to truth which takes into account the broad array of perspectives that were present at the TRC.

In my analysis, I found that perpetrators use a wide array of linguistic strategies to justify their role in human rights violations. Johan van der Merwe and Jeffrey Benzien generally frame their actions in work and organisation related terms. This includes mention of being a professional and a good policeman, maintaining law and order and performing their duties. Although Van der Merwe drew clear distinctions between the policies of the government and the police, the notion of professionalism was typical of both Van der Merwe's and Benzien's account, and provided the principal justification for their actions. Both testimonies provide elaborate reasons for certain actions and make reference to the context, which is one oriented to the existence of human rights violations.

While Van der Merwe and Benzien admit that gross human rights violations took place, they both avoided claiming personal responsibility for the actions in a number of ways. This included transferring responsibility onto the victims, onto other people within the same organisation, onto higher-ranked officials, or onto the government itself. These strategies also helped Van der Merwe and Benzien to present themselves in a positive light, as hard working officials, and finally, as victims.

As I hypothesised from the start, the testimonies of the apartheid perpetrators are remarkably similar to the discourse of the ex-Wehrmacht officers. The biggest similarity is found in the reluctance to admit to past atrocities, and the tendency to justify their actions in ways that reduce their personal culpability. Not many perpetrators of apartheid or Wehrmacht crimes completely divulge and apologise.

As Benke and Wodak's (2003) study does, I question how the perpetrators stories contributed to shaping a South African collective memory. By telling their stories, both victims and perpetrators give meaning to the multi-layered experience of the South African story. This, in turn, forms a shared and communal recollection of history. Forming collective memory rests on the process of interpretation because "there are always several ways to recount the same thing" (Ricoeur 1998: 117). This ties in with my investigation into the concept of truth, which rested on a hermenutical perspective according to which truth is seen as relative to the speaker's ideologies and experiences. In the hearings of the TRC the focus not only fell on the themes of reconciliation and truth, but also on remembering and on retributive justice. Many perpetrators adapted their narratives, driven by considerations of self-preservation, fear, and pride. Often they were influenced by the pressure to fulfil the ideology behind the TRC. In this way, the perpetrators were not only

vulnerable to a contortion of the truth, but also to misinterpretation by the victims as well as the South African public in general. These factors are problematic in reflecting on TRC discourses as possible instruments for gaining a comprehensive understanding of the past and the formation of a collective memory of past events.

5.4 Suggestions for further research

This concluding section gives a number of pointers as to how the research presented in this thesis can be taken further.

The discourse-historical approach proved to be a useful tool for analysing the discourse of the apartheid perpetrator. While this study was limited to the discourses of perpetrators within the police force, it may be interesting to follow up with a comparison between those perpetrators on the side of the oppressor and those on the side of the oppressed. It would be interesting to analyse and compare the different ways in which each side of the divide justify their role in human rights violations.

A further analysis that might prove useful and significantly add to the literature on the topic would be an intercultural communicative perspective on the apartheid narratives. A narrative offers a particular perspective of an event, and it is commonly held that a particular way of telling a story is reflective of the cultural beliefs and values of the speaker. Because of this, the narrator may view certain components of the narrative as optional, or may order the narrative in a particular way. An intercultural communication perspective might analyse white perpetrator narratives in terms of , for example, Labov's narrative structure or narrative features disclosed in genre theory, and show how this may differ from the narrative structure of black perpetrators, and more importantly, how it may not meet the expectations of a black interlocutor.

In all, there remains much to be done in linguistic and discursive analysis of the vast volume of TRC testimonies that document a period of great trauma in recent South African history. Such analyses can be done from a variety of perspectives and will contribute to understanding a history that is still contested and in some ways denied. Such continued research will also improve our understanding of the nature of discourses that reconstruct lived experiences of national conflict, and of how such discourses can facilitate (or impede) processes of coming to terms with and moving beyond past events of violence.

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Appendix 1 (A1)

TRUTH AND RECONCILIATION COMMISSION

AMNESTY HEARING

DATE: 9 OCTOBER 1997

HELD AT: CAPE TOWN

DAY 3

ON RESUMPTION AT 09H00 ON 9 OCTOBER 1997

CHAIRPERSON: I would like to extend a welcome to all who are present and in particular to those who we will be hearing from in a moment. In particular may I just say that at the request of some of the legal representatives we will be starting with General Johan van der Merwe, followed by General Johan Coetzee. Then we will take others in that order. In a moment I will ask Advocate Visser to make a brief opening statement. Before that let me again say that we are grateful for the attendance and coverage by the media which enables many other people in South Africa to participate in this process. To express my thanks in anticipation to the Interpreters who do an excellent job of work and to remind you that there are headsets available for those who may need it. There is translation from English to Afrikaans, Afrikaans to English, and Afrikaans English to Xhosa and the other way round. So if people need headsets at any time please make use of them but please don't take them away with you, they will be no use to you, they certainly are of great use to ourselves.

Before we start the proceedings let me introduce the panel. On my far left Ms Mary Burton, who is a Commissioner based in Cape Town and is a member of the Human Rights Violations Committee of the Commission. On my left Dumisa Ntsebeza, the head of our Investigative Unit, a Commissioner and operates from Cape Town. On my far right, which is interesting, is Ilan Lax from KwaZulu Natal, a committee member of the Commission and a member of the Human Rights Violations Committee. Next to me is Richard Lyster, who is also from KwaZulu Natal and he is the convener of our region there and a member of the Human Rights Violations Committee and a Commissioner. I am Alex Boraine, the acting chairperson, as many of you know Archbishop Tutu is out of the country at the moment but will be returning over the weekend.

So welcome to all of you. I hope that this day is going to be productive, that the information we seek will be made available. I remind those who are participating that this is not a court of law. This is not a trial. We are not seeking to incriminate anyone. We are trying to find out from your perspective what happened during this period of conflict. The kinds of questions that we would be putting would be very similar to other key actors in the conflict of the past and we are doing this not out of idle curiosity, not to reopen a can of worms, but simply to come to terms with our history so that we can together develop a better future for all of us.

So this Commission, essentially, is really not about the past, it's about the future, but we have to turn the page of history if you like, but it's our view that you first have to read the page before you turn it, and you are helping us to do that and we are grateful for your attendance.

Advocate Visser you wanted to start with an opening statement.

MR VISSER: Perhaps Mr Chairman if I may suggest, with respect, that it may be convenient for the other representatives perhaps to place them on record before I start.

CHAIRPERSON: Will you do so please. Thank you.

MR LEVIN: Mr Commissioner my name is Alan Levin, attorney Johannesburg. I am assisted by Mr Robert Levin. I appear for Major Williamson. I would apologise at the outset for not having an opportunity of introducing myself other than to yourself and I would like to deal with certain issues once my learned friends have dealt with their matters and placed themselves on record.

CHAIRPERSON: Thank you.

MR JANSEN: Thank you Mr Chairman. I am Rudolph Jansen. I am instructed by attorney Julian Knight. We are appearing on behalf of Captain Dirk Coetzee where we are asking an indulgence to direct certain questions at Brigadier Schoon from the perspective of the Vlakplaas commanders. Thank you Mr Chairman.

CHAIRPERSON: Right. We will deal with that when we come to listen and to hear from Brigadier Schoon. Thank you.

MR DU PLESSIS: Thank you Mr Chairman. I am Roelof du Plessis. I am instructed by Mr Britz of the firm Strydom Britz Attorneys. We represent Major Crafford and we also represented Brigadier Cronje and the other applicants in the previous amnesty applications of the previous security policemen at the amnesty hearings. Thank you.

CHAIRPERSON: Thank you.

MR VISSER: I believe it's my turn now. Mr Chairman the name is Louis Visser. I am instructed by Wagener, Muller and du Plessis, Pretoria attorneys. We are briefed to act on behalf of General Johan Coetzee, General Johan van der Merwe, Brigadier Alfred Oosthuizen and Brigadier Willem Schoon.

Mr Chairman if you would allow me, very shortly, there are one or two points of concern which we want to raise in the hope that it may clear the air and clarify matters to the extent that we could deal with the matters in hand expeditiously.

Mr Chairman it refers to the Section 29 notices which my clients have received, at page 2 there are two paragraphs as you are well aware, the first and the second paragraphs. Mr Chairman we appreciate your opening remarks this morning about the intentions of the Commission in what they are attempting to establish with a view of our future. We were heartened by heartened by the passionate speech made by your Committee member, Mr Ntsebeza, yesterday afternoon, and of course we would like to accept, and we do, the bona fides of the members.

But you are well aware, Mr Chairman, that there has been in the past some resistance from the security force members to participate in the process which was foreseen by the legislature with the promulgation of our Act. May it be known Mr Chairman, had it not been for persons like General Johan van der Merwe we would certainly not have seen as many of the old SAP members applying for amnesty as we have seen now.

But Mr Chairman the unfortunate reality is that all the doubts have not been removed. There seems to be still a lingering perception that there is a witch-hunt going on, and Mr Chairman some of that may be justified, some may be unjustified. Why I mention this is that the clients of mine who are here today have come forward, not because they were subpoenaed to be here, but because they want to participate, and they have shown that by also applying for amnesty and made, according to them, a full disclosure of what they know about our checkered past of this country.

Mr Chairman we wish to just make one point of this, and that is that we perceived some of the questions, and this is not intended as criticism but as a fact, we perceived some of the questions directed at some of the witnesses yesterday to be more in the nature of adversarial questions than elucidatory. It does not serve to quell the fears of the persons for whom I appear if they suddenly find themselves here in an adversarial position, and that is why we do appreciate your opening remark that we are here to enquire Mr Chairman. If we could do it on that basis certainly I believe that the witnesses will be more forthcoming and more helpful.

Mr Chairman we have a particular problem with paragraph 2. Before I go to paragraph 2 may I just say, to enforce, reinforce what I have just stated, you are aware that General van der Merwe has given evidence on three occasions already, twice in public, about what is really contained in paragraph 1. General Johan Coetzee has made full representations, as has Brigadier Schoon, and that is why Mr Chairman we suggested the order, so that if any of these gentlemen could be of assistance to you through Mr Goosen to elucidate further matters for your clearer understanding of any issue they are here to do so and they are quite happy to be of assistance.

Paragraph 2, Mr Chairman, in our view falls clearly outside the purview of your authority. It's a matter which is to be dealt with by the Amnesty Committee. The Amnesty Committee must in each case consider all the facts and circumstances surrounding every particular amnesty application before it.

Mr Chairman you may not know this but I can tell you that ever since 1914 our Appellate Division has grappled with the complex legal principles applying to scope and authority, we are afraid Mr Chairman that our clients may be asked questions which will place them in a position of being adjudged in regard to other applicants in other amnesty applications regarding what they perceived to be their orders and their instructions and what they perceived they might have done in our outside their authority. Because, Mr Chairman, the reality of the situation is paragraph 2 filters through to virtually, directly or indirectly, to every single application which the Amnesty Committee will hear because they are charged with going into those issues.

So Mr Chairman we are simply saying that we must tread with caution that the evidence elicited from the witnesses here today does not prejudice other applicants and in any event Mr Chairman when they are asked about other instances or hypothetical situations their answers could at most, and at best be hypothetical, with respect.

Mr Chairman I am virtually finished. As far as the amnesty applications are concerned which deal with cross-border applications there is a very real problem. May I remind you, Mr Chairman, that letters have exchanged hands and Dr Boraine the Chairman today has, and we say quite rightly so, stated categorically on the 8th of May by letter, that the question of extradition is a matter that falls outside the scope of this Committee and we appreciate that, it's got to be so. But please Mr Chairman you must also appreciate the predicament in which my clients find themselves, and perhaps Mr Williamson as well, but I don't want to speak on his behalf, to answer questions regarding cross-border raids when at the end of the day applying for amnesty, as they did, as some of my clients did, may be a useless exercise because they may not receive protection, and in fact this is the way it seems that it is going.

Mr Chairman why I raise this issue is that on the 2nd of July Mr Hanif Vally, the legal representative of this Commission, wrote a letter and it says Mr Chairman,

"We have raised the issue...."

the issue is cross-border raids and our applications for amnesty -

"...with both Archbishop Tutu as well as Dr Boraine. Both have emphasised that no undertakings were ever given in that regard".

Well that may or may not be so, I am not going to go into that, but the letter then goes on to say that -

"...they undertook to raise the issue with the President and the Minister of Justice which they have duly done".

Now Mr Chairman I don't in open committee want to ask you for a reply in that regard or an explanation unless you of course want to give it, but what we say is that it would be helpful to know that there are some reassurances coming from somewhere because as matters stand now, and according to what we hear Mr Dullah Omar saying, it appears that there is no guarantee at all that applications for extradition, that any attempt would be made not to extradite and you can understand the situation Mr Chairman.

So that with that in mind, and I am finished Mr Chairman, with that in mind I would appeal to Mr Goosen and to members of the Committee to bear those issues in mind when they direct questions. But for the rest my clients are here and they are ready to proceed with their evidence Mr Chairman.

CHAIRPERSON: Thank you Mr Visser. I don't want us to engage in a discussion because we have a very full programme, but I must at least make a couple of comments.

Firstly, it is true that the questions often are, somebody termed it, robust. They are direct because we are looking for the truth. How can you not be direct when you are seeking truth?

And let me say that this is a two-way street. If witnesses or people before us giving evidence, and I am not talking about today because it hasn't happened, but I am saying that we have had experience where people have been evasive, that people have given half answers on very obvious facts and you will appreciate that after an hour or two of that kind of evasiveness sometimes the questions become a little more than robust, and I think that in a two-way street we would ask that those responding would do it as fully as is humanly possible so that we

don't waste time and that we don't have to become adversarial. That's what we don't want to happen and we will do everything we can to ensure that that doesn't take place.

My second point is that in many respects we think, and we may be wrong, that we in subpoenaing people who were, if you like, in the front line of the conflict, the operatives, the generals, the people who were waging that conflict on all sides, we are actually doing them a service in enabling them to state the situation as they saw it, as they experienced it and particularly in terms of ultimate accountability. People don't invent things normally. They don't suddenly decide in a tightly organised security force to do things on their own. There is usually a reason, there is usually an order and we are trying to establish a chain of command.

Because it is our view so far, it is not our finding, it is our view so far, that some people are being left to take the blame and others are walking away. And we don't want to attribute blame to anyone. We want people to accept responsibility for what has happened. If there are people who have created a climate or given an indication that this is what should happen and then those become the fall guys I would have thought that we were actually doing some people a service to tell us how they saw it, and where they were coming from, and we don't want to point a finger at anyone, we just want to say - what really happened? What were the perceptions, what were the motivations, why were you doing what you were doing? And we have asked exactly the same questions to everybody who has participated in the conflict and I assure you that we will do that.

Finally, the whole vexed question of extradition is a very real one, and I don't want to in any way minimise that problem. The problem is that assurances can be given but there are certain legal instruments over which we have no control as a Commission, and I just think I will leave it at that.

I think that Mr Goosen has heard what you have said. We have heard what you have said and we will, I think, conduct this inquiry in a best possible way as to serve the purposes of everybody concerned.

Without any further ado I think we must proceed and I would welcome especially General van der Merwe and ask him if he has any opening word - yes you would like to speak on his behalf, thank you. Mr Levin.

MR LEVIN: Mr Chairman I speak on behalf of Major Williamson and in order to be as swift as possible I will get to the point very briefly, and that is I am ad idem with my learned friend. There is a very real need for mutual cooperation, but there is a problem insofar as I perceive it, insofar as my client perceives it, namely the question of acts outside of the borders of the Republic. And to that extent I am not able, professionally, to advise my client to give any evidence in regard to extraterritorial matters which may ultimately affect him. There is machinery which is available to this Commission to hear those matters in camera and I would assume to also ensure confidentiality of the record in regard to those issues.

I have similarly been in correspondence with various members of the Truth and Reconciliation Commission since as far back as the 14th of November 1996 when I articulated, to the best of my ability, the problem as far as my client was concerned and save for advising you that I reserve the rights of my client at any stage should questions be asked of him which touch on extra-territorial matters, to then argue the matter fully behind closed doors, as I understand the position would be, in order that my client would be protected because it really is something that one must look at from a professional point of view in advising a client.

And whilst my client is willing and able and I think you've seen by his performance to date and by the reams of documentation he has presented to you to cooperate fully he must do so having regard to his future life and his position and that will be the thrust of my argument should it become necessary. I do not want to maintain a silence at this stage and have it said of me at a later stage, well this is something of an afterthought Mr Levin, why did you not raise it in inception? And therefore I make my client's position clear by those few brief statements. Thank you for bearing with me.

CHAIRPERSON: Thank you Mr Levin. Mr Goosen.

MR GOOSEN: Thank you very much Mr Chairperson. Mr Chairperson it's, as we indicated in the hearing yesterday, it's not my intention to ask questions about the specific facts in relation to cross-border operations. The thrust of the questions will be directed at the general authorisation and the process in terms of which such operations may have been launched. But it's certainly not my intention, I take heed of what Mr Levin has said, and will clearly not be directing questions at Major Williamson, or at any of the other witnesses in relation to the specific facts in regard to a particular operation cross-border.

CHAIRPERSON: It remains for me then just to simply add that we, through Mr Ntsebeza in particular, and other members of the Commission, we have given the assurance that some of these matters can be and should be heard in camera and we would adhere to that. Let's take it as we go and if there's an objection that needs to be raised you will do so, we will hear you and we will proceed.

MR VISSER: Perhaps Mr Chairman I neglected to mention one further aspect, perhaps it's not even necessary to mention it because I did perceive yesterday a sensitivity not to ask any of the witnesses about their applications for amnesty. We do really appreciate that Mr Chairman because you can imagine the invidious situation in which an applicant whose amnesty application still has to be heard finds himself if he finds he has to answer questions now about which he will have to give evidence later. We just want to express our appreciation that that has been done.

We present General van der Merwe to you Mr Chairman.

CHAIRPERSON: Thank you. Again welcome.

GEN VAN DER MERWE: Thank you Chairperson.

CHAIRPERSON: Mr Ntsebeza will swear you in now and obviously people must use whatever language is comfortable for them. There are translations for those who need it.

MR NTSEBEZA: I would have loved to administer the oath in Afrikaans but I am not so sure that I will be able to go through with it ...(intervention)

GEN VAN DER MERWE: You are most welcome to do so.

MR NTSEBEZA: ... in very good Afrikaans.

JOHANNES FELDE VAN DER MERWE: (sworn states)

CHAIRPERSON: Thank you very much you may proceed.

GEN VAN DER MERWE: Mr Chairman I am a retired general and a former Commissioner of Police. I will speak as slowly as possible.

As mentioned on three occasions ...(intervention)

CHAIRPERSON: Sorry to worry you straightaway but do you have a copy of that statement or not?

GEN VAN DER MERWE: Unfortunately not.

CHAIRPERSON: Alright, fine, thank you very much. Please proceed.

GEN VAN DER MERWE: On three occasions I appeared, I testified before the Amnesty Committee about several aspects which are being raised again today. I would like to give my perspective again, repeat some of these statements.

In my evidence to the Commission I confirmed that since the SACP decided to overthrow the government, the police were faced with a superhuman task. On the one side they were expected to maintain law and order in a legal way and on the other hand to protect the society against terror and violence in circumstances in which the other side followed no rule and even where the boundaries of ordinary warfare were exceeded. So it was the point of departure from the government of the day that for all practical purposes we were in a war situation and that the enemy had to be defeated at all costs.

The armed struggle went through several phases. At the beginning MK and other organisations concentrated on sabotage of State buildings and other assets. The Soweto uprising in 1976 placed them in the forefront and the SACP/ANC alliance involved youth in its revolutionary struggle.

With the foundation of the United Democratic Front in 1983 a new phase was entered. Many organisations joined the UDF and although it could never be determined exactly to what extent the SACP alliance governed the UDF there was very close cooperation. A large portion of the black community followed the UDF and the South African Council of Churches also played an important role.

Under guidance of the UDF resistance to the government and government institutions increased sharply. This was followed by civil disobedience in order to make the country ungovernable.

In 1985 the SACP held a conference in Zambia where it was decided that the difference between hard and soft targets no longer applied. Violence increased and many civilians, women and children were wounded or killed. The SACP, UDF and other bodies following the same aims tried their best to make the country ungovernable and to alienate the black community from the police. Large scale intimidation was used to try and prevent the SAP from operating efficiently.

The notorious necklace method, which is even more cruel than anything the Nazis did, was used to kill many people who were seen as collaborators. The police were regarded as hard targets which could be killed at will. More and more people became victims of violence. People in black townships lived in fear of their lives.

To counter this attack by the SACP alliance the former government used all the forces at its disposal and combined these under the State Security Council. I have already testified about these structures and I am not going to expand at this stage. I would like to concentrate on the influence of these structures on the SAP and how these structures operated.

From 1 January 1986 to '88 I was head of the security branch of the SAP. I only served in the coordinating committee which consisted of members of various branches of the security services. Some months ago I asked that the minutes of these meetings be made available to me but I have not been able to have these. I think that these minutes should throw material light on the circumstances at the time.

The joint management committee and its structures and the counter-revolutionary force I served, a member of the security branch also served in the Security Council, the security forces and various State departments were to be united. From the viewpoint of the SAP and the special branch the government was - the aim was to ensure law and order and to ensure the security of the civilian population. This was so closely allied with the activities of the police that the police regarded itself as an ally of the government inevitably. Since 1948 an intimate relationship developed between the police and the Cabinet and this was influenced by many factors - the attitude of the Afrikaans churches and other organisations. The National Party was the natural home of most Afrikaners and the top echelons of the SAP agreed fully with the policies of the National Party.

Since 1948 the NP government saw itself as an ally of the West which, as it was then seen, was involved in a cold war with the East bloc. The ANC/SACP saw themselves as part of the East bloc countries. And the struggle between the SA government and the SACP/ANC was seen as an East-West conflict.

South Africa with its mineral wealth and strategic location was seen as the last bastion of civilised Christian norms of the Western world, and the government used everything in its power to convey the message that if South Africa should fall prey to Communism it would be a disaster for the Western world too.

For most of the people in the SAP it was about more than just law and order. The promotion of the interests of the former government was an important consideration and there was a close relationship between the Commissioner and his Minister and this attitude played a very important role in which the planning occurred in the various structures.

On the 1st of January 1990 I became Commissioner of Police and up to my resignation in '95 I served in the State Security Council and other bodies. I am not aware that the State Security Council during this period issued any instruction or gave any approval for any action which could be seen as a serious violation of human rights. I have not applied for amnesty regarding this period although this perception has been raised. As Mr de Klerk said that the South African Police should not move in the political terrain but the security forces were still trapped into the political struggle in which the interests of the former government were the most important aspects.

Insofar as to the extent to which other ministers became involved would have to be analysed, what they said and the request they may have issued, the role of these people still needs to be determined in these various bodies.

All the powers were to avoid the ANC/SACP achieve their revolutionary aims and often with the approval of the previous government we had to move outside the boundaries of our law.

That inevitably led to the fact that the capabilities of the SAP, especially the security forces, included illegal acts. People were involved in a life and death struggle in an attempt to counter this onslaught by the SACP/ANC and they consequently had a virtually impossible task to judge between legal and illegal actions.

CHAIRPERSON: Thank you General. Mr Goosen.

EXAMINATION BY MR GOOSEN: Thank you very much Mr Chairperson. General I am going to put the questions in English. Thank you very much I appreciate that.

General did I understand, just towards the end of your opening statement you indicated that from when you - after you were appointed as Commissioner of Police you took up a permanent seat on the State Security Council, did I understand you correctly that you said that as far as you are aware at no stage, at any stage that you participated did the State Security Council or any of its sub-committees or sub organs, I think you used the word "doelbewus besluitgeneem", deliberately decide that any unlawful actions should be carried out? Did I understand that part of your submission correctly?

GEN VAN DER MERWE: That is correct Mr Chairman. While I was Commissioner and served in the State Security Council I was not aware of any occasion when such a decision was given or such an instruction was given which could deliberately be interpreted as acting unlawfully.

MR GOOSEN: I take it from that that you would leave open the possibility that the decisions of the State Security Council or any of its sub-organs would when communicated to the various departments may have been interpreted as authorising particular action, unlawful action in the circumstances?

GEN VAN DER MERWE: Mr Chairman I don't know of a specific incident, this is a very general statement. Anything is possible but I am not aware of any facts in this regard.

MR GOOSEN: General in your opening statement, as well as in the submission that you made, in fact more-or-less a year ago to the Amnesty Committee at the time that certain applications were being heard, you paint a very clear picture of what the perception was at the time of the security forces as to the seriousness of the threats facing South Africa and what was required.

That perception is consonant with views that were expressed also yesterday by various, some of the generals who presented submissions, as well as statements made by Ministers serving in the Cabinet at the time about quite how serious the situation was in the country. I have no difficulty with the way in which you present it and I don't wish to challenge you in that regard.

One of the difficulties, and this perhaps goes back to the reason for having this enquiry, is that it is also presented at various times, both in political party submissions made to this Commission, individual submissions made to this Commission, that unlawful actions carried out by either members of the security police or members of the police or members of the South African defence force were never authorised and did not in any way form part of a policy or an acceptable practice of the government at the time. Would you agree with that view or not?

GEN VAN DER MERWE: Mr Chairman often during my evidence given to the Amnesty Committee and also before the Investigative Unit that there had never been a clear instruction by the previous government or the State Security Council that any unlawful deed which was a violation of human rights had to be committed which we can substantiate through facts today.

On the other hand it is so that if you look at these various incidents that those circumstances were of such a kind that members of the State Security Council, not necessarily all of them did know that certain unlawful actions were approved. Because of this approval explicit or otherwise which they have given to this that they accepted this fact and therefore that certain actions flowing from that were committed within a certain framework and the State Security Council and the members who were involved have to be accountable for that.

MR GOOSEN: If I understand you correctly you would say that there was not a general authorisation or necessarily a general policy that certain unlawful actions could be carried out, but that unlawful actions were carried out, were authorised in particular instances, and that senior members of either the State Security Council or senior members within either the police or the military or politicians in those instances would have been aware of that and that they agreed with that. Is that I understand the thrust of your answer?

GEN VAN DER MERWE: That is correct. This is also presented in my amnesty application.

GEN VAN DER MERWE: You see General that - calling you again to this forum is not in any way an attempt to harass you by getting you here for a third or fourth or fifth time, but one of the significant difficulties experienced by the Commission has been that when the question has been asked was there in any way acceptance of the fact that unlawful actions could be carried out as part of the process of combatting the revolutionary onslaught against the country the answer that comes back is "no". And I can cite the instance.

I will probably get into trouble in the Commission for doing it. But when the National Party made its submission, when the former State President made his submission he said actions of an unlawful nature were never authorised, they were either bona fide misinterpretations of lawful instructions or they were bona fide actions as a result of people who were over-zealous or they were male fide. Those people, you, he didn't mention you in particular, but you and your subordinates were bad apples and that that was never authorised. Can you comment on that perspective please?

GEN VAN DER MERWE: Mr Chairman I have already testified before the Amnesty Committee and before the Investigative team and I've confirmed that certain instructions were given with the approval of the Minister, I do not doubt that at all, he would have informed the State Security Council. Consequently if that is denied that the previous government in this case, specifically the State Security Council did not have knowledge of certain unlawful actions that is not true.

GEN VAN DER MERWE: Thank you very much General. Indeed in some of the documents that we made available to you as part of the package that we sent and also in other documents which we did not extract, terms like "elimineer", "neutraliseer", "om vyandelike leiers", "uittewis", to eliminate, to neutralise, to eliminate the enemy leaders, are scattered throughout the policy documents that were circulated at the State Security Council even before you took up your post there, and in approaches that the State Security Council adopted in respect of how to deal with the revolutionary onslaught. Now it may be that the terms in and of themselves, "neutraliseer and elimineer" may be ambiguous and one may have to look in each and every instance at the particular context in which those are used, but would you agree that

one interpretation of particularly the term "elimineer" when it is used in the context and the document that was provided to you, is that "vyandelike leiers" - enemy leaders should be eliminated or neutralised, one of the interpretations of that is that those people should be killed, would you agree with that?

GEN VAN DER MERWE: Mr Chairman not if you look at the contents of the document, definitely not. If you look at the contents of this document or most documents it becomes clear that it means that certain activities had to follow on this, but if you keep in mind that those documents were put into a system, the joint operations system, where members from the defence force served on that, people from grassroots level and many of those members were involved in a struggle for life and death every day. From that viewpoint you would regard it and, yes, it could have meant to kill people.

And if you ask me what I understood by that I would say no, at that stage and on that level it was not meant that people had necessarily to be killed. Every person involved in the State Security Council has to explain what his specific viewpoint was.

But from this document I could not deduct this. The member received this document and had to plan according to that against the background that he had the impression that they have to act violently and that he had to use everything in his power to combat the enemy.

And consequently I also understand the possibility that this person could be killed.

MR GOOSEN: Thank you. And would you agree that the effect of utilising ambiguous language like "neutraliseer", "elimineer", "uittewis", terms which, perhaps for the people immediately involved in those discussions may convey one meaning, and for people who come to understand that that is the approach or that is the policy that is being put forward may come to mean something entirely different, that the effect of that was to create precisely the situation that lower order operatives within the security forces could interpret words like "elimineer" and "neutraliseer" to mean precisely that people should be killed and harsh action should be taken against the defined enemies of the State?

GEN VAN DER MERWE: Mr Chairman what do you exactly mean, was that deliberately done that those words were deliberately used in that way to create that perception on groundroot level? That there was a deliberate attempt by the State Security Council to in that way create the perception that those people had to be killed, is that what you mean?

MR GOOSEN: Well you have indicated General that in the context it would be reasonable, given what was being said at the time and given the use of those words, that it would be reasonable for people to interpret them to mean "elimineer" means kill.

But you've also indicated that operatives, security police members, lower order security police members, members of the South African defence force, were enjoined in fact to take harsh action, that by utilising those words the State Security Council members were creating for themselves a situation in which they could deny that they had instructed the elimination, meaning kill, of any particular person.

GEN VAN DER MERWE: Mr Chairman, no, I was never involved in such a way in these discussions, I have no facts on which I can base a viewpoint to say that it had been deliberately done to create such a perception so that a message could be conveyed subtly, that people, the lower order operatives, could kill people. These are aspects which can be determined if the people were involved in these discussions in the State Security Council

could be asked. I have no facts. I have no grounds on which I can base such a statement or point of view that those words were used to create a perception under lower operatives that they would accept that people had to be killed.

MR GOOSEN: And General in the circumstances why do you think that words of that nature would have been used, if for example intention was in the particular context "neutraliseer" should mean that people should be detained, why not say that people should be detained? Why utilise language that is capable of an interpretation other than that which is intended by the people that use them in the first place?

GEN VAN DER MERWE: Mr Chairman like you and Mr Goosen I can only guess about that. I have no facts to my disposal. I agree it would certainly have been better, and I think at a certain stage a committee of inquiry said where the word "elimination" was used it was an unfortunate choice of word, but to go as far to say that was done deliberately I do not have any grounds to substantiate that.

CHAIRPERSON: Mr Ntsebeza, if I can just.....

MR GOOSEN: Can I just follow-up on one aspect?

CHAIRPERSON: Go ahead Mr Goosen.

MR GOOSEN: Thank you very much Mr Chairperson. General you've indicated that it's an unfortunate use of language, would you regard the use of such language, from one of the highest organs of political authority in the country, as an irresponsible action in the circumstances?

GEN VAN DER MERWE: Once again you must keep in mind that we were in a situation of war. Even the members of the State Security Council were aware of the desperate situation prevailing. Against that background I believe that from their side also there was this need for more strong or harsh action to combat this situation which was deteriorating.

We should look at all the factors involved again and I would not like to say that it was a reckless attitude they had but you must keep in mind that the consequences of that was that the lower operatives did develop some perceptions, and you as a committee have to decide which value can be attached to that.

CHAIRPERSON: Mr Ntsebeza.

MR NTSEBEZA: Thank you Chairperson. You see General the problem that I also have with those ambiguous words is the context and the time, the context in which and the time at which they were used. Now as one time head of the Security Police you are aware that you had an armoury of legal provisions, firstly in the form of the Terrorism Act, or the Internal Security Act as it then was, do you concede that?

GEN VAN DER MERWE: What is your question, yes that is correct. There was security legislation which gave us certain powers.

MR NTSEBEZA: You were by law permitted to hold in detention in comunicado in circumstances where a detainee would not be seen, would not be visited by friends or family, by even lawyers, and in terms of which you could legally hold him for an indefinite period until he has answered questions to the satisfaction of his detentors generally. That was the

general position in terms of Section 6 of the then Terrorism Act and for subsequently Section 29 of the Internal Security Act.

GEN VAN DER MERWE: Mr Chairman no he could not be detained for undetermined periods. He had access to the courts. There were many incidents where we had to provide reasons why a person was detained. He was also visited by a magistrate and other people. It's not a question that he could be removed from the community and be detained indefinitely and no people had contact with him. There were certain control measures in this regard.

MR NTSEBEZA: But generally I mean the fact that he was not able to, he or she would not be able to be visited by certainly legal representatives made the conditions of his detention all that much more stringent. He was available, at most instances, for longer periods only to members of the Security Police.

I take the point about visits by judges and magistrates and medical people, but generally the conditions under which people could be detained or arrested were such that the police could have a reasonable and a longer time to deal with the person in detention in such a way that that a person could be neutralised in the sense of detaining him for a longer period so that he or she is not available in the community to do the things that the person was doing or was perceived to be doing. Would you agree with that?

GEN VAN DER MERWE: Mr Chairman, if by this question you mean that we could just avert this threat by detaining them by security legislation it could not be done. At a certain stage we detained more than 40,000 people in terms of this legislation and then this conflict even worsened. Security legislation could, in this war situation where intimidation was used so that the greatest deal of the masses were forced to use civil disobedience then legislation could not be the solution.

MR NTSEBEZA: This is exactly the context, you have just stated the point in my view, you are saying even with such draconian laws it was the perception at the time that the legal or legally available methods of dealing with perceived enemies of the State were not efficient to deal with the situation. Is that what you are saying, because ...(intervention)

GEN VAN DER MERWE: Yes definitely Mr Chairman. I have also said that if the previous government would be honest and adding to that if circumstances allowed that they had to ask for a martial, apply martial law. We were almost busy with a civil war. If we look at the civil disobedience on the wide level and organisations when they were all united by the UDF it could not have been able to combat that effectively through legislation. That's why the government used other methods apart for a constitutional solution.

MR NTSEBEZA: Yes. And if I understand you well then it was as a consequence of a conclusion drawn by yourselves, and as I understand it by the government, that because the legally available methods of dealing with the perceived enemies of the government were not effective some other measures were resorted to, and it was in the context of other measures that terms like 'elimination of enemy leaders' came to be the vocabulary of a strategy to deal with the enemies of the people.

GEN VAN DER MERWE: No Mr Chairman that is not what I said. It was not possible to contain this whole situation through security legislation and to handle this situation I did not say that because of that we used other methods. On groundroots level the people became aware of this situation and they decided that against this background and where these words

also played a role and other factors to be able to contain the situation other methods and actions had to be used and that's why we used harsher actions.

MR NTSEBEZA: Lastly on this aspect. Now since we are dealing with perceptions, I think the question that we seek to get an answer from you on is, if it was generally accepted, and I think you say it was generally accepted, that the legally available methods of dealing with perceived enemies of the State were not effective. And I think we are seeking to say is, would it therefore not be reasonable against that acceptance for a person who is an operative, a foot soldier, when he gets an order that enemy leaders must be eliminated or neutralised that it was a test, if not an explicit authority for them to deal with those leaders other than in accordance with the law?

GEN VAN DER MERWE: Mr Chairman I want to emphasise strongly that you must keep in mind that those documents in which those words appear would not be provided to members on the lower levels. It would have been channelled through the management systems and it would differ from the one committee to the other committee, and from the one incident to the other incident regarding which interpretation should be given to this document, and if and whether these people came to that conclusion.

I want to agree with Mr Ntsebeza that people on the lower levels were in such a poor situation and that the message was conveyed that harsher actions should be taken and people should be killed. I do not have those facts in my possession. I am interpreting certain circumstances and necessarily it must be evaluated at the hands of each incident and determined during which circumstances those words were used.

MR NTSEBEZA: Do you then accept that it is one of the possible meanings of those words to say that people must be killed?

GEN VAN DER MERWE: Yes definitely Mr Chairman. If you tell a soldier eliminate your enemy, depending on the circumstances he will understand that means killing. It is not the only meaning but it is specifically one meaning.

CHAIRPERSON: Thank you. Mr Lyster.

MR LYSTER: Thank you Chair. General I just want to try to just succinctly bring this discussion to a close because I think Mr Goosen has largely finished his line of questioning.

Just from a study of the documents, the sorts of documents that have been referred to, and these are State Security Council documents and minutes of DST projects and other military Intelligence and police documents, the sort of ambiguous words that we have been talking about are, or some of them are as follows, "uithawetekens", "elimineer", "neutraliseer", "uitrooi", "uittewis", "uit die gemeenskap verwyder", "maak 'n plan", those are the sorts of words that are used in documents. Now do I understand your evidence really to be that these were synonyms for arrest and charge, or detain and they were not in fact synonyms for kill, is that your evidence?

GEN VAN DER MERWE: Mr Chairman my evidence is that the people who handled that document in the State Security Council could understand it like that. That document was not presented in the sense that those people deliberately had to be killed. If you study the contents of the document and the scope of that, provision is made for arrest, for detention and for removing from society. You can just evaluate the words as they stand. But if you want to take

this further, like I've said repeatedly, the circumstances surrounding this document and how the document was evaluated that should be judged.

If you look at the document it gives, or some of the document gives the impression that the meaning was that people should be detained or arrested. It was unfortunate choice of words. It could have been put more clearly. But you have to ask the specific people involved why those words were used. I can just look at the words on face value and I did not have the impression that the people had to be killed deliberately. Operatives on the lower levels regarded it differently perhaps.

MR LYSTER: You see if the words were meant to convey arrest, detain I mean those really were the only legally available methods to deal with people, arrest them, detain them, place them under house arrest, ban them, then why didn't the documents simply say that? Why use words like "uittewis", "uitrooi", "vernietig", "neutraliseer", "elimineer"? Really to describe those as an unfortunate choice of words, General, we'd like you to come up with something more direct.

GEN VAN DER MERWE: That is what it is. If you look at the document and at the contents you cannot infer another meaning. If you look at that clinically I can't say that based on facts, I can't say anything more than I have already stated.

CHAIRPERSON: Mr Goosen.

MR GOOSEN: General would you agree that the unfortunate use of that language resulted in people being killed?

GEN VAN DER MERWE: No Mr Chairman it happened afterwards, Mr Biko died long before that time. Those documents were written in 1985, Mr Biko took place beforehand.

MR GOOSEN: I didn't mention Mr Biko. I am saying would you agree that that unfortunate use of that language, "vernietig", "uitrooi", "uittewis", "elimineer" and so on, you describe it as an unfortunate use of language that that unfortunate use of language resulted in deaths, would you agree with that?

GEN VAN DER MERWE: Yes Mr Chairman.

MR GOOSEN: General there is just one further aspect that I would wish to deal with and you alluded to it when indicating that in interpreting instructions that would come down as the, perhaps the document might not necessarily be given to a particular operative, but that the sense of that would be conveyed and in certain circumstances when the general instruction would be conveyed and words like "elimineer" would be used, a guess in those circumstances people might interpret them to mean kill. Would you agree that there developed a culture amongst security force operatives, given the use of language of that nature and given the exhortation to even firmer action, and given the realisation that legal means were not sufficient to combat the revolution, that there developed a culture in which illegal activities became fairly generally accepted?

GEN VAN DER MERWE: Mr Chairman to describe that as a culture and to generalise is not correct. You have, once again, to look at the circumstances under which these operatives worked to decide how they understood those words and reacted to them. Many operatives countrywide would have worked in a more secure position where they were not exposed to

this type of violence which would necessitate that those words should be interpreted in an extremist way, in an extreme way.

You can't generalise and describe it as a culture, but it did have an influence on the actions of operatives, but you have to analyse those circumstances to determine what the extent was. You can't generalise. That would be wrong.

MR GOOSEN: Thank you. General in relation to a specific matter for which you have sought amnesty, I am not going to go into the detail of that matter, but you are on record as stating that when knowledge about that particular death had come to your attention, and this is the motivation in your application, you are on record as stating that any steps which could create the impression that the command structure were not supportive of the operatives that that would lead to them becoming totally demoralised and the command structure of the SAP losing their loyalty in those circumstances. Would you agree that where an operative is responsible for illegal action and senior command levels of the police who become aware of that, who have a responsibility to uphold the law condone that action and ensure that those operatives are not brought to justice for that illegal action, that that creates a climate of endorsement of such illegal action?

GEN VAN DER MERWE: Chairman once again one cannot generalise. The circumstances of this specific case was described in detail. It depends or it differs from case to case.

There were many instances where members of the South African police, especially the Security Police, were involved in unlawful actions. They were prosecuted and the law took its course. Once again every incident has to be analysed to determine what the circumstances were.

And whether one could say that it did influence the moral fibre of the South African police, that it requires certain deviation, that was not a general rule and it was not so that it was allowed, in general, that people could act unlawfully. I wish to assure you that if that was the case it would have been a worse situation than in Bosnia. You have to analyse each situation to determine the merit.

MR GOOSEN: But General you would agree that in circumstances where the head of the Security Police, and ultimately the Commissioner of the Police, because you moved from that position to the Commissioner of Police, is the person who is participating in the covering-up of illegal activity on the part of security police that that sends a very strong signal to those operatives, not so?

GEN VAN DER MERWE: Mr Chairman if Mr Goosen wishes to indicate we publicised that this incident took place countrywide I would say no, that was not the case, you can't understand it in that way. It just happened in a small circle and the influence of this could not be determined countrywide and the influence on other operatives. In other words the answer is definitely, no.

MR GOOSEN: In the position of leadership in which you would have been at the time and remained for a long time, you would have the responsibility to set the moral tone, not so?

GEN VAN DER MERWE: That is correct Mr Chairman.

MR GOOSEN: Therefore in the circumstances if you step outside that moral tone it does, surely, send a signal to the people that you are dealing with below you?

GEN VAN DER MERWE: Mr Chairman we were dealing with members of the security forces who were totally devoted to their task, people with a sense of responsibility and whatever they did they tried to do to promote the country's interests and the image of the SAP. Errors were made, I made them too, but the point of departure was never that we would abandon all moral precepts and violate all laws at will, and there were very difficult circumstances, but we tried at all times to act fairly and legally.

CHAIRPERSON: General van der Merwe thank you very much. There are just a couple of last questions from the panel. Let me start and I will be very brief, just two quick questions so that I make sure I understood you correctly. First, right very early on in your presentation you talked about the circumstances in which the police and other people found themselves in supporting a government that most Afrikaans-speaking people, in your words I think, culturally, religiously and in terms of - were government supporters. There have been those before us who have argued that for example that the SADF was totally above all of this and was neutral, the exact word was used. Now as I heard you, and I am not putting words in your mouth, that it was natural that you would identify yourself with the objectives of the government of the day. Is that a correct interpretation of what you said?

GEN VAN DER MERWE: Very clearly, I will go as far as to say that although in theory it has been put like this and everyone strives towards this there is no police force in a country which can completely detach itself from a government, from any government.

CHAIRPERSON: Right, thank you. The only other question - I really don't want to go back to definitions of words and so on, I just want to ask one question about that. As I heard you speaking it seemed to me you were saying that even though you had enormous legal machinery at your disposal the situation became so desperate, I think was the word you used, that even this was not enough, but that it doesn't necessarily follow that the words used necessarily meant that people should be assassinated or killed or whatever.

Could I ask you then in a desperate situation, in a war situation, was it never considered to use desperate measures, because if you weren't able to combat the attacks from those who were resisting the State and the legal machinery was insufficient well then what do you do? What sort of plan do you make if you don't rely on that then you must rely on something else to try to combat that, what did you do?

GEN VAN DER MERWE: Mr Chairman by means of the competence and legislation at our disposal we could have handled the situation so that it wouldn't lapse into total chaos. Until such time as another political dispensation could be found we had no other way than to deal with the situation in this way and with the means at our disposal. I am talking about the legitimate means to do everything possible to maintain law and order that we could protect the interests of the people and the government. On no occasion was there ever an open decision by the State Security Council, or any level that I am aware of in government, that we went over to the killing of people or actions leading to this, apart from this framework which I have already sketched for you where this perception might have arisen among operatives. But if you are asking me about occasions when thinking went like this I - nothing to my knowledge.

CHAIRPERSON: Thank you. Mr Lax.

MR LAX: Thank you Chairperson. General yesterday we heard from a number of very senior defence force personnel and you will know, have read about that, Mr Visser was present, I am sure he may have informed you about some of the evidence that happened yesterday. He is

shaking his head at me. Be that as it may the situation that pertained yesterday - just before I go on to the question, you were head of Security Branch from about '86 to '88, is that correct?

GEN VAN DER MERWE: That's correct.

MR LAX: Some of the incidents that were discussed yesterday, without going into the detail of the specifics of those events, related to joint operations between South African defence force personnel, special forces personnel, in support of South African police elements and in the situation people were murdered and that came to the attention of the then Chief of the Defence Force who indicated that the matter had been discussed with senior police officials. Now you were head of Security Branch, it had been reported to him that it had been already reported, we asked him why didn't you phone up your colleagues in the police and discuss it, and he said no it had been reported to him that it had already been done. In your time as head of Security Branch were matters of that nature ever discussed with you?

GEN VAN DER MERWE: This is quite vague in general but I can put it to you like this. I am not aware of any case where the defence force and the police would have acted together internally and where people had been killed and had not been discussed with me. I am not aware of any such case.

MR LAX: Do you have any knowledge of situations where the defence force in support of the police used what were referred to as revolutionary methods that resulted in the killing of people?

GEN VAN DER MERWE: Internally?

MR LAX: Correct.

GEN VAN DER MERWE: No not at all.

CHAIRPERSON: Mrs Burton.

MS BURTON: Thank you Chairperson. I would like to ask a different question which arises really from the work of the Human Rights Violations Committee and the statements that have been made to us. One of the mechanisms that was used to try to control the countrywide resistance was the introduction of special police personnel, municipal police, people often referred to as "kits constables". We've had a number of statements from such persons or from their families about their gross violations of human rights, they were seen as targets, they were killed or injured, their houses were destroyed, and we have been told by some of them that they did not enjoy the same kind of protection as a fulltime or regular police personnel, that they could not expect the same kind of compensation or insurance if their homes were damaged or they themselves were injured as a result of their line of duty. Would you be able to comment on that?

GEN VAN DER MERWE: It's unfortunate that these special constables did not enjoy the same privileges as members, fulltime members of the SAP, with the result that there could have been, when they were exposed to certain incidents, that they could not have enjoyed the same protection as that given to fulltime members of the SAP. They delivered a valuable service to us and everything possible was done within - what was able to be done they were protected and eventually we were forced to close down this force, or to transfer them to the permanent SAP, but they did not enjoy the same privilege as members of the SAP. We did not

stand indifferent towards them because they delivered such a useful service. As far as we were able to do it we protected their interests.

CHAIRPERSON: Alright, the final question, Mr Lax.

MR LAX: Sorry General I have just been alerted to one aspect that I forgot, specifically in relation to the last question I asked you which was about internal operations where special forces or SADF personnel acted in support of police operatives and I just wanted to remind you that in your own amnesty application there is such an incident that did result in people's death where there was such a joint operation.

ADV VISSER: No Mr Chairman with respect, what the witness said was that such a matter was never discussed with me from the side of the SADF, that was the question ... (intervention)

MR LAX: No the question was was he aware, not that he discussed.

GEN VAN DER MERWE: Which incident is this?

MR LAX: I don't want to go into specifics with all due respect because we have agreed that we won't do that, but if ... (intervention)

GEN VAN DER MERWE: Where defence force members were involved?

MR LAX: Absolutely.

GEN VAN DER MERWE: I am not aware of such an incident. Which one are you talking about, say it?

MR LAX: Zero zero hour ... (intervention)

GEN VAN DER MERWE: No, Zero Zero Hour no members of the defence force were involved.

MR LAX: We've received evidence to the contrary.

GEN VAN DER MERWE: No, according to my application I handled it with Jack Cronje but no members of the defence force, and I am not aware that any member of the defence force was ever involved. It was not a joint operation. It was under my control. It had nothing to do with the defence force.

MR LAX: Thank you General. We can clear that up later in any event.

ADV VISSER: Mr Chairman the Amnesty Committee will clear that up.

CHAIRPERSON: That concludes the questions that we have for you General van der Merwe and we appreciate very much the manner in which you have replied to these questions. We thank you very much for your attendance.

GEN VAN DER MERWE: Thank you Chairman.

CHAIRPERSON: Could I just make one announcement before we adjourn for tea. We will adjourn until 11 o'clock and after which we will hear General Coetzee as well as Brigadier Alfred Oosthuizen and Major Craig Williamson. Thank you.

HEARING ADJOURNS AT 10H36

Appendix 2 (A2)

TRUTH AND RECONCILIATION COMMISSION

AMNESTY HEARING

DATE: 14 JULY 1997

NAME: JEFFERY T. BENZIEN

DAY 1

CHAIRPERSON: Ms Inthanga, are we ready to proceed? Yes?

MS INTHANGA: Yes, Mr Chairman.

CHAIRPERSON: Will Counsel place themselves on record?

ADV COOK: Adv Gustav Cook for the applicant.

MR PAPIER: My name is Tasmil Papier, from the firm Papier Charles and Associates, appearing on behalf of the Kriel family, opposing the application and I am assisted by my colleague, Vincent Saldanha from the Legal Resources Centre.

CHAIRPERSON: Yes, Mr Cook?

ADV COOK: I would like to refer you to page 1 of the application, that is the application of Mr Benzien. The first page is only the formal information which is before you and I would like you to turn to page 2 and I will start with paragraph 8(b).

I will ask my client the questions and then he can answer it. Captain Benzien ...

CHAIRPERSON: Has he been sworn in?

JEFFERY BENZIEN: (sworn states)

EXAMINATION BY ADV COOK: Mr Chairman, may I proceed. I refer you to paragraph 8(b), Mr Benzien. Would you please read that out for the Committee, your force number and your date of appointment and then your personal particulars. I think there is a problem with his microphone.

MR BENZIEN: Chairperson, my force number is 0080113/5, my date of appointment in the South African Police was the 31st of December 1976. I was a student in the police, it is now the Police Services, from the 1st of January 1977 to the 1st of June 1977.

I attended the Training College of the South African Police from 1 June 1977 to 31 December 1977. I was initially attached to the Uniform Branch in Cape Town from 1 January 1978 to 1

June 1978, after which I was transferred to the Detective Branch in Cape Town, where I was from the 1st of June 1978 to 1 June 1979.

I was then transferred to Murder and Robbery Unit, stationed at Bishop Lavis, from 1 June 1979 to 1 June of 1986 after which I was transferred to the then Security Branch in Cape Town from 1 June 1986 to 1 June 1990.

During my service with the Murder and Robbery Unit in Bellville, I apologise, from the Security Branch, Cape Town I was retransferred to Murder and Robbery, Bellville South, from the 1st of June 1990 to the 31st of December 1992, and after that, I was transferred to the Police in Stanford as a Station Commander, and that was from the 1st of January 1993 to the 31st of March 1994, and I am currently employed at the Airwing of the South African Police Service, Cape Town and I was promoted to the rank of Captain with effect from the end of May of this year.

ADV COOK: Chairperson, before we continue, there is something which my client would like to say to the Committee and to all people whom he has harmed. It is an introductory statement that he would like to make before we continue, and I am asking for your time and your patience so that he can read it out to the people.

CHAIRPERSON: He may do so.

MR BENZIEN: Thank you Mr Chairperson.

JUDGE WILSON: Have you got copies of it?

ADV COOK: No, these are not copies that I want to hand in.

ADV DE JAGER: Mr Cook, the reason why we are requesting copies, is that we now have to take notes, and this is a document which he is reading.

If you can give us copies, it just expedites our work, otherwise we have to sit here and take notes of everything that he says whilst he reads from a document.

ADV COOK: I understand your problem, unfortunately I haven't made copies because it isn't really a document which I want to submit.

It is actually if one can call it that, a speech which he wants to make, which forms part of the application.

CHAIRPERSON: You may proceed.

MR BENZIEN: Thank you Chairperson. Before I start with reading out of my application, I would like to mention the following:

Firstly, I apologise to any person or persons whom I have harmed and I specifically apologise to the families of Ashley Kriel for the death of their son and brother. Although I deny that I killed him unlawfully and wrongfully, he did however die as a result of an action on my part and for that I apologise.

Life is precious and judged ex post facto, and based on today's political situation of reconciliation, his death was unnecessary.

Further I also apologise to the people whom I assaulted during interrogation, namely Peter Jacobs, Ashley Forbes, Anwar Dramat, Tony Yengeni, Gary Kruse, Niclo Pedro and Allan Mamba.

Director, Gary Kruse contacted me last week and we talked about reconciliation. In the position which I am sitting here today, the persons whose names I have now mentioned, have come to me and have shaken my hand and wished me all the best and I think Mrs Forbes, I know her as Mina Pandy, I would like to thank her very much for her attitude. It has strengthened me in this difficult position which I find myself.

ADV COOK: Mr Benzien, before you continue, please slow down for the sake of the interpreters.

MR BENZIEN: I will do so. According to what I heard this morning and last week, I believe there is no question of any bitterness amongst these people. As Director Kruse mentioned, Jeff, we are all now on the same side.

They also told me that they wouldn't oppose my application and I will be eternally grateful to them for that. It is now reconciliation, forgive and forget at its best.

It should also be mentioned that about a year ago, Jeremy Vearey who is now a Senior Superintendent in the South African Police Service, Information Unit, he approached me and asked me to join his Unit.

My answer to Senior Superintendent Vearey was I would consider it if it has nothing to do with politics. In my application I apply for amnesty for perjury in that I hadn't spoken the truth during the court proceedings and also as a result of the assaults which I have committed on Gary Kruse, Mr Yengeni and the rest, excluded the Ashley Kriel incident.

The question which could now be asked is why my application now should be believed? Superintendent Liebenberg and myself are the only members of the Terrorist Tracking Unit who applied. I was the first one and I did that voluntarily.

I cooperated with the Truth Commission from the outset. On the 8th of April of this year, I met members of the Truth Commission and I approached them of my own free will and I wasn't subpoenaed to attend proceedings.

I cooperated with the Investigation Unit, that is the Investigation Unit of the Truth Commission and was interrogated or questioned by them almost a whole day and I have declared myself to be willing to provide further information. A further date, the 23rd of April, was arranged with my legal representative and that date did not materialise and that was not due to my fault.

In letters to the Truth Commission, I declared myself willing to, should I be provided with the necessary information, to further assist the Committee. Unfortunately that never happened.

The fact that Director Kruse is not opposing my application also indicate that they forgive me and accept my version as correct. Since Ashley Kriel's death, I stand by my version of the fact that his death was an accident, a formal judicial inquest was held and there my version was accepted.

During the inquest Ashley Kriel's family were represented by one of the top Advocates and evidence was led on their behalf. A Pathologist appointed by the family, could not contradict my evidence and I stand by my version and I say that it was true and correct.

To conclude, I would once again like to say to the family and all the men and women whom I harmed, I would like to apologise to them, thank you Chairperson.

ADV COOK: Mr Chairman, I refer you to the application, page 2, paragraph 9(a), there the applicant distinguishes between two periods, namely (a), his period at Murder and Robbery at Bishop Lavis from 1986 and (b), his period at the Terrorist Tracing Unit, from the middle of 1986 to 1990.

If you turn to page 3, under A, period at Murder and Robbery at Bishop Lavis. When the application was drafted, my client made it very clear in his application and I am sure you would have gone through it, mentioned that due to a lack of recollection and the fact that he received no information from the Truth Commission, he was not able to give the Committee enough information and that he could not apply for amnesty for any incidents which include any delicts.

Mr Brink, who is to the right of me here, gave me a transcript last week, this is a transcript of the Sithlahya incident and you will see the nature and particulars on page 3 and following pages, once again, that incident my client cannot remember and therefore he cannot apply for that.

After studying the transcript of the Sithlahya matter, there is only one sentence on page 2 where Mr Knipe is mentioned as having been involved in the assault on Mr Sithlahya. My client is not implicated in any way in that transcript of Mr Sithlahya.

This information came to the fore during the questioning by the Investigating Unit of the Truth Commission and there it was mentioned to my client that he was implicated.

You will see in the application, second last page, I applied for a copy of any statement which implicates my client, which the Investigating Unit might have in its possession. I don't know why, but they never provided me with any particulars, until Mr Brink read the application and saw that we had problems with information and he then gave us the transcript.

I accordingly want to bring it to your attention that this whole period during which my client was at Murder and Robbery, had nothing to do with politics. So there is no question of my client applying for amnesty for any delict committed with a political objective in this period.

He denies categorically that he assaulted Mr Sithlahya in any way, he categorically denies that in this period at Murder and Robbery, he assaulted anybody, whether with a political motive or a common criminal.

So I would like to ask you to ignore this period so pages 3, 4, 5, 6 and 7, we can actually delete.

JUDGE WILSON: Page 3, 4, 5, 6 of what?

ADV COOK: And 7 of the application, we can scrap that. We will continue with the application on page 7, under B - Period at Terrorist Tracing Unit Security Branch.

MS KHAMPEPE: Should we therefore disregard the whole of A and only concentrate on the period B?

ADV COOK: Indeed, yes. If we all have the correct place, I will continue. On page 7, under B, 9(a)(1). Mr Benzien, during your period at the Terrorist Tracing Unit, for which deed or deeds are you applying for amnesty.

MR BENZIEN: Chairperson, assaults, tortures, perjury committed during this period mentioned below, vis-a-vis suspects who were arrested and questioned as well as the death of Ashley Kriel.

I also now apply for the cases which due to lack of recollection, I can't remember. If I am given sufficient information by the Commission, I would like to help the Commission. The period relevant here is the middle of 1986 until 1990, when the ANC was unbanned.

The places, the whole of the Peninsula.

ADV COOK: If we turn to page 8, subparagraph (4), Nature and Particulars.

MR BENZIEN: I start there with Ashley Kriel. I stand by my statement which I made in the inquest, 23/87 and dated the 15th of July, 1987.

The reason why I am now applying is as follows: This is an open and democratic forum in the new Republic of South Africa and I hope that I will be able to convince the families that I am speaking the truth.

Hopefully this forum will convince the family that I am speaking the truth.

ADV COOK: Chairperson, I am told that we first have to deal with the assaults and the torture, namely number 2 and then we can deal with the incident of Ashley Kriel at a later stage. I don't know what the reason for that is, but if it pleases you, then we can continue like that.

CHAIRPERSON: I think you should do it the way it is most convenient to you and your client.

ADV COOK: They didn't give me a reason why we should do it the other way around. Perhaps if she can tell you, I would like us to continue based on this format, otherwise we are going to be jumping around, but if she can tell us the reason why, then I will abide by that.

CHAIRPERSON: Ms Inthanga, is there is any reason why you think you should proceed on that basis?

MS INTHANGA: The victims Mr Chairman, asked that the torture incidents be heard before the Ashley Kriel incident, but if it is going to be convenient for Adv Cook to go ahead in that manner, then he can proceed.

CHAIRPERSON: Let us proceed.

ADV COOK: I don't have a problem with that, we can continue along those lines. As far as point 2 is concerned, dealing with the assaults and the torture, you can then start reading that.

MR BENZIEN: Reads:

"Due to a lack of recollection, inter alia due to a lapse of time, I can't remember exactly who, where and why I arrested and questioned people.

As far as I can remember, the following terrorists who were trained abroad were arrested and questioned by myself of the Investigating team. Peter Jacobs, Ashley Forbes, Anwar Dramat, Tony Yengeni, Gary Kruse, Niclo Pedro and Alan Mamba.

If I may just mention here that trials of Tony Yengeni, I am not sure about Gary Kruse's trial, the case was stopped and the other people were in fact sentenced.

If I have omitted to mention certain names, it is due to a lack of recollection and in no way to avoid responsibility.

I accordingly also apply for the cases which I can't remember. If I am given sufficient information as my legal representative, Adv Cook, repeatedly requested, I would like to be able to help the Committee.

The modus operandi of the Unit including myself, was as follows: The Unit received information from a Safety Information System, regarding a member or a liberation movement who was in the Peninsula.

I received direct information from my Commanding Officer, Lieutenant, now Superintendent Liebenberg, to trace this person and to arrest him. This had to be done expeditiously to prevent any further act or acts of terror being committed.

All those persons arrested by us, had weapons of terror in their possession, or possessed information about acts of terror or gave us information about their hangers-on or sympathisers.

Therefore my instructions from my Commanding Officer was that I had to act urgently and to make use of unconventional questioning methods. This included inter alia the wet bag method, whereby a wet bag is placed over the suspect's head to disorientate him and to make him think that he is being suffocated.

Very few suspects were assaulted, using an open hand. We did not make use of fists, because we did not want to leave any physical marks. In this way we ensured that no evidence aliunde was collected against us.

All the abovementioned members of the liberation movement provided us with the necessary information within one session, which never lasted longer than half an hour.

Ashley Forbes was subjected to two sessions. The last case was to extract new information from him. Peter Jacobs is the only one which was subjected to the wet bag method for longer. If I say "longer" here, I mean longer than half an hour. After they gave us the necessary information, the suspects pointed out

their hangers-on as well as weaponry. Most of the suspects were arrested within hours after we received the information that they were in the Peninsula.

After the weapons were pointed out to us, or the sympathisers were pointed out to us, they were detained in terms of Section 29 of Security Legislation.

The Security Branch then received the docket and took the matter further. The following, excluding Ashley Forbes, the next occasion which I had any contact with the suspects, was in the courts. There the suspects, then accused, raised the defence that they were assaulted and or tortured which I denied under oath. I then told lies regarding the assaults and the tortures on the orders of the Security Branch.

I questioned Ashley Forbes for plus minus six months. Apart from those two occasions where I questioned him in an unconventional way, we built up an excellent rapport and he provided me with extremely valuable information and I then gave that through to the Security hierarchy.

In conclusion I must add that the pointing-out of weapons indicated that the suspects were terrorists, who wanted to commit acts of terror in the Peninsula.

According to my knowledge, only one civilian, a Black man died as a result of an act of terror by the terrorists.

I believed bona fide that due to my expeditious and unorthodox conduct, we made a big difference in the combatting of terror".

ADV COOK: 9(b). Captain Benzien, was any person injured, killed or was any property damaged as a result of your acts?

MR BENZIEN: As far as I can remember nobody, except for Ashley Forbes who sustained a bloodied nose and damage to his eardrum, was injured.

ADV COOK: 9(c)(1), the names of the victims?

MR BENZIEN: Ashley Kriel.

ADV COOK: And 2?

MR BENZIEN: Peter Jacobs, now a member of the South African Police Service, Security Branch Cape Town. Ashley Forbes, unknown, I don't know where he is working now. Anwar Dramat, a member of the South African Police Service, Security Branch, Cape Town.

Tony Yengeni, ANC MP. Gary Kruse, Director Commanding Officer Ministerial Security S.A. Police Service, Pretoria. Niclo Pedro, whereabouts unknown and Allan Mamba, member of the South African Police Service.

ADV COOK: Mr Chairman, if we can turn to the next page, to page 11, 10(a). Captain what political objectives did you want to achieve by means of your acts?

MR BENZIEN: The protection and maintenance of the previous government and constitutional dispensation and to prevent the community losing confidence in the government as a result of intimidation and fear.

The averting of the onslaught from the ANC/SACP alliance which was aimed at overthrowing the previous government by violent means and destroying the constitutional dispensation.

As a member and/or supporter of the National Party, everything was done to promote the confidence of the voters in the National Party and to prevent the ANC/SACP alliance and other organisations who wanted to overthrow the government by violent means, to prevent these from enlarging their political power base.

And further to combat the threat posed by the communist expansionism and to ensure that the Security or the South African government and Security Forces, not be overwhelmed by those elements.

To fight for the continued existence and preservation of what I saw as a normal Western democratic lifestyle, to protect South Africa against a communist take over or alternatively to prevent the country and its people being overcome by a series of attacks, both military or political in nature for instance, international sanctions, boycotts and isolation.

These were also seen as being aimed at taking over the country and the government. To fight for the right of myself, my family and the general public to continue to live in South Africa in the way that our forefathers lived, with special reference to our heritage, background, culture and political lifestyle.

And to try to preserve everything created on the South African soil mainly by Whites, to preserve this and to maintain the status quo in terms of what we in the Security Forces, saw as the normal South African lifestyle.

ADV COOK: Page 12 (b). What was your motivation why you regarded these acts as an act associated with an political objective?

MR BENZIEN: Until the middle of 1986, I was a Detective at Murder and Robbery at Bishop Lavis. I was temporarily transferred to the Security Branch in Cape Town. My Commanding Officer at Murder and Robbery gave me instructions to go to the Security Branch and report there.

There I acted as an investigator of people contravening the emergency regulations and I was involved there for plus minus one year. During this period, the need arose in the Security Branch for the tracing of terrorists who had been trained abroad and who were operating in the Peninsula.

I did not take part in the decision making process due to my junior rank. I only learnt of these things from my Commanding Officers. I was informed by Brigadier Strydom, then Head of the Security Branch, Cape Town, that I would be permanently transferred to the Security Branch and specifically the Terrorist Tracing Unit.

The Unit was stationed at Culemborg, Cape Town. The Commanding Officer was Lieutenant, now Superintendent Liebenberg.

The Unit consisted as an Investigating Team of myself, Warrant Officer, now senior Superintendent Nel, Sergeant J.P. van Zyl and Sergeant Kotze.

Lieutenant Liebenberg explained the purpose of the Unit to us as being the expeditious tracing and arrest of terrorists, collection of information and intelligence and the confiscating of weapons and arrest of hangers on.

The modus operandi of the Unit is as was set out above in paragraph ((a)(4) on pages 8 and 9 above.

On the 8th of June 1989, I received a certificate and a medal from the South African Police for my service in the combatting and tracing of terrorists and this confirms my believe that my seniors condoned my acts.

ADV COOK: Yes, Chairperson, if you look at the amnesty application, right at the back, there is a copy of this certificate which the applicant received.

MR BENZIEN: The acts which I committed were indeed acts committed with a political objective because as a member of the Security Forces of the State, I within the cause and scope of my duties and within the cause and scope of my express or tacit authority, acted in a bona fide manner with the objective of combatting the ANC, especially the ANC's onslaught against the country and the government and its attempts to make the country ungovernable.

Alternatively, on reasonable grounds I believed that I was acting in the cause and scope of my duties and within the cause and scope of my express or implied authority. The acts which I committed I answer, based on the following criteria as contained in Section 23 (a) - (f) of Act 34 of 1995.

The motive why I committed these acts was to, in respect of terrorists who were trained abroad and attached to the ANC or MK, to trace these people to arrest them, to collect information, weaponry and also to arrest hangers on.

This prevented further acts of terror in the country and in the Peninsula. The context for these acts was in reaction to political insurrection or disturbance of the ANC. The ANC tried to overthrow the government by military means.

These terrorists trained abroad and were active in the Peninsula, were instrumental to the objectives of the ANC who tried to make the Peninsula ungovernable by means of acts of terror.

The legal and factual nature, as well as the gravity of the offences were per se unlawful and serious. Nobody was however seriously injured or sustained lasting physical or mental harm or damage as far as I know. Ashley Kriel, unfortunately was killed.

The objective of these acts, it was aimed against the political opponent, namely the ANC. The acts were committed on the orders of my immediate Commanding Officer, Lieutenant Liebenberg.

The Security Forces served the government of the day and the National Party of which I was a member. I also acted on behalf of or with the express or tacit approval of the Security Forces and or the National Party.

The mere fact that the Terrorist Tracing Unit continued to exist for five years until the unbanning of the ANC, in 1990, and I received a medal and a certificate for my service, I believed on reasonable and bona fide grounds that I was acting within the cause and scope of my duties and within the scope of my express or implied authority.

The relationship between the acts and the political objectives pursued are defined and described more particularly in (9(a) and 10(a) and (b) above.

ADV COOK: Mr Benzien, did you benefit in any way financially or otherwise?

MR BENZIEN: No.

ADV COOK: 10(d), not applicable. 11(a), was the act or acts committed in the execution of an order of or on behalf of or with the approval of a particular body or organisation - that will be the South African Police?

MR BENZIEN: Yes. This act was carried out on behalf of the relevant Security Force, namely the South African Police and by implication the then government of the day.

I believed on reasonable grounds that I was acting in the cause and scope of my duties and within the scope of my express or implied authority because I received the order or approval for the act from a senior member of the Security Forces.

ADV COOK: 11(b). The name of the person who gave you the order?

MR BENZIEN: My immediate Commanding Officer, Lieutenant Liebenberg.

ADV COOK: 12, not applicable. 13 is unknown. Chairperson, all that now remains is the application in respect of the death of Mr Ashley Kriel, but I will stand by what I have now said and I will hand over to my colleague and she can then do the questioning in respect of that. We have decided to split it up into two parts.

CHAIRPERSON: I think Mr Cook, you better just complete your version, your clients case so that we don't split this case into two parts unnecessarily.

ADV COOK: As it pleases the Committee. I ask you to return to page 8 of the application. Nature and Particulars - 1. Ashley Kriel.

The applicant says that he stands by his statement which he made in the judicial inquest, 23/87, dated the 15th of July. What was the outcome of the inquest, Mr Benzien?

MR BENZIEN: The Chairperson of the then judicial inquest found that I was not liable in law for Ashley Kriel's death.

ADV COOK: Mr Ashley Kriel's family, were they represented at all by a legal representative during the inquest proceedings?

MR BENZIEN: That is correct. If I remember correctly it was Adv Jeremy Gauntlett.

ADV COOK: Did Mr Gauntlett adduce any evidence on behalf of the family?

MR BENZIEN: He cross-examined me and he also led the evidence of an independent Pathologist and an independent ballistic expert.

ADV COOK: The evidence of these two experts, did it contradict your evidence in any way?

MR BENZIEN: I can't remember exactly but I think it was in line with the evidence adduced by the State.

ADV COOK: If you can look right at the back of the application, document A1, Athlone GDO23/87. If you have that, then I would like to ask my client to read it out.

Captain Benzien, please continue with reading out your statement there.

MR BENZIEN: Chairperson, I would like to mention that this statement was taken down on the 15th of July of 1987, so that there are some minor particulars which aren't strictly correct, I am no longer Detective Officer. May I continue?

CHAIRPERSON: Yes, Sir.

MR BENZIEN: I am number W80113K, in the South African Police, Detective Warrant Officer, stationed at Cape Town.

On Thursday, the 9th of July 1987, at 13h35 I was on duty, I was sober and clad in civilian dress. I was accompanied by number K173415M, Sergeant A.D. Abels of the Security Branch in Cape Town. On the instructions and orders of our Commanding Officer, Lieutenant Liebenberg, Sergeant Abels and myself went to Albermarle Road 8, Hazendal, Athlone.

Our task was to do surveillance of the grounds there, to determine whether the trained ANC terrorist, Ashley Kriel, was hiding out there. We only had information to the effect that the abovementioned terrorist could be in the house or in one of the adjacent houses and therefore Sergeant Abels and myself, approached the house on foot whilst other members of the Security Branch waited out of sight of the house.

Upon arrival at the abovementioned address, I saw that there was a gate in front of the door and this gate was locked with a padlock. Sergeant Abels and myself then walked around the back of the house to the back door. I requested Sergeant Abels to knock on the door to determine whether anybody was home.

After a couple of minutes, a Coloured man opened the door. The Coloured man held a jersey and a towel in front of his trousers, his right hand was covered with this jersey and a towel and his left hand was pressed against his covered right hand.

I immediately recognised this person as the wanted terrorist, Ashley Kriel. I identified myself to Ashley Kriel as a member of the South African Police. Kriel immediately made an upwards motion with his covered hands. At the same time, he tried to run into the house.

I threw both my arms around Ashley Kriel's arms and chest, trying to pin his arms to his body. He resisted furiously and battled to free himself. I suspected that he had either a firearm or a handgrenade in his arms under the jersey and the towel.

Sergeant Abels assisted me and we managed to restrain Ashley Kriel, who resisted. During this struggle the towel and the jersey fell and I saw Kriel holding a firearm with both his hands in front of him, and he tried to raise it.

We had already fallen to the ground during the struggle, and we tried to pin down to the ground. I succeeded in getting the firearm from, loosening it from his grip, it was an automatic pistol and I hit him on the forehead, quite a heavy blow and this wound bled freely.

Kriel released his grip for a moment whilst he was laying on his back, and we pinned him down to the ground. I was in a crouching position on his right hand side and Sergeant Abels to the left of him, at his head. I still held this firearm which I took from Kriel in my right hand and with my left hand, I took my handcuffs from my pocket and I handed them to Sergeant Abels, with the instruction that he should handcuff Kriel's hands.

Just after Sergeant Abels had placed the one cuff around Kriel's right wrist, Kriel jumped up into a sitting position and grabbed my right hand in which this firearm still was.

I grabbed my right hand with the firearm out of his grip. He turned to his left, whilst he was still in a sitting position in order to free himself and get up. Sergeant Abels, meanwhile tried to restrain Kriel. I however, realised that Kriel was getting into an upright position and from my position at that stage, which was behind him, because he was turned away from me, I jumped on his back in order to pin him down to the ground once again.

With me on his back, he thrashed in all directions and tried to enter the house. At some stages we were on the ground and other stages we were kneeling or - it as during this stage that I heard a shot. I realised that it was his firearm which was still in my right hand which had gone off.

I realised that Kriel had been wounded and I noticed blood at his mouth and nose. I immediately instructed Sergeant Abels to cuff the deceased's left hand as well, and to guard him whilst I immediately went to my vehicle to get help on the radio.

The struggle couldn't have lasted for more than a minute. At no stage did I cock the weapon and in the struggle, I didn't notice whether it had been cocked.

However, I am of the opinion that the deceased must have cocked the weapon before opening the back door of the house and had concealed the weapon underneath the towel and the jersey.

When I returned to where Ashley Kriel was, it was clear that he was dead. During the search of the deceased's room in Albermarle Road 8, a handgrenade was found under his pillow. This was found by Warrant Officer Nel of the Security Branch and the explosives expert seized this handgrenade.

I seized the deceased's firearm, a .22 star, self loading pistol, number F739725 with seven rounds in the magazine and one round in the chamber of the pistol.

Next to the body, there was one .22 pellet which I seized. After the incident, I secured the weapon myself. I pointed out the relevant points of the official police photographer as well as members of the video unit.

The handcuff on the left hand wrist had been loosened to indicate the position of the handcuffs during the struggle and the body was then taken from the scene by ambulance.

During the incident, my glasses, the left lens of my glasses had been damaged and I sustained light chafing wounds to my elbows and arms and bruised my right knee. I did not receive any medical treatment for my injuries and there then follows the details regarding the oath.

ADV COOK: Captain Benzien, do you admit then that you are aware of the contents of the statement and you've signed it on all the pages?

MR BENZIEN: That is correct.

ADV COOK: Is there anything else which you would like to add?

MR BENZIEN: If I may mention it once again, I would like to say to the family of Mr Kriel, now that I am older and perhaps know a bit more about the politics of those years, I believe that Mr Kriel acted very courageously.

My purpose was to arrest him and not to kill him. Although his death was a tragedy for his family, I am very, very sorry that he had to die, but the tables could very easily have been turned on that day, the outcome could have easily been very different and it could have left myself and Sergeant Abels being wounded or killed.

And once again, I apologise to the family for his death and I thank God that I, who also have children, also a daughter who is 22 years old, that I was not the person who was killed on that day.

ADV COOK: Thank you Chairperson.

NO FURTHER QUESTIONS BY ADV COOK.

CHAIRPERSON: Mr Papier, are there questions you wish to put to this witness?

MR PAPIER: There are Mr Chairman. May I proceed?

CHAIRPERSON: Yes, you may do so.

CROSS-EXAMINATION BY MR PAPIER: Thank you. Captain Benzien, I see in your amnesty application it is dated the 8th of May 1997, in Malmesbury, is that correct?

MR BENZIEN: Yes, that is correct.

MR PAPIER: Who compiled it?

MR BENZIEN: My Advocate.

MR PAPIER: The Advocate appearing here?

MR BENZIEN: That is correct.

MR PAPIER: It was signed by you, is that correct? Did you swear or was it an affirmation?

MR BENZIEN: That is correct. That is correct.

MR PAPIER: What was it, did you swear or was it an affirmation?

MR BENZIEN: I took the oath.

MR PAPIER: Or can't you remember?

MR BENZIEN: I took the oath, but I see here the certificate was not entered.

MR PAPIER: I see. Where did you sign this?

MR BENZIEN: I signed it with my Advocate.

MR PAPIER: And the Advocate sent it to the Amnesty Committee?

MR BENZIEN: Yes, that is correct, I brought it in by hand.

MR PAPIER: I see that regarding Mr Ashley Kriel, on page 8 of your application, you simply just say that you abide by the statement during the judicial inquiry?

MR BENZIEN: That is correct.

MR PAPIER: Where did you make this affidavit?

MR BENZIEN: It seems to be that it was the late Lieutenant Segal.

MR PAPIER: Mr Desmond Segal?

MR BENZIEN: That is correct.

MR PAPIER: To which Unit did Mr Desmond Segal belong during this time?

MR BENZIEN: I see that he was part of the South African Unit in Guguletu.

MR PAPIER: Was he involved in the investigation of Ashley Kriel or the activity, the incident of the 15th of July? Was he involved in this incident of the investigation thereof?

MR BENZIEN: As far as I know he was an Investigator after the incident, after this incident, he investigated it.

MR PAPIER: What do you mean, what was his association with the Ashley Kriel incident?

MR BENZIEN: The shooting incident was investigated by a member other than a member of the Security Branch.

MR PAPIER: According to your statement, this Desmond Segal was stationed at the Guguletu police station, is that correct?

MR BENZIEN: According to the certificate, yes.

MR PAPIER: What did the Guguletu police have to do with this whole matter?

MR BENZIEN: Mr Chairman, about this incident, I can only speculate that this had to be investigated by a Unit not associated with the Security Branch. It was just by chance that he had to partake in this investigation.

It is general practise that during a shooting incident, this incident is not investigated by a member associated with a specific Unit.

MR PAPIER: Your statement of 1987, did you discuss it with anybody before or while making this statement?

Let me help you, specifically with Rudolf Liebenberg or Sergeant Abels?

MR BENZIEN: Possibly not the statement per se but the incident, yes, I think we discussed it.

MR PAPIER: You discussed it?

MR BENZIEN: Yes, possibly.

MR PAPIER: And the other two colleagues, Liebenberg and Abels, also made statements during the judicial inquiry and they were used after you had discussed that?

MR BENZIEN: Yes. If we did discuss it.

MR PAPIER: Captain Benzien, if you look at your statement, this is the judicial inquest. Your Advocate indicated that at the top it says Athlone GDO/23/87, is that correct?

MR BENZIEN: Yes.

MR PAPIER: Did you make this statement with a view of an informal judicial inquest?

MR BENZIEN: It is possible. It is difficult to say now. I could not determine whether it should be a formal or informal inquest.

MR PAPIER: This number, does it say anything, there is no CR? I just want to determine whether you knew at that stage or whether you have tried to organise that there should be an informal judicial inquest?

MR BENZIEN: From this incident, there should have been a formal judicial inquest. Whether it should have been formal or informal or whether I would have been able to influence it, whether it should have been formal or informal, that was not in my hands.

MR PAPIER: Would you please just listen to three extracts from these three affidavits. Yours, Liebenberg's and Abel's. In paragraph 6 of Lieutenant Liebenberg's statement and I quote ... "1987/07/09, W80113K, Benzien and K173431, Sergeant Abels, I instructed them to go to Albermarle Street 8, in Hazendal, Athlone and to determine whether Kriel really has returned."

This is what Liebenberg said. And I quote in paragraph 3 of your statement as you have already said ... "under instructions of our Commander Lieutenant W. Liebenberg, I and Sergeant Abels went to Albermarle Road 8, in Hazendal, Athlone." Paragraph 3 of Abel's statement and I quote said ... "under instruction of our Commander W. Liebenberg, I and Benzien went to Albermarle 8, Hazendal, Athlone."

Now, would you agree with me that the impression created by these three statements is that Abels, you and Abels were instructed by Liebenberg to go directly to Albermarle Street in Athlone to determine whether the deceased had returned. Would you agree with me?

MR BENZIEN: Mr Chairman, the impression created by these typed versions, but if I can assist the Commission in this regard.

MR PAPIER: Captain, I just want to know yes or no, would you agree that this is the impression created by these statements?

MR BENZIEN: This is the impression, but it is a wrong impression.

MR PAPIER: I see.

JUDGE NGOEPE: We do not have copies of Mr Abels and Mr Liebenberg's statements.

MR PAPIER: I am sorry, Honourable Judge. I might be able to arrange that the investigating team submit that statements, it is part of the inquest proceedings and I assumed that the Honourable Committee would ...

JUDGE NGOEPE: No, we don't and that is why some of us, perhaps don't fully appreciate the point you are trying to make. I suppose somebody will attend to that.

MR PAPIER: If it pleases you Judge.

JUDGE NGOEPE: To the extent that you think you will be able to take us along with you, even though we don't have copies of those statements, you may continue.

MR PAPIER: Thank you Judge, I will do my best. Captain Benzien ...

CHAIRPERSON: Mr Papier, how long will it take you to prepare these papers if we take a short adjournment at this stage?

MR PAPIER: I imagine Honourable Chair, that it is just a matter of photocopying these documents and it shouldn't take longer than five minutes.

CHAIRPERSON: Yes, we will take the customary short adjournment at this stage and you will call us in as soon as you are ready. We will take the customary break for 15 minutes.

MR PAPIER: As it pleases you.

COMMISSION ADJOURNS FOR 15 MINUTES - ON RESUMPTION.

CHAIRPERSON: Just to avoid causing confusion, these documents will now go in as Exhibits, and we will mark them as Exhibit A and Exhibit B.

MR PAPIER: Thank you.

CHAIRPERSON: Is there any choice you have?

MR PAPIER: I have no choice, Honourable Chair.

CHAIRPERSON: Yes, which one do you want? Do you want Abels' to be Exhibit A.

MR PAPIER: Exhibit A.

CHAIRPERSON: And the other will go in as Exhibit B.

MR PAPIER: As the Chair pleases.

STATEMENTS OF ABELS HANDED IN AS EXHIBIT A AND of LIEBENBERG AS EXHIBIT B.

CHAIRPERSON: Just hold it. You may proceed.

MR PAPIER: As the Chair pleases. Captain Benzien, I have referred you to paragraph 6 of Exhibit B, and that is the statement by Lieutenant Liebenberg.

And then I also referred you to paragraph 3 of your statement and your statement is part of your application, and I have also referred you to paragraph 3 of Exhibit A, and that is Constable Abels' statement.

And this, you will remember is related to the instructions you received to go to Albermarle Road 8, in Hazendal, Athlone. My question is therefore did it happen like that?

Did you receive direct instructions to go to number 8, yes or no?

MR BENZIEN: It is very difficult to answer yes or no because if I look at my statement paragraph 4, that is the statement just after number 3, our task was to survey the area around this place, to see whether this trained ANC terrorist was not hiding there, because we had information that this terrorist probably could be in this house or one of the adjoining houses.

And we approached this house by foot. I want to explain here and say, that during the formal inquest this point was repeatedly under investigation and discussed.

MR PAPIER: And the address Albermarle Way 8, after this shooting incident, was that the address which was relevant?

MR BENZIEN: For example, and this was through evidence, we did not go directly to Albermarle Way 8, we came to the house adjoining that house, I don't know whether it was number 6 or number 10.

MR PAPIER: Yes, Captain, my question is, if you look at those three statements and the Commanding Officer gave you instructions, that is what he said in his statement, go to number 8 and you wrote that in your statement, we went to number 8, you corroborated the fact but you also state in the first sentence and say "our task was to survey the land around the site as well as this whole site".

We want to ask what site? I want to say that that was number 8.

MR BENZIEN: I quote again, the address which was mentioned after this incident, was number 8, but there was no information available that we had to go to number 8, in the first place.

We went to the house next-door at first.

MR PAPIER: Thank you. Is it correct to say that your instructions were to survey that area and to determine whether the deceased was not there?

MR BENZIEN: We had to see whether the deceased was in one of those houses.

MR PAPIER: Your instruction was not to go directly to number 8?

MR BENZIEN: If I can give more clarity. They said to - the houses in that street is on one side of the road and I had to go from house to house to determine whether he was there.

It was just by chance that the deceased was in number 8.

MR PAPIER: What I want to put to you is that according to your statement, that is an inaccurate version of what precisely happened there. That is regarding that instruction?

MR BENZIEN: Mr Chairman, I want to put it in this way. I did not go there by myself. I did not go there of my own accord. I acted under instructions to survey that area.

If I had to go to number 8 specifically and not any other houses, I believe that the person who sent me directly to that house, that was Lieutenant Liebenberg, that he would have been sure that that was the correct house, and there would have been a completely different activity.

MR PAPIER: I understand your explanation. Why do you not say that in your statement before his Commission?

MR BENZIEN: I am saying this now.

CHAIRPERSON: Is there anything really material that turns on this?

MR PAPIER: I will be submitting Honourable Chair that a number of other inconsistencies will be pointed out to the Honourable Committee.

CHAIRPERSON: Are they material?

MR PAPIER: I submit, yes, Honourable Chair.

CHAIRPERSON: Yes.

JUDGE WILSON: And you will bear in mind that this statement was not, as you've just said, prepared for this Committee. This statement was prepared in 1987?

MR PAPIER: Indeed Honourable Judge and I submit with respect with regard to that, that a statement should have been prepared for this Honourable Committee but the applicant has elected to present a defective statement to his Honourable Committee.

CHAIRPERSON: I think we must look at the real contents of the case. Proceed.

MR PAPIER: As you please, Honourable Chair, thank you. Captain, we will continue then. You and your colleague, Abels, what were you wearing, what were you wearing?

MR BENZIEN: We were wearing overalls, from the Cape Town Municipal Sanitary Services.

MR PAPIER: You were disguised?

MR BENZIEN: Yes.

MR PAPIER: Are you saying that in your statement?

MR BENZIEN: I said we were wearing civilian clothes.

MR PAPIER: Are you saying that you were wearing Municipal overalls and that you were disguised, you are not saying that?

MR BENZIEN: No, I am not saying that in my statement.

MR PAPIER: According to your statement, it appears that the reason why you did not go to the front door, was because there was a trellis door with a lock, is that correct?

MR BENZIEN: If that was the reason why I did not go to the front door, I accept it.

MR PAPIER: I am asking you. That is what you were saying in your statement, I am trying to understand. I am sorry, paragraph 5.

MR BENZIEN: Mr Chairman, this happened a long time ago. I said that there was a trellis door attached to the front door, I see nowhere that I did not approach that door.

MR PAPIER: Did you go to the front door then? Your evidence before this Committee was that you went to the back door, isn't that true?

MR BENZIEN: Yes, it happened. This incident happened at the back door of the house.

MR PAPIER: I want to establish why you did not knock at the front door? The basis of your evidence is that you only wanted to gain some information, is that correct?

MR BENZIEN: Yes, that is correct. Today I can't even remember whether that trellis door was right in front of the front door or whether there was a little stoep attached to that, where you could perhaps not approach the doorbell at the front door.

MR PAPIER: Right, Captain, the vehicle which took you to these premises, were they also disguised?

MR BENZIEN: That is correct.

MR PAPIER: Which vehicle did you use?

MR BENZIEN: I used a little police van with usual registration plates and I also used a label of the Cape Municipality Sanitary Service, Cleansing Branch.

MR PAPIER: Did the Municipality give you assistance, did they provide it to you?

MR BENZIEN: The Municipality did not know what my plans entailed. I maintain that it was only a reconnaissance activity and therefore I borrowed these overalls from the Municipality.

MR PAPIER: They knew you were a policeman from the Security Branch?

MR BENZIEN: The person who provided these overalls to me, was a member of the Municipality. I knew him, I approached him for these overalls, but he did not have any further knowledge.

MR PAPIER: Who was he?

MR BENZIEN: It was a Mr Sterrenberg.

MR PAPIER: Is it correct to say that you were armed with your service pistol, a spade and a piece of pipe when you went to this house in number 8?

MR BENZIEN: At this stage, I would like to say that I carried my side pistol, which was attached to my pants with an overall over that. I had a spade, yes, which was used to clean the manholes and unless I understand you wrong, I can't say that I used the spade as a weapon.

I used this to uncover the lids of the manholes.

MR PAPIER: Did you say this in your statement, yes or no?

MR BENZIEN: I read through this and I see that I am not mentioning the spade. I did not mention the pipe either. I don't know where this pipe story comes in.

MR PAPIER: I am putting it to you that you and Abels went to this house in a fraudulent way, to number 8. Do you agree with me?

MR BENZIEN: I cannot agree with you.

MR PAPIER: Was it in an honest way?

MR BENZIEN: I was busy with the execution of my duties. I was disguised.

MR PAPIER: You wanted to pretend that you were not from the police, but that you were coming from the Municipality, the water department?

MR BENZIEN: That is correct.

MR PAPIER: Was it like that?

JUDGE WILSON: How does that become fraudulent? A policeman who is looking for what he suspects to be a terrorist, and you are now suggesting it is fraudulent that he should wear some cover up?

MR PAPIER: Honourable Judge, I am submitting or I will submit at the end of the day that the statement before this Honourable Committee is not a true and honest disclosure of what happened on that day. I submit with the greatest amount of respect that this is a different forum and the families, my clients have come to hear the truth.

The applicant before this Honourable Committee has elected to once again, I submit, place facts before this Honourable Committee which does not amount to the truth with regard to what happened on that day.

CHAIRPERSON: Mr Papier, one understands that, but what my brother is saying to you is that perhaps you know, I mean to speak of fraudulent basis, it is a very technical term. I mean fraud is an crime which consists of a number of elements and your argument pre-supposes that the applicant's conduct met all the essential elements of a crime of fraud and that is not

necessarily so. Perhaps what you wanted to say to the witness was that when you went there, you purported to be what you were not.

MR PAPIER: Thank you Honourable Judge. The Afrikaans translation is a bit of a problem. Thank you.

Captain Benzien, would you agree with me that you went there to create the impression that you were from the Municipality, that you were there to do maintenance work to the drains and that that fact does not appear in your statement before the Committee today?

MR BENZIEN: Yes, I will concede that. I will concede that I went there in disguise and with all due respect I once again refer to the inquest proceedings, where that was also mentioned.

MR PAPIER: I understand that you then gave Constable Abels orders to go knock at the back door, is that correct?

MR BENZIEN: Yes, that is correct.

MR PAPIER: You were busy looking into the drains?

MR BENZIEN: Yes.

MR PAPIER: He had to go and knock twice, is that correct?

MR BENZIEN: Yes.

MR PAPIER: And it was on the second occasion when the back door was opened, correct?

MR BENZIEN: Yes.

MR PAPIER: How far were you away from the back door?

MR BENZIEN: I will concede the statement which I made was not a detailed version of what happened, minute by minute. If I remember correctly, we moved along the side of the house, opened a manhole cover next to the side of the house. Everything seemed to be closed. I looked through, I think the kitchen window, the curtains were nearly down to the window cill, it was dark inside the house and I think that I saw a movement inside the house.

There where the manholes are, next to the house and passed the back door, not in line with the back door, was a garage and next to that or behind that, was another manhole which we opened.

Abels knocked, we moved further. He knocked again. I brought it to his attention that I thought I had seen movement in the house, I wasn't sure and whilst we were standing some distance away from the door, the door opened.

The distance between ourselves and the door, here I have to rely on my memory, it could possibly have been two paces, if I remember correctly.

MR PAPIER: Captain, I am referring to paragraphs 7 and 8 of your statement and I quote ..."after a couple of minutes a Coloured man opened the door. The Coloured man held a jersey

and a towel in front of his trousers and his right hand was covered with this jersey and the towel whilst his left hand was pressing up against his concealed right hand."

MR BENZIEN: That is correct.

MR PAPIER: Was that your first image of what you had seen?

MR BENZIEN: Yes. If I remember correctly we knocked and we stood back from the door, we discussed the situation - there was anybody in the house, was anybody going to open. Whilst we were still talking the back door opened and I then saw that the deceased was standing at the door, and his hands were in front of his body with the jersey and the towel covering his hand?

MR PAPIER: So you didn't actually see the door opening?

MR BENZIEN: That is correct. It wasn't as if we knocked and the door was then opened.

MR PAPIER: You see, I want to put it to you that that is not at all the impression which your statement creates to the Committee, it tells a different story.

MR BENZIEN: Well, I don't know what other story it is telling.

MR PAPIER: My instructions are, perhaps you can confirm or deny this, that that door had a handle and also a little lever on the inside?

MR BENZIEN: I can't comment on that.

MR PAPIER: If a person wanted to open that door, he would in all probability have had to use both hands?

MR BENZIEN: I concede that.

MR PAPIER: I want to put it to you that if that was indeed the case, then it would be highly improbable that you could have seen the image which you have stated in your statement?

MR BENZIEN: Your Honour ...

CHAIRPERSON: Unless this stable or whatever it was holding that door, had not been fastened at that stage?

MR PAPIER: Maybe the applicant would be able to assist us with that My Lord.

CHAIRPERSON: Unless there was a witness inside the house who is going to come and tell us what happened?

MR PAPIER: I would leave that there, Honourable Chair. According to your statement Captain, you then said that you identified yourself to the deceased, Ashley Kriel.

MR BENZIEN: Perhaps the statement doesn't read correctly. After I identified him, I didn't immediately then say I was a member of the police. He first came out of the house and I recognised him.

I wasn't sure whether he recognised me. I said a whole lot of things about drains and sewerage blockages and so on. It is difficult to explain to the Committee or to anybody who wasn't in that situation, I had to make a snap decision as to how I was going to act.

Was I going to walk away from the scene knowing that this man was a trained terrorist or freedom fighter. He had something in his hand and the way in which he concealed his hand, was unnatural.

Had I walked away and he recognised me, or became suspicious, he might have if he had had a handgrenade in his possession, used this handgrenade, thrown the handgrenade and if he had a pistol, he could have shot us dead.

That was the worst scenario which I could imagine. You must remember that these are thoughts which flash through your mind in a fraction of a second.

Mr Chairman, may I try to sketch the situation to the Committee. The second alternative was that he would recognise me, that he does not act against us in any way, but as soon as we leave the scene, he then leaves his hiding place and we would lose track of him.

The third alternative, I had to consider as a trained policeman, was must I now as a policeman, irrespective of the risk continue with my arrest of this man and that decision was taken by me in a split second, to try and arrest this man, irrespective of the danger which the situation clearly posed.

I moved to the door, the deceased stepped back a pace. He was standing in the doorway and I tried to squeeze him. At that stage he turned towards me. I was convinced that he realised at that moment that this was not a worker from the Municipal Cleansing Branch.

When I then grabbed him, I told him I was a member of the police and that I was arresting him. I had hoped that he would subject himself to the ... (tape ends)

MR PAPIER: You said that you feared that he might have a handgrenade or a firearm in his possession? Surely that was not the reason why you killed him?

MR BENZIEN: At that stage and at no other stage, there was the intention, I never had the intention at that stage or any other stage to kill him, I wanted to arrest him.

MR PAPIER: You then succeeded in taking away the deceased's firearm from him?

MR BENZIEN: Yes, that is correct.

MR PAPIER: Your colleague, Abels, was present there, he was assisting you, is that correct?

MR BENZIEN: Yes. He helped me to apprehend the deceased.

MR PAPIER: What did you do with the spade?

MR BENZIEN: If I remember correctly, the spade was laying on the ground or I in fact now have a better recollection of the spade, as possibly leaning up against the garage wall where the back manhole was.

MR PAPIER: So if I understand you answer, you don't know what you actually did with the spade?

MR BENZIEN: No.

MR PAPIER: Is it possible that you still had the spade with you?

MR BENZIEN: No, no. I am very clear about that. I didn't at that stage have the spade in my hand.

MR PAPIER: Captain Benzien, you hit the deceased against the head intending to render him unconscious, is that correct?

MR BENZIEN: Hopefully to render him unconscious, but in any event to put him out of action and I hit him with his firearm.

MR PAPIER: You are big, you are sturdily built, would you agree with me?

MR BENZIEN: As well as old an unfit.

CHAIRPERSON: I am sure he is referring to the period 10 years earlier than now?

MR BENZIEN: Ten years ago, with respect Your Honour, I was 40 years old, 39 or 40 years old, ten years ago.

MR PAPIER: Yes, but your build hasn't changed much, has it? Perhaps you have become older, but at that stage you were probably more fit than you are today?

ADV DE JAGER: I see he is actually glancing at his waistline, Mr Papier.

MR PAPIER: However, were you bigger than the deceased?

MR BENZIEN: In length no, in build yes.

MR PAPIER: And Abels?

MR BENZIEN: Abels could have been the same height, perhaps also a little bit more sturdily built. The deceased was in his early 20's I would estimate and if my information is correct, he had just come from military training camp, so I don't think he was as plump as we were.

MR PAPIER: So he was laying on the ground, and if I understand your statement, you then jumped on him and you sat on him?

MR BENZIEN: Yes.

MR PAPIER: And your colleague ...

MR BENZIEN: I don't know whether I actually said I sat on him?

MR PAPIER: Perhaps you can tell the Committee what happened there, irrespective of what appears in your statement.

MR BENZIEN: To write a statement of what happened during a fight and to actually do so in detail, is very difficult. You have to rely on your memory.

With respect I don't know how many people have been involved in a struggle or a fight, especially of this nature, it is a continuing act of rolling around and there is a lot of motion, and it is very difficult to describe the events in the exact order in which they happened.

I know that we attempted to handcuff the deceased. And a blow which I delivered to the deceased's head, the intention of that was to render him unconscious, but how hard do you hit a person, not to kill him if you are using a firearm?

To answer your question, we were on the ground. I had hoped that he was unconscious and we tried to handcuff him.

MR PAPIER: Yes, and you were sitting on him at that stage?

MR BENZIEN: Next to him, I don't think it was on top of him.

MR PAPIER: And your colleague, Abels, was trying to handcuff him, is that correct?

MR BENZIEN: I've just glanced briefly at point 14, this is from a statement which I made about seven days after the incident, point 14 of my statement - "Kriel relaxed for a moment whilst he was laying on his back and I took up a position, a kneeling position on his right and Sergeant Abels to his left, at his head, and we pinned him down to the ground."

I don't mention that I actually sat on him.

MR PAPIER: Can you still remember this incident, or can't you remember it?

MR BENZIEN: I rely to a large extent to the statement which I made then as well as my memory. And I am doing that to the best of my ability in order to assist the Committee.

MR PAPIER: Was it possible for you to actually throw the firearm away or throw it to one side?

MR BENZIEN: Yes, I am sure I could have done that.

MR PAPIER: Why didn't you do it?

MR BENZIEN: At this stage I was grappling with a terrorist. The only weapon which was available in this split second action, was the weapon which I had to hand. I don't think that anybody in similar circumstances should consider actually throwing the weapon away, what purpose would that serve?

MR PAPIER: Yes, well, perhaps Mr Kriel would still have been alive today.

MR BENZIEN: I don't want the Committee to gain the impression that I am cynical. Learned Advocate said that perhaps Mr Kriel would still have been alive, had I thrown the weapon away.

As I said earlier when I apologised to the family, if the tables had been turned on that day, I could have been dead today and not Mr Kriel.

MR PAPIER: Yes, you will agree with me that there was no weapon except for the other weapon which you had in your possession, which was in issue if the original weapon, Mr Kriel's weapon, hadn't been used in the way in which you used it?

MR BENZIEN: I don't think I follow the question.

MR PAPIER: I would try and clarify that. I am putting it to you that Mr Kriel had no other weapons in his possession.

MR BENZIEN: At that stage I couldn't foresee it.

MR PAPIER: And at this stage, is that the case or not?

MR BENZIEN: At this stage I know that he didn't have a firearm anywhere on the premises, but an F1 handgrenade under his pillow in the bedroom.

MR PAPIER: How far away was he from his bedroom?

MR BENZIEN: That handgrenade could as well have been in his pocket.

MR PAPIER: But it wasn't. Let us continue.

JUDGE NGOEPE: Sorry, before you do that. To a question by Mr Papier, you said that what purpose would it have served to throw away the deceased's weapon, but what purpose did it serve to keep it in your hand in stead of throwing it away?

MR BENZIEN: Your Honour, at that stage I was the policeman on the scene, making the arrest. I have just disarmed a person with a firearm. With hindsight and knowing how this tragic experience developed, I could say yes, yes it would have been the best thing to throw the firearm away, but I don't think anybody and I say it with all respect, who is in a situation like that and comes into the possession of the threat's weapon, throws the weapon away to equal the playing fields.

At that stage it was not a case of a boxing or wrestling match.

JUDGE NGOEPE: I understand you, but I thought that you needed the use of your hand badly to overpower, to physically grab this person. It is not a question of actually throwing his weapon away, you put it out of his reach, by just putting it a distance away because you wanted to use both hands to grab this person. Didn't you need to use both hands?

MR BENZIEN: Your Honour, I was fighting him with the firearm still in my hand, in my right hand. My left hand ...

JUDGE NGOEPE: That is what I can't understand. How can you fight somebody with a firearm in your hand? You fight better, to grab him better, if the firearm is not in your hand.

If you put it a distance away, you use both arms to grab the man. You handicap yourself by clinging onto this firearm. This is what I don't understand. Unless, of course you wanted to use the firearm?

MR BENZIEN: Your Honour, as I explained, and with all respect, this whole turmoil was not taking minutes, it was seconds. Why I kept the firearm at that stage, in all probability because then I had the edge on him.

JUDGE NGOEPE: Did you not keep the firearm with the view that you should shoot him?

MR BENZIEN: I don't think at that stage at all, Your Honour. But what was to say, I know we are debating this now and I am - the firearm out of my control could surely just as easily by some or other method, especially if he had somebody else in the house, which it would have not been the first time that two terrorists share the same abode.

JUDGE NGOEPE: Thank you. I understand.

MR PAPIER: Thank you Sir. And you Captain Benzien, you were also still armed with your personal pistol?

MR BENZIEN: That is correct.

MR PAPIER: Was Abels armed?

MR BENZIEN: Yes.

MR PAPIER: Abels was standing next to you, that is after you had knocked Ashley Kriel to the ground, unconscious and Abels was busy putting the handcuffs?

ADV DE JAGER: I think it is incorrect to state that he was knocked unconscious, that is not said anywhere in the statement that he was knocked unconscious.

MR PAPIER: Thank you Advocate. According to you Captain, was the deceased at that stage rendered unconscious, was he knocked unconscious?

MR BENZIEN: Not judging by his responses and reactions. He might have been unconscious for a split second.

MR PAPIER: He was laying on the ground after you hit him?

MR BENZIEN: He was laying on the ground and I was standing to his right side and Sergeant Abels behind his head and his two hands were flat on the ground as indicated by the speaker.

MR PAPIER: According to your statement, he then jumped up again. Did he then assume a sitting position?

MR BENZIEN: When Abels was able to put the cuff around the right wrist and tried to pull the left hand closer, he came upright into an upright position, with the cuff still attached to his right wrist.

MR PAPIER: Did you attempt to hit him again, to knock him back again to the ground? Surely that is possible?

MR BENZIEN: It is possible, I can't explain that.

MR PAPIER: Abels was standing there, he could also have hit him or kicked him or pulled him down?

MR BENZIEN: Abels was behind him. There was an element of surprise present. I had hoped that he was unconscious, we were least tense, I don't know if that is the correct expression or word, but perhaps we were not as alert.

We were all on the ground. He sat upright and I assume that if Abels could have reacted quickly enough, he could have done something, I could have jumped on him, but at that stage, it didn't actually happen.

MR PAPIER: Let us move from there Captain. A shot went off?

MR BENZIEN: Yes, that is correct.

CHAIRPERSON: Just a minute. Before we get to that, Captain you hit the man intending to render him unconscious or out of action?

MR BENZIEN: Yes.

CHAIRPERSON: And you succeeded in that because he relaxed for a moment?

MR BENZIEN: That is correct.

CHAIRPERSON: And he was on his back?

MR BENZIEN: Yes.

CHAIRPERSON: What did you do then? The man was laying on his back and is out of action, exactly as you had set out to do? Why wasn't he handcuffed?

MR BENZIEN: It was at that stage when I took the cuffs from my overall pockets, gave it to Abels and that Abels started putting the handcuff around his right wrist.

His hands were on both sides of his body and Abels managed to get the cuff around the right wrist, and it was when he attempted to get the left hand closer to the right hand, that the deceased sat upright again and pulled the cuff away from Abels so that he only have the one cuff around his right wrist and the whole struggle started again.

CHAIRPERSON: Now the man wasn't even standing, he is laying on his back on the ground? And you said he was pinned down to the ground, on his back and there were two policemen standing on either side of him and the man's body relaxed, surely that would have been the ideal moment to finally restrain the man?

MR BENZIEN: Yes, that's what we tried to do, but we didn't succeed in doing that.

CHAIRPERSON: But I am baffled, why couldn't you succeed in that? The man's body had relaxed, he is on his back?

MR BENZIEN: Yes, I immediately then took out my handcuffs and told Abels handcuff him. He only succeeded in putting the handcuff around the right wrist and it was then when the deceased assumed a fighting position again.

If we managed to handcuff his other arm, then we would have succeeded.

CHAIRPERSON: Now, how many policeman would you have needed to actually restrain this man, a man who is laying on his back and whose body had already relaxed?

MR BENZIEN: It is very difficult to say how many policemen would have been necessary. But I can guarantee you that experience have taught me that to handcuff a person who does not want to be handcuffed, is no easy job.

CHAIRPERSON: Yes, but the issue is not necessarily the handcuffing, the issue is to restrain this man.

MR BENZIEN: This person didn't want to be restrained.

CHAIRPERSON: But that is exactly why you hit him on the head? We are not arguing about that?

MR BENZIEN: And it did not have the desired result.

CHAIRPERSON: That is exactly what I can't understand. Thank you Mr Papier, you may continue.

MR PAPIER: Thank you. Captain Benzien, can you tell the Committee how many policemen took part in this operation, in its totality?

MR BENZIEN: I can't give an exact number but the people who participated in the Tracking Team, all gathered at Athlone. I would estimate that apart from myself and Abels, there might have been about six members.

MR PAPIER: And they were all part of this operation?

MR BENZIEN: Yes. Part of the operation, if I could elaborate, they were placed at strategic positions. Not in our direct vicinity because bearing in mind that we didn't have the exact address. If these people were in the immediate vicinity, then they could have scuppered the whole operation.

MR PAPIER: Captain, a shot went off?

MR BENZIEN: That is correct.

MR PAPIER: Where were you at that stage?

MR BENZIEN: On the deceased's back, whilst he was on his feet and trying to enter the back door.

MR PAPIER: So you actually jumped onto his back with your sturdily built body?

MR BENZIEN: Yes, when I say his back, I mean that I was on his back, my feet was still on the ground. I don't actually know of a better way to express this.

On and over his back.

MR PAPIER: Yes, but you were behind him?

MR BENZIEN: Yes.

MR PAPIER: Will you agree with me that you could easily have hit him to the left or right side of the head, hit him with your feet or Abels could perhaps have done the same? Would you agree with me?

MR BENZIEN: Not in those circumstances, no. We were in or just a little bit before the doorway, my firearm was in my right hand and I held him with my left hand.

I tried to get him to enter the house. I wasn't sure what danger still lurked inside the house.

MR PAPIER: You are right handed?

MR BENZIEN: Yes.

MR PAPIER: Why didn't you hit him on the head with the firearm, that was possible?

MR BENZIEN: I could have hit him on the head with the weapon, I am sure. At that stage and with the necessary powers at my disposal, I could not only have hit him but also shot him.

MR PAPIER: And that is indeed what you did?

MR BENZIEN: The weapon went off in my hand. As crude as it may sound, I believe that when schedule 1 offence is committed, I believe that a court would have found or probably would have found, that I was entitled to shoot him.

MR PAPIER: We are not talking about the court judgement Sir.

MR BENZIEN: Yes, that is so, but it was put to me why didn't I hit him on the head again. I suppose I could have hit him on the head if I wanted to. But it is hard to say what possibilities flash through your mind.

CHAIRPERSON: At that time, did it occur to you that you could have hit him and decided that you were not going to hit him on the head?

MR BENZIEN: Mr Chairman, with all respect, I don't know what I was thinking at that stage Sir.

CHAIRPERSON: Do carry on.

MR PAPIER: Thank you Honourable Chair. Did you at any stage aim the firearm at the deceased?

MR BENZIEN: It would be mere speculation on my part. I can't exactly think of that, but it would have been very strange if I hadn't aimed the firearm at him.

MR PAPIER: So you are speculating?

MR BENZIEN: Yes.

MR PAPIER: You are not in a position today to give the Committee a version as to how you dealt with the firearm there, am I correct?

MR BENZIEN: On the contrary, I am prepared to tell the Committee to the best of my ability how I used the firearm without speculating.

MR PAPIER: And you were also not in a position to give the inquest proceedings this explanation, is that not so?

MR BENZIEN: I am not quite what this insinuation is.

MR PAPIER: It is a question, can you answer it or not?

MR BENZIEN: The question is whether I could or couldn't give an explanation to the inquest court. I repeat to the best of my ability, I explained the circumstances to the inquest court, to the best of my abilities and I am doing so here again.

MR PAPIER: You were sitting on Ashley Kriel's back, a shot went off. You felt his body relax?

MR BENZIEN: Yes, that is correct.

MR PAPIER: You were convinced that he was dead, is that correct?

MR BENZIEN: I don't know whether it was immediately, but I believed that he was wounded. After a while I was able to determine that according to my opinion, he was dead.

MR PAPIER: When the shot rang out, were you still sitting on the deceased's back?

MR BENZIEN: Yes.

MR PAPIER: Did you pull the trigger or did you not pull the trigger?

MR BENZIEN: The firearm was in my hand and I am assuming for the Committee and for the family that my finger must have been on the trigger and if that is the case, the shot went off whilst the firearm was in my hand and for that firing of the firearm I must take sole responsibility.

MR PAPIER: Must I repeat the question, did you pull the trigger or did you not pull the trigger?

MR BENZIEN: I don't know whether I pulled the trigger. If I could perhaps rephrase it, not consciously pulled the trigger.

MR PAPIER: Well, you are still sitting on the deceased's back. What happened after the shot had gone off?

MR BENZIEN: The deceased relaxed and once again I asked Abels ...

MR PAPIER: No, before we come to asking Abels, the deceased relaxed. Did he fall on the ground, you are still sitting on his back, did you also fall to the ground, on top of him?

MR BENZIEN: To the best I can remember, I also fell on the ground.

MR PAPIER: What did you feel, how did his body feel, was it completely relaxed, did it go limp?

MR BENZIEN: It relaxed, yes.

MR PAPIER: Did you foresaw the possibility that he was dead?

MR BENZIEN: Not immediately, because I asked Abels to handcuff the person.

MR PAPIER: That is precisely what it boils down to Captain. The weapon went off, you are sitting on his back, his body went limp, he fell to the ground. Why would you now instruct Abels to handcuff him? Does it make any sense?

MR BENZIEN: Yes, it made sense at that stage. A few minutes, a half minute before that, I knocked him against his forehead, his body went limp, he fell to the ground and we tried to handcuff him.

MR PAPIER: Was that not something which he tried, you shot him in his back and he fell to the ground, he was laying there and you told Abels go ahead, handcuff him?

MR BENZIEN: If you want to put it in that way.

MR PAPIER: Handcuff him.

MR BENZIEN: Yes, we handcuffed him.

MR PAPIER: Was there any reason to handcuff him at that stage, he was laying there?

MR BENZIEN: But half a minute before that he was also laying there when we tried to handcuff him. There I could not decide whether he was dead when he was laying there, all limp, we decided to handcuff him. I couldn't determine whether he was dead or not.

MR PAPIER: Could you only just be standing there, did you kick him, did you knock him, did you keep him down? There was no movement or was there?

CHAIRPERSON: Did everything happen so quickly?

MR BENZIEN: Everything happened so quickly, Your Honour. To handcuff him would have meant less violence. If I understand the person asking the question correctly, his body went limp. Why did you want to handcuff him, and he asked why didn't you kick him?

MR PAPIER: Your evidence is that you were using the minimum violence after having used the maximum violence?

MR BENZIEN: I used the minimum violence according to the situation.

MR PAPIER: You were convinced that he was dead after Abels handcuffed both his hands, isn't that true?

MR BENZIEN: Yes, that is right. I am not in a position to give an expert opinion, but as a layman I was sure that he was dead. He never moved after that again.

MR PAPIER: Why Captain did you give the instruction that they should remove the one handcuff? That happened, not so?

MR BENZIEN: Yes, that is correct, it happened like that. That is correct. It was only for documenting this incident.

MR PAPIER: Which documentation are you referring to?

MR BENZIEN: The police or the other Units came to the scene. A video recording was made, photographs were taken, the whole scene was put on film for future court procedures.

MR PAPIER: So why did you not take off the handcuffs completely and you just removed one handcuff?

MR BENZIEN: You would see that it was the left hand handcuff we removed. Directly after this incident, after he was knocked down and the first handcuff was on his hand, then the struggle took place.

If that was wrong, I apologise, it must have been an error of judgement.

MR PAPIER: It makes no sense to the family.

MR BENZIEN: Your Honour, I can't react to that whether it makes sense or not, I only can give evidence to what had happened.

MR PAPIER: Was any attempt made from your side to get medical assistance?

MR BENZIEN: Medical assistance for?

MR PAPIER: Surely not for yourself Captain, for the deceased?

MR BENZIEN: I think an ambulance was called, that was the normal procedure.

MR PAPIER: But you did not arrange that?

MR BENZIEN: It was possible that I could have. During a radio call, where people were informed that a shooting had taken place, an ambulance was called, that was standard procedure.

MR PAPIER: Captain, to which police Unit did you belong at that stage?

MR BENZIEN: I was a member of the Security Police.

MR PAPIER: Were you at that stage aware of the Bonteheuwel military wing of the ANC?

MR BENZIEN: Yes, I knew about that.

MR PAPIER: Were you anyhow part of a special investigation branch under the command of Captain van Braekel?

MR BENZIEN: No, never ever.

MR PAPIER: Never? According to my information you were part of the Unit and you were indeed number 12 on this list. Do you deny that?

ADV COOK: There should be substantiated which document you are referring to. I want to object on behalf of my client. I want to see this documentation.

CHAIRPERSON: What is the relevance of all this Mr Papier?

MR PAPIER: Honourable Chair, the defence is just trying to in fact end off by placing some background before the Committee.

CHAIRPERSON: Yes, but this background doesn't relate to this incident, it is something else, isn't it?

MR PAPIER: As the Committee pleases.

CHAIRPERSON: I think we must try and avoid all that.

MR PAPIER: As the Committee pleases.

MR BENZIEN: With respect Mr Chairman, if it will help the Commission in any way, I have never worked under the directorship of Lieutenant or Superintendent Van Braekel.

CHAIRPERSON: Van what?

MR BENZIEN: Van Braekel.

CHAIRPERSON: Have you finished Mr Papier?

MR PAPIER: Just one last question, if you would permit me Honourable Chair.

CHAIRPERSON: Yes.

MR PAPIER: I just want to determine Captain, your Advocate wrote a letter in answer to a question and he says and I quote, he addressed a letter to the Commission and this is regarding your application ... "he applies for application for the death of this person, but he had a justifiable grounds, namely lack of unlawfulness or mens rea."

The instruction was only to determine whether the named person, whether he was hiding in this specific environment, is that correct?

MR BENZIEN: Once again I say that the reason why I am approaching the Amnesty Committee, the Commission, the family or anybody else, if they could attach any other interpretation to this situation of Kriel and I see myself as the person responsible for his death and that is something with which I have to live with and I hope the family can forgive me for that.

JUDGE WILSON: That letter you have written, who was it addressed to?

MR PAPIER: To the Commission, Honourable Judge. It is a letter that is addressed by Captain Benzien's legal representative, the Honourable Advocate, addressed to the Amnesty Committee.

JUDGE WILSON: To the Amnesty Committee, because we haven't had it put before us?

CHAIRPERSON: What is the date of that letter?

MR PAPIER: The 5th of June, 1997.

CHAIRPERSON: Any way, have you any other questions?

MR PAPIER: Just one ending statement Honourable Chairman. Captain Benzien, I am putting it to you that this application and your version put before the Committee, does not form part of this amnesty application. I thank you.

CHAIRPERSON: Was that correctly translated from Afrikaans into English?

MR PAPIER: I didn't hear the translation, Honourable Chair.

CHAIRPERSON: I understood the interpreter to say that you are putting to him that his version did not form part of the amnesty application?

MR PAPIER: No, no. May I repeat that in English?

CHAIRPERSON: yes.

MR PAPIER: I put it to you that your version of events does not seem to disclose an act with a political motive and in the view of the family for which you are entitled to receive amnesty.

CHAIRPERSON: I understand.

MR PAPIER: Thank you.

CHAIRPERSON: That is a legal submission.

MR PAPIER: Thank you Mr Chairman.

NO FURTHER QUESTIONS BY MR PAPIER.

CHAIRPERSON: Do you have any questions to put to this applicant?

MS INTHANGA: Yes, Mr Chairman.

CHAIRPERSON: Please do so.

CROSS-EXAMINATION BY MS INTHANGA: Mr Benzien, would you be able to tell us as to whether throughout the struggle, did you at any time enter the house or did it take place outside the house?

MR BENZIEN: Excuse me, could you just repeat? Enter...?

MS INTHANGA: I want you to explain to the Committee as to whether throughout the struggle that you had with Mr Kriel, did this take place outside or inside the house, where exactly did this take place?

MR BENZIEN: In the proximity of the - the whole incident took place in the proximity of the back door and at the furthest just through the threshold, Sir.

MS INTHANGA: When the family visited the house on the following day, blood was found in the kitchen, on the kitchen walls and in the bathroom. Could you explain how this could have occurred?

MR BENZIEN: I have no idea where this alleged blood was found, if any was found, Sir. If I may, but it would be a speculation.

Maybe the defence would know better, wasn't that house still under police guard for a number of days after the time for investigation purposes? It is speculation Mr Chairman. Maybe the parents of family could say if they had been in that house within a day of the incident.

I am not sure.

MS INTHANGA: Understanding from your evidence that you have given before the Committee, you never intentionally killed Mr Kriel, is that so Mr Benzien?

MR BENZIEN: That is absolutely correct, Mr Chairman.

MS INTHANGA: Would you then say, you at the time, or after the incident, you regretted the death of Mr Kriel?

MR BENZIEN: I have regretted the death of Mr Kriel from that day until now.

MS INTHANGA: There is also evidence that a poster with Mr Kriel's picture was hung in your office with a cross marked on his face and the words "one down to go". Do you recall that poster Mr Benzien?

MR BENZIEN: That is correct Your Worship.

MS INTHANGA: Do you remember when did you ever use that poster or did you refer that poster to any of the people you interrogated?

MR BENZIEN: I acquired that poster, somebody brought it to our office. During the period running up to the funeral of the deceased, those posters were displayed on the poles.

I had a reputation to live up to when interrogating the terrorists, freedom fighters. I admit that it was surely in very bad taste to have it up there, but in a certain sense it also helped with my interrogation to instill fear into the persons who I interrogated.

MS INTHANGA: Okay. How can you reconcile the use of that poster with the fact that you say here today, you regretted the death of Mr Kriel?

MR BENZIEN: For the death, excuse me, of any human being and in this case, Mr Kriel, that is something to be regretted.

The poster as I say was in bad taste. When I think about it, it should not have been there and to do that, I did not portray the professionalism that I should have had as a policeman.

MS INTHANGA: Mr Benzien, what is this reputation that you had to live up to?

MR BENZIEN: Excuse me Ma'am?

MS INTHANGA: What is the reputation that you had to live up to?

MR BENZIEN: As a member of the Anti-terrorist Unit, employed in many interrogations, the - I tried to portray as a hard, callous person.

MS INTHANGA: Okay. During your introduction speech, you mentioned to the families that they must understand that during the incident of the struggle you had with Mr Kriel and when Mr Kriel got shot, that the tables could have been turned on that day. What did you mean by that?

MR BENZIEN: In a nutshell, the result could have been very much different and I could have been the person, or Mr Abels, could have been the persons that were killed.

ADV DE JAGER: At that stage, do you know what the policy of the ANC was towards policemen?

MR BENZIEN: All policemen were legitimate targets Sir.

MS INTHANGA: In that statement would you agree with me that the shooting or the killing of Mr Kriel in that incident, prevented your deaths or any injury to you and Mr Abels?

MR BENZIEN: Yes, I concede that.

MS INTHANGA: Okay. You mentioned that you worked with six other members on the investigation of Mr Kriel. Were there any other police on that day during the time you entered Mr Kriel's house, were there any other police around the area or in the vicinity of his house?

MR BENZIEN: As I understand it, they were in the proximity of the scene, but not in the immediate proximity.

MS INTHANGA: That would be besides the six people you mentioned here?

MR BENZIEN: No, I am referring to those, the rest of the team.

MS INTHANGA: Oh, okay. Thank you Mr Chairman. No further questions.

NO FURTHER QUESTIONS BY MS INTHANGA.

CHAIRPERSON: Any re-examination?

ADV COOK: No re-examination Mr Chairman.

NO RE-EXAMINATION BY ADV COOK.

MS INTHANGA: Excuse me Mr Chairman, the victims of torture by Mr Benzien would like to put some questions to Mr Benzien, if they can be allowed by the Committee?

CHAIRPERSON: Who would like to do that?

MS INTHANGA: The six victims, they have attended the hearing and they would like to put questions. Victims who were tortured by Mr Benzien.

CHAIRPERSON: Would they like ...

MS INTHANGA: To put questions to Mr Benzien.

CHAIRPERSON: Would they like to do that through you or would they like to do it themselves?

MS INTHANGA: They would like to do that themselves.

CHAIRPERSON: Yes, do they have a spokesman, is there somebody here who speaks on behalf of the victims?

MS INTHANGA: They will speak themselves individually.

CHAIRPERSON: Yes. Let them come forward one by one and put their questions to Mr Benzien. What is your full name?

MR YENGENI: My full names are Tony Sitembiso Yengeni.

CHAIRPERSON: Yes, Mr Yengeni, you may put your questions.

CROSS-EXAMINATION BY MR YENGENI: The first question I want to pose to you Mr Benzien, is can you tell the Commission the circumstances surrounding my arrest and subsequent transportation to Culemborg?

MR BENZIEN: If you can bear with me, dates and times, I cannot remember correctly. I know you were arrested in the evening near the, I think it is the Western Province Tennis Club, near Rondebosch police station. You were in a telephone box.

MR YENGENI: Can you remember the identities of the policemen who apprehended me?

MR BENZIEN: I think I was the first person at the telephone, if I am not mistaken. Where you were in the telephone, there was another person in the passenger seat of the motor vehicle, that you reputedly arrived with.

At that scene was Liebenberg, then I think Sergeant Bellingham. I was there. I think Goosen. I am speaking under correction.

MR YENGENI: Why were you there and what was the purpose of you being there at that time at that particular place?

MR BENZIEN: As members of the Anti-terrorist Unit, we had received information that you would be in that proximity on that evening.

MR YENGENI: Where did you receive that information from?

MR BENZIEN: From Lieutenant Liebenberg, who was my Commander.

MR YENGENI: Can you tell the Commission where Liebenberg got that information from?

MR BENZIEN: Your Honour, I was never privy to the methods or where the information actually came from.

MR YENGENI: Okay. Now, when we got to Culemborg police station, do you remember then what happened?

MR BENZIEN: I know that I interrogated you and I placed the wet bag over your head and I smothered you.

MR YENGENI: Before you put the wet bag on me, do you remember what else happened Mr Benzien, other than the wet bag? Do you remember my being molested by yourself and Liebenberg and other policemen?

MR BENZIEN: That may have happened, yes, but I was under the impression that I was interviewing the other gentleman, but if you say that I assaulted you that day, I will concede that I did it.

MR YENGENI: Now, you have given the impression that your torture expertise allowed you to get information from your - those who were being tortured by you within 30 minutes.

MR BENZIEN: With respect, sometimes sooner, but not necessarily longer than 30 minutes.

MR YENGENI: Was this an expertise you acquired through practise or were you trained for this expertise?

MR BENZIEN: I was never trained officially of it. I had heard about it and whether a person can say you can apply this method well or not well, I would surely have to say myself, that I applied it well and with caution. I was very cautious of the method and tried not to have party to somebody else doing it in my presence.

MR YENGENI: Why did the Security Branch choose you specifically to apply this method on MK guerillas? Why you and not somebody else? Why are you the consistent factor in applying these factors to MK guerillas and Commanders?

MR BENZIEN: Mr Yengeni, today in a new South Africa I can sit here and tell you in all honesty, that I was used by the then Security Branch.

Members of my Unit received recognition for their services rendered. When it came down to getting the job done, I was the person who did it. Maybe I was too patriotic, too naive or anything else that you would want to call it.

But I think even you and the rest of your people sitting there, would admit that I was the person that rightly or wrongly knowing that the information that I could glean from you and your members, could take especially explosives out of the community, which would be used against the public at large. Mr Yengeni, with my absolutely unorthodox methods and by removing your weaponry from you, I am wholly convinced that I prevented you and any of

your colleagues and any one of them that ever had an explosive device in Cape Town, I may have prevented you from being branded murderer nowadays.

The only person I can unfortunately not say to, is one of the comrades here whose methods led to the death of an innocent Black person who was foraging in a dirt drum for food. For what I did to you and your comrades, I apologise. I sincerely apologise.

But in the spirit of reconciliation, we lived in a different era, we were enemies then. I have not fled the country, run away from the Police Force, I am still a policeman and trying to serve my community to the best of my ability. And that is the reason why I out of my own free will have approached this Commission to see if we can't build, and forget about the hardships.

I know you've got hardships, the people in this hallway believe and now that I am older, I believe that you had - it was illegal, it was not sought for, each person had to have his place in the sun in South Africa and I sincerely hope that, but if I may just indulge the Commission for a further few minutes- I am married and have two children.

Since my son was in Sub B, he was a little boy of six years old, my daughter was in standard 5, I think she was about 12, for weeks my children could not play in the normal ambit of other children. Because of my work with the Security Branch, they had to travel under police escort to school, they could not play on the playground with the other children. They had to be put in the principal's office all the time, under guard.

My house windows had to be barricaded with cupboards. Every night a wet blanket had to be put in the bath, available where my younger children could get hold of that in the case of grenade attacks. You are surely aware that I was transferred as the Station Commander at Stanford because not only were my nerves shot, my wife threatened divorce if I did not get out of Cape Town.

That was after the African Youth League threatened to have demonstrations on my front lawn. Yes, Mr Yengeni, I did terrible things, I did terrible things to members of the ANC, but as God as my witness, believe me, I have also suffered.

I may not call myself a victim of Apartheid, but yes Sir, I have also been a victim.

MR YENGENI: What kind of man that uses a method like this one of the wet bag, to people, to other human beings, repeatedly and listening to those moans and cries and groans and taking each of those people very near to their deaths, what kind of man are you? What kind of man is that, that can do that kind of, what kind of human being is that Mr Benzien?

I want to understand really why, what happened? I am not talking about now the politics or your family, I am talking about the man behind the wet bag? When you do those things, what happens to you as a human being? What goes through your head, your mind? You know, what effect does that torture activity done to you as a human being?

MR BENZIEN: Mr Yengeni, not only you have asked me that question. I, I, Jeff Benzien, have asked myself that question to such an extent that I voluntarily, and it is not easy for me to say this in a full court with a lot of people who do not know me, approached Psychiatrists to have myself evaluated, to find out what type of person am I.

There was a stage when this whole scene was going on, that I thought I was losing my mind. I have subsequently been, and I am now still, under treatment, where I have to take tablets on a regular basis.

I have respect for every cadre of Umkhonto weSizwe as I know the situation now. The times when we were adversaries, was a different time. I had the fortune or misfortune of growing up in a White environment in Cape Town.

I did not either through my own stupidity or ignorance as long as I was one of the Whites, the privileged Whites who had an education, who had a house, I couldn't see it being taken away. If you ask me what type of person is it that can do that, I ask myself the same question.

Bearing in mind for want of a better explanation, if you had a bad foot and the surgeon had to cut it off to save your life, then maybe I am trying to soften my conscience by saying that is the person who I was, irrespective how dirty, how mean, how horrible it was, I would do that and it was not and I think, you and the rest of the accused, could say that for the initial interrogation that I did, the day after or the day after that or the day after that, I did not interrogate any one of you with a bad method.

And I think all of you can say that in honesty. My application Mr Yengeni, please tell me if I am right or wrong, my application of the wet bag method was at the initial arrest, until such times as you had against your will, revealed who your contacts were or where your arms caches were. Could you please answer me that, is it correct? Is it correct Mr Yengeni.

MR YENGENI: No. Now, let me proceed.

CHAIRPERSON: Mr Yengeni, could I just disturb you for a minute. Are you going to be some time still, because it might be convenient to take an adjournment at this stage?

MR YENGENI: Yes, Mr Judge, I still want to ask a number of other questions still.

CHAIRPERSON: Yes. Very well, we will adjourn and resume at two o'clock.

COMMISSION ADJOURNS

ON RESUMPTION AT 14H00

CHAIRPERSON: Members of the public ought to be informed that the delay in commencing at the appointed hour of two o'clock was occasioned as the result of a large number of documents being placed before the Committee for urgent consideration, relating to matters of the work of the Amnesty Committee.

They had to be attended to and that has caused the delay and unfortunately we could not start at two o'clock. Mr Yengeni, I am sorry if it has inconvenienced you. You may begin.

CROSS-EXAMINATION BY MR YENGENI: (cont)

Thank you Sir. This black bag that was used for torturing me and other people, I note that even if you read the press it is being used extensively, or was used extensively by the police, including in criminal cases to get information.

Now, before you joined the Security Branch you were involved in investigating criminal cases.

MR BENZIEN: That is correct, Mr Chairman.

MR YENGENI: Did you in any of these investigations, ever use this method to get information?

MR BENZIEN: No, Your Worship.

CHAIRPERSON: I take it that is in non-political matters what you are talking about?

MR YENGENI: Yes, in non-political cases. Now, this black bag, was it a property that was issued by the police to you?

MR BENZIEN: It was not property issued to me, but normally it was referred to as a prisoners' property bag, Your Worship. In other words, a bag used at police stations for putting loose articles of prisoners' property in.

MR YENGENI: So it was the property of the police?

MR BENZIEN: Yes, it was property of the police.

MR YENGENI: But the Security Branch used it for a different purpose from the one that it was initially, originally made for?

MR BENZIEN: That is correct, Mr Chairman.

JUDGE WILSON: Am I right in assuming therefore that these would be available in just about every police station? Every police station who had police cells in them?

MR BENZIEN: That is correct, Sir.

MR YENGENI: Now, you used this method on me, but before you put the black bag on my head, you blindfolded me. Is that correct?

MR BENZIEN: I am not hundred percent sure, but I could have, yes.

MR YENGENI: Now, I was blindfolded and then the bag was used on me. The point, the question that I want to ask you is I have never seen this bag being used myself on any other person, even when it was used on me, I never saw it.

And I think it would be in the interest of the public and the Commission for you to demonstrate the use of this bag.

MR BENZIEN: Commissioners, it was a cloth bag that would be submerged in water to get it completely wet. And then the way I applied it, was I get the person to lie down on the ground on his stomach normally on a mat or something similar with that person's hands handcuffed behind his back.

Then I would take up a position in the small of the person's back, put my feet through between his arms to maintain my balance and then pull the bag over the person's head and twist it closed around the neck in that way, cutting off the air supply to the person.

JUDGE WILSON: When you say stand, did you stand astride him with your feet on the ground?

MR BENZIEN: Initially feet between the arms.

JUDGE WILSON: Getting the arms spread out?

MR BENZIEN: That's right.

JUDGE WILSON: And your feet ...

MR BENZIEN: And if I sat down and I put my feet out, I could then maintain my balance.

JUDGE WILSON: But your feet weren't, you didn't stand on the person, you stood on the ground and then sat on him?

MR BENZIEN: That is correct, Sir.

MR YENGENI: Now, is it possible for you to do a demonstration of how, I as a victim I would want to see what happened to me.

CHAIRPERSON: When you say demonstration, I mean, has he not described it satisfactorily to you?

MR YENGENI: I also want to see it with my own eyes what he did to me.

JUDGE WILSON: Well, I think the first problem is Mr Yengeni, you have to find a volunteer to play the part of the victim. There are some people behind you indicating they will assist.

CHAIRPERSON: Yes, Mr Yengeni, you have got somebody who would be prepared to assist.

MR YENGENI: If there is somebody prepared to assist, that is fine. I think Mr Benzien, I would want him to demonstrate to me how, because as he explains it to me, I can hear his explanation, but I would want to be given the opportunity by the Commission to see what he did to me, with my own eyes.

MS KHAMPEPE: What are we going to use for the bag, the black bag?

MR YENGENI: Somebody has put a pillow in front of me, that can be used as a bag.

CHAIRPERSON: Yes. Will you make somebody available Mr Yengeni. Mr Benzien, you are required to show Mr Yengeni.

MR BENZIEN: I am willing to show Sir. Secondly I have not got a set of handcuffs and I may not be as ...

CHAIRPERSON: Please may we have some order here?

MR BENZIEN: I also may not be as agile as what I was then.

CHAIRPERSON: Mr Yengeni, could it be done here in front of you.

MR YENGENI: Yes, a little bit further, there in the middle, so that I can see.

CHAIRPERSON: Yes. Will you lie down on your stomach please and Mr Benzien, will you show us the position you occupied.

MS KHAMPEPE: We can't see Mr Benzien.

CHAIRPERSON: We will just have to stand and have a look. Bring that bag. Mr Yengeni, can you see?

MR YENGENI: Yes, but what I want to ask just as he is in that position, at what point does he release the bag for more air? How does he know that now I am about to loose, to die, then he releases the bag?

CHAIRPERSON: The question, not what point, how he releases it?

MR YENGENI: Yes, how he releases it?

CHAIRPERSON: Will you just show how you release it? Put it on again. Yes, and now you must show how you release it.

MR YENGENI: How you release it.

JUDGE WILSON: Sorry, could we put on record, I think you pull the bag down and then tight about his neck?

MR BENZIEN: That is correct.

MR YENGENI: Release it.

MR BENZIEN: You would ask him to speak and if he shook his head ...

MR YENGENI: Thank you.

JUDGE WILSON: But when you released the bag, you didn't in fact take it off his head, you just let it go slack around the neck? Is that so? So you could tighten it up as you ...

MR BENZIEN: Sometimes off, sometimes left it there.

MR YENGENI: But the question that I want to ask is at what point do you release the bag to give the person who is tortured, more air? Is there something, are you counting time or is there something that you feel and then you release the bag? What happens, what makes you to release the bag?

CHAIRPERSON: I imagine that when you are in that position, you are asking questions?

MR BENZIEN: That is correct Sir.

CHAIRPERSON: And you are expecting answers?

MR BENZIEN: That is correct, Sir.

CHAIRPERSON: And whether you release it and when you release it, would depend upon whether you are getting answers from this person?

MR BENZIEN: Answers and also you would, or I would, release it - the intention was never to (indistinct) somebody, but the possibility, the real possibility was always there Sir. I did realise that.

MR YENGENI: But where there any, was there any physical condition that would make you to release the bag on the part of the person who is tortured?

MR BENZIEN: On occasions people have I presume, and I say presume, lost consciousness, they would go slack and every time that was done, I would release the bag.

MR YENGENI: How did I react and respond to you at the bag?

MR BENZIEN: I think you can bear with me that individually I cannot say how you reacted, I know that after the method was applied, you did take us to the house of Jennifer Schreiner where we took out a lot of limpet mines, handgrenades and firearms. In other words, your reaction as far as if I understand it correct was, was you told us where your weaponry was.

MR YENGENI: The question Mr Benzien is, myself and others if we are under that kind of wet bag and we are being choked by that bag, how do we react at that point? How do we react, what is our physical reaction?

CHAIRPERSON: What happens to the person why he is being choked? Can you describe?

MR BENZIEN: I presume, excuse me Your Honour, the actions of somebody who was suffocating.

MR YENGENI: Can you describe those reactions?

CHAIRPERSON: Would there be any movement?

MR BENZIEN: There would be movement, there would be head movement, distress, all the time there would be questions being asked do you want to speak or what have you and as soon as an indication was given that this person wanted to speak, the air would be allowed back to his person to say what he wanted to say.

MR YENGENI: Would the person groan, moan, cry, scream? What would the person do?

MR BENZIEN: Yes, the person would moan, cry, although muffled, yes, it does happen.

MR YENGENI: And you did this to each and every one of us?

MR BENZIEN: To the majority of you, yes.

MS KHAMPEPE: Sorry Mr Benzien, if you say you did that to the majority of people what was then the criteria which would be used to determine who would qualify for the wet bag system and who wouldn't?

MR BENZIEN: Ma'am, some of the arrestees at that stage would voluntarily give the information. Those who did not give the voluntary information, I used this method on.

MR YENGENI: Was Liebenberg aware of this system of torture, Your Commander?

MR BENZIEN: I am sure he was, Your Worship.

MR YENGENI: You are sure he was?

MR BENZIEN: That is correct. Although he was not, I must say, available or present on each occasion.

MR YENGENI: Who was present in my occasion?

MR BENZIEN: As before the lunch adjournment, I know at the time of your arrest, was Liebenberg, myself. I am not sure if Nel was there, I know Sergeant Bellingham was there and I think Sergeant Goosen.

Members of the Commission if I may say this at this stage, this (indistinct) method that I used, I normally or as far as I can remember, would do it alone, with my victim in a room. The reason for that was that inadvertently at a trial it would be brought up as evidence which I would deny and if I had nobody doing it with me, then it would have been my word against the complainant.

MR YENGENI: Now, you said that Liebenberg, you are sure that he knew about this method. How did he know about this method?

MR BENZIEN: I am of the opinion it was common knowledge.

MR YENGENI: Common knowledge to the police, you mean common knowledge to the police people and the members of the public? What do you mean by that?

MR BENZIEN: Common knowledge to the members of the Anti-terrorist Unit.

MR YENGENI: Who was above Commander Liebenberg, who was controlling him?

MR BENZIEN: There were different Officers commanding Liebenberg. You had Officers working in Intelligence, you had Officers working Regulation 29, like ...

MR YENGENI: Who were they?

MR BENZIEN: I must just get my priorities correct here. As I say there were numerous facets in the Security Branch. In charge of Terrorism at one or other stage I would say was, it started off as Major Smit, who became a Lieutenant Colonel. He was the man that signed your Regulation 29 detentions and so forth.

I would presume that would be Liebenberg's direct Commander.

MR YENGENI: You said there were two, who was the other one?

MR BENZIEN: That was as far as Liebenberg was concerned. At a previous stage there was an Officer who retired. I think it was a Colonel Viljoen, if I am not mistaken.

MR YENGENI: So since you said this was common knowledge, so I take it that even the seniors to Liebenberg knew about this method?

MR BENZIEN: I would be surprised if they did not know, Your Honour.

MR YENGENI: So I take it that what you are saying is that the police in this Unit and those that were in charge of them, knew about this method?

MR BENZIEN: It is speculation and I say again, I would be surprised if they did not know it. As our instructions were to immediately after an arrest, to (a) find out if the person in detention has any contact people, arms caches and that had to be found as soon as possible, because Mr Yengeni you will surely know that you people always operated with a cut out time. If you could answer me on that, and you know that a cut out time worked from 10 minutes to 30 minutes to a day or two.

If you did not rendezvous with one of your compatriots, at a certain cut out time, then they were not to meet at the designated place, but to meet at a pre-arranged day or two or whatever was arranged, just between the person and his immediate cut out.

MR YENGENI: Now, if in terms of your explanation, you were a policeman to uphold the law, why did you do these things? I mean all these illegal things, things that were against the law? Why did you engage in it, in a criminal activity?

MR BENZIEN: Sir, as a policeman and I put it to this Commission today, in the unfortunate position I surely could have said no, but my task as policeman and upholder of the then law of the country, I had to prevent and I say it now in retrospect, I had to prevent deeds of terrorism.

Because as I am being maybe judged today of using barbaric or unorthodox to put it lightly, methods of interrogation, my sole purpose was to (a) take the weaponry which consisted of mostly SPM land mines, mini limpet mines, SPM limpet mines, mini limpet mines, handgrenades, AK47's and what all, from the freedom fighters that were going to use those weaponry to the public at large, not just military targets, and the public at large were the innocent people in Cape Town.

That was my sole objective. If it was unorthodox, we have to think of it in the context of the time we were living in then. My greatest fear at that stage and I hope the people here could see the predicament that I was in, if a SPM limpet mine had to be detonated in the Golden Acre at that stage of which we had information, that would have been catastrophic.

Cape Town, thank God, did not have the terrorist or freedom fighter actions of a Bloed Street, Church Street, Magoo's Bar and one of those places. As I've earlier said that Cape Town as a whole as a result of a pure deed of terrorism, there was only loss of one life, which attributed to a mine and handgrenade explosion and that was one unfortunate Black man.

I am not trying to condone my method of operation, I am trying to convey to the Commission the circumstances under which I was working at that stage.

MR YENGENI: So in other words in terms of your understanding of the law, this method was sanctioned by the law. It was something that was lawful. By torturing people, using this method, you engaged in lawful activity as a policeman?

MR BENZIEN: I was engaged in a lawful activity, using unlawful, unconstitutional methods, yes Sir.

MR YENGENI: Now, you said that there was Sergeant Bellingham in this group of people? Who is Sergeant Bellingham?

MR BENZIEN: Sergeant Bellingham was a member of the South African Police Security Branch who from time to time, came to Cape Town with members or with Black members of I understood it to be rehabilitated or the word was used, rehabilitated or askari policemen.

I was led to understand that these had been cadres who had been trained, originally as terrorists and were then used by the South African Security Services.

CHAIRPERSON: Where did he come from?

MR BENZIEN: He came from Pretoria Sir and the name had been bantered around. I would be naive to say that he did not come from the notorious Unit, called Vlakplaas.

MR YENGENI: If he did not come from Vlakplaas, then how was he able, why was he the one who brought these askaris to Cape Town? What was the link between him and these askaris?

MR BENZIEN: I do not follow the question Sir. He definitely came from Vlakplaas. He was stationed at Vlakplaas.

MR YENGENI: Oh, okay. Now, when you were arresting me, how many askaris did you bring down from Pretoria, from Vlakplaas?

MR BENZIEN: I am unable to answer that question. I didn't bring any askaris down from Vlakplaas. The connection there was normally between, in actual fact I think it was always between Lieutenant Liebenberg and the Pretoria component.

I am not even sure if there were askaris there that evening. I know Bellingham was there, but not necessarily askaris. I am standing under correction, if I can get more information on this, I may get more clarity on it.

MR YENGENI: Well, I think you must remember that there were many askaris when I was arrested, who were part of the operation and there was one tall, Black chap with a bald head called David. He was very, very active. Can you remember him?

MR BENZIEN: I can remember on the occasions and then again for clarity in everybody's minds, the askaris were handled by a handler of which Sergeant Bellingham was one. They rarely were seen in daytime. They were contacted at different venues and I am trying to think, I have known an askari by the name of David, I am sure it is the same person I am thinking of.

But at the time of your arrest, it does not come to mind that there were askaris. I concede there may have been, but I can't honestly remember.

MR YENGENI: I expressly remember askaris and specifically David. What would be their role in such an event?

MR BENZIEN: Excuse me?

MR YENGENI: What would be their role, the askaris' role in such an event?

MR BENZIEN: The way I understood the task of the askaris were to move around in especially the then Black townships and considering that they had, as I understood it, undergone terrorist training, to identify terrorists.

Gentlemen, I must - excuse, I am using it in the context of the time that I worked at the Terrorist Detection Unit, to identify them in the locations and where also.

MR YENGENI: Now, you are still a member of the police, yourself?

MR BENZIEN: That is correct, Sir.

MR YENGENI: And is Mr Bellingham still a member of the police?

MR BENZIEN: Mr who?

MR YENGENI: Bellingham?

MR BENZIEN: I have not seen Sergeant Bellingham in six years, if I am not mistaken Sir. I am not aware, he was transferred back to the Transvaal and he actually came from the Transvaal. I am not aware if he is still a member of the police.

MR YENGENI: Mr Liebenberg, your Commander, is he still a member of the police?

MR BENZIEN: Until recently, I had a telephonic conversation with Mr Liebenberg on Friday past, I understand he is either in the process of being discharged medically unfit or he has already been discharged medically unfit.

MR YENGENI: You said in the morning, when I was asking you questions that you feel that you were used by your colleagues. What did you mean by that?

MR BENZIEN: I will surely not be the most popular person in the Police Force after this, but then I am not here to be the most popular person in the Police Force.

It was my contention that the Security Branch were using me to do the dirty work and what my motivation, I tried to explain just now, could be patriotic to the then South Africa of the day, as much as I now realise that you gentlemen must have been just as patriotic to your country of birth.

But whether I was under a false sense of bravado or for want of a better word, I was willing to go the extra mile irrespective of the consequences for my beliefs.

I think this was latched onto by members of the South African Security Branch who then allowed me to do this and by so doing, not dirtying or bloodying their own hands as regular members of the Security Force, for security reasons.

CHAIRPERSON: What you are saying is that, when you say that you were used by the Security Forces, your superiors, you weren't exactly a reluctant recruit?

MR BENZIEN: Participant?

CHAIRPERSON: Participant? Because your own beliefs such as those that you had, convinced you that you were doing the right thing?

MR BENZIEN: No, Sir. Absolutely Sir.

CHAIRPERSON: But because you were so thorough in your job, you found that you were required to do more than you would have done on your own?

MR BENZIEN: I believe so Sir, and considering that nobody actually prevented me or did the same, because with the amount of persons arrested, I could do the interrogation or initial interrogation without any other member of the then Security Police having to do this.

And the reason why I say used is, I would like the Commission to know at this stage if they don't already know it, the Security Branch per se of the South African Police was a very, very powerful organisation.

Few people even for the four years that I worked for the Security Branch, was never really taken into the confidence of the day-to-day running of the Security Branch.

MR YENGENI: Do you believe that what you did was right, of torturing myself and other members of MK?

CHAIRPERSON: I think he said he did. He has answered that. He was convinced that he was doing the right thing.

MR YENGENI: Is that correct, Mr Benzien?

MR BENZIEN: At the time, given those circumstances, how heinous it may sound, I was convinced I was right.

MR YENGENI: And now?

MR BENZIEN: With hindsight Sir, I realise that it was wrong and for that I apologise. I must also admit at this stage with a new dispensation and the new constitution and the now way the country is being run by a new set of Ministers and especially the Honourable State President, from a position that I was in, I can only say I am extremely amazed and very happy to still be in South Africa today and I am still a patriot of the country.

To serve the public at large as well as the government of the day.

MR YENGENI: Now, so if now with the benefit of hindsight, you believe that you were wrong, so in other words you are then saying that not only were you wrong, but that everything that you stood for, was wrong?

MR BENZIEN: Mr Yengeni, yes.

MR YENGENI: Can you, Mr Benzien, look me straight in the eye and say to me that you now as you are sitting there, believe that the Apartheid system was evil and was wrong?

MR BENZIEN: Yes, Sir.

MR YENGENI: Now, I want to ask you the second last question. The first is you have indicated that you have tortured me and others, you have accepted having assaulted me and others, you have accepted having lied to courts of law, you have accepted having even killed Ashley Kriel. Now if you have done all these things, tortured, assaulted, lied, killed, how are we sure that we should trust what you are saying and how can we believe what you are saying to us no, if you have done all these things throughout your life?

MR BENZIEN: Mr Yengeni, Mr Chairman, at the very beginning of my testimony I requested the Honourable Commission to listen to a submission that I made.

I realise the predicament or the dilemma that this court has now. All I can say is and that is on trust, that yes, I did commit perjury, I did lie to the courts as far as assaults and things like that went. The rest of my evidence in the courts of law as to the recovery of weaponry were fact and I think even Mr Yengeni can admit that, that it was for the recovery of certain materials of war.

I have asked this Commission to believe me. I have tried to be sincere. I was never subpoenaed to speak to the Investigation Unit of the TRC, I voluntarily went there and I voluntarily helped them as far as I could with questions put to me.

I am hoping that the Commission and with respect to the Commission, even more so the persons who I have done this injustice to, that they should believe in what I have to say here today.

Because without trust it is going to be very difficult for truth and reconciliation to take place. Therefore I beseege anybody and everybody who I have done an injustice to, to let's go forward and let history then determine if I had been truthful or not to the Commission or to you gentlemen.

MR YENGENI: The last question I want to ask you Mr Benzien is, I am seeing you for the first time since the days of my torture. And I am still trying to recover after seeing you this morning. But what, why do you think I should support your application for amnesty?

MR BENZIEN: Mr Yengeni, that is a very difficult decision, considering what I have done to you. I presume it is a difficult decision for you to come to. I can only implore you, without wanting to influence your personal position, I felt very humble, exceptionally humble and there was almost as if there was a spark inside me again, because if I can point to the people sitting mostly in the front row, when I came into this Commission this morning, Mr Forbes, his wife, Peter Jacobs and numerous, I think all of these gentlemen and lady, who I had belittled and hurt, put their hand out and shook my hand.

And if I may say it, not without singling out anybody, especially Mrs Pandey. I think if that is what the majority feels, and wished me luck and hope to God that we can make this country work, then so be it Mr Yengeni.

MR YENGENI: Now, just as a last if you may allow me Mr Judge.

CHAIRPERSON: Last after the last question?

MR YENGENI: No, this is the last. I think that when you spoke this morning, you indicated that you have reconciled with us and we have reconciled with you.

I wish to indicate that it is very proper for me to follow this thing correctly. But before I and my colleagues can express ourselves on supporting or not supporting your application for amnesty, we should be and must be convinced that you are speaking the truth, not only speaking the truth and by that you want the country to know what exactly happened. And until then, it is going to be very difficult for me and my colleagues to express ourselves on whether we support the application or not. We are prepared to support the amnesty application only on the basis of full disclosure and I am not sure that at this stage, we are ready, or I am ready to say that you have made a full disclosure.

I am aware that my colleagues would also want to ask some questions from you and at this stage, I must thank the Commission, thank you.

CHAIRPERSON: Thank you.

NO FURTHER QUESTIONS BY MR YENGENI.

CHAIRPERSON: What are your full names?

MR FORBES: Ashley Forbes.

CHAIRPERSON: Yes, Mr Forbes.

CROSS-EXAMINATION BY MR FORBES: Captain Benzien, can I maybe put it to you that the statement that you handed to the Truth and Reconciliation Commission, that particular statement comes nowhere near to a full disclosure of the truth.

And I think even from the previous, the person that - Tony Yengeni that has addressed the Commission that there are a number of aspects that fall short in terms of the statement which you have made and details which we seem to have to struggle about to reveal.

MR BENZIEN: Mr Forbes, as I told the Commission earlier today, that I have to the best of my knowledge tried to convey to the Commission what I know. In the light of us not getting more detail, I am willing now to answer any aspect to which I have not referred in the application to the Truth and Reconciliation Committee.

MR FORBES: In terms of the torture and the process of interrogation that people may have been put under, would you say that in your statement you refer to the wet bag method and that you have used an open hand on people, so would you then say that there are other methods and things that you may have done to people, but that in your statement you only referred to two, but that if we were to address you on certain other aspects, that you would be able to reveal other aspects that you may have done to people?

MR BENZIEN: That is correct.

MR FORBES: Will you agree that Section 29 was an institution then that was designed to extract information and to ensure that people could be tortured and abused?

MR BENZIEN: Although I think Section 29 of the then Security Act was the (indistinct) legislation, I do not per se think that it was used for the torture of people in such as physical abuse.

The detention could have led to mental abuse, the long times in solitary confinement, but there was safeguards in the Regulation 29 article where I think the detainee was visited by the Inspector of Detainees every 14 days, and District Surgeons and so forth.

The abuse of a detainee normally took place within the first 48 hours of arrest, before the person was detained in terms of Section 29 because one of the procedures were that that person had to be examined by a District Surgeon.

Am I correct in answering that? Is that what you are asking?

CHAIRPERSON: I think what you are really trying to say is that Section 29 did not itself say that people who are detained may be tortured.

MR BENZIEN: It emphatically said there was to be none, sir.

MR FORBES: I think the motivation is that I think with reference to the statement, we seem to be under the impression that we are dealing with half an hour or 48 hours, or that immediately once people are arrested, that you are quickly debriefed or tortured so as to get information.

I think it is my assertion that the entire process, the entire legislation that surrounded Section 29 was designed to ensure that even if it took six months, that that was the time and the institution which the State had to be able to torture people and I am going to assert and go through it a little bit more slowly that it is not a half an hour, that it is not 48 hours, but that it is a systematic and protracted process that people are subjected to.

CHAIRPERSON: In which he was involved?

MR FORBES: That is correct Sir.

JUDGE NGOEPE: Could we then Mr Forbes, if you don't mind, lay a proper basis for it by saying, instead of saying that the Act was specifically meant for the torture and the like, would it satisfy you perhaps if I were to frame this question as follows:

Section 29, in the way that it was framed, did it lend itself to abuse of detainees in the way that the police, like yourself, were able to abuse the detainees?

MR BENZIEN: Your Honour, I presume like anything, or any legislation, it could have been used, be abused, but my idea of Section 29 and more specifically in Mr Forbes' case, after the initial arrest and interrogation, yes he was detained in terms of Section 29. I am speaking specifically of myself. After the person who had been detained, had been to a District Surgeon who had already then noted any injuries or what have you, he would have been, what I am trying to convey to the court is, even your interrogation methods were not to have any marks or hurts on that person.

So as for - I am not quite following Mr Forbes. If he means Section 29 per se, if I can speak Section 29 as far as Mr Forbes is concerned, then I think he is the only person detained Section 29, who I then practically lived with for six months, for his duration of his 29.

And that was, I did all his questioning, day in and day out. Taught him to smoke, took him on a trip in the country. I don't want to elaborate on that if I am not on the right track. I would like to get clarity from Mr Forbes.

JUDGE NGOEPE: No, my question was actually that Section 29 was such that it was susceptible to abuse by the Security Police and they did in fact exploit that.

MR BENZIEN: I am quite sure that could have been exploited Sir.

ADV DE JAGER: You could have kept him from sleeping for days and nights on end?

MR BENZIEN: Yes.

ADV DE JAGER: You could have kept on interrogating him for hours and hours after starting?

MR BENZIEN: Yes.

ADV DE JAGER: So, wouldn't that be a torture (indistinct), not leaving marks, physical marks, but mental torture?

MR BENZIEN: I am sure it could be.

CHAIRPERSON: I think he did say that.

MR BENZIEN: I could concede that could be, yes.

CHAIRPERSON: Yes, Mr Forbes?

MR FORBES: Can I ask again if you perhaps remember the 16th of April when I was arrested. That was in my situation the black bag method was also used?

MR BENZIEN: I concede yes.

MR FORBES: Do you also remember, maybe ...

MS KHAMPEPE: Mr Forbes, may I interrupt. What kind of method did you say was used on you on the 16th?

MR FORBES: Oh, the wet bag.

MS KHAMPEPE: The wet bag.

JUDGE WILSON: Of what year, 16th of April?

MR FORBES: 1986. Can I also ask that when I was arrested, do you remember saying to me that you are able to treat me like an animal or like a human being and that how you treated me, depended on whether I cooperated or not?

MR BENZIEN: I can't remember it correctly Sir, but I will concede, I may have said it.

MR FORBES: Do you remember that when the wet bag method was used, that people are also undressed? That I was undressed, that my pants was pulled towards my ankles and that in that way, and thereafter the wet bag was pulled over my head and suffocated?

MR BENZIEN: I cannot remember it specifically, but I am willing to concede. If you can remember that aspect, I may concede, yes.

MR FORBES: These are things that I understand, maybe there are many aspects, details that you can't remember, but most of these things, they stand out vividly in my mind, so most of these things are things that I can remember.

Can I then also just ask if you remember that while I was laying on the ground, that somebody inserted a metal rod into my anus and shocked me?

MR BENZIEN: No, Sir. As heinous as it may sound, I used an electric generator on one person and then did not use it, it was on Peter Jacobs, not on you.

MR FORBES: This is something that I do remember.

MR BENZIEN: I am sitting in the position Sir, where I cannot remember that, but if I can remember I am not trying to squirm away from my responsibility.

You I can remember especially because I think that the two of us after weeks of your confinement, really became quite close. I may be mistaken, but I think we became relatively, I wouldn't say good friends, but on a very good rapport.

MR FORBES: Can I then also ask that if you remember that why the date is significant, is that always on the 16th it would be the day that the assaults would happen? That although the first time this type of assault took place, was the day of my arrest, but that after that, whenever it came to the 16th, that it would either be the threat or actual assault on me.

That it didn't perhaps take place once, but it took place at least three times?

MR BENZIEN: May I just ask a moment here. You say you were arrested on what date?

MR FORBES: The 16th.

MR BENZIEN: And if I understand you correctly, you are saying subsequently the 16th of each month, I would assault you?

MR FORBES: The 16th, not of each month, yes, but on each month, that that would be the day on which I was to expect an assault?

MR BENZIEN: Sir, in the spirit of reconciliation and I have been trying to be as honest with this court as I can, I deny and Mr Forbes, if I am denying this, then one of us two are lying. Because after you initial arrest and your initial interrogation, I concede on the Saturday I assaulted you. I then assaulted you I think it was on the Monday evening, that was after that we went for the steak, am I correct?

After that, I took you on investigation to the Eastern Cape. Whereas to refresh your memory, and I am not saying it flippantly, as you said it was the most Kentucky Fried chicken you

have ever eaten. Either after that or prior to that, we attempted to go to the Western Transvaal where you were going to do some pointing out.

Could you remember the time that you had seen snow for the first time? Can you remember what happened in the snow? The husband and the wife and the two children who were taking photo's of you playing in the snow along the N1?

Your trip to Colesberg, where you braaied with me that night and with the rest of the Unit, therefore Mr Forbes, in the spirit of honesty and reconciliation, I am sure you are making a mistake about the 16th of every month was the day that I would assault you.

MR FORBES: Mr Benzien, maybe I will take you through the next time that I was assaulted and I will just see if there are aspects of that torture that you may remember.

For example on the second occasion do you remember that I was wrapped in the carpet?

MR BENZIEN: That was the Monday, the Monday night.

MR FORBES: Do you remember for example that my clothes were removed and that the wet bag method was again used on me?

MR BENZIEN: I would concede it could have happened.

MR FORBES: Do you remember after that, putting me onto a chair and then saying to me that you are going to break my eardrum and then hitting me against my ear?

MR BENZIEN: No, Sir. Not saying I am going to break your eardrum. I gave you a smack that evening on your ear and days later you told me that you think your eardrum was broken. You were examined by a District Surgeon in Queenstown if I am not mistaken, but you had also been sitting at the open window in the vehicle.

MR FORBES: Do you remember saying that you are going to give me a blue eye and then hitting me against my eye?

MR BENZIEN: No Sir. If I can again, please emphasise to the court, at that stage Mr Forbes had not been placed under Regulation 29 yet. I knew he had to be examined by a Doctor.

MR FORBES: Do you remember saying that you are going to break my nose and then putting both your thumbs into my nostrils and pulling it until the blood came out of my nose?

MR BENZIEN: I know you had a nose bleed. I thought it was as a result of the smack I gave you.

MR FORBES: Do you remember choking me and then knocking my head against the wall until I was a bit unconscious? Till I lost consciousness?

MR BENZIEN: No Sir, I am not aware of Mr Forbes loosing consciousness at all.

MR FORBES: You for example had spoken to ...

ADV DE JAGER: What about the knocking of the head against the wall?

MR BENZIEN: Sir, I doubt if I hit his head against the wall, because all this could have led to marks.

MR FORBES: I would just like to say that these are all occurrences that I can clearly remember. But then to continue could I then ask Mr Benzien, apart from I think the impression that you are giving this Commission is that we went on these joy trips in the snow and for braais and so forth, can I put it to you that it was always after an assault of this nature, that we would be taken on these trips and that the intention of these trips was to ensure that the injuries would heal and that I would actually not get into contact with the District Surgeon?

MR BENZIEN: No, Sir, I deny that, because at the place of detention, while travelling with a Regulation 29 prisoner, he had to be examined by the District Surgeon of the area where he was brought.

JUDGE WILSON: So would there be records available of these various trips you have told us about, of examinations by District Surgeons at all of them?

MR BENZIEN: There should be, Sir.

MR FORBES: Mr Benzien, you seem to say that you are very dedicated to finding out where the arms were and who were the other people who may have been involved in military activities. Why is it that these kind of things, why would you not want to take responsibility for knocking my head against the wall, when you clearly say that you may have used the wet bag method, you may have smacked people, but then why is it that knocking my head against the wall, is not something that you would take responsibility for? Is it not that you would have done anything to have gotten the information, come short of killing people, if need be?

MR BENZIEN: As I explained before Your Honour, my method was not to leave marks.

MR FORBES: Can I then ask at this point, what you mean when you say you take responsibility for half an hour, that the interrogation or that the assault took place within half an hour.

Is that the period in which the wet bag was used or is this referring to the entire process of interrogation? That may have included smacking, threatening, knocking peoples heads against the wall and so forth?

MR BENZIEN: Mr Chairman, right in the beginning of my submission, I mentioned the fact that the methods used by me normally took no more than half an hour, except in the case of Mr Forbes and Mr Jacobs. I specifically made reference to those two gentlemen. By that I meant it took longer. I hope my memory isn't failing me, but Mr Jacobs was arrested on the Saturday morning and he was interrogated right through the Saturday morning, till approximately two o'clock, actual time.

Why I say actual time is that knowing we were working against the cut out, we had set our watches and dubbed Mr Jacobs into saying that it was almost two o'clock or something. Or almost four o'clock, where in actual fact it was almost two o'clock. That is the one where I took longer and Mr Forbes, I am not even sure if he was interrogated on the Saturday afternoon, but well on the Monday evening.

MR FORBES: Mr Benzien, after about three months in interrogation, I tried to commit suicide, just before the 16th, I think it was of July. As from my perspective I would have seen that particular act it is something that I have never thought of before, even after - something that I wouldn't ever think of doing, but under those conditions, after three months in your hands and just prior to the 16th, I had tried to commit suicide.

Could you perhaps from your perspective try and explain or try to help the Commission to understand why I would have come to that point to have tried to commit suicide?

CHAIRPERSON: Were you aware of the fact that he tried to commit suicide?

MR BENZIEN: I was so informed Mr Chairman. What actually led to that, I cannot say, except that I concede the method of detention was a draconian law instituted by the then Nationalist Government, Sir.

If I may elaborate on this point, Mr Forbes will surely also concede that at a later stage, he had been moved to Milnerton police cells and it was while at Milnerton police cells, if I can remember correctly, that Regulation 29 detainees or Article 29 detainees, were only allowed a Bible of their choice.

Mr Forbes used to read Western novels. Could I just ask Mr Forbes if he can remember the times that I contrary to police regulations, brought him Western books to read? Do you remember it? Excuse me Mr Forbes, I can't hear you?

MR FORBES: I think the question was, the question that should be asked is why did I for example at, just after my suicide ask or complain to the Psychiatrist, then Mr Zabouw, that in all the three months that I had been under Section 29, that I had not been able to get a Bible or even a Khoran into my cell. And that he had said that he would try and persuade you to give those books to me.

MR BENZIEN: Mr Commissioners, it was a regulation by the then South African Security Branch to foresee every detainee with at least, excuse me, a Bible of their choice. That was left to members whose sole purpose was to visit the detainees.

The point I am trying to make here, irrespective of what Mr Forbes says now, I am asking him and he is evading the question, that I not on one occasion, but out of my own, contrary to police regulations, took him Western books to read. I used to go visit him on a Sunday afternoon, sometimes at Milnerton I would bring you fresh fruit.

At that stage you were smoking, am I correct? I can even remember at one stage in my office, where I was almost chain smoking and you said that I have taught you to smoke again. And after that you used to get cigarettes from me, correct?

MR FORBES: Mr Benzien, if you could just focus on the suicide for a moment and I think, at this point I am still just a little, not satisfied in terms of your explanation to actually try and help the Commission and us ...

CHAIRPERSON: Just formulate the question again, about suicide.

MR FORBES: Why is it, why does Mr Benzien think I may have tried to commit suicide after three months, just prior to the 16th when he for example says that he was only with me for half an hour on two occasions?

MR BENZIEN: Sorry Sir, the half an hour, Mr Forbes is putting out of context. I said and I said it in - that I had spoken to them on occasions, up to 14, 15, 16 hours a day after the initial interrogation that I did, we sat and worked out pages and pages and pages of documentation, that you told me about.

CHAIRPERSON: Mr Forbes, can I come in here. I think the question is, you see Mr Forbes put to you earlier on that you either assaulted or threatened to assault him on the 16th of every month, which you denied and now what really he is saying to you is, why if that is the case, why if you did not on the 16th of every month either assault me or threatened to assault me, why would I on the fourth month, just before the 16th, what would have pushed me, what could have pushed me into committing suicide? If you did not on the 16th of every month not assault me or threatened to assault me? I think that is the question he is asking you, or part of it?

MR BENZIEN: Unfortunately Sir, I cannot say what motivated him to do that. What I am definitely saying is that he is making a mistake about this every 16th of the month.

I have tried to jog his memory by saying the way I treated him, but whatever drove him to suicide, I can understand the method of detention and being cut off from humanity and that, could surely cause a person to be suicidal.

CHAIRPERSON: But on your version, you developed a fairly good relationship with him and you seem to have seen him, visited occasionally, bringing him books to read, cigarettes to smoke, why then all of a sudden, what drives him to this drastic decision of taking away his own life?

MR BENZIEN: I wouldn't know Your Worship. The books I think came after, he had first been at Sea Point, my memory is vague here, but then he went to Milnerton and after that we had done a couple of trips through the country and at Milnerton I think it was, where I started giving him books and that, that was after the suicidal attempt. Correct?

CHAIRPERSON: I am not able to reconcile this, the drive you had. You yourself said that you did hear that he wanted to commit suicide.

I can't reconcile that with the description you gave us of a person who was taking us to braais, go around building up some snow men and all that sort of thing. Why would a person who was treated in that fashion, be driven to committing suicide, I can't reconcile this.

MR BENZIEN: Your Worship, this came as a surprise also because after my initial assault on Mr Forbes, he was then at Sea Point if I remember correctly, when this suicidal attempt came.

What drove him to it, I can only think as I say, but I have got no, maybe the hospitals or that could say why.

ADV DE JAGER: Were you the only policeman seeing him at that time, assaulting him and torturing him or were other police also involved?

MR BENZIEN: No, there were other people that would visit him, like the Duty Officers, the Inspector of Detainees, District Surgeons. What policemen visited him, I know I visited him, he accompanied me on trips into the country and mostly after his detention in Milnerton, I visited him.

And as I say, that used to be on a Sunday afternoon more or less. During working hours, because we had this good rapport, he was telling me things about Umkhonto weSizwe, how the whole set up worked and what have you.

And that was in sometimes, he would get paper, he would go write, he would come back and we would work on this.

ADV DE JAGER: Was he distressed because of giving you information about his colleagues after being assaulted and knowing that he is sort of betraying his comrades?

MR BENZIEN: Your Honour, it is a long time ago. I seem to recollect that on times he was down. If I say down, I mean depressed, but then again I can also remember on occasions when he was jovial.

MS KHAMPEPE: Mr Benzien, having regard to the fact that you had a reasonably good relationship with Mr Forbes, did you after hearing that he had attempted to take his life, discuss that with him?

MR BENZIEN: Excuse me, after I heard that he had taken ...?

MS KHAMPEPE: He had attempted to take his life, did you discuss that aspect with him?

MR BENZIEN: Madam, it is a long time ago. I can't really remember. In the context of him being a Regulation or Article 29 detainee, I think that the book business and that was more to keep his mind occupied because with all the detainees in solitary confinement for that long time, they had really nothing to apply their minds to.

I can't specifically remember discussing the reasons or the methods or what have you. If I can remember correctly, he was being treated by the District Surgeon for some or other disorder and he accumulated the tablets or something that was given to him, is that correct? I am not sure.

CHAIRPERSON: Can we move on to some other aspect of the matter now, Mr Forbes.

MR FORBES: Maybe I can just ask also about after I was, after I tried to commit suicide I was sent to the hospital and do you remember trying to use the black bag method on me again when I was in hospital or the wet bag method?

CHAIRPERSON: When you were in hospital?

MR FORBES: That is correct, after the suicide attempt?

MR BENZIEN: Your Honour, it shocks me and causes me to be sad to presume or that I had presumed that this meeting is truth and reconciliation and that Mr Forbes now puts it to this Forum that I tried to put a bag over him while he was in hospital and he was detained in Groote Schuur hospital at that stage.

I think it is, I don't know what to think Your Honour, I am exceptionally disappointed.

MR FORBES: Do you remember that I was first kept in the kind of communal ward and thereafter I was moved to a single ward after there was some, after the families tried to visit

me and that I was taken into a room or into a hospital ward where I was alone in one room?
Do you remember that Captain?

MR BENZIEN: I remember that he was moved from the communal ward to a single ward and I know that his parents had been, or his mother actually, had been informed that he was in hospital. But being a Section or Article 29 detainee, he was by law not allowed to communicate with anybody and that was the reason he was moved to another ward.

MR FORBES: So maybe within that context, can I just ask again if you remember threatening to use the wet bag method on me again?

CHAIRPERSON: Was that whilst you were in this ward by yourself?

MR FORBES: That is correct.

CHAIRPERSON: About how many months after you were arrested, could that have happened?

MR FORBES: This was in the third month, just after I tried to commit suicide, I was taken to hospital and this is where it happened.

JUDGE WILSON: Did he threaten or did he actually do it?

MR FORBES: He threatened, he had the wet bag again and the idea was that I could maybe also ask if Mr Benzien remembers saying that I may have tried to commit suicide because there are things that I am still not talking about and that he basically want to continue with the interrogation and find out a bit more. And that was when the threatening and the wet bag was brought into play. Do you perhaps recollect any of those incidents?

MR BENZIEN: Your Honour, I do not recollect this, because I do not think it happened at all.

MR FORBES: Maybe at this stage ...

CHAIRPERSON: Mr Forbes, what was the nature of your complaint for which you were in hospital?

MR FORBES: I tried to commit suicide.

CHAIRPERSON: And you injured yourself?

MR FORBES: No, I took I think it was for some reason or other arranged that I was to get tablets every day. I never used to take the tablets and prior to the 16th, I took an overdose of Pethidine.

CHAIRPERSON: Yes, do carry on.

MR FORBES: Members of the Committee, maybe at this stage, I would just like to say in conclusion maybe that I personally share the view that many people or victims that went through Captain Benzien feel, in the sense that we are prepared to consider the aspect of amnesty, but I think it is only on the condition that there is a full disclosure.

I think within this case, I mean I can't say that I feel satisfied. I mean there are aspects, basic aspects of the assault and the process of interrogation that I would have been subjected to, that I would almost think that Captain Benzien would agree to and help us to understand what is the kind of processes that many people in the country may have been subjected to.

Now, at this point, I am not a qualified Judge and it is not easy for me to extract the information from Captain Benzien, but I think at the end of the day, I can't say that I feel satisfied that he has been telling the truth about what exactly had taken place. So that is a bit disappointing at this point and I don't have any further questions, except to thank the Commission.

NO FURTHER QUESTIONS BY MR FORBES.

JUDGE WILSON: Oh, could I before you stop, find out, how long were you in Section 29 detention for?

MR FORBES: Six months?

JUDGE WILSON: That would be up till October?

MR FORBES: October.

JUDGE WILSON: And did you go on these trips that he has been telling us about?

MR FORBES: That is correct and the way I understood it, it was always after an assault and the idea was that like I said, for the injuries that may have been sustained, to heal. And I think even with the suicide, the Doctors that came that morning, actually discovered some of the medicines that were bought at the chemist.

That is on record and I think those were things that were bought and we were doctored in a sense, during these trips to various parts of the country, and until such times your injuries healed, you would be brought back to go and see a District Surgeon. He would discover no wounds and things would appear as if things were okay.

JUDGE WILSON: How long were the trips for, one day, two days, one weeks, two weeks?

MR FORBES: About a week or sometimes more.

JUDGE WILSON: And did you stay in police stations?

MR FORBES: I think on most of the occasions it was in police stations, although it was in police kind of, sometimes it was in the police quarters, so it would just be probably Captain Benzien, maybe somebody else and myself in the barracks area.

JUDGE WILSON: And were you seen by District Surgeons at these places?

MR FORBES: Usually not, no.

JUDGE WILSON: Thank you.

CHAIRPERSON: Yes, your full names please.

MR KRUSE: Gary John Kruse.

CHAIRPERSON: Yes Mr Kruse, you may proceed.

CROSS-EXAMINATION BY MR KRUSE: Jeffery, I think I want to first, before dealing with my case, I want to deal with the methods you people used generally, within the Protection Services, within the Security Branch.

I am a bit fortunate in a sense that I am in the Police and I know how the systems work now. And I am also aware that most of your systems are documented. And I know you are only part of a broader system.

And I think for us in a new South Africa, we would like to know what system, I would want to know what systems were used, so that they are not continued to be used in the future.

We know the issue of physical torture was only one of the means you and your team used to extract information and get evidence before courts. The first thing I want to know is who was your team? Who did it consist of? I read the document, it left out many names which I don't think it can be difficult for you to remember, who you operated with.

So I want to know who the complete team was and the command structure of that team?

MR BENZIEN: The command structure was Lieutenant Liebenberg.

MR KRUSE: Who did Captain Liebenberg report to?

MR BENZIEN: As I already said, to Major Smit.

MR KRUSE: Major Smit, it is now Commissioner Smit at the moment?

MR BENZIEN: Yes.

MR KRUSE: Who did he report to?

MR BENZIEN: I presume to the Commander of the Security Branch at that time.

MR KRUSE: Who was that?

MR BENZIEN: There were numerous Commanders?

MR KRUSE: At that stage, who was the Commander?

MR BENZIEN: I am thinking that it was Brigadier Strydom, it could have been Strydom at that time.

MR KRUSE: And he would report to the Provincial Commissioner?

MR BENZIEN: I presume so.

MR KRUSE: And National Commissioner?

MR BENZIEN: I presume so.

MR KRUSE: State Security Council?

MR BENZIEN: Concede.

MR KRUSE: You see, what I want to know is whether these methods you used, was sanctioned by the State Security Council and the Government of the day, that is the first thing I want to know?

JUDGE WILSON: Can we go back a minute. This Smit you were talking about, you said now Commissioner Smit?

MR KRUSE: He is presently Assistant Commissioner in the Police.

JUDGE WILSON: That is not Basie Smit?

MR KRUSE: No, that is not the same.

CHAIRPERSON: Carry on.

MR BENZIEN: I would be mere speculation to say that these people knew or did not know about these methods.

As you rightly know Director, the foot-soldiers did the work, the hierarchy kept their hands clean at all times.

MR KRUSE: Jeff, you are applying for amnesty.

MR BENZIEN: That is correct Sir.

MR KRUSE: There are certain preconditions I think, for amnesty if I understand the Act correctly. I am not an expert, but I think one of the factors is that there must be a political motivation.

MR BENZIEN: Correct.

MR KRUSE: And I assume that if you apply for amnesty, that would have been policy, the torture would be part of the policy, but from what you are saying that there was no official policy that came down in terms of the Act, but you acted on your own will. You thought that there was a need for you to do this?

MR BENZIEN: I think that anybody, if I may just sketch a scenario, a person like you, Mr Yengeni, or any other one of the cadres, that had left the country for military training, then infiltrated with a specific reason to overthrow the government of the day, to convince any one of those persons after arrest to throw his whole life and doctrine and his train of thought or his way of life and what he had given up for by leaving the country, by speaking to a policeman for 10 minutes and then all of a sudden saying I will go and fetch my ammunition, and my weapons and all my cadres because you have politically motivated me within 10 minutes to change my views and what I would want to do with myself.

Unfortunately Sir, those methods were used by me as a foot-soldier. I don't think anybody of average intelligence could not see that some or other form of duress was being used.

MR KRUSE: I come from a Security background too, I was involved in our military structure and in our Security structures. We had a policy as an organisation, we have a policy as a military organisation and a policy as a Security organisation, and we act within that policy.

Anything outside of that policy, you are on your own. You would not be able to say that you had political motivations when you acted out of the policies of the organisation you represent. Now, what I am trying to get at is, I heard leaders of the National Party speak on the issue.

I have heard the leadership of the Police on the issue and what comes out to me is that there was no clear instructions that people should be tortured. Now, I am trying to get in my mind clarity, where does the political motivation come from?

If there was no authority on the issue, how do you now say it was politically motivated?

MR BENZIEN: Sir, blame it then on my ignorance, because I can definitely say there were no written instructions in police manuals, that said this is what you can do. I do know and as I have tried to explain before, that the mandate of the foot-soldier was to glean that information as soon and as fully as possible, by let's say the unwritten word of any method.

MR KRUSE: So the means justified the ends, it didn't matter?

MR BENZIEN: In a nutshell, yes.

MR KRUSE: Thank you. Now, I want to come to the system you people used, because you seem to testify to say that people were tortured for half an hour, they were taken for nice drives. You create the impression that we had, Section 29 was quite nice.

I mean if I just listen to you on the evidence and I was not there, it would be the impression that it was quite a holiday. I mean most people would want to go there. And I don't think that is the correct impression that should be created here, I think?

MR BENZIEN: Mr Commissioners, I think when I spoke about that, was the special relationship I was trying to convey, between me and Mr Forbes. I don't think anybody else went on a trip anywhere with me.

MR KRUSE: But you see ...

ADV DE JAGER: Wasn't this a, sorry, wasn't this a method in fact to convince people, listen I have assaulted you now, but if you cooperate, look I can be nice? And to convince him to cooperate with you?

MR BENZIEN: Methods like that had been used Sir.

MR KRUSE: But is that not your system you used, the good boy (indistinct) tactics? The issue I am always saying to people, if you don't cooperate, you have a choice to be treated like an animal or like a human being, it is constant throughout your interaction with all people that I have met, including myself.

MR BENZIEN: That is correct.

MR KRUSE: So either you take us out and we must speak to you. If we don't do that, our choice is we go back to our room with a wet bag, those are our choices?

MR BENZIEN: That is correct, Sir.

MR KRUSE: Okay. You spoke about your reputation which you had to uphold. What reputation is this and where does it come from?

CHAIRPERSON: His reputation as an effective operative, in other words he did his job so well, that everybody in his Police Force recognised him as being an effective interrogator.

JUDGE WILSON: I think it was the other way, wasn't it? The impression he created on the people he was interrogating, it was that because that was the reputation you were asking about, wasn't it?

MR KRUSE: Yes, and to produce that Judge. What I am trying to get at, I know and it is common knowledge in the police, what reputation Jeffery Benzien has. He is an expert at torture, it is common knowledge that he is an expert at torture, and that is the reputation I want to get from him.

We are not talking about effective interrogation, I know what interrogation is about and investigation. He is an expert at torture. He never investigates any case. He gets information through force.

And I want to know how he managed to develop that relation, but I don't think you can, he mentions four, five people here, I don't think you build a reputation by putting a wet bag over four, five people, because in the police it is a general thing, wet bagging, it is not a new thing, so you would not develop a National reputation if you did it to four, five people. I want to know where does the reputation come from?

Maybe I can assist him if he doesn't know? But I would like you to answer the question.

MR BENZIEN: As I explained before Sir, there were difficult times and difficult methods had to be used. I have put it to this court, I have used those methods.

MR KRUSE: Maybe let me pose the question, the question was earlier, when you were at Bishop Lavis you said you never used this method on anyone, is that still your evidence?

MR BENZIEN: As far as I can remember correctly.

MR KRUSE: Were there any court cases in which common law criminals accused you of using that method?

MR BENZIEN: Yes.

MR KRUSE: There were?

MR BENZIEN: Yes.

MR KRUSE: And you lied to the court and you said you did not use the method?

MR BENZIEN: To which court?

MR KRUSE: In those cases, those cases of common law criminals while you were a Detective at Bishop Lavis?

MR BENZIEN: Those allegations were made yes, normally by run of the mill criminals.

MR KRUSE: Are you suggesting, and when you testified in my trial within a trial against torture against me, is it not true that you also denied the allegation that you used the wet bag method?

MR BENZIEN: That is correct Sir, I denied that I used that method.

MR KRUSE: So you were consistent whether you were in the criminal cases or political cases, you consistently denied using that method?

MR BENZIEN: Because of the ...

MR KRUSE: No, I want a yes or a no, did you consistently deny this method?

MR BENZIEN: I denied it in your case, that is one of the reasons I am asking for amnesty.

MR KRUSE: Have you denied it in criminal cases?

MR BENZIEN: Gentlemen, I don't know how to approach the court at this moment, I have been sitting here and I have gone through a jug of water.

CHAIRPERSON: Will you be very much longer with this witness?

MR KRUSE: I think I have got a lot of questions still.

CHAIRPERSON: Have you got a lot of questions to ask?

MR KRUSE: Yes.

CHAIRPERSON: Very well, this might be a convenient stage to adjourn. We will resume at nine o'clock tomorrow morning.

COMMISSION ADJOURNS