



# Umbutho Wamalungelo Obuntu CIVIL RIGHTS LEAGUE Burgerregtevereniging

Newsletter August 1993

Vol.40 No. 3

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Published by the Civil Rights League, P O Box 23384, Claremont 7735 South Africa

Printed on the SRC Press, UCT, August 1993

Applications for membership should be addressed to The Secretary, Civil Rights League at the above address  
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## EDITORIAL

A government with an economy stretched almost to breaking point, and which is still waiting for the end of sanctions, and also has an enormous backlog of moral debt to repair, needs to be able to cope with multiple priorities. How does this relate to civil rights? Essentially through its link with social justice, for the right to vote and the right to eat breakfast form part of a larger whole.

This is the context in which we have been asked to consider that most evil of anti-free market measures, the imposition of a tax on wealth as proposed by Tito Mboweni of the ANC. Gordon Young of the Labour Research Service says 'Go for it', arguing that such a tax would not put new costs on companies, but rather place a burden on non-producing assets of those who can stand the pressure: a 5% levy on all net wealth in excess of R1 million, which could raise 'several billion a year' and clear the country's housing backlog in ten years.

That they are not yet in focus seems to be clear from the recent public debate over the ANC's proposal of a wealth tax to slash the backlog of infrastructural facilities in the deprived sector, such as housing. Could this be done without significantly impairing the ability of South Africans to invest in wealth-creating enterprises?

Mboweni seems to have accepted that such a tax is not on, in view of the criticisms which he has received from businessmen. One can understand why he has been reluctant to stand his ground, for a wealth tax could do a number of unfortunate things: would it frighten foreign investors, or could they be reassured by keeping company tax down?

Could it be raised and at the same time protect farmers whose massive capital assets underpin a precarious income? Could it interfere with consumer spending to the point where it seriously undermines our local producers of consumer and luxury goods? Could one actually collect it, given the supposed ingenuity of the wealthy in concealing what they're really worth?

Some of these considerations have led Dennis Davis, law professor and ANC tax adviser to warn against a capital gains tax for its inflationary potential and likely lean yield (even though it has worked in Germany), or a land tax; but he argues for a capital transfer tax on estates and donations of say 35%. Perhaps we should go for less government all round, as the SA Property Owners' Association have argued: let

Government lighten its own load by selling off its assets, privatise like mad, and thus get into the position of having to borrow less so that it could save the tax-payers more ("If interest costs were stripped out of the 1993-94 budget, virtually the entire deficit would be wiped out"). Privatisation creates wealth creates jobs, and this is the only lasting way to create them. But until it has created wealth it often creates unemployment, and the question we have to ask is, quite simply: how much unemployment can we take, given its already massive extent?

The answer is, in part, another question: how effectively can our industrial magnates hold at bay the growing power of organised trade unionism, visibly on a workerist rampage for totally understandable reasons? In part, too, it must be seen in the ability of the unions themselves to hold back when bargaining has begun to go their way, so that the gains of their members do not result in the further escalation of unemployment. Or will the unions fall apart through trying to push workerist and political demands at the same time? We need to watch the triangular manoeuvrings of COSATU, Communist Party and ANC.

I come back to the tax on wealth as a safety valve. It is already beginning to happen at the municipal level, especially in the large centres, with the large rates increases to be levied on the up-market suburbs. This is to repay a debt which goes right back to enforced segregation in 1923. A wealth tax of this kind at the local level - a tax on tied capital - could be used directly for the upgrading of services in the poorer suburbs. Whether that is currently the rationale behind it is another question; but its advantage would be its visibility as a way of showing how the gradient on the playing fields could be modified, and seen to be modified in the immediate experience of actual communities.

The growing rapport among members of the National Economic Forum, where the state, business and labour are thrashing out new emphases for policy in such areas as job creation, worker training, protection for retrenched workers, extension of UIF benefits to workers on short time, is reassuring. An economic strategy which also recognises the need to get back into world trade by responding to GATT's challenge to conform is also crucial. But so is a speedy breaking of the talks deadlock at the World Trade Centre, without which our recovery stands no chance.

Rodney Davenport

## St James Church Massacre

by Bishop Frank Retief

*The tragic events at St James Church in Kenilworth have shocked many South Africans. The Civil Rights League invited Bishop Frank Retief, of the Church of England in South Africa, to reflect on those events in this newsletter. We are exceedingly grateful to him for the following contribution, given at short notice at a time when Bishop Retief has been under enormous pressure.*

When the smoke and dust had settled at about 7.30 p.m. on the night of Sunday 25 July it left 11 people dead or dying and over 50 seriously injured or maimed on the floor of St James Church in Kenilworth. Two armed men with automatic weapons and hand grenades wreaked such damage in less than 30 seconds that the lives of many would be affected for years to come.

The days following were a bewildering collage of policemen, media, telephone calls, faxes and interviews. Curiosity seekers came to stare at the Church as weeping people walked in to show others where they had been sitting the night before. Then they collapsed into the arms of friends. Teas, sandwiches and soup miraculously appeared so that the hundreds of people milling around the Church campus could be kept fortified throughout the cold winter day.

### Why did it happen?

Obviously this is the most verbalised question. Suggestions ranged from St James having spoken out against communism to St James entertaining Russian visitors from the ships in the docks. Some were quick to see a link with an earlier shooting of one of St James's workers at Khayelitsha earlier in the year at the Church's Community Centre in Site B.

The fact is we simply do not know at this stage. St James has never been politically active, yet at the same time the congregation is multiracial and keenly involved in social programmes. The easiest answer at the moment seems to be simply that the Church provided a soft target for the perpetrators. The worldwide outcry however was so spontaneous that it appears nobody is too keen to be associated with the atrocity. The cries of the world however soon die away. Other important developments demand their attention. Who today clearly remembers the Elim massacre in "Rhodesia" or the Viscount disaster of the seventies? Sadly even Bosnia is becoming tiresome for some who watch the news regularly.

### Response

The response to this atrocity was well documented. The people of the Church are

Christians first and foremost. Expressions of forgiveness and claims to be experiencing God's peace were met with gratitude from some and incredulity from others. I was often asked by various media representatives to enlarge on the things people were saying. The truth was that I did not know what the Church members were saying until I saw it in the press. Still I felt a deep gratitude to God that they had the grace to stand firm in the face of this provocation.

The fact is that there is still much to work through, an enormous amount of trauma to be dealt with. We are well aware of this. However amidst the tears and grief we are conscious of being upheld and carried by God. We find it difficult to express clearly the sense of God's grace in our midst and the sense we have of the reality of the presence of Christ. We seek no revenge. We will leave that in the first instance to the law but finally to God Himself, who is the Judge of all men. We do not consider ourselves to be heroes or martyrs. Nor do we believe that what we endured is any more terrible than what many of our fellow South Africans are enduring at present and have had to endure in the past.

The media made much of the fact that the St James members offered forgiveness to the perpetrators. It needs to be clarified however that Christian forgiveness does not mean that the actions of wicked men are condoned. Far from it. There must be some penalty paid for what happened. But what we do mean is that we ourselves will not seek vengeance. We will continue to pray for these men and urge them to seek God's forgiveness and to repent of their evil ways. What they have done can no longer be justified in political terms. It has gone beyond politics into the debased world of psychopathic crime and personal anarchy.

"What are you going to do now?" I am asked. What can I say? I am a minister of the Gospel. We as a team will pick up the pieces and get on with the job God has called us to do. Our duty is to preach and teach the Bible and minister to people's needs. Apart from our own large responsibilities in Kenilworth we have a school feeding scheme in Lotus River that needs to keep going and a Community Centre in Khayelitsha that needs lots of help. We also have our new

exciting ministry to the men and women on board the ships from Eastern Europe. They are warm-hearted and open to the Gospel in spite of being brought up for the most part as atheists.

### Violence

We are the victims of the increasing spiral of violence in our land. The bitterness and resentment of the vast majority of South Africans has been simmering for years. Now we have the fruits in violence, political intolerance and their inevitable partner - crime. We are not the only victims. The atrocities in the Transvaal and Natal also form part of the whole sad picture.

From a Christian perspective there are things that need to be said. Firstly, violence in any form except for self-defence or the restraint of wickedness is totally unacceptable. But how can any consensus be reached on what is "wicked" so long as there are no objective criteria by which we can define what is right and wrong? Hence Christians insist that the Bible should be the court of appeal. The complicating factor is that a liberal approach to the Bible has led to the questioning of its authority and relevance for today.

Secondly, it must be said without equivocation that the perpetrators of violence should be punished. The human rights movement which has helped to correct so many wrongs and imbalances stands in danger of actually contributing to the culture of violence if it should be manipulated to protect the perpetrators. Of course perpetrators of violence should also have their rights protected - but not their guilt shielded. From a Biblical point of view the wanton killing of other human beings means that the killer in turn forfeits his right to life. The current debate about the death penalty often starts from the wrong perspective - that of deterrent. Deterrent was not the primary motive behind God mandating the death penalty. The wiping out of human dignity, human life, human

potential, wanton attacks on others created in the image of God are very serious. God regards man and human life so highly that He holds human beings accountable for the way they value the lives of others. As accountable if they deliberately and unlawfully kill, they must pay the penalty. It is a matter not merely of justice but of righteous justice which must be seen to be done. This does not in our view clash with the notion of forgiveness. Personally we hold no grudge and want to take no revenge. But the law must punish the offender or else ordinary society becomes impossible.

Thirdly, we recognise that it is likely that some if not all of the perpetrators will escape. As Christians we believe in a final Day of Judgement. This is not the ranting of a bunch of pious fundamentalists but the collective cry of the human spirit. There must be a final judgement. There are just too many monstrous atrocities in the history of our world for which there must be an accounting. For life to make any sense at all there must be some way in which justice is finally meted out. We believe in the Biblical doctrine of a final judgement.

In the meantime we will continue to pray for those who harmed us, as we do for all the perpetrators of violence and their victims. We will seek to be peacemakers and reconcilers. We will continue to work for justice for all. Above all, we will continue to preach the Gospel of Jesus Christ to as many as we can. At the end of the day we recognise that there are three basic ingredients for living that all of us need - purpose and significance so that we know why we are here; an inner resource to draw upon when the days are dark and we have no answers left; and hope for the future. It is our conviction that all three are found in Jesus Christ. We will therefore continue, with conviction and I hope with humility, to present Him to this world.

## Federalism and South Africa

by K. R. Hughes

*Federalism is often regarded as the 'F-word' in South African politics. In this contribution Ken Hughes, a member of the Committee of the Civil Rights League, considers the possible lessons of federalism for this country.*

Now that constitution-making has come off the back-burner once again, there is some reason to be trying to think critically about Federalism. In South Africa, federalism has tended to be associated with the political Right, though in other countries it has generally been associated with programmes of "strong democracy" and hence with the Left. But perhaps both sets of

expectations are excessive, and the truest perception of federalism is that of the Pragmatic Centre, which regards federalism as one device (among others) to allow political societies to sort out and solve their political difficulties.

Certainly federalism has been recently fashionable round the world. When Germany reunified it was taken for granted that East Germany would slot into West German

Federalism; in France, "Power to the Regions" was one of the few socialist slogans to meet with popular acclaim in the 1980's; in Italy a third tier of government - regional government - has been inserted between the centralised State and the communes; in Canada and Australia Federalism under girds the rights of Quebecois and Aborigines. Yet this generally benign and progressive picture is by no means unmixed: after all it is worth remarking that in a number of strife-torn countries such as Yugoslavia, Federalism was quite compatible with double standards, in Yugoslavia providing a cloak for Serbian aggression. One fears that altogether Federalism is a slippery concept: it can easily be invoked by the wrong people for the wrong reasons. Stretching further back, it also has a chequered history. In the 18th century, it was part of that liberal dream, of the ideal constitution, "the machine that would run of itself". The French philosopher Montesquieu had the fundamental insight that "only through power can power be tamed" so that "a people that would be free must divide its rulers". Hence he proposed to split up governmental powers on functional lines - legislature / executive / judiciary, while his American followers Jay, Madison and Hamilton added to this a geographical separation of powers, easy to implement in the American case because of the established identities of the 13 original colonies.

It would take too long to tell in detail how the Federalism of France's Atlantic seaboard was defeated by Jacobins and Royalists in Paris, or how Bismarck managed to crush the nascent liberalism of Hanover and East Prussia; suffice it to say that through the 19th century, economic growth and industrialisation, fashionable intellectual currents (such as Positivism) and the sheer political convenience of unification for nation-building, meant that centralism won out over federalism everywhere in Europe except Switzerland and Austria-Hungary. Beyond Europe, Canada and Brazil (and in the 20th century Australia and India) became major federations. Nor was the civil rights record of those societies which became federations always outstanding: after all, the American Confederacy seceded from the US, precisely to protect slavery. So bad was the reputation of American local government that delegates to the South African National Convention opted for Union rather than federation, since they took the latter to be virtually synonymous with venality and corruption.

Post World War II, many new states were nominal Federations, and much of their public functioning was also inept or corrupt. Academic observers often noted that Federalism in practice was merely a complicated and expensive way of

arriving at pretty much the same place where highly centralised societies landed up. Perhaps the high watermark of academic scepticism about the merits of federalism was reached in the 1950's when the German refugee political scientist Franz Neumann wrote a famous essay for a symposium volume on "Federalism, Mature and Emergent" where he argued that Federalism encompassed everything and nothing, and there was no good evidence that Federalism did anything to promote freedom or progress.

But in fact, as one sees looking sceptically at his analysis today, the two halves of his argument cancelled out, it was indeed because he cast his net too widely - from China to Peru - that he perceived no federal effect. To put our first conclusion as a proposition:

*if federalism is to make any difference at all, this depends entirely on the number, size and powers of the constituent regions.*

A federal system with numerous impotent regions, is entirely indistinguishable from a centralised system. Hence the working out of the details, how many regions, what powers they have, who has the residual powers, is much more important than whether a system is nominally federal or not. If there is no power in the regions there is no check on the centre. Worse if there is no power in the regions there will be no public interest or participation in regional government either: why should anyone bother with Useless Boys Clubs? It is the relative importance of local authorities not their power, which leads them often to end up venal and corrupt. A Federal System without teeth cuts no ice. "Only through power can power be tamed".

But it must be conceded that some of the traditional advantages ascribed to Federalism often operate weakly even under optimal conditions. No Federal Constitution could have stopped Hitler. The 1936 Soviet Constitution did not in fact, stop Stalin. Nor will Federalism provide an acceptable compromise for a region hell-bent on secession or separation. (Think of Yugoslavia again). In terms of preventing dictatorship, tyranny or ethnic persecution the contribution made by Federalism (even Federalism "with teeth") is modest.

#### **So what does Federalism have to offer?**

Its contribution is nevertheless real. Perhaps the most striking effect of this "complicated and expensive" form of government is to widen political participation. Winner-take-all is replaced by loser-gets-some at least if he can be a local winner. Since many nationalist or revanchist movements are led by discontented local elites, broadening elite participation in government can alleviate those ethnic troubles

which are stirred up by elites. (Not all ethnic troubles are like this unfortunately). In South Africa, if we get our Regionalism right, we should have federalism help us with the Zulu problem, and hopefully also alleviate Sotho-Tswana problems before they reach similar proportions.

It is also the case that federalism can diminish the threat of military dictatorship. In Brazil two generals were able to take over in 1964, but on a number of other occasions regionalisation of the common structure helped to impede the efforts of the plotters. Other more statistical evidence on coups, also suggests centralised regimes are more vulnerable. Just as in the case of ethnic problems, so military/civilian problems may be a feature of mass politics in the New South Africa, in a way it never was in the past. Consequently we need all the mechanisms we can get (however futile) to ward off these hazards, but once again, it is the details which are crucial for success or failure.

There are 3 further areas where federalism scores: greater readiness for experimentation, better economic management, and greater grasp on environmental problems.

Traditionally, variety and greater readiness to undertake policy experiments has been a major argument for federalism. In practise this has not always worked. In the US Washington has often fiercely laid down Federal standards and frustrated local initiatives, in the Bundesrepublik the constitutional court in Karlsruhe has often acted to bring Lander into line for similar reasons of wanting to secure constitutional uniformity: the "equal protection of the laws". Yet it probably is true that Federations have been more accommodating towards policy experimentation than centralized unitary systems: Switzerland provides some striking examples, where neighbouring countries have gone completely different ways.

As regards economic management federalism also presents a mixed picture - a jealous regard for states' rights frustrated economic development in the US, in the 19th century, leading to Big Business support for centralisation. In Switzerland the cantons had to be won over one by one to allow the building of

the railways: some lines stopped in mid track at cantonal boundaries as recently as 1915. But on the other hand, Alice M. Rivlin, Budget Director under 3 US administrations, recently delivered a powerful plea for US macro policy to be decentralised from Washington where, she says, it is often made inappropriately in terms of local needs and enforcement.

One powerful argument for Federalism arises from Redistribution. Poverty is geographically concentrated, so fiscal transfers provide one means of combating poverty more effectively. This should also not be overstated: if local government is not properly transparent and accountable, if local officials are not properly scrutinised by independent voluntary associations in the civil society, poverty relief becomes a vast system of subsidies for the Mafia (this is what happened in Southern Italy) and richer regions will want to secede (this is the portion of the Italian Northern Leagues.) So there need to be checks on expenditure, and the process of fiscal transfer needs to be subject to political bargaining (for the sake of realism and credibility) and to technical and accounting checks.

As to the environment, the horrendous consequences of over-centralisation in the USSR are well-known. Even in the US, it has been argued, that national standards turn out to be highly inappropriate. Thus a national standard on exhaust gases from cars, leads to over costly catalytic converters being fitted in rural areas where there is no pollution problem, and an inadequate standard being enforced in L.A. where the problem is acute.

To sum up: regionalism has many real (if occasionally modest) advantages in relation to political participation, policy innovation, economic management, poverty relief and environmentalism. But it imposes costs, it can stake up conflicts rather than damp them down, and it does seem to be more open to corruption than centralized systems. Hence the problem of constitution-making would seem to be for them to find viable regions which are not too large or too small, and to counter the problems of accountability by trying to build in as many democratic and technical checks as possible.

## **Obituary - Professor A S Mathews**

**By Hugh Corder, a member of the Committee of the Civil Rights League.**

One of the leading lights of liberalism in the legal profession has died of cancer at the age of 61. Prof Tony Mathews, born in the Transvaal but a Natalian for most of his adult life, taught

law at Durban and Pietermaritzburg Law Schools for more than thirty years, chiefly in the area of Private Law and Criminal Justice. His community involvement centred on the furtherance of the cause of civil rights in society,

and he was a member of the national executive of the Liberal Party in the 1960's.

In the legal context, Tony Mathews will be remembered most vividly for his courageous, lucid and principled writing on the place of law in the relationship between state and individual in SA.. He was often critical of the judiciary, at a time when it was popular to praise the Bench. To many lawyers and law students who cared about liberty, his condemnation of detention without trial (the 'permanence of the temporary') in a 1966 article, his *Law, Order and Liberty* of 1971, and the book which propagated the idea of open government (*The Darker Reaches of Government*

- 1976) were to become beacons of light in an exceedingly gloomy atmosphere.

His best work, in my view, came in the form of the 'second edition' of *Law, Order and Liberty* in 1986: *Freedom, State Security and the Rule of Law*, a text which was widely used in university legal education. It must have been satisfying for Tony Mathews to have seen some of those ideas, which he had argued for so effectively but in such solitude, gain currency in the last three years of his life. If some of the foundation-stones of liberal democracy survive this period of transition, it will be no small tribute to this brave man.

## Honour For Bill Hoffenberg

**A**n evocative occasion: the conferral of an Honorary Doctorate in Medicine on Sir Raymond Hoffenberg at UCT on 25 June. The Civil Rights League pays tribute to one of the most colourful, principled and courageous liberals to grace the mother city in the 1950s and 1960s, until his departure, on an exit permit under a banning order, in 1968. He left as a senior lecturer in Medicine at UCT, and a distinguished researcher in endocrinology, a leading member of the Liberal Party, counsellor for NUSAS, active worker for the Defence and Aid Fund, a much loved member of the sporting fraternity as a talented squash player. He returned, after holding

a chair at Birmingham University, and being elected as President of the Royal College of Physicians (1983), as the current head of Wolfson College, Oxford, and holding the additional honour of a knighthood. In his address to the Congregation, Bill showed that he had not lost his grasp of the tough issues facing South Africa, but still had real affection for his country and his university, and the grace to give words of real encouragement to those of us who are still living here.

## Third force update

by George Ellis

*In June of this year George Ellis (a member of the Committee of the Civil Rights League) published a paper for the SAIRR in which he assessed the weight of the evidence regarding the existence of a 'third force' in South Africa. In this article he updates the information contained in his earlier paper.*

**T**here is no longer any doubt that agent provocateurs are deliberately fuelling unrest in our townships [1]. There is also indisputable evidence that some efforts to disrupt the negotiation process involve members of the security establishment at the highest level [2]. The open issue is whether these are disjoint efforts to prevent political accommodation being reached, or if there is a master plan in operation coordinating them, and involving 'Third Force' covert activity directed by senior members of the security establishment.

My previous analysis [3] suggested there is indeed a centrally coordinated plan guiding destabilisation in our townships, aimed at preventing the success of negotiations; and that

probably Military Intelligence is acting as the centre of such country-wide activity, possibly using the still-functioning National Security Management System for this purpose. In this paper I summarise some of the new evidence for the above statements since [3] was written, together with first evidence there is an international dimension to these destabilisation efforts.

### 1) Agent provocateurs

Recent events apparently involving agent provocateurs include the following:

■ A series of 'drive-by' car murders in Vaal townships, apparently unmotivated except if understood in the context of a destabilisation programme.

■ A group of about 10 gunmen at Thokoza who ignited major conflagration by firing at an Inkatha hostel while an ANC march was passing near it. This group of gunmen were videoed in action by a police helicopter but the police were unable to identify who they were. The attack was mounted at the rear of the hostel at precisely the moment the ANC march reached the front of the hostel complex (police evidence to the Goldstone Commission; see Weekly Mail, June 11-17). This appears incontrovertible evidence of 'third force' provocation in the obvious sense of that phrase: a highly organised and well equipped group of men, not belonging to either side in a conflict, murderously attack one side in a volatile situation, thus setting in motion major unrest. Police commented that this action could be due to criminal elements in the townships, interested in creating unrest as a cover for their purely criminal activities. This hypothesis has to be compared with that of true Third Force action, as discussed in [3].

■ A group of about 12 gunmen in Natal with AK47's who stopped a kombi taxi and cold-bloodedly massacred Inkatha members travelling in it. This group appears on the face of it to be remarkably similar in composition and intention to that involved in the previous incident.

It is because of evidence such as this that Judge Goldstone, who has been equivocal about the issue in the past, now is definite that agent provocateurs are in action [1]. However he remains uncommitted on the issue of whether a third force proper is in action or not. My previous paper [3] comments on how the strict judicial process is hampered in coming to conclusions on this issue, by the nature of its proceedings, which prevent judicial commissions from drawing obvious inferences from the pattern of available evidence (cf. the Weekly Mail comments [June 25-July 1] on the Goldstone Commission investigation into SADF covert training of Kwazulu police in Namibia).

## 2) Senior Police involvement in attempts to derail negotiations

The unequivocal evidence of senior police involvement in attempts to derail negotiations is given by the series of raids they carried out on PAC members at a delicate stage of the Kempton Park negotiations. Police claimed they were acting on solid evidence of criminal activity by those arrested, but it soon became apparent this was in fact a fishing expedition hoping to obtain such evidence. The whole manner of these mass arrests, reminiscent of the jackboot days of old and carried out with the agreement of the Minister of Police but without the knowledge of the State President, was apparently designed to drive the PAC from the conference chamber (see

Alastair Spark's incisive analysis of the possible intentions behind these raids [2]: 'Neither the Commissioner of Police nor the Minister of Law and Order consulted, briefed, or talked in any way to the State President beforehand. Hennis Kriel knew very well what the impact of the raid would be, yet he deliberately withheld information of the raid from the President until it was underway and too late to stop').

Less conclusive but pointing in the same direction was the lack of police intervention during the famous right-wing invasion of the Kempton Park negotiating venue; the police were guilty of dereliction of duty in their approach to this event, according to Judge Goldstone [Cape Times July 16]. One might well be tempted to go somewhat further and use the word 'collusion' to explain what happened there, on taking into account the broader pattern of events, together with police failure to arrest and charge right-wing leaders (for example, Eugene Terreblanche) for overt provocation and war-mongering at public meetings.

## 3) The Nature of what is going on

As explained in depth in [3], obtaining conclusive evidence of destabilisation activity is most difficult, and as well as direct evidence of such actions, one must for example take most seriously loss or destruction of evidence as evidence of a pattern of activity.

### a) Evidence from the past

This sets the context for understanding the present. New evidence in this regard since [3] was written is illuminating:

■ The nature of covert action by our security apparatus to destabilise neighbouring states is described in depth in Chester Crocker's book *High Noon in Southern Africa* (1993). This is important in showing the mindset and mode of thought of those who still control our security apparatus. It can also profitably be contrasted with the misinformation fed to the South African public at that time as to what was going on; this in turn sets the context for evaluating present SADF statements about what has been happening more recently (e.g. their covert training operation of Kwazulu police in Namibia, mentioned above).

■ It has been established that police systematically shredded evidence about the Goniwe murders [Argus, June 18], and senior police officers such as Colonel Winter are now suffering from severe loss of memory, being unable to recall what happened at that time, despite apparently being centrally involved in the events.

■ However the SADF have testified they believe the security police were involved both in the Goniwe murders, and then in the killing of three

policemen who were witnesses to those murders [Argus, June 14].

We will probably never discover who was responsible, in view of the destruction of evidence and the forgetfulness of senior police officers, however the most important point is the following: the police may or may not have been involved in the killing of the three witnesses, but what is indisputable is that other members of the security establishment believe they were responsible. This clarifies the ethos of the security establishment and the kind of actions they have contemplated in the recent past. We have no evidence that they have changed their ideas about acceptable methods of action (or their opinions as to who are 'enemies of the state').

#### *b) Evidence from the present*

There is one significant new piece of evidence: a SAP lieutenant told the Delmas Circuit Court he was ordered by his superior officer to destroy several 9mm bullet shells and heads found at the scene of the Boipatong massacre on November 20 1992 [Cape Times May 17 1993]. This is direct evidence of cover-up activities aimed at hiding what really happened in these murders. (Together with this one should remember the police tapes that were wiped out 'by mistake' [3], which otherwise would have established where police units were at the time of a previous township massacre).

Furthermore, there is continued lack of action by the State following last year's scandal in Military Intelligence. Despite Mr De Klerk's statement last year 'I think I can say the findings will lead to the conclusion that some activities led to the deaths of people' and that some of the people involved had sought to thwart his Government's

reform plans, nothing further has been heard of this investigation (Cape Times: June 3). If nothing was going on, why were these statements made? Why have we not been told of new evidence leading to a reversal of these conclusions, if such evidence has come to light?

#### **4) A public face?**

It appears also that there is now a new thread, namely the emergence of public fronts for activities of members of the securocrat establishment, specifically the strong possibility that the COSAG group's stalling tactics at the negotiating table, and their withdrawals from negotiations, are being given direction by Military Intelligence, through MI agents such as Mr Rowan Cronje and Mr Walter Felgate (see the parliamentary statement by Kobus Jordaan, summarised in [3]; and the Weekly Mail [23-29 July] for an account of the latter's hard-line influence on Inkatha's decision-making).

Additionally we have seen the emergence of the AVF group being directed by Generals

Constant Viljoen and Tienie Groenewald, whose names figure prominently in accounts of previous destabilisation activity based in the security forces. This is of course not covert activity, for it is out in the open; its aims of thwarting the negotiations are quite apparent. What if any links these gentlemen maintain with their colleagues still in the security establishment is unknown at present.

#### **5) International involvement**

There are now claims by both Inkatha and ANC that Mr Victor Kheswa, known as the 'Vaal Monster' because of his link to several township massacres, has intelligence links. Furthermore Koos Vermeulen, head of the extreme right-wing World Preservist Movement (formerly the World Apartheid Movement), has claimed that Mr Kheswa was a member of the WAM [Weekly mail July 16-23 1993, Argus July 15] before he was mysteriously killed while in police custody. The IFP has claimed the WAM is a front organisation with close links to the SA intelligence community. There have been counter claims and denials in this case, as in all the others. This is to be expected in the context of a dirty-tricks campaign (if there is one). One has to evaluate these claims of international involvement in the context of knowledge that there has indeed been such involvement in the destabilisation of neighbouring states, and also support for local right-wing organisations from such international groups. The case is not cast-iron, but it is strongly indicative that here is an issue worth investigating further.

Overall, one must remember that it is always necessary to look particularly for destroyed or missing evidence or highly trained officers who have forgotten crucial events in which they were involved. There are plenty of these. The prima facie case for third force activity being a major factor in the present violence, is very strong.

### **END NOTES**

1. Judge Goldstone, reported in Cape Times: July 22nd 1993.
2. Alastair Sparks: Cape Times, 3rd June 1993.
3. G Ellis: "'Third Force': What is the Weight of Evidence". SAIRR Regional Topic Paper 93/1 (1993).

## The Goniwe Inquest - A Personal Perspective

by Judy Chalmers

The inquest into the deaths of Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlawuli resumes on August 11th this year. On this date Major Deon Niewoudt of the SAP is due to appear on the witness stand. Amongst those of us, the widows and families of the assassinated Cradock leaders, members of the Cradock community, friends and political supporters, who have been attending the inquests from the beginning (January 1988), there is hope that, perhaps, at last, the true story of what happened in June 1985 may emerge. The truth will emerge, I hope, if not because an appropriate, truth-seeking system of justice has prevailed in this land, then because eventually the truth will out in spite of red herrings, lies, destroyed documents, connivance and more murder.

In retrospect, the first inquest nearly came and went unnoticed as notification of it was sent to the widows between Christmas and New Year, 1987. They were informed in the letter that it was not compulsory for them to attend the hearings, and it was to be an informal inquest. A frantic search ensued to find the families' lawyer and bring him up from Cape Town. He managed, after a very difficult session with the magistrate, to get a postponement and finally, at the second postponement, the court agreed to allow a formal inquest. The first battle had been won. It took place in a tiny courtroom in the North End Regional Court under the watchful eye of members of the Security Police.

The second inquest took place at the New Brighton Law Court early in 1989. This was a formal inquest that ran for some weeks. Arthur Chaskalson SC, representing the families of the dead men said in his summing up that everything pointed to a politically motivated murder. Magistrate De Beer found that the deaths were brought about by 'a person or persons unknown'. The court watched and listened as unreliable witnesses gave garbled evidence. It heard details of the terrible injuries inflicted on the four men, listened to new evidence about a false number plate and an unusual weapon used. None of it led to a substantial finding. The truth remained very securely concealed from public view, but in spite of this a few more pieces of the puzzle had been put in place.

On to June 1993 since when, in the New Supreme Court, Port Elizabeth, the next

instalment of the saga has been unfolding. It has happened because of a document disclosed to the public in May 1992 by the Transkeian Head of State, General Bantu Holomisa, showing that in 1985 the State Security Council proposed that the Cradock leaders be 'permanently removed from society'. This constituted new evidence and a third inquest is in process.

Those of us attending the sessions regularly are the same people. The widows of the deceased, other members of their families and the Cradock community plus a few friends and supporters. But now, for the first time, the Government is under threat, and it has pulled in some of the 'big guns of South Africa's legal fraternity.

Sitting there watching, and very often waiting - I am constantly amazed at the arrogance of the court system that takes no account of ordinary people's time - there is the knowledge that the widows are having yet again to endure the pain of what happened in 1985. But I sense that now there is a feeling that 'this time it may be different'. There is a conviction that no matter how determinedly Anton Mostert SC, Counsel for the SADF, strives to keep Col. Louwrens du Plessis, sender of the message sealing the Cradock leaders' fate, out of the witness box, sooner or later General Joffel van der Westhuizen will have to account for himself and take responsibility for what happened.

We have watched SAP Colonel Deon Niewoudt sitting on the police bench in court with his colleagues, confident in his brown suit, chatting away to the various legal representatives. And we watched him go pale as Anton Mostert SC wove a web of circumstantial evidence around him implicating him in the death by bomb blast of Security Policeman Faku and others. Niewoudt did not reappear at the trial, but we know that Counsel for the SAP Dup de Bruyn, has postponed his giving evidence as long as he can and, come August 11th, Deon Niewoudt is, if there is any justice, going to have to account for at least some of his past actions.

It is fascinating to watch the drama and interaction between the senior counsels: George Bizos SC, from the Legal Resources Centre, for the widows; Anton Mostert SC, with his history of exposing the Info Scandal, and Dup de Bruyn SC, tough, experienced litigator. Newcomer Glen Goosen JC, ANC member and End Conscription Campaign activist, is acting for Louwrens du

Plessis and this is interesting and hopeful and could mean a different and energetic approach is made in bringing accurate evidence before the court.

Evidence given by the police to date has been slowly and painfully delivered, by men such as Col. Van Rensburg and Col. Harold Snyman (ex-head of security Police in the Eastern Cape). Both must surely have given evidence in the past on many occasions, but they appear hesitant and unsure of their facts. One of the Cradock residents clarified this for me, saying 'There have been so many lies in the past, maybe it is difficult for them to remember now which were lies and

which the truth'.

It is not possible to predict the outcome of the inquest. There is the problem that Col. du Plessis has been granted indemnity against prosecution in respect of the signal he sent, but not in respect of Operation Katzen - interesting in itself as it suggests Katzen was indeed an official military operation. There is always the fear that somehow, somewhere, a deal is being managed that will prevent the truth from coming out. A township resident told me that 'grass does not grow on that place where they found Matthew Goniwe and Fort Calata's bodies'. But there is hope that, surely this time, justice will be done.

## Parliamentary Question Time

by Rodney Davenport

**Q**uestion time is a tradition of Parliament, and has a great deal of importance for the citizen's right to information. It is isolated in today's Hansards, and printed on green pages as if to suggest that it is not really part of the proceedings that matter. Yet the very grouping of questions makes them easier to find than used to be the case.

We may think, and with good reason, that Parliament and its peculiar institutions are on the way out, at least in the form which we recognise. But whatever takes its place, the existence of a body exercising supreme law-making authority over the country must be a part of it. That body must be seen to be the guardian of our liberties in several ways.

One is its ability to maintain a totally open relationship with the Government, or Cabinet. One way of keeping the openness of that relationship going is for members to have the right both to ask the ministers candid questions and to receive open and honest answers. "Now we will take the question of Questions", said an English MP in 1902. "Are you aware that the establishment of questions was owing to the restriction of the rights of private Members? Are you aware that questions is an institution which did not spring up until 1836 when petitions and motions for petitions were abolished, and that really questions came in consequence of the curtailment of rights?" And the right of members of the Commons to present petitions in Parliament, of which they were then not fully members, goes back to the 13th century.

Incorporated in the South African constitution along with much else that derived from British practice, this right survived the heavy weather through which the ship of state

passed in this turbulent century, especially during the Apartheid era. It has sometimes been in danger, as on those occasions when ministers responded to questions by simply stating that it was not in the public interest for certain answers to be divulged.

Answers elicited to parliamentary questions during the recent session included the statement that 202 persons died in detention during 1992: 140 from natural causes, 36 through suicide, 13 from assaults by other prisoners, 13 from other causes which the Minister detailed. Pulmonary tuberculosis killed 68 197 South Africans in the same year, while 20 348 died from measles, 1147 from typhoid and 795 from congenital syphilis. (But to become a statistic a disease has to become notifiable. Kwashiorkor [or chronic malnutrition] and AIDS are not.) Official figures for unemployment as at 7 March 1991 were 2 118 648, or 18.2% of the economically active population. (Compare this with figures given in the 1992-93 **Race Relations Survey**, where an economist attached to Sacob estimated in October 1992 that the annual increase in the number of unemployed stood then at about 400 000 (**Citizen**, 20 Oct 1992).

Questions in Parliament reflect, one likes to think, the most honest answer which a minister can give on the basis of information supplied by the public service. They need not necessarily embody absolute truth. But even so, the asking of questions has, over the years, brought a lot of information to light.

# LEVIATHAN

by Peter Blegvad

