



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

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

**THE PAN AFRICANIST
CONGRESS**

The Pan Africanist Congress

SUMMARY AND ANALYSIS OF AMNESTY APPLICATIONS

■ OVERVIEW

1. The Amnesty Committee received amnesty applications from 134 supporters and members of the Pan Africanist Congress (PAC) and/or African People's Liberation Army (APLA). Six of the applicants claimed to be members of the Pan Africanist Student Organisation (PASO).
2. PAC/ APLA members applied for amnesty for a range of offences. These included violations arising from attacks on the security forces, attacks on white farmers and civilians and armed robberies and sabotage operations. Individuals generally applied for amnesty for several acts. These included the execution of the operation; the possession of arms, ammunition and/or explosives; casualties and injuries arising out of the operation, and violations committed while retreating from the operation (for example during a shoot-out with the police).
3. In all, 138 individual applicants applied for 204 violations. All the applicants were male. Most were aged between 17 and 35 years of age. The youngest applicant was 14 years old at the time of the violation.
4. The Amnesty Committee granted amnesty for 155 out of 204 acts (76 %) committed in the course of eighty separate incidents. It refused amnesty for forty-nine acts (24 %) committed in the course of thirty-three separate incidents.¹⁹⁹
5. A total of 109 people were killed and 140 people survived attempted killings, many with severe injuries.

¹⁹⁹ As early as 1996, the Amnesty Committee decided to deal with incidents rather than individual acts in order to make it possible to deal with groups of applicants who had been involved in the same incident but who may have committed a number of different acts. Thus, when dealing with applications, the Committee decided to focus on specific incidents, each comprising a number of different acts/offences.

6. The violations for which amnesty was sought occurred in all four of the former provinces.²⁰⁰ However, the PAC operation was more concentrated in the Western Cape and in areas within striking distance of the Transkei, where its operational platform was based during the early 1990s.
7. The majority of the amnesty applications related to violations committed between February 1990 and April 1994 and were submitted by members of APLA. Amnesty applications for violations committed in the earlier period were for offences that were not strictly defined as gross violations of human rights. These included activities such as furthering the aims and membership of a banned organisation, the possession of arms and ammunition and harbouring guerrillas in order to further the armed struggle. For the most part, these applications were dealt with in chambers²⁰¹ and were granted by the Amnesty Committee.
8. This chapter will deal mainly with applications in the following categories:
 - a Violations committed by the PAC within its own ranks;
 - b Armed robberies;
 - c Attacks on security forces;
 - d Armed ambushes;
 - e Attacks on civilians;
 - f Attacks on farms;
 - g Sabotage;
 - h Procurement and possession of arms, explosives and munitions, and
 - i Other matters.
9. It should be noted, however, that these are not discrete categories. In some instances, for example, APLA attacks on security forces were motivated by the intention to strip the victims of their firearms and could therefore also be described as armed robberies. Many attacks on farmers and farms were also intended as armed robberies.

²⁰⁰ Transvaal, Cape, Orange Free State and Natal.

²⁰¹ See this volume, Section One, Chapter Three for more information about chamber matters.

Statistics: Amnesties granted and refused

Category	Granted	Refused
Violations in PAC camps	60%	40%
Armed robberies	59%	41%
Attacks on security forces	93%	7%
Attacks on civilians	100%	0%
Attacks on farmers	70%	30%
Sabotage	100%	0%
Arms possession	100%	0%

FACTORS ENCOURAGING OR IMPEDING APPLICATIONS

10. Many applicants were serving prison sentences at the time that they made their amnesty applications. However, not all had necessarily been convicted of the offences for which they sought amnesty. In other words, they were sometimes serving sentences for offences other than those for which they sought amnesty.
11. At a meeting with the Truth and Reconciliation Commission (the Commission) in January 1998, representatives of the APLA High Command expressed the organisation's reservations about the amnesty process. The meeting ended, however, with an agreement that APLA cadres currently in prison would be encouraged to apply for amnesty. The Amnesty Committee agreed that the PAC should appoint counsel to represent PAC/APLA applicants. It was also agreed that consultations between Amnesty Committee staff and applicants in prison would take place only in the presence of a PAC representative.
12. The quality of legal advice received by members of the liberation forces was a weakness of the process. Many were not aware of the fact that government had set up a fund (administered by the Department of Justice) through which ANC and PAC applicants had access to the same levels of legal assistance as applicants in the employ of the state. The Commission, on the other hand, was able to provide legal aid only through the Legal Aid Board and at a much lower rate. It is probable that a not insignificant number of such applications either lapsed or failed as a result of this.

ANALYSIS OF AMNESTY INFORMATION

Poqo

13. No applications for amnesty were received from members of Poqo for violations committed during the 1960s.

Violations committed by the PAC within its own ranks

PAC camps in exile

14. The Commission received evidence indicating that many gross violations of human rights occurred in the ranks of the PAC in exile, mainly in Tanzania. Despite this, only one application for amnesty was received. Amnesty was granted to Mr Mawethu Lubabalo Ntlabathi [AM5693/97] for assaults on Messrs Matsokoshe and Tebogo in a PAC camp in Tanzania in 1992 and 1993, with the approval of its military attaché, Mr Bafana Yose.
15. The applicant told the Amnesty Committee that the assaults were a means of disciplining the two APLA cadres for their involvement in stealing APLA property, thereby undermining army discipline and the building of an effective army to attack and overthrow the government of South Africa.
16. The Amnesty Committee accepted that military forces have to maintain strict discipline in order to operate successfully and that offences associated with that objective fell within the definition of acts, omissions or offences associated with a political objective [AC/2000/247].

PAC ranks at home

17. The Amnesty Committee received four applications for the killing of three individuals suspected of collaborating with the security police.
18. PAC/APLA member, Mr Mduduzi Cyril Ngema [AM3681/96], was granted amnesty for the killing of Mr Christopher Nhlanhla Myeza on 1 October 1992. Ngema was instructed by a man called Thompson to kill Myeza, a fellow PAC and APLA member. Myeza had been seen in the company of police officer and had allegedly also been overheard promising a police officer that he would report on a PAC meeting. He was therefore believed to be an informer. He was killed in a sugar cane plantation in Verulam outside Durban.

19. The Amnesty Committee accepted the evidence presented that the PAC, like other liberation movements, viewed individuals who worked as police informers as the enemy and thus as targets for elimination (killing). Mr Ngema was granted amnesty on the grounds that the act was committed with a political objective within a particular context and that he had made a full disclosure of all relevant facts [AC/1998/0116].
20. PAC/APLA member Shakespeare Buthelezi [AM1488/96], was granted amnesty for the robbery and attempted killing of Mr Basie Tladi at Twala Section, Katlehong, on 16 March 1993 [AC/1998/0051]. The incident occurred two weeks after an attack on the police in Katlehong in which a police officer, Mr Freddy Mashamaite, had been killed. Buthelezi was implicated in the attack.
21. When Buthelezi heard that the police and Basie Tladi were looking for him, he decided to kill Tladi, whom he believed to be a police informer. Buthelezi testified that his decision to kill Tladi had been based on the 'fifteen points of attention' that constituted the APLA Code of Conduct. He made two attempts to kill Tladi at his house, both of which failed. In the second attempt, he shot Tladi as the latter left his house. When Tladi returned with the police a short while later, there was a shootout. Buthelezi was injured, arrested and eventually convicted of a number of offences.
22. Here again, the Amnesty Committee accepted that the killing or attempted killing of an informer was an act associated with a political objective, taking into consideration the situation in the country at the time of the commission of the offence. The Committee also accepted that Buthelezi was a member of a publicly-known political organisation and that his actions were undertaken on behalf of that organisation. The Committee also accepted that Buthelezi had acted within the scope of his authority or that he had a reasonable belief that he was acting within the scope of his organisation's express or implied authority. Finally, the Committee accepted that Buthelezi had made full disclosure of events and had not acted out of malice or for personal gain.

Armed robberies committed by APLA

23. The Amnesty Committee received applications from thirty-nine APLA members for fifty-nine armed robberies committed between 1990 and 1994. Most of these were committed in 1993. Amnesty was granted for thirty-five (59 %) of these robberies and refused for the remaining twenty-four (41 %).

24. Amnesty applicants claimed that armed robberies were committed on the instructions of the APLA High Command as part of the work of APLA 'repossession units' in order to raise funds and/or obtain weapons and vehicles to enable APLA to carry out its military strategy. These operatives killed twenty-seven civilians and injured sixteen, some seriously.
25. In some of these attacks, large amounts of money were seized, including, in one instance, cash amounting to R500 000.²⁰² In some instances, personal goods were taken, including vehicles and firearms.
26. In reaching its decisions, the Amnesty Committee grappled to draw a distinction between acts that were genuinely 'political' and those that were purely 'criminal' in nature. Ultimately, it granted amnesty to those applicants who were able to show that the robbery had a political motive and a proven chain of command, and had not been undertaken on grounds of malice or personal gain.
27. On occasion, the Amnesty Committee heard evidence that APLA frequently conscripted criminals to the repossession units because they were 'fearless' and had the 'practical skills' necessary to carry out successful robberies. Such recruits would be given a basic grounding in the political objectives of APLA.
28. In general, the size of the repossession units varied from three to eight persons, though some robberies were carried out by individuals acting alone. Unit commanders would generally divide their men into groups of three. Each group would be allocated its own commander and each would be given a different function to perform. The 'assault group' would penetrate the target building and execute the action; the 'support group' would ensure the safe withdrawal of the first group and the 'cut-out or security group' would be positioned outside the target to prevent any interference with the operation.
29. Amongst the amnesty applications granted were the following:

Attack on Giovanni Francescato

30. Mr Giovanni Francescato, an elderly white male, was attacked at Fort Beaufort in the Eastern Cape on 6 September 1992 when three armed men burst into his

²⁰² Armed robbery carried out by Patrick Thapelo Maseko [AM 5918/97] at the University of the Transkei (UNI-TRA), Umtata, on 18 February 1993.

home and assaulted him. Mr Francescato was forced to point out where he kept his firearms, his house was ransacked and he was then shot dead with a pistol.

31. PAC/APLA members Sipho Mabhuti Biko [AM 2916/96], Winile Veveza [AM 2918/96] and Mwamadoda Yengeni [AM 0334/96] applied for amnesty for the robbery. Because they had been acquitted by the court on the murder charge, they did not seek amnesty for the killing.
32. The applicants told the Committee that they were carrying out the orders of their local commander, Mr Tamsanqa Duma. The attack was in line with APLA's policy of attacking white homesteads to secure arms for the defence of PAC members. The arms seized were to be used in other APLA operations. Duma was not in direct communication with all the applicants but dealt only with Biko, who issued orders to Yengeni and Veveza.
33. Biko had identified the target before he applied to Duma for clearance, which he then obtained. He knew of the house because his mother, by then deceased, had previously worked as a domestic for Mr Francescato. He had also reconnoitred the house before the attack. Yengeni and Veveza knew of no plans to attack this particular house but knew generally that, in line with APLA policy, white homes were to be attacked to secure weapons. It was only when they were in front of the gate of Francescato's house that Biko instructed them to break into the house and look for weapons. Biko admitted that it was he who had shot Francescato dead.
34. As the group retreated from the scene, Biko searched his two accomplices to ensure that they had not removed anything else from the house against his instructions. He told the Committee:

As commander of that operation ... I was supposed to search my sub-ordinates to ensure that they did not take anything like money. If the order was to take money and firearms, we are supposed to do exactly per order. We are not supposed to take anything. Therefore it was necessary to do that, to make sure that they didn't take anything from the house. (Hearing at East London, 8 October 1998.)
35. After the attack, Biko handed the arms over to Duma. Duma confirmed to the Amnesty Committee that he received the arms that day and the money the following day. He also confirmed having given the order that Mr Francescato be robbed and killed to prevent him from identifying the applicants and testifying against them in

court. Asked why it was necessary to kill Mr Francescato after he had shown them where the firearms were, Duma replied that it was the policy of APLA to attack and kill whites, who were seen at that time as 'enemies of the African people'.

36. The Amnesty Committee took cognisance of the fact that Biko and Veveza had many previous convictions, mainly for housebreaking, theft of motor vehicles and robbery and, even though they were not seeking amnesty for any of these acts, they were both questioned at length about these. The Committee found their explanations 'most unsatisfactory' and described them as 'a mixture of unmitigated lies and self-exoneration'. However, Duma and Mr Bulelani Xuma, former Deputy Director of Operations and Director of Special Operations in APLA, confirmed the versions relevant to their application in this matter.
37. The Amnesty Committee granted amnesty to Mr Sipho Biko, Mr Winile Veveza and Mr Mwamadoda Yengeni [AC/1999/0251], based on its conclusion that the operation was undertaken for political reasons and that the applicants had made the necessary disclosure.

Attack on a vegetable shop in Randfontein

38. On 16 April 1994, a three-person APLA unit attacked a vegetable shop at Station Street, Randfontein near Johannesburg. The object of the operation was to obtain funds for APLA, and the unit stole an amount of R3 000. While they were robbing the shop, they shot and killed the owner, Mr Joao Manuel Jardim. Fleeing the scene afterwards, the attackers shot and injured a bystander, Mr David Oupa Motshaole, probably in an attempt to avoid identification.
39. Mr Jardim had been the victim of an earlier APLA armed robbery, at Elsburg Mine in Westonaria on 16 November 1990. In this earlier incident, three APLA operatives, led by Mr Thapelo Patrick Maseko [AM 5918/97], entered the store and removed a number of items, an unspecified sum of cash and a vehicle. When some of the people in the shop resisted, the unit opened fire, killing one person and injuring Mr Jardim. Mr Maseko was granted amnesty for this incident [AC/1998/0104].
40. The person who gave the order for the 1994 Randfontein attack and to whom the money was handed after the attack (described above) was the same Mr Maseko who had been involved in the earlier Westonaria attack.

41. Mr Maseko testified that he had given the instruction notwithstanding the fact that the first democratic elections were due to take place within a matter of days. He told the Amnesty Committee that the PAC had not yet suspended the armed struggle. On the contrary, he said, the President of the PAC had stated publicly that the PAC would not 'abandon the bullet until the ballot is secured'. He added that certain right-wing movements were still actively pursuing a policy of violence with the intention of disrupting the elections. He also confirmed that it was policy to raise funds for APLA by 'repossessing' money and other valuables from white people, and that no distinction was made between hard and soft targets in this respect.
42. PAC/APLA members Nkopane Diaho-Monaheng [AM3828/96] and Mangalisekile Bhani [AM5708/97] were granted amnesty for the 1994 robbery and killing in Randfontein on the basis that they had made full disclosure of the relevant facts and had acted within the ambit of PAC and APLA policy at that time [AC/1998/0119; AC/2000/065].

Attack on a PEP Store at Botshabelo

43. On 17 February 1992, a three-person APLA unit robbed a Pep Store in Botshabelo near Bloemfontein. Although one of the attackers was armed, no violence was used in the actual robbery. After the operation, the armed APLA member became involved in a shoot-out with the police in which two police officers and the APLA operative died.
44. The Amnesty Committee agreed that the shoot-out should not affect the application, which related only to the robbery, for which the applicants, Mr Moshuwa Isaiah Khotle [AM5619/97] and Mr Lerato Abel Khotle [AM3443/96], had been gaoled.
45. A significant feature of this case is the fact that the trial court had accepted the political motivation for the incident presented by the accused. This was one of very few cases that came before the Amnesty Committee where applicants had raised a political argument as part of their defence in the course of an earlier criminal trial. This was regarded as significant by the Amnesty Committee, which noted that:

[T]here appears to be no doubt whatsoever that the act was committed during the course of the political struggle of the past, that the objective was to assist

the political organisation of which they were members, that there was no motive of private gain on their part. The money was to be used by the unit, it was to be held by the unit commander. [AC/1998/0046.]

46. Accordingly, Khotle and Khotle were granted amnesty [AC/1998/0046] for their role in the attack

Attack on the Sentra Hyperserve supermarket at Wesselsbron

47. Five people were killed and four were wounded in an armed attack on the Sentra Hyperserve supermarket in Wesselsbron in the Orange Free State on 3 July 1993. Cash and cheques to the approximate value of R9 000 were stolen. The deceased victims were Messrs Michael Andries Sparkhams, George Christiaan Frederick Kleynhans, Herbert Jacobus van Niekerk and Johannes Arnoldus Lourens, and Ms Maria Fatima de Castro. Three people were severely injured in the attack. They were Mr Joao Avelono de Castro, Ms Susana Catharina Viljoen and Mr Hendrik Viljoen.
48. Six members of the PAC, Mr Mangalisekele Bhani [AM5708/97], Mr Silimela Oukubona Ngesi [AM020/97], Mr Lerato Abel Khotle [AM5619/97], Mr Stanley Michael Tshoane [AM5901/97], Mr Moalusi Morrison [AM5953/97] and Mr George Thabang Mazete [AM6630/97] were granted amnesty [AC/2000/250] for the attack. All the applicants were either APLA members or members of a PAC task force.
49. Mr Bhani, who commanded the attack, told the Amnesty Committee that he had received instructions from the APLA Director of Operations, Mr Letlapha Mphahlele, to go to Welkom where he would be received and deployed by the Orange Free State regional commander Lerato Abel Khotle. Khotle took Bhani to Wesselsbron where he was instructed to 'identify a target' for a robbery for the purposes of raising funds for APLA.
50. The Wesselsbron Supermarket was selected because the owner was thought to be a member of the Afrikaner Weerstandsbeweging (AWB), and members of the AWB and members of the South African Police (SAP) were amongst those who normally did their shopping there. Khotle secured approval for the target from the Director of Operations. At the hearing, Mr Bhani was asked how the shoppers were identified as members of the AWB. He replied:

It's easy, because of their khaki uniform and their big hats like the cowboy hats

and they were armed. Some were armed with two firearms. So it was quite easy to identify them. (Hearing at Bloemfontein, 17 August 1988.)

51. Mr Bhani led the attack into the shop and ordered the customers present to raise their hands. He then told the other two operatives to shoot them. Mrs de Castro, one of the owners, was then ordered to open the tills. She opened the three tills and the money was taken. She was then shot dead. The operatives then opened fire on the other customers. None of the victims had resisted the attack. They all obeyed the instruction to raise their arms in surrender but were executed extrajudicially.
52. The survivors of the attack opposed the applications on the grounds that neither the robbery nor the shooting was associated with a political objective.
53. Mr Pedro Ignatius de Castro lost his wife, Ms Maria Fatima de Castro, in the attack. He told the Committee that he believed the attackers had come to rob him. He denied any AWB links and denied that he even supported any political party.
54. Despite various contradictions and inconsistencies in the evidence of the applicants, the Committee accepted that the incident occurred during the period referred to as the 'Year of the Great Storm' and that such conduct was indeed party policy at that time. The applicants were granted amnesty.

Robbery at UNITRA

55. Mr Patrick Thapelo Maseko [AM5918/97] and eight others carried out a robbery at the University of Transkei (UNITRA) in Umtata on 18 February 1993. At the time of the robbery, the university was busy with the registration of students. University staff members were counting money when the operatives entered the auditorium.
56. The assault group opened fire on the people in the hall, killing a security guard, Mr Mason Mlindeli Mankumba, and injuring two police officers, Mr Wilberforce Sandla Mkhizwayo and Mr Elliot Michael Pama.
57. Maseko, who was standing outside the hall to prevent any interference with the operation, told the Amnesty Committee that, although he did not see what

happened, the commanders of the other two groups told him that the police had started the shooting. He testified that APLA had a standing rule that, if a target drew a firearm, operatives were to open fire immediately and not wait to be killed.

58. An amount of R500 000 was seized in the attack. Significantly, this huge amount – by far the largest acquired in Mr Maseko's 'repossession' activities – was not delivered to Botswana. Instead, Mr Maseko alleged that he gave it to a Mr Mandla Lenin. However, he produced no evidence to support this assertion, nor were details given as to how the money was used.
59. Despite the fact that UNITRA was a historically-black institution, Mr Maseko explained that it was targeted as 'an enemy institution because it was oppressing the African people'. He was granted amnesty for the operation [AC/2000/106].

APLA attacks on security forces

60. The Amnesty Committee received a total of twenty-eight amnesty applications from twenty-three individual applicants for attacks on security force members. The attacks resulted in twenty-seven deaths, while thirteen victims survived attempts on their lives.
61. The first APLA attacks on security force members were three actions undertaken by the Alexandra township-based 'Scorpion Gang' between December 1986 and February 1987. PAC/APLA members, Mr Themba Jack Phikwane [AM6032/97] and Mr Mandla Michael Yende [AM5648/97], were granted amnesty for the three attacks: the first on 16 December 1986, in which three SADF members died; the second on 1 January 1987, in which at least six SADF members died, and the third a month later, in which at least five SADF members died. At the hearing, precise figures of the number of SADF deaths in the latter two incidents could not be given. The Amnesty Committee was told that six or seven died in the first attack and five or six in the second. The names of the dead victims were not given.

The 'Lichtenburg Battle'

62. In July 1988, Mr Louis Nkululeko Dlova [AM6596/97] injured a member of the SAP with a hand grenade in what became known as the 'Lichtenburg Battle' in the Western Transvaal.

63. Mr Dlova told the Committee that he and other APLA cadres had entered South Africa from Botswana under the command of the late Mr Sipho Mahlangu with a view to seeking, identifying and attacking 'the enemy'. On their way to Johannesburg in a minibus taxi, they were confronted by the police. Dlova and Mahlangu threw hand grenades at the police. Dlova managed to escape in the ensuing confusion, but his commander and two other comrades died. The Committee was of the view that Dlova had acted with a political objective, and he was granted amnesty [AC/1999/0187].
64. All other applications for attacks on members of the security forces pertain to operations carried out in the early 1990s. They took the form of ambushes of police vehicles in Brakpan [AC/2001/067], Heilbron [AC/1999/002], Crossroads [AC/1998/0103], Khayelitsha [AC/1998/0103], Pimville [AC/1998/0053] and Diepkloof [AC/1998/0050]; assaults on police stations in Batho [AC/1997/0064], Dimbaza [AC/1999/0333], Lady Grey [AC/2001/057] and Yeoville [AC/1998/0050]), and an attack on what was assumed to be a police contingent at the Khayelitsha railway station [AC/1998/0103], which turned out to be a group of private security guards. The Committee granted amnesty to all applicants in each case.

Ambush on a police vehicle at Diepkloof

65. On 28 May 1993, APLA member Phila Martin Dolo [AM3485/96] commanded an APLA unit that attacked a police vehicle in Diepkloof near Johannesburg. One police officer, Constable Jacob Hlomela Mabaso, was killed and Sergeant Edward Nelushi was injured.
66. At the time of his application, Dolo was serving a life sentence on several convictions including murder, attempted murder and possession of arms, ammunition and explosives relating to the attack.
67. Dolo testified before the Committee that the attack was in retaliation for an act of aggression on the part of the security forces who had 'launched a national swoop on the offices of PAC' and arrested various members, including those in national leadership positions. In his affidavit he noted that: 'this act was seen as being provocative and a declaration of hostilities against the PAC ... which action had to be responded to'.
68. Dolo testified that he had received an instruction from the Director of Special Operations, Mr Sipho Bulelani Xuma (code-named 'Polite'), to launch operations

against the SAP in his area. He testified that he had been an APLA regional commander with several units under his command and that he had been deployed in the Gauteng area (then Transvaal) in early 1993.

69. The ambush of a police vehicle was planned with Messrs Peter Muchindu, Godfrey Mathebula, Musa (who later turned out to be an informer) and a fifth person. The group used a home-made bomb laced with nails and other explosives.
70. The Committee found that Dolo's actions were all within the ambit of the policies of APLA and PAC and that they were associated with a political objective. He was accordingly granted amnesty [AC/1998/0050].

Yeoville police station attack

71. Mr Dolo [AM3485/96] was also granted amnesty for an attack he ordered on the Yeoville police station on 30 May 1993, two days after the Diepkloof attack. Dolo gave Muchindu and Mathebula explosives and instructed them to carry out the attack. They travelled to Yeoville with fellow unit member Musa, but were intercepted by the police before they could reach their target. SAP member Ian Alexander was injured in an exchange of fire. Muchindu and Mathebula were arrested, convicted for the possession of explosives and sentenced to ten years' imprisonment each. Dolo said he learnt later that Musa had tipped off the police about the intended attack.

Khayelitsha railway station attack

72. In the early hours of 5 December 1992, four APLA operatives, including Mr Andile Shiceka [AM5939/97] and Mr Walter Falibango Thanda [AM5784/97], attacked the Khayelitsha railway station, killing Mr Jan Mbambo and injuring Messrs Cosmos Bhekumuzi, Jackson Mjakiya, Sandisile Ntshica and Sihlanu Mtamzeli, all black employees of the Springbok Security company.
73. The APLA operatives had believed that police officers would be present at the station and that there would be no civilians on the scene at that hour. When the attack began, security company personnel ran into a small room to take cover. The operatives continued firing at them through the closed door.
74. Shiceka had received orders from an APLA commander codenamed 'Power' (aka Mzala or Mandla) 'to carry out operations to attack members of then racist

South African Police, the South African Defence Force and other white people'. He was told that the purpose was 'to take the war to white areas and to steal by force weapons from the police and members of the Defence Force'.

75. Despite the fact that this was a botched operation in that the victims turned out to be neither whites nor members of the police, Shiceka and Thanda were both granted amnesty [AC/1998/0103] for their roles in the attack. The Amnesty Committee accepted that the attack was politically motivated and consistent with the political objectives of the PAC and APLA.

The story of Andile Shiceka

76. Born in Guguletu in Cape Town in 1969, Andile Shiceka joined the PAC and went into exile in 1989. He underwent military training in Tanzania and Uganda and returned to South Africa as an APLA combatant in 1992. He was then deployed to Cape Town by APLA commander 'Power' and given instructions to launch attacks on members of the security forces and white people congregated in 'white' areas. The Claremont restaurant attack (see below) was one such attack.
77. In addition to the Khayelitsha railway station attack, Shiceka was granted amnesty for attacks on the Claremont Steaks Restaurant in Cape Town and the Crazy Beat Disco in Newcastle in Natal. For this latter action, he had been charged, convicted and sentenced to 25 years' imprisonment in May 1994. With respect to the Khayelitsha railway station shooting, Shiceka had been charged with one count of murder and five counts of attempted murder. However, the matter never came to trial.

Attacks on the Cape Flats

78. Towards the end of 1992, three APLA operatives opened fire on a police vehicle travelling on Zola Budd Road in Khayelitsha near Cape Town, injuring one of its occupants. Mr Gcinikhaya Christopher Makoma [AM0164/96] and Mr Walter Falibango Thanda [AM5784/97] were granted amnesty [AC/1998/0103] for the attack.
79. On 8 September 1992, Mr Walter Thanda and two other operatives opened fire on a police officer (Mr Patrick Tutu) and a Spoornet employee (Mr Peter Dyani) who were on foot in the Crossroads area of Cape Town. Both were killed.

Before the operatives could search their victims for firearms, the lights of an oncoming vehicle shone in their direction, causing them to retreat hastily. Thanda only learnt that the victims had died when he returned to the scene the following day. He told the Amnesty Committee that he had reported the attack to 'Power' the following day and 'Power' had said he would claim it as an APLA operation.

80. On 12 January 1993, Thanda, Shiceka and others opened fire on a police vehicle travelling along NY108 in Guguletu, killing one passenger, a Constable Mkwanzazi, and injuring the driver, Sergeant Johannes Meyer. Thanda was arrested and charged, but the case was eventually dropped for lack of evidence.

The story of Walter Falibango Thanda

81. Born at Molteno in the Eastern Cape on 29 November 1960, Thanda became a member of the PAC Youth League and APLA in 1990. He told the hearing on the Crazy Beat Disco attack that he was motivated to join APLA because of the conditions under which African people were living.

Nobody dragged me to join APLA. I saw how our brothers were killed by white people together with the police and the soldiers, defending the apartheid system. So therefore nobody pushed me behind to go and join APLA, I personally joined APLA. (Hearing at Pietermaritzburg, 10 October 1998.)

82. Thanda came to Cape Town on the instruction of his commander, 'Mandla' (aka Power, Mzala or Jones). He was instructed to start an APLA base in Cape Town and launched a task force unit in 1991, the purpose of which was to provide military training to members and involve them in APLA operations thereafter.
83. Thanda applied for amnesty for the three above-mentioned attacks on members of the SAP and for the 1994 attack on the Crazy Beat Disco in Newcastle in Natal (see below). In the latter case, he was convicted and sentenced on 26 May 1994 to 25 years' imprisonment. He was granted amnesty for all incidents [AC/1998/0103 and AC/1998/0016].
84. Thanda is currently serving with the South African National Defence Force (SANDF).

The story of Gcinikhaya Makoma

85. Born in Cape Town on 20 January 1976, Gcinikhaya Christopher Makoma was sixteen years-old at the time of his involvement in the Khayelitsha police vehicle

ambush and the St James' Church attack in 1993 (see below). He was granted amnesty in both cases.

86. In December 1992, Mr Walter Thanda invited Makoma to a meeting with 'Africans who were introduced to him as PAC members'. Without giving details, Thanda informed the meeting that they were going to carry out an operation. He distributed two AK47 rifles and two R4 rifles to members of the unit and ordered them to inspect them to ensure that they were functioning properly. Thanda then instructed those present to follow him, which they did. Makoma told the Amnesty Committee that, 'because he (Thanda) was on the command structures of the PAC and a member of APLA, and I was his underling, it was not open to me to question his command.' (Hearing at Cape Town, July 1997.)
87. In the attack on a police vehicle on Zola Budd Road, Khayelitsha, Makoma was ordered to stand at one end of the road and to give a warning signal to the others when the police van approached.
88. Makoma testified to the Amnesty Committee that the instruction he received and carried out in respect of the St James' Church attack (see below) was to steal a motor vehicle for use in an undisclosed operation. On the way to St James' Church, Makoma was handed an R4 rifle and a hand grenade and ordered to accompany his commander, Mr Sichumiso Lester Nonxuba, into the church and to fire indiscriminately at the congregation. Makoma used his full R4 magazine of about thirty-one rounds of ammunition to shoot at the congregation. He testified that he had been trained not to question orders but to obey them at all times, and that the slogan 'one settler, one bullet' meant that 'any white person in South Africa was regarded as a settler and if we came across any settler during our operation, they had to be killed or injured'.

Attacks on civilians

89. The Amnesty Committee received a total of thirty-two amnesty applications for attacks on civilians. Twenty-four people were killed in these attacks and 122 seriously injured.
90. Most of these attacks took place between 1991 and 1994 and formed part of the PAC's 'Operation Great Storm'. In this campaign, the targets of APLA attacks were, on the one hand, white-owned farms in the Orange Free State, the Eastern Cape and areas bordering the Transkei and, on the other, public

places in urban areas identified as being frequented essentially by white civilians and/or white security force members.

91. Several PAC and APLA applicants were adamant that the attacks in which civilians were often killed were not motivated by racism. They testified that they targeted places believed to be frequented by whites because all whites were perceived to be complicit in the government's policy of apartheid.
92. All the amnesty applicants in these matters testified that they had acted on behalf of APLA. At a media conference during the amnesty hearings in Bloemfontein on 28 August 1997, Mr Letlapa Mphahlele, APLA Director of Operations, said that 'there was no regret and no apology offered' for the lives lost during 'Operation Great Storm' in 1993. He acknowledged his involvement in the planning and execution of the operation. He said that his 'proudest moment was seeing whites dying in the killing fields' and that the Commission's Amnesty Committee was a 'farce and a sham', which sought to 'perpetuate white supremacy'.
93. Amongst the operations directed at 'white' civilian targets were:

The King William's Town Golf Club attack

94. APLA operatives armed with hand grenades and automatic rifles attacked the King William's Town Golf Club on the night of 28 November 1992. At the time, the club was hosting an end-of-year dinner function. Four people – Mr Ian MacDonald and Ms Rhoda MacDonald, Ms Gillian Davies and Mr David Davies – were killed in the attack and seventeen others were injured.²⁰³
95. Four PAC/APLA members, Mr Thembelani Thandekile Xundu [AM3840/96], Mr Malusi Morrison [AM5953/97], Mr Thobela Mlambisa [AM7596/97] and Mr Lungisa Ntintili [AM6539/97], were all granted amnesty for their roles in the attack. Mr Xundu, who is now serving in the SANDF, testified before the Amnesty Committee that Mr Letlapa Mphahlele had sanctioned the operation. The weapons used in the attack were supplied by the Regional Commander based in Umtata, the late Mr Sichumiso Nonxuba. Morrison was instructed to deliver them to Xundu, which he did. The club was targeted because it was believed that security force personnel would attend a function on the night planned for the attack.

203 Volume Two, Chapter Seven, p. 688; Volume Three, Chapter Two, p. 146, and Volume Five, Chapter Four, p. 136.

96. At about 21h50 on the night of the attack, Xundu and Nonxuba entered the dining hall of the club and threw hand grenades and opened fire with R4 and R5 assault rifles. Two other operatives, who had been posted outside the building, threw petrol bombs and opened fire on the building. Mlambisa, the driver, was armed with a 9mm pistol.
97. The group split up the following day. A few days later, Xundu, Ntintili and another operative disposed of the stolen Jetta used in the attack along the Butterworth to Grahamstown road. The vehicle was pushed off the road and was found, burnt out, some time later.
98. The Amnesty Committee granted amnesty to the four operatives, accepting that the aim of attacks of this nature had been to impress on whites the need to abandon their support for the government of the day, and to make it clear that they would continue to be targets of such attacks unless there was political change in the country. Furthermore, the Committee was satisfied that the applicants had acted under the orders of Commander Mphahlele and that the act was committed in the course of the conflicts of the past.

Attack on the Steaks Restaurant in Claremont

99. An APLA unit opened fire on the Steaks Restaurant in Claremont, Cape Town, on 26 December 1992, injuring five people. Mr Malcolm Visser, the owner of the restaurant, was the only victim to be seriously wounded.
100. Amnesty applicant Mr Andile Shiceka [AM 5939/97] told the Committee that he and four others had stolen a Datsun bakkie and driven to the restaurant that night. After surveying the scene and deciding there would be few obstacles to an attack, he and an operative codenamed 'Scorpion' stood at the door of the restaurant and opened fire for about four to five seconds. They then ran back to the bakkie²⁰⁴ and drove to the home of one of the operatives in Khayelitsha where they abandoned the vehicle. They heard the attack reported on the radio news the following morning. Shiceka testified that he then telephoned 'Power' to report the operation and said that 'Power' told him that he would claim it as an APLA attack under the code name 'Bambata'.

204 A light open truck.

101. Ms Amanda Warner, one of the victims and a waitress at the restaurant at the time of the attack, opposed the application in an affidavit. She stated that, since the attack, she had suffered severe emotional trauma to the extent that she was no longer able to work as a waitress or even enjoy a meal at a restaurant for fear of being attacked. She also stated that she was unable to live alone for fear of being attacked and that she feared that her attackers would hunt her down and kill her. For all these reasons, she had decided to take up residence in the United Kingdom.
102. At the conclusion of the evidence Advocate Warner, appearing for Amanda Warner, addressed the Amnesty Committee. He conceded that the evidence disclosed that the offences committed by the applicants were associated with a political objective and were committed in the course of the conflicts of the past. He conceded too that the applicants held no personal malice or grudge against the victims of the attack and that they were engaged in the liberation of the African people from white oppression.
103. Mr Andile Shiceka was granted amnesty for the attack [AM5939/97 and AC/1998/0103].

Attack on Yellowwoods Hotel, Fort Beaufort

104. APLA members Nkopani Diaho-Monaheng [AM3828/96], Lungisa Mziwonke Ntintili [AM6539/97] and Vuyisile Brian Madasi [AM6077/97] were granted amnesty [AC/2000/225] for an attack on the Yellowwoods Hotel at Fort Beaufort in the Eastern Cape on 20 March 1993, in which Mr John Jerling was shot and died instantly.²⁰⁵
105. Mr Madasi, who acted as commander of the operation, told the Amnesty Committee that he had received instructions from a member of the APLA High Command, the late Mr Sichumiso Nonxuba, to go to Fort Beaufort to carry out an attack at the Yellowwoods Hotel, which had been identified as a place frequented by members of the SADF, particularly on weekend evenings.
106. The following Friday, Madasi, one 'Nceba' (who was to drive the getaway vehicle for the attack and was not part of this amnesty application) and Diaho-Monaheng hijacked a red Langley vehicle from an unknown driver in Mdantsane.

²⁰⁵ Volume Two, Chapter Seven, p. 689.

They drove to Alice where they collected weapons. (Ntintili confirmed to the Committee that he had supplied the other applicants with the arms in terms of orders from APLA.) They then drove to Fort Beaufort but found the hotel closed. They returned to Mxhelo Village where they left the weapons and abandoned the hijacked vehicle near Alice.

107. A week later, on 20 March, they hijacked a Nissan Sentra vehicle belonging to Mr Kenneth Mashalaba. Promising not to damage the vehicle, the applicants released Mr Mashalaba and his passenger, Ms Virginia Khatshwa, between Alice and Fort Beaufort.
108. On their arrival at the hotel, Nceba parked the car and he and Madasi positioned themselves at the front door to prevent anybody from escaping. Diaho-Monaheng positioned himself at the window.
109. The applicants then opened fire on the patrons who were drinking and playing darts in the bar. The shooting lasted for about three minutes, after which the applicants retreated. The following day they left for Transkei where Madasi reported to 'Power' and Letlapa Mphahlele, members of the APLA High Command.
110. As it turned out, the hotel was not frequented by SADF members as the applicants had believed. The patrons were youthful civilians with no ties to the security forces. All except Mr Jerling escaped serious injury. At the hearing, the mother of the deceased, Ms Anna Jerling, testified that her son had no interest in politics and was still a student. He was eighteen and had friends across the racial spectrum. When he was killed, the family received condolences and messages of support from members of the local ANC Youth League.
111. Amnesty was granted as the Amnesty Committee was satisfied that the applicants were acting on the instructions of the PAC and APLA and that their actions were in line with the policies and activities of these organisations.

Attack on St James' Church, Kenilworth

112. Eleven people were killed and fifty-eight wounded when APLA operatives opened fire with automatic rifles and threw hand grenades at worshippers in St James' Church, Kenilworth in Cape Town, at approximately 019h30 on 25 July 1993.²⁰⁶

206 Volume Two, Chapter Seven, p. 686, and Volume Three, Chapter Five, p.505.

113. Those killed were Mr Guy Javens [CT00620/SOU], Ms Denise Gordon [CT01124/SOU], Ms Marita Ackerman [CT02922/SOU], Mr Richard O'Kill [CT03029/SOU], Ms Myrtle Smith [CT03029/SOU], Mr Gerhard Harker, Mr Wesley Harker, Mr Oleg Karamjin, Mr Andrey Kayl, Mr Valuev Pavel and Mr Valentin Varaska. The last four were Russian sailors.
114. PAC/APLA members Mr Gcinikhaya Makoma [AM0164/96], Mr Bassie Mzukisi Mkhumbuzi [AM6140/97] and Mr Tobela Mlambisi [AM7596/97] applied for amnesty for the attack [AC/1998/018]. Mr Letlapa Mphahlele, who initially applied for amnesty for the same incident, failed to appear at the hearing. On the second day of the hearing, the Amnesty Committee heard via the press that his failure to appear at the hearing was in protest against the Commission's lack of objectivity. Mr Mphahlele's application was accordingly set aside.
115. At the hearing on 9 July 1997, Mr Mkhumbuzi testified that his unit leader, the late Mr Sichumiso Nonxuba, had selected the target because 'whites were using churches to oppress blacks' and whites 'took our country using churches and bibles. We know and we have read from books that they are the ones who have taken the land from us'. The applicants testified before the Amnesty Committee that killing white people would 'put pressure on the white government to return the land to the African people'.
116. The Amnesty Committee heard testimony that Makoma and Mlambisi stole a vehicle on Nonxuba's orders on 25 July 1993. The applicants testified that they had no prior knowledge of the operation until they actually arrived at the church. Although the target was not disclosed, the unit prepared for the attack during the week before it took place. Mkhumbuzi was instructed to travel to the Transkei to procure weapons and ammunition from members of the APLA High Command. He was given two R4 rifles, 365 rounds of R4 ammunition, three M26 hand grenades and R200. He took these in a bag to a house in Khayelitsha and reported this to Nonxuba. The day before the attack he was ordered to prepare four petrol bombs for use in an operation that was to take place the following day. This he duly did.
117. At 18h00 the attackers convened at a taxi rank and drove to the church. Nonxuba still did not reveal any details about the target but simply told the others that Mkhumbuzi would be 'security', Mlambisa the driver, and that Nonxuba and Makoma would enter the target building. Makoma testified as follows:

When we entered the church, Nonxuba led the way and as we entered we were in a passage which led to the main doors. People were walking up and down the passage. We left off the passage for a few seconds and then Nonxuba said we will enter through the main doors. Nonxuba then told me to throw the hand-grenade and to shoot to kill. Nonxuba led the way and we then burst through the doors of the church. Nonxuba first threw his hand grenade (he was on my left hand side) and then I threw mine. As the hand grenades exploded, we took cover behind the doors, re-entered and, while the people inside were screaming, we started to shoot. We shot indiscriminately and I finished my full R4 magazine, some thirty-one rounds of ammunition. We had also heard a shot outside and a car screeching. We went back into the passage to re-load for our later protection. Inside the church one of the churchgoers had also fired at us... (Cape Town hearing, 9 July 1997.)

118. When they came out of the building, Mkhumbuzi was supposed to throw the petrol bombs into the church. He did not do so because

I heard a grenade and gunshots and then saw a red car stopping in front of us, apparently to block us. I got out of the car and threw a petrol bomb at the car and Mlambisa got out and shot at the car causing the car to speed away. Then Nonxuba and Makoma came out of the church, jumped into the car and we immediately sped away. (Cape Town hearing, 9 July 1997.)

119. After the attack, Mlambisi drove the operatives to a house in Ottery where he left Nonxuba and Makoma. He and Mkhumbuzi then drove to a nearby scrap-yard, left the car there and returned to the house on foot. Later that night, they saw a CNN television report about what had happened in the church.

120. Makoma was arrested on 5 August 1993. He was charged and convicted on eleven charges of murder and fifty-eight charges of attempted murder and sentenced to 237 years' imprisonment. The trial court found that a palm print on the interior surface of the left rear window of the stolen car linked Makoma to the crime. Bloodstains on the print were of the same blood group as Makoma's. DNA tests showed a very high degree of probability that the blood found in the Datsun was his.

121. Mlambisi returned to the Transkei when he heard of Makoma's arrest. He himself was arrested at Tempe, Bloemfontein, on 25 January 1996. Mkhumbuzi, who had also returned to the Transkei, was arrested in February 1996 while already in custody in connection with a charge of armed robbery.

122. Mr Dawie Ackerman, whose wife was killed in the attack, opposed their amnesty applications. There was also opposition from Mr Lorenzo Smith and Mr Dimitri Makogon, who had lost an arm and both legs in the attack. Both Messrs Ackerman and Smith argued that the applicants had not fully disclosed the nature of the facts of their participation in the attack and, further, that the offences were disproportionate to the political objectives of the PAC.
123. They also contended that, because APLA's Director of Information denied at the time that the attack was an APLA operation, it could not have accorded with the political objectives of the PAC. Furthermore, they pointed out that Mr Barney Desai of the PAC had accused the so-called 'third force' of mischievously connecting the attack with the PAC's military wing in order to derail negotiations which were then underway and in which the PAC was a participant.
124. The Amnesty Committee considered these arguments but concluded that many political parties or liberation movements could have decided to deny involvement in this incident because they might have considered it strategically and politically wise and expedient to do so, and that accordingly the statements distancing the organisation from the attack needed to be viewed within the political context that prevailed at the time.

In our view what is of cardinal importance is the fact that both the PAC and APLA have acknowledged in their submissions to the TRC in 1996 and 1997 respectively that the St James attack was one of the authorised operations carried out by APLA. [AC/1998/0018.]

125. The victims also disputed the legitimacy of APLA's claim that it had directed the attack against a white congregation in a white suburb of Cape Town. According to Mr Ackerman, the congregation was about '35 to 40 per cent people of colour and the others so-called whites' on the night of the attack. However, counsel for the applicants argued that the operatives had assumed that all the churchgoers would be white because St James was in a white group area, but that they had obviously been wrong in their assumption. Mr Arendse, for the applicants, went on to say:

We will also submit that the acts were performed in the execution of an APLA High Command order; that having regard to the political context at the time, that the offences were directly proportionate to the political objectives sought to be achieved by APLA and lastly, Mr Chairman, that the offences were not committed

for personal gain and were not done out of personal malice, ill-will or spite against any of the deceased or the victims concerned. (Cape Town hearing, 9 July 1997.)

126. Survivors of the attack gave vivid accounts of the sequence of events in the church that evening. They also described the effects of the attack on them as individuals, on their families and on their subsequent ability to function effectively in their work environments and communities. The Amnesty Committee heard of the extreme psychological and emotional consequences of the attack on individuals and on the congregation. Yet all the victims spoke of their ability, deriving from their strong Christian convictions, to forgive the attackers and to move on with their lives. Mr Dawie Ackerman told the Committee:

I went on record after the event to say that I hold no personal grudge: that I do not hate them and I stand by that. I also held out reconciliation to them, and I believe with all my heart because I've experienced reconciliation with God, through Jesus Christ, that it is available to everybody, including to them. And I held that out to them at the time and I still do so now. ... It was a release to me to go there and to be where she was killed. And as the time unfolded, and the Truth Commission started up and I heard the testimonies of my fellow Black South Africans, who had been subjected to the treatment that they had. And parents and mothers, brothers asked, telling where is my son, where is my father, and we know now that some of them were buried in a farm somewhere in the Free State, some were thrown in rivers in the Eastern Cape – because I know the value of going back to the place where it happened, I appeal to the agents of the government, whoever they might be, to come forward and to identify what they had done, where they did it, at least give them also the opportunity to grieve where it happened. (Cape Town hearing, 9 July 1997.)

127. Mr Ackerman requested that the Committee allow him to address the applicants directly at the hearing:

May I ask the applicants to turn around and to face me? This is the first opportunity we've had to look each other in the eye and talk. I want to ask Mr Makoma who actually entered the church – my wife was sitting right at the door when we came in, where you came in, she was wearing a long, blue coat; can you remember if you shot her?

MR MAKOMA: *I do remember that I fired some shots, but I couldn't identify, I don't know whom did I shoot or not, but my gun pointed at the people.*

MR ACKERMAN: *It is important for me to know if it is possible, as much as it is important for your people who suffered, to know who killed. I don't know why it is so important for me, but it just is. If you don't remember, I will accept that. I have heard you through your attorney say and into the microphone, apologise and I have also heard your leadership extend an invitation to my church leadership which is still required, I think, to be considered, that they want to come to our church to offer condolences and they said that they would bring you along, whether or not you receive amnesty in a show of reconciliation. I would like to hear from each one of you, as you look me in the face, that you are sorry for what you have done, that you regret it and that you want to be personally reconciled. You can speak in your own language directly to me; you don't have to worry about the microphone.*

MR MAKOMA: *We are sorry for what we have done. It was the situation in South Africa. Although people died during that struggle, we didn't do that out of our own will. It is the situation that we were living under. We are asking from you, please do forgive us. All that we did, we can see the results today.*

MR MLAMBISA: *I am also asking for an apology. As we were working under orders, we didn't know that this will come to such a place. We wanted to be where we are today. We were working under the orders. As the TRC is alive today, we hope that this will come to an end. I hope that you do forgive me, because I ask for forgiveness. Thank you.*

MR MKHUMBUZI: *I also want to say I do apologise to those people who were in the church at that time, while there was that shooting. We also thought that we would meet with the church members, those who were there. Even if we can also go to the church to show that we want reconciliation with them under the circumstances that we were, I also say please forgive me to everybody who is White and Black, who are in this new South Africa. Thank you.*

MR ACKERMAN: *I want you to know that I forgive you unconditionally. I do that because I am a Christian and I can forgive you for the hurt that you have caused me, but I cannot forgive you the sin that you have done. Only God can forgive you for that ... (Cape Town hearing, 9 July 1997.)*

128. The Amnesty Committee accepted that the applicants were APLA members. It found no evidence to suggest that Nonxuba did not command the operation; nor that the applicants had themselves selected St James' Church as a target. It accepted that the applicants had carried out the operation on orders from their commanders. The Committee was satisfied that the applicants had complied with all the requirements of section 20(1) of the Promotion of National

Unity and Reconciliation Act, Act 34 of 1995, (the Act), and amnesty was accordingly granted [AC/1998/0024].

Attack on Riverside Lodge, Ladybrand

129. On 16 September 1993, a unit of four APLA operatives threw hand grenades and Molotov cocktails at the Riverside Lodge, outside Ladybrand in the Orange Free State, near South Africa's border with Lesotho. Nobody was injured in the attack.
130. APLA member Nkopane Diaho-Monaheng [AM3828/96] applied for amnesty for the attack. He testified before the Amnesty Committee that, as a regional commander, he was under orders from the Deputy Director of Operations of APLA to 'drive white people from the land because it did not belong to them'.
131. In line with this policy, Diaho-Monaheng identified two farms in Fouriesburg and the Riverside Lodge outside Ladybrand for attack. The Lodge was also chosen as a target because it was believed that it was frequented by members of the security forces on border duty. The applicant also had information that the AWB was having a meeting there. In the event, the meeting APLA believed was going to take place had either finished or did not take place at all.
132. Satisfied that full disclosure had been made and that the applicant had acted within the dictates of PAC and APLA policy at the time, the Amnesty Committee granted Mr Nkopane Diaho-Monaheng amnesty [AC/2001/0102] for the attack.

Heidelberg Tavern attack

133. Three women were killed and six people injured when two APLA operatives opened fire on patrons in the Heidelberg Tavern in Observatory in Cape Town on 31 December 1993. Another person was killed and one injured when the attackers fired on two people outside a neighbouring restaurant as they were making their escape.²⁰⁷
134. The three people killed in the tavern were Ms Rolande Palm [CT00415], Ms Lindy-Anne Fourie [CT02703] and Ms Bernadette Langford [CT00415]. Mr Jose 'Joe' Cerqueira was also shot dead and Mr Benjamin Broude was shot and injured when they ran out of a neighbouring restaurant into the street.

207 Volume Three, Chapter Five, p. 507.

135. APLA members Luyanda Gqomfa [AM0949/96], Zola Mabala [AM5931/97] and Vuyisile Madasi [AM6077/97] applied for amnesty for the attack. They had been found guilty in December 1993 on four counts of murder and five counts of attempted murder and sentenced to terms of imprisonment ranging from 24 to 27 years.
136. The applicants argued that they had acted on instructions from the APLA High Command in executing the killings at the Heidelberg Tavern. Gqomfa testified before the Committee that he had received an order to launch the attack from Mr Sichumiso Nonxuba and Mr Letlapa Mphahlele on the grounds that the tavern was frequented by members of the security forces.
137. At the amnesty hearing, Mr Bulelani Siphon Xuma also claimed to have been amongst those who gave the order. He gave evidence before the Committee as follows:

On behalf of the High Command of APLA, in my capacity as the member or members of High Command of APLA, the Deputy Director of Operation and Head of Special Operations, I have nothing to hide, affirm unashamedly with pride that Brian Vuyisile Madasi who happened to be Unit Commander, Humphrey Luyanda Gqomfa and Zola Mabala, in an order group attended by myself and the late comrade Sumiso Nonxuba, were given clear and loud orders to conduct attacks in Cape Town. Suffice to say that the Heidelberg Tavern was attacked as a result of orders given by me in my capacity as APLA's Head of Special Operations. According to intelligence reports prior to the attack, we learnt that the Heidelberg Tavern was a regular relax-in for South African police members. (Cape Town hearing, 28 October 1997.)

138. Gqomfa testified that Nonxuba brought Madasi and Mabala to his house on 13 November 1993. He said that he was the only person to be told what the targets were and that he notified the other members of the unit only on the morning of the attack.

139. The Amnesty Committee described the attack on the Tavern as particularly brutal.

It appears from the evidence and the other information available to us that the tavern was a place largely used by students and other young people, and that those who made use of its facilities were not only members of the white community, that is the people frequently referred to as 'settlers' by APLA members. Of the three young ladies killed, only one was White; the other was Coloured

and the third was an Indian. It is quite clear that they intended to kill as many people as possible. The evidence was that nails had been glued onto one of the grenades to increase the lethal effect of the explosion. After their arrival at the tavern, shots were fired into the tavern using automatic weapons, and a rifle grenade was fired which did not explode. [AC/1998/026.]

140. In an interview with members of the Amnesty Committee, APLA's Director of Operations Mr Letlapa Mphahlele said he accepted responsibility for the attack on the tavern. The fact that APLA took overall responsibility for operations was confirmed in its submission to the Commission:

It should, therefore, not surprise anyone that targets like the St James Church, King Williams Town Golf Club, Heidelberg Tavern etc. were selected. The leadership of the APLA takes full responsibility for all these operations. The APLA forces who carried out these operations followed the directives from their commanders and those directives were from the highest echelons of the military leadership. We do not therefore regret that such operations took place and there is therefore nothing to apologise for.

141. Gqomfa said he did not carry out the operation for personal gain. The aim of the attack was to take back from whites land that had been taken from the African people through violent means. This would be achieved because the government would sit up and take notice of African people's demands in the light of ongoing attacks on white people. He said he was aware that the PAC was involved in the negotiations process at the time; but was also aware that the PAC had resolved at its December 1993 Congress to intensify the armed struggle through APLA. He said that he did not see any contradiction in the PAC (as a political party) negotiating while its armed wing, APLA, was engaged in furthering the armed struggle. He testified under cross-examination:

As APLA soldiers, we are members of PAC, which is the mother body. The political direction which was taken by the country, did not affect me. As soldiers we had to fight the war. Our political leadership did not say that we must stop fighting it; we could not stop fighting then. As soldiers, if an order had not come that we must stop fighting, we could not have stopped. PAC had not reached that decision at that time, that we must stop fighting. We were following orders accordingly. (Hearing at Cape Town, 27 October 1997.)

142. Gqomfa conceded at the hearing that, during their political and military training, APLA soldiers were never briefed on the codes of guerrilla warfare or international

humanitarian law insofar as they related to the killing of civilians. Indeed, former APLA member Brigadier Fischla told the Committee that:

The fact of the matter is that we did not consider any international humanitarian law. At no stage did we in our camps educate our forces about international humanitarian law. The first time I understood what international humanitarian law is, is when I integrated into the South African National Defence Force and that is when I got the meaning of what international humanitarian law is. And what I discovered also when I integrated into the SANDF is that equally the former SADF did not even know what international humanitarian law was. (Cape Town hearing, 27 October 1997.)

143. Gqomfa testified that it made no difference if a given order involved killing soldiers, police or civilians. He said that APLA drew no distinction between so-called 'soft' and 'hard' targets. Asked if, as a commander, he had any discretion to break off an attack once it was realised that the targets could not advance a political objective, Gqomfa testified that he was expected to comply with any order. He was not expected to change orders or to defy them.
144. Relatives of the deceased and survivors of the attack expressed their opposition to the applications for amnesty for reasons similar to those expressed by the victims of the St James' Church attack. Many chose to address the applicants directly at the hearing.
145. Mr Quentin Cornelius was severely injured in the attack, as a result of which he lost his right kidney and up to 60 per cent of his intestines. Today he is a paraplegic and in constant need of both physiotherapy and psychotherapy. He asked the applicants:

The question is – and I am looking at each one, every single one of you now, directly across this table – I want to know from each one of you and your leaders, to explain to us why this was done, if there was any logical reason for what you have done, to launch a senseless terrorist attack on a pub with young, cheerful, innocent students at a time in South Africa's history when we were already on the road to democracy after you had all accepted and taken part in the accepting of an interim constitution on the 3rd of December? Is there any reason, sensible reason, why you had to still continue with something like that? Could you not think for yourself? (Cape Town hearing, 27 October 1997.)

146. Gqomfa replied that he thought that Cornelius had been indoctrinated in a way that led him to refer to them as 'terrorists'. They were not terrorists but freedom fighters. Gqomfa added:

[I]t is the person who is in a position of oppression that feels the oppression. He refers to this as having been senseless: it is because he did not feel the pain that we were under. If he was in my shoes, he would not speak the way he is speaking now. ... We had to continue the war until the political leadership, our political leadership, PAC, gave a command that we must stop fighting. Our political leadership had not given the command that we must stop fighting. I think that should be clear, this is why we acted the way we did. We were not subordinated to the ANC or the National Party; we were subordinated to the PAC. This is how I propose to answer the question. (Cape Town hearing, 27 October 1997.)

147. The mother of one of the deceased victims, Mrs Langford, wanted to know if the applicants could remember how they felt about attacking apparently unarmed young people who appeared to be enjoying themselves:

I'm going to ask you another question Mr Madasi. I need to know, I really need to know how you felt when you saw what you had done to human life. I really, really need to know that because, can you remember their faces maybe? Can you remember how shocked they looked? Can you remember when they fell? Can you remember anything about that, when that happened; because I ask you this for the simple reason because, when you got away, you showed much more feeling for the vehicle – that the vehicle shouldn't be damaged – yet you'd just come away from showing no feeling towards life. I need to know how can one go from one kind of a feeling to another in the same instance, the same happening. I need to know how you can cope with that: how did you feel and how do you feel now? (Cape Town hearing, 28 October 1997.)

148. Madasi said that, while he knew that nobody had the right to take another's life, the conditions under which people were living at the time were such that many members of the oppressed had shed their blood. Oppressed people felt the pain of losing a loved one equally.

149. Mrs Clarissa January, the mother of Mr Michael January, who survived the attack, asked why the applicants appeared to show no remorse whatsoever – which would have given the victims some sort of comfort.

You have only spoken of the orders and the killings that you have done. I understand a great deal of your suffering – we have also suffered; but I think it's about time that you must face us and ask us directly for forgiveness. That's all I want to say to you or ask you – if there is an answer. (Cape Town hearing, 28 October 1997.)

150. Mr Madasi replied:

I greet you Madam. I'm glad for this opportunity to meet you and the people that lost so much from this matter. The fact of what you're saying – that we're not showing remorse or empathy – we are human beings, we are also sons to our fathers given birth to by our mothers. I know that a person survives in this world or makes it because of the support of other people. You perhaps look at me and think that I'm not showing remorse. However, our families know us well – I know that people who ...[indistinct] closely with us in connection with this matter. They would tell you how much remorse we are experiencing. If we did not, we would not be here even at this moment. This would show that we do not care about you, you can feel however you feel. To show and to demonstrate that, as the people we are, we feel remorse, we are here to ask for forgiveness. I know that forgiveness is not a small matter, no matter how small the offence. However, if somebody's asking for forgiveness, forgiveness is forgiveness – you must know that if the person is asking you for forgiveness they mean it. If we did not want to show remorse, we would not be here. I don't know whether we've answered – I've answered the question. (Hearing at Cape Town, 28 October 1997.)

151. Mr Roland Lewis Palm lost his twenty-two year old daughter, Ms Rolande Lucielle Palm, in the attack. He told the applicants that the irony of his daughter's death was that she was not a white person:

I say to the PAC and APLA and to the applicants, you killed the wrong person. Rolande was also joined in the struggle against the injustice for the apartheid system particularly in education. You simply ended her life as if she was a worthless piece of rubbish. You say you did so to liberate Azania. I say you did so for your own selfish and criminal purposes. You prevented Rolande from helping rebuild our broken nation which, if you had simply waited another few months, in fact came to pass when we had free elections.

Your commander Brigadier Nene stated that it was difficult to control the forces on the ground due to lack of proper communication and proper political training. These are simply empty excuses that in fact expose APLA for what it was: an

unguided missile, out of the control of the PAC, at loggerheads with each other and unable to accept the political decisions of their political masters.

If proper planning and surveillance had been done, APLA would have discovered the following: (1) the tavern catered for a multiracial clientele; (2) the predominant patrons were young students from the UCT; (3) the Tavern did not cater exclusively for military personnel, nor could be described by any intelligent person as a military target where arms could be obtained; (4) its resident musician was Josh Sithole, a black man who was loved and respected throughout the country by multiracial audiences countrywide and who was entertaining the patrons at the time of the attack; (5) a better 'military target' which fulfilled their criteria was the Woodstock Police station a short distance away.

*APLA, as well as the applicants, cannot be truthful when they state that by murdering patrons at the Heidelberg Tavern was a **bona fide** act associated with a political objective. (Cape Town hearing, 31 October 1997.)*

152. Mr Francisco Cerqueira, brother of the deceased restaurateur, Mr José Cerqueira, appeared before the Committee to register his opposition to the amnesty applications on the grounds that he believed the applicants had falsely implicated his brother when they testified that he had opened fire on the getaway vehicle outside his restaurant.
153. The Amnesty Committee viewed the two incidents as part and parcel of the same attack. There was some doubt as to whether Mr Cequeira had fired shots at the attackers as no traces of powder were subsequently found on his hand. The Committee accepted, however, that the applicants were under the impression that they were being attacked when they shot in his direction.
154. The Committee also heard argument from and evidence led by counsel for Commissioner Dumisa Ntsebeza, head of the Truth and Reconciliation Commission's Investigation Unit. Mr Ntsebeza was implicated in the attack when a Mr Bernard Sibaya claimed that the Commissioner's car had been used by APLA members. Sibaya later confessed that he had been blackmailed by the police into naming Ntsebeza.²⁰⁸
155. The Amnesty Committee concluded that the three applicants in this matter had complied with the requirements of the Act and demonstrated that they were

208 Volume Three, Chapter Five, p. 508.

quite clearly acting on behalf of APLA, which was engaged in political struggle against the state at that time. The Committee found that the applicants had not acted for personal gain or out of personal malice, ill will or spite directed against the deceased and the victims. They had no knowledge of the victims and had merely been sent by their organisation to act on its behalf.

156. Mr Luyanda Gqomfa, Mr Zola Mabala and Mr Vuyisile Madasi were granted amnesty for the Heidelberg Tavern attack [AC/1998/026].

The Crazy Beat Disco attack

157. Ms Gerbrecht van Wyk was shot dead and at least two other people were injured when APLA operatives fired shots through an iron grid at the entrance to the Crazy Beat Disco club in Newcastle, Natal, on 14 February 1994.

158. APLA members Walter Falibango Thanda [AM5784/97] and Andile Shiceka [AM5939/97], and PAC member Bongani Golden Malevu [AM0293/97] applied for amnesty for the attack. All three had been convicted on 26 May 1994 on charges arising from their roles in the attack. Thanda and Shiceka had been sentenced to 25 years and Malevu to ten years; both were serving prison terms at the time of their amnesty hearing.

159. In their evidence to the Amnesty Committee, the applicants testified that they had been sent by their commanders in the Transkei to Newcastle to 'identify areas where whites gather'. They said they targeted the disco because it was frequented by white patrons. They had initially targeted a restaurant in the area. However, when they arrived at the restaurant on the night of the attack, they saw a number of black people in the vicinity and decided to attack the discotheque instead.

160. Thanda was the commander of the small unit that planned and carried out the attack. He testified that he reported to his commander 'Power' from time to time in order to keep him up to date with the developments. Asked why he did not question the order, he responded, 'it was not for one to do so; if one had any question to ask, it would only be after the execution of instructions'.

161. In May or June 1993, Mr Malevu received information from a member of the High Command in Transkei that APLA would be taking its struggle to Natal. He was given arms to transport to the Newcastle area. He also helped transport

the other applicants to a point where a vehicle was forcibly taken from its owner for use in the attack. Like his comrades, Malevu testified that white people were targeted because they were regarded as political oppressors. If they attacked white people, the government would take them seriously; white people were the ones who could persuade the government to change.

162. The Amnesty Committee challenged the applicants on the issue of whether race was a factor in the selection of the target:

ADV PRIOR: *I must put to you the question ... that the reason for not attacking the restaurant and attacking the disco instead seemed to be a decision which smacked at racism. You weren't prepared to injure anyone other than white people. Could you comment on that? Was that part of your motivation in attacking the discotheque?*

MR SHICEKA: *Mr Chairman, APLA is not a racist organisation. I think you are aware that whites were oppressing us; that was the race that was oppressing us. We didn't attack white people because we hated white people; we don't hate white people. Even the documents of the PAC clearly state that those who are accepting a democratic goal in Africa should be recognised as Africans. We didn't attack the Crazy Disco because we are racist. Right from the foundation of the organisation we are not a racist organisation. However, the situation in which we had to live created a conflict between a white person and a black person: it's not that we are racist. (Pietermaritzburg hearing, 9–11 February 1998.)*

163. In his defence, Mr Shiceka argued that, although he regretted the attack, he did not regard the operation as a success, as only one person was killed. He said that whites were the only oppressors and that this is why they were targeted. For this reason, he denied that his action smacked of racism.

164. In argument, counsel for the applicants offered three reasons why the Committee should not find that the attack had been a purely racist act:

MR ARENDSE: *Firstly, the applicants, on the uncontested evidence were foot soldiers carrying out orders; that is not disputed. They were not part of the APLA hierarchy or High Command which, it is well established, made the policy decisions and decided on matters of strategy. For the same reason that Brian Mitchell or Coetzee or any other ex-South African Defence Force soldier wasn't part of the inner ...[indistinct] of Botha's cabinet making decisions to pursue cross-border raids, etc.*

Secondly, the struggle for liberation in this country inevitably had to have a racial dimension and the reason for that is quite simple and very glaring; and we don't need evidence for that because the applicants lived through it.

Black people in this country lived through it who were born here. They were governed by whites; they were controlled by whites; they were suppressed by whites, and the overwhelming majority of the white electorate voted in the same government repeatedly by, in fact, increased majorities as we moved towards the April 1994 election.

So that was an inevitable part of the history of this country. Now it's very important that our Parliament, a democratic elected Parliament, recognised this by making the cut-off date the 10th of May 1997. It recognised, the law makers recognised, that we were engaged in a racial struggle up to that point. And the 14th of February falls within that cut-off date.

Then just thirdly, again on a parity of – because this is what this Committee must do, this is what the Commission as a whole must do is to be even-handed and to treat people in the same fashion. The apartheid government targeted overwhelmingly black people. Coetzee was told to get rid of Griffiths Mxenge and he did so very effectively. Griffiths Mxenge was a well-known human rights activist but he was a black civilian. Brian Mitchell committed the Trust Feeds murder where he killed innocent black young men, woman and children; he slaughtered them. Those were civilians and both of them got amnesty. (Hearing at Pietermaritzburg, 9–11 February 1998.)

165. The applicants expressed their remorse at the hearing and their desire to meet the family of the victim and ask for their forgiveness. They said that they wished to explain to the family that the act was carried out on instructions and that, as soldiers, they had no option but to obey them. The victim's mother declined to attend the proceedings, preferring instead to leave the decision in the hands of the Amnesty Committee.
166. The Amnesty Committee deliberated about whether or not this was an APLA operation. It noted that two of the applicants did not live in Natal and that they had not known one another at all until they met for the purpose of carrying out the operation. This gave credence to their story that they were brought together by their military commander 'Power', who was known to all of them. The victims of the attack were also not known to them and they derived no personal benefit from the attack. In considering why strangers should come together and trust each other in order to plan such an operation, the Committee reached the inescapable

conclusion that the operation must have been ordered and co-ordinated by APLA. The Amnesty Committee also noted that, at a meeting in Umtata before the incident (the meeting at which Malevu was given the weapons used), the PAC had passed a resolution not to suspend the armed struggle. Despite this, it accepted that APLA was autonomous in military matters.

167. Mr Walter Falibango Thanda, Mr Bongani Golden Malevu and Mr Andile Shiceka [AM5939/97] were granted amnesty for the attack [AC/1998/0016].

The killing of Amy Biehl

168. In April 1994, PASO members Mongezi Christopher Manqina [AM0669/96], Vusumzi Samuel Ntamo [AM4734/97] and Mzikhona Easy Nofemela [AM5282/97] were convicted of killing American Fulbright scholar Amy Elizabeth Biehl in Guguletu, Cape Town, on 25 August 1993. They were each sentenced to 18 years' imprisonment. Subsequently, in June 1995, Mr Ntobeko Ambrose Peni [AM5188/97] was also convicted of the offence and sentenced to 18 years' imprisonment.²⁰⁹

169. The four applied for amnesty. The Amnesty Committee heard that, on the afternoon of her death, Amy Biehl was giving three colleagues a lift in her car with a view to dropping some of them off in Guguletu, when her vehicle came under attack by people running towards it and throwing stones. The stones smashed the windscreen and windows of the car. One of the stones hit Ms Biehl on her head, causing her to bleed profusely. She could not continue driving and climbed out of her car and ran towards a garage across the road. Her attackers did not relent, but pursued her, still throwing stones. Manqina tripped her, causing her to fall. By now she was surrounded by between seven and ten people who stoned and stabbed her. She died as a result of her injuries.

170. The Amnesty Committee heard that the four applicants were amongst those involved in the attack. Peni admitted to having thrown stones at Ms Biehl from about three to four metres away. Manqina stabbed her with a knife and threw stones at her. Nofemela threw stones at her and stabbed her three or four times. Ntamo threw many stones at her head from a distance of only a metre away. They stopped attacking her only when the police arrived at the scene.

209 Volume Three, Chapter Five, p. 509.

171. The attack on the car driven by Amy Biehl was one of many incidents in the area that afternoon. Bands of *toyi-toying*²¹⁰ youths had been throwing stones at delivery vehicles and cars driven by white people. A delivery vehicle had been pushed over and set alight. Only the arrival of the police prevented further damage.
172. The applicants explained their behaviour in the following way. They testified that earlier that day they had attended a meeting at the Langa High School, where a PASO unit had been re-launched. Peni had been elected chairperson at the meeting. Manqina was vice-chairperson of the PASO unit at the Gugulethu Comprehensive School and Nofemela was a PASO organiser at the Joe Slovo High School. The meeting was addressed by Mr Simpiwe Mfengu, the Regional Secretary of PASO; Mr Wanda Madubula, the Regional Chairperson of PASO, and many other speakers. The applicants told the Committee that speakers dealt with various issues: the strike by teachers in the Western Cape who were demanding recognition for the South African Democratic Teachers Union (SADTU); the struggles of APLA for the return of the land to the African people, and the fact that APLA had declared 1993 as the 'Year of the Great Storm'. Reference was also made to the launching of 'Operation Barcelona', aimed at stopping all deliveries into the townships.
173. The speakers urged PASO members to take an active part in the struggle of APLA by assisting APLA operators on the ground to make the country ungovernable. The speeches were militant and punctuated by frequent chanting of the slogan 'one settler, one bullet'.
174. The applicants testified that they were so inspired by the speakers that they left the meeting in a militant mood. They marched through the township toyi-toying and chanting slogans, determined to put into effect what they had been urged to do. This, they testified, is how they became involved in the killing of Amy Biehl.
175. Referring to this incident in its testimony to the Amnesty Committee, the PAC stated:
- On the Amy Biehl issue, we wish to state that PASO was not a part of APLA. They are a component part of the PAC not involved in armed struggle. This act occurred in the context of a strike for recognition by South African Democratic Teachers Union (SADTU) in the Western Cape. To support the strike, 'Operation Barcelona' was launched to stop deliveries from towns into the townships.*

²¹⁰ The toyi-toyi is a revolutionary dance.

Although the PAC was not involved, PASO acted in solidarity with their teachers and with COSAS. They wrongly targeted and killed Amy Biehl. We expressed our regret and condolences to Amy Biehl's family in a letter to the United States Ambassador. We restate this position yet again through the TRC. But misguided as the deed was, we support the amnesty applications of all those convicted and sentenced for the offence.

176. The applicants testified that, although they did not act on the orders or instructions of APLA or the PAC that day, they believed they owed loyalty to the same cause. Nofemela and Peni had attended lectures by APLA operators on political matters and had received elementary lessons on the handling of arms and ammunition. As members of PASO, they were active supporters of the PAC and subscribed to its political philosophy and policies. By stoning company delivery vehicles and making it difficult for them to make deliveries in the townships, they were taking part in a political disturbance and contributing towards making their area ungovernable. Thus their activities were aimed at supporting the liberation struggle against the state.
177. The Amnesty Committee carefully considered why it was that Ms Amy Biehl, a private civilian, was killed during this disturbance. It concluded that part of the answer could be found in the fact that her attackers were so aroused and incited that they lost control of themselves and became caught up in a frenzy of violence. While giving his evidence, one of the applicants said that they all subscribed to the slogan 'one settler, one bullet'. This meant that they believed that every white person was an enemy of the black people, and saw Amy Biehl as a representative of the white community. They believed that by killing civilian whites, APLA was sending a serious political message to the government of the day. By intensifying their activities, they believed that they would eventually increase political pressure on the government to such an extent that it would be compelled to hand over political power to the majority of the people of South Africa.
178. Viewing the conduct of the applicants in this light, the Amnesty Committee accepted that the crime committed by Amy Biehl's killers was related to a political objective. The Committee accepted that the applicants had made full disclosure of all the relevant facts as required by section 20(1) of the Act. Amnesty was therefore granted to the four applicants.
179. The Amy Biehl incident provided the Commission with an extraordinary example of reconciliation. Members of the Biehl family who attended the hearing did not oppose the application.

180. The applicants expressed regret for their actions. In his application for amnesty, Peni said:

I feel sorry and very downhearted especially today, realising the contribution Amy Biehl played in the struggle ... I took part in killing someone that we could have used to achieve our own aims. Amy was one of the people who could have, in an international sense, worked for our country so that the world knows what's going on in South Africa, so that the government of the day would get support. I ask Amy's parents, Amy's friends and relatives, I ask them to forgive me. (Hearing at Cape Town, 8 July 1997.)

181. At the conclusion of the evidence, Mr Peter Biehl addressed the Amnesty Committee. A part of his statement follows:

We have the highest respect for your Truth and Reconciliation Commission and process. We recognise that, if this process had not been a pre-negotiated condition, your democratic free elections could not possibly have occurred. Therefore, and believing as Amy did in the absolute importance of those democratic elections occurring, we unabashedly support the process which we recognise to be unprecedented in contemporary human history.

At the same time we say to you, it's your process, not ours. We cannot, therefore, oppose amnesty if it is granted on the merits. In the truest sense it is for the community of South Africa to forgive its own and this has its basis in traditions of ubuntu and other principles of human dignity. Amnesty is not clearly for Linda and Peter Biehl to grant.

You face a challenging and extraordinarily difficult decision. How do you value a committed life? What value do you place on Amy and her legacy in South Africa? How do you exercise responsibility to the community in granting forgiveness, in the granting of amnesty? How are we preparing prisoners, such as these young men before us, to re-enter the community as a benefit to the community, acknowledging that the vast majority of South Africa's prisoners are under 30 years of age – acknowledging as we do that there's massive unemployment in the marginalised community; acknowledging that the recidivism rate is roughly 95 per cent? So how do we, as friends, link arms and do something? There are clear needs for prisoner rehabilitation in our country as well as here. There are clear needs for literacy training and education, and there are clear needs for the development of targeted job skill training. We, as the Amy Biehl Foundation, are willing to do our part as catalysts for social progress. All anyone need do is ask.

Are you, the community of South Africa, prepared to do your part? (Cape Town hearing, 9 July 1997.)

Armed ambushes

182. Other attacks on civilians took the form of armed ambushes on vehicles. These attacks, ascribed to APLA, became the subject of bitter dispute between the Transkei and South African governments, with South Africa accusing Transkei of harbouring APLA members and providing them with weapons and training. The Commission received no statements or amnesty applications in connection with such training or provision of weaponry.

Attack on a Translux bus, Beaufort West

183. APLA member Mr Thembinkosi Henge [AM6137/97] applied for amnesty for an armed attack on a Translux bus at or near the Gamka River Bridge in Beaufort West on 27 August 1993. Eight people were injured in the attack.

184. Mr Henge testified that he received orders from his commander, the late Mr Sichumiso Nonxuba, to attack a Translux bus that passed through Beaufort West on its way to Johannesburg. Two buses apparently travelled that route, and the applicant had to decide which of them to attack. He eventually chose the midnight bus as it entailed a lower probability of detection and offered a better opportunity for retreat.

185. The applicant was ordered to collect firearms and ammunition from the Ngangelizwe location in Umtata. He collected two R4 rifles and five loaded magazines and returned to Beaufort West. After approximately two weeks, he was informed that a certain 'Mandla' (an alias) would be sent from Umtata to assist in the operation. When Mandla arrived, Henge showed him the layout of the area and briefed him about the plan for the attack.

186. The next day, 27 August 1993, Mandla and Henge fired a magazine at the bus. In total, approximately fifty shots were fired. Although they had intended shooting the driver so that the bus would crash off the bridge and into the river below, they missed him altogether, even though they fired at the front of the bus. Eight people were injured in the attack and all the occupants of the bus were traumatised and shocked by the incident.

187. Under cross-examination, the applicant conceded that he had previously been a supporter of the ANC, having become politicised at the age of ten. He said he had decided to join the PAC because he preferred its policies and was not

happy with the progress of national negotiations. He expressed his regret at what had happened.

188. In reaching its decision, the Amnesty Committee noted that the attack took place when most political parties were engaged in negotiations, but that the PAC had not yet abandoned the armed struggle. The applicant was a member of APLA and had received an order to attack the bus. The arms and ammunition used in the attack were supplied by APLA and the orders came from Mr Nonxuba, who was at that time a member of APLA's High Command.
189. The applicant felt obliged to carry out the order, which he believed would speed up the negotiation process and make whites understand that the PAC was serious about its position. His actions were, therefore, found to be associated with a political objective as defined by the Act, and the application was granted [AC/2000/167].

Ambush of a vehicle near Zastron

190. Mr Luyanda Humphrey Gqomfa [AM0949/96] applied for amnesty for the ambush of a vehicle travelling from Zastron to Sterkspruit in the Orange Free State on 18 March 1992.
191. The victims lived in Zastron and travelled daily to Sterkspruit, where they were running a furniture business. Mr Fanie Smith was shot dead in the attack while he lay injured next to the car. Mr Deon Martins was seriously injured in the left hand and his finger was subsequently amputated. Mr Ben Maliehe and Mr Andrew Lategan Franzsen escaped the ambush unhurt and were able to flee from the scene.
192. Though APLA commander Mr Letlapa Mphahlele was listed as a co-applicant, it became clear during the hearing that he had no intention of participating in the proceedings. His counsel Mr Lungelo Mbandazayo made a number of attempts to secure his co-operation and attendance, but to no avail. As a result, his application lapsed.
193. Mr Gqomfa testified that, as a member of APLA, he had received military training in exile and then returned to the country, where he carried out various operations on behalf of the organisation. He received orders in respect of all these operations

from the High Command of APLA, most often from Mr Mphahlele, who was APLA's Director of Operations at the time.

194. At the time of the incident, Gqomfa was being harboured at a house in Sterkspruit, secured for him by Mphahlele. Whilst he was there, Mphahlele and another APLA member, Ben Wakumzi (an alias), took him to a meeting with a group of APLA operatives.
195. Mphahlele ordered them to attack white travellers along the Mayaputhi road near the Sterkspruit bridge. In order to acquire a vehicle, Gqomfa and two other operatives went to N dofela Village where they robbed Mr Nkopane Johannes Lesia of his Isuzu 2200 Diesel Bakkie.
196. Lesia reported the incident to the police and later received a report that his vehicle had been found. He told the police that, on the afternoon of 18 March 1992, he was on his way from Palmietfontein (where he lived) to Ditapoleng village. As he drove past N dofela village, he saw three black men standing next to a small bridge. They were all armed and fired shots to force him stop. They told him that they were freedom fighters and needed his car 'for the struggle' and gave him R20 so he could travel to work.
197. After robbing Lesia of his vehicle, Gqomfa and his comrades proceeded to the Mayaputhi road near Sterkspruit bridge. Here they found that Mphahlele was in charge of the operation. When Smith and the other victims approached, Mphahlele opened fire. The others followed suit. The vehicle stopped immediately and Martins, Maliehe and Franzsen alighted and fled the scene. Smith was injured and fell to the ground next to the vehicle, unable to flee. Mphahlele ordered Gqomfa to shoot Smith, which he did.
198. At the hearing, Gqomfa expressed his regrets at the shooting but said that he had had no choice as he was carrying out orders.
199. The Amnesty Committee found that Gqomfa was a member of the PAC and APLA and that he had acted in terms of these organisations' policies and objectives. The Committee accepted that APLA was still engaged in the armed struggle at the time and that it regarded all whites as supporters of the government. The Committee found that Gqomfa had acted under the orders of Mphahlele, that the offences and acts applied for were acts associated with a political objective and that the applicant had made full disclosure of all relevant facts. He was granted amnesty [AM0949/96].

Eikenhof attack

200. Mr Phila Martin Dolo [AM3485/97] applied for amnesty for the killing of Ms Zandra Mitchley, her son Shaun and Claire Silberbauer, as well as the attempted killing of Mr Norman Mitchley and Craig Lamprecht. The victims were shot while driving in their vehicle in the Eikenhof area of Johannesburg on 19 March 1993. Three ANC members were arrested and later convicted of the attack, for which two were sentenced to death and the third was given a long term of imprisonment.
201. However, in 1997, Mr Dolo asserted in his amnesty application that the attack had been an APLA operation, conducted by four APLA operatives known only by their codenames. Mr Dolo had given the orders for the attack, originally aimed at a school bus carrying what he termed 'settler school children'. The four attackers were unable to carry out the attack and instead opened fire on the Mitchley's vehicle. The sentenced ANC members were released from prison in November 1999. Mr Dolo was granted amnesty [AC/2000/147].

Attacks on farms

202. The Committee received a total of twenty-seven applications from PAC and APLA members for attacks on farms, all committed between 1990 and 1993. A total of twelve people were killed and thirteen injured in these attacks. The Amnesty Committee granted all but four of the applications.

Attack on Mr RJ Fourie on the farm 'Stormberg'

203. PAC/APLA members Hendrik Leeuw, Daniel Magoda, Meshack May and Sebolai Petrus Nkgwedi applied for amnesty for the robbery and killing of Mr Roelof Johannes Fourie on the farm 'Stormberg' in the district of Verkeerdevlei, Orange Free State, on 12 February 1992.²¹¹
204. The Committee heard testimony that, during 1991, the PAC and APLA launched their 'Operation Great Storm', in terms of which APLA operatives were instructed to attack and to instil fear in farmers. The applicants testified that the purpose was to drive the white farming community from their farms in order 'to get the land back'. During November 1991, APLA Commander Jan Shoba (now

211 Volume Three, Chapter Four, p. 380.

deceased) instructed the applicants to carry out attacks on farmers in the vicinity of Botshabelo, Tweespruit and Verkeerdevlei. He supplied them with a .38 special revolver for this purpose.

205. The farm of Mr RJJ Fourie was identified as a target by Mr Leeuw and Mr Nkgwedi: Mr Nkgwedi had grown up on the farm. The four applicants went onto the farm property and observed Mr Fourie and his companion leaving, apparently on their way to town. They also noticed that Mr Fourie had left the gate open. The applicants closed the gate so that, on his return, Mr Fourie would be obliged to stop and open it. They then positioned themselves in the bushes adjacent to the gate and waited for the couple to return. When Mr Fourie stopped to open the gate as anticipated, one of the applicants shot him in the back of his head. His companion, Mrs May, remained in the car, which the attackers then drove to the farmhouse.
206. The applicants searched the house and stole two firearms, money, watches, a camera and numerous personal belongings. After tying up Mrs May and disconnecting the telephone and radio, they drove off in the deceased's car.
207. The Amnesty Committee received a submission from Mrs Margot Penstone, who stated that the deceased was not involved in party politics and was a progressive farmer who had assisted his farm workers to improve their stock, housed them in brick houses with running hot and cold water, built a school for their children on the farm and provided them with a soccer field. She added that she believed the murder to have been a purely criminal act. In this, she was supported by Mrs May, who stated in an affidavit that the applicants had repeatedly asked her where the money was kept and said that they were only interested in valuable articles. Mrs May and Mrs Penstone did not give evidence before the Committee, so the applicants' counsel did not have the opportunity to cross-examine them on these claims.
208. The applicants testified that they were instructed to take the property and hand it over to their commander, Mr Jan Shoba, who would sell it in order to obtain money for their struggle. They had also intended to hand the vehicle to him. However, they testified that they were arrested two days after the robbery and before they had had the opportunity to hand the property over. The applicants were all convicted and sentenced to terms of between nine and fifteen years' imprisonment.

209. In making its decision, the Amnesty Committee first considered Mr Nkgwedi's involvement in the attack and whether, having grown up on the farm, he might have been motivated by ill-will or personal malice. In reaching a decision on this issue, the Committee concluded that an act that was, or may have been, motivated by a personal grievance could, nonetheless, qualify for amnesty where there was also a strong political motive. Therefore, although there was some evidence of a personal motive in Nkgwedi's case, the fact that the applicant would have killed any white person in furtherance of official APLA policy meant that the political motive for the attack outweighed the personal.
210. The Amnesty Committee further accepted that, in both their submissions and oral evidence to the Commission, the PAC and APLA had stated that 'Operation Great Storm' involved the killing of farmers and the stealing of weapons. It also noted that, while the PAC had stated that it was opposed to armed robbery, it had also referred to 'repossession' and to the existence of 'repossession units'. The Committee felt that it was by no means clear about the distinction between 'robbery' and 'repossession', save that in the case of repossession the proceeds would be handed over to the Commander to be used to further APLA's goals.

No distinction was drawn between what might have been property for military use and property taken for personal gain. The Committee is therefore faced with the dilemma that the act does not authorise us to grant amnesty in respect of a portion of a sentence. Having found that the murder of Mr Fourie and the robbery of the firearms were offences associated with a political objective, the Committee is obliged to grant amnesty in respect thereof. No provision is made in the Act for dealing with offences which have elements of criminality as well as political motivation in it. [AC/1999/297.]

211. Amnesty was granted to Messrs Hendrik Leeuw, Daniel Magoda, Meshack May and Sebolai Petrus Nkgwedi [AC/1999/0297].

The killing of Mr John Bernard Smith

212. Mr Jacob T Mabitsa [AM5178/97], Mr Petrus T Mohapi [AM1167/97], Mr Thabo Paulus Mtjikelo [AM1249/96], Mr Simon T Olifant [AM5177/97], Mr John Wanthoba [AM2997/96] and Mr John Xhiba [AM1215/96] applied for amnesty for the killing of Mr John Bernard Smith on 25 July 1993 on his farm at Wesselsdal in the district of Vanstadensrus in the Eastern Cape.
213. The applicants also stole a motor vehicle, three firearms, various pieces of equipment and clothing, two bottles of liquor and a sum of cash. Mohapi, Oliphant and Mtjikelo were convicted of murder and robbery and sentenced to an effective 25 years' imprisonment. The other applicants were convicted only on the charge of robbery with aggravating circumstances and were each sentenced to 12 years' imprisonment.
214. The applicants testified that they left Botshabelo for Wesselsdal on the 23 July 1993 with the intention of carrying out the attack. They called this off because of the presence of visitors on the farm. On 25 July, Mtjikelo, Mohapi, Oliphant and Xhiba went back to the farm and approached Mrs Smith with a request for petrol, saying that their car had run out of fuel. Mrs Smith called her husband who said he would help them to syphon some petrol from his car. Mr Smith gave Xhiba his storeroom key and asked him to fetch a container and a pipe.
215. The other three applicants accompanied Smith to the garage and, while he was syphoning petrol from the car, Mohapi stabbed him in the back. Mr Smith fell to the ground and Oliphant stabbed him in the chest and other parts of his body, ultimately inflicting approximately nine wounds. The attackers then searched the house, seizing three guns and a small amount of cash. They tied Mrs Smith up and locked her in a wardrobe. They then took possession of the Smiths' Mercedes Benz for use in future operations.
216. Oliphant confirmed the evidence and testified that it was the objective of the PAC to wage the struggle for the return of land to the African people, which was why he was involved in that operation. When it was pointed out to Oliphant that the attack took place while negotiations were underway at Codesa (Convention for a Democratic South Africa) in which the PAC was a participant, Oliphant stated that the PAC had not suspended the armed struggle and that, while the negotiations continued, operations were conducted in order to put pressure on the government to give in to the demands of the liberation movements.

217. The applicants called Mr Lerato Abel Kotle, the regional commander of APLA in Bloemfontein, to give evidence about 'Operation Great Storm'. Kotle explained that 'Operation Storm' was intended as a means of intensifying the armed struggle and was decided upon by APLA's military commission, which included the political leadership of the PAC and the military leadership of APLA. He described the attacks on farmers as one of the phases of the campaign. The PAC believed that the farming community had participated in the dispossession of the African people and that farmers were beneficiaries of the land taken away from the Africans.
218. The Amnesty Committee accepted the contention that the applicants had committed the offences believing they were advancing the struggle being waged by their political organisation with the aim of returning the land to the African people. The offences committed were, therefore, acts associated with a political objective. The possession of the pistol and knives used for carrying out the operation was also associated with a political objective. Amnesty was granted to the applicants [AC/1998/0020].

Various attacks in Ficksburg

219. Mr Phila Martin Dolo [AM3485/96], Mr Lerato Abel Kotle [AM5619/97] and Mr Luvuyo Kenneth Kulman [AM1638/96] applied for amnesty for several attacks on homes in Ficksburg in the Orange Free State on 10 December 1992. The acts were committed with other persons, known only by their code-names: 'Roger', 'Scorpion', 'Jabu', 'Nduna' and 'Kenny'.
220. The Committee heard that Phila Dolo was in charge of the APLA base in Lesotho, that Lerato Kotle was in charge of the APLA base at Sterkspruit, and that the two liaised closely to plan attacks in the area between.
221. Dolo testified that certain houses in Ficksburg on the Lesotho border were regarded as belonging to members of the security forces. These he described as 'in the first line of defence' and 'acting as the garrisons of the then apartheid state'. They therefore qualified as suitable targets for attack. Kotle told the Committee that he attempted to confirm this information:

I ... reconnoitred the place and I also interacted with the people who were working there, domestic workers, and I engaged with them in discussions to get information from them as to whether those places were occupied by the members

of the regime. That is how I ended up making a decision that we have to attack this place, because they were occupied by the security personnel. Those were the reasons why I needed his [Dolo's] help and he agreed and he came to my side to give us help. (Hearing at Bloemfontein, August 1998.)

222. The operatives travelled on foot from Lesotho, Dolo carrying a bag of rifle grenades, M26 grenades and Molotovs. At Ficksburg they divided into two units. The first, commanded by Dolo, attacked a house at No. 143 Veld Street, Ficksburg. The second, commanded by Khotle, targeted an old age home but was foiled in the attack. They then conducted random attacks on various homes in Ficksburg.
223. The house of Mrs Cornelia Gertruda Pienaar (then Roos) was severely damaged in the Veld Street attack. Mrs Pienaar was at home with her two daughters, aged five and twelve years, when the attack occurred. She testified that her house was not owned by the police but belonged to her and her husband who had died only a week earlier. Before his death, he had performed light duties in the police mortuary. He had at one time been a member of the South African Police and had become unfit for ordinary police duties as a result of an accident.
224. The attack began after she and the children had gone to bed. The attackers threw a grenade into the children's bedroom and started shooting at the house. Mrs Pienaar and her children managed to escape through the back door and crept through the fence into the neighbour's yard.
225. Dolo told the Committee that the attack had been motivated by a recent statement by the Minister of Defence that there would be no more farm attacks in the area. The applicants had carried out the operation 'to show the enemy what we can do. We can continue with the armed struggle; nothing will stop us.' He said it was 'unfortunate' that they had ended up attacking a house that was not occupied by the police. All whites, however, were regarded as supporters of the government, with whom APLA was still locked in armed struggle because the oppression of blacks had not yet stopped.

Our interest was not on Mr Pienaar or Mrs Pienaar or Van der Merwe, all the White people were oppressing the Black people. If it happened that at the end a house that was attacked did not belong to a policeman or a soldier, still that house falls under our programme because, when we participated in our struggle, we

never heard who was smiling with us or who loved us [and] we all treated white people as participants in oppression. (Bloemfontein hearing, August 1998.)

226. When asked why they had targeted an old age home, Khotle said it was unacceptable for Africans to be killed in the way they were. The purpose of targeting an old age home was to:

make whites feel the pain the same as Africans who felt the pain ... Why I'm saying age was not an issue is that, firstly, the oppressors themselves, when they see me, they saw me as a boy. My father was regarded as a boy; my grandfather was regarded as a boy; my sister was regarded as a girl; my mother was a girl – so they did not differentiate between the various age groups or they didn't see a difference between me and my father or my grandfather. We were all boys so therefore we did not have a problem to respond to that oppression knowing that there was no young persons and old persons, all of them were oppressors. (Bloemfontein hearing, August 1998.)

227. The Committee accepted that the applicants had acted on behalf of APLA and in accordance with what was then the policy of the PAC. It was satisfied that they had made a full disclosure of their respective roles and participation in the attacks. Accordingly, Mr Lerato Abel Khotle, Mr Luvuyo Kulman and Mr Phila Martin Dolo were granted amnesty for the attacks in Ficksburg.

228. They were also granted amnesty for a shoot-out on the Ficksburg bypass in which two people were injured. This incident had occurred as Dolo and his unit were withdrawing from the town. They fired shots at a police vehicle in the vicinity of the Ficksburg bypass, injuring Sergeant Otto Coetzee (who was in the police vehicle) and Ms Mathapelo Lethena who was travelling in a passing taxi.

229. Mr Dolo also gave evidence of his involvement in a further attack in which he and two others threw a hand grenade and opened fire on a farmstead in the Danside area on 19 December 1992. One person, Mrs Leone Pretorius, died in the attack. Once again, the farm was attacked because it was believed that white farmers belonged to the commando structures. APLA cadres wanted to drive them out of the area in order to create a wider operational platform for themselves. Dolo was granted amnesty for this incident [AC/1999/0182].

Sabotage

230. The Committee received just three applications for amnesty for acts and attempted acts of sabotage. Two of these matters were dealt with in chambers. All were granted. No casualties or injuries resulted from these actions.
231. Mr Wandile Merriman Dyanti [AM2486/96] and Mr Shylock Wele Matomela [AM2467/96] applied for amnesty for being in possession of explosive material and for intentionally causing an explosion at the Easigas Plant in Port Elizabeth. Amnesty was granted in chambers [AC/1998/0038 and 0039].
232. PAC/APLA member Silimela Ngesi [AM6020/97] applied for amnesty for an attack on the East London petrol depot on 19 August 1993, and for the attempted killing of a Sergeant Oosthuizen and other members of the SAP in a subsequent shoot-out on the same day.
233. Ngesi told the Amnesty Committee that the acts were committed in execution of the orders of his commander, Mr Bulelani Xuma, who also provided the arms for the operation. He testified that the mission was unsuccessful because the petrol tank did not explode as was intended, and subsequently resulted in the shoot-out with the police.
234. The Amnesty Committee accepted that the applicant was a trained APLA soldier and that his actions were in execution of APLA orders and were therefore associated with a political objective as required by the Act. Mr Ngesi was granted amnesty.

Limpet mine explosion in Durban

235. APLA member Ndoda Mgengo [AM6386/97] and PASO members Xolani Cuba [AM3845/96] and Mfundo Peter Seyisi [AM6386/97] applied for amnesty for a limpet mine explosion on a bus in Durban on 30 November 1993. Mr Vuyani Namba, also an APLA member, died in the explosion and eleven other people were injured.
236. Mgengo testified that he had introduced Mr Namba to the other two applicants after he had received instructions from APLA commander Sichumiso Simphiwe Nonxuba, who was based in Umtata. The instructions were to assist Namba in a mission which entailed the bombing by limpet mine of either the Umbilo or Brighton Beach police stations in Durban.

237. Namba, Cuba and Seyisi were on the bus on their way to Umbilo police station when the limpet mine exploded prematurely, killing Namba and injuring Cuba and Seyisi and other passengers.
238. The Amnesty Committee accepted that all the applicants had acted in pursuit of a political objective, which was in accordance with the policies and strategies of the PAC, APLA and PASO. It had not been the applicants' intention to cause injury to the people on the bus as the limpet mine appeared to have exploded accidentally. The applicants did not act out of ill will, spite or malice or for personal gain. None of the victims who were present at the hearing opposed the applications. The Committee granted amnesty to all three applicants.

Procurement and possession of arms and ammunition

239. The Committee received a total of nine applications for amnesty from PAC and APLA members exclusively for dealing in arms and ammunition. Most were granted in chambers.
240. PAC member Abel Sgubhu Dube [AM6040/97] applied for amnesty for being in unlawful possession of arms and ammunition near the Saambou Bridge on the Limpopo Border on 21 April 1982. He testified that he had obtained the weapons from a Mr Andrew Moeti, the deputy Commander of APLA, then based in Gaborone, Botswana. He was arrested soon after entering the country and was found in possession of an AK-47 and a 9mm Luger pistol. He also applied for amnesty for furthering the aims and objectives of a banned organisation and for harbouring APLA operatives during the armed struggle.
241. Mr Dube satisfied the Committee that the offence was associated with a political objective and he was accordingly granted amnesty [AC/2000/169].
242. Mr Musa Patrick Hadebe [AM6667/97] applied for amnesty for the illegal possession of a machine gun, ammunition and a hand grenade and for one count of murder and one count of attempted murder, offences for which he had been convicted and was serving an effective sentence of 13 years.
243. On 11 November 1997, the Amnesty Committee requested further particulars about the murder cases from both the applicant and the PAC, but received no response. Accordingly, Mr Hadebe was refused amnesty for murder and

attempted murder on the grounds that the essential particulars concerning these acts were not supplied in the application or upon request. He was, however, granted amnesty for the illegal possession of arms, ammunition and an explosive [AC/1999/0059].

Other matters

244. A range of other amnesty requests were placed before the Amnesty Committee by PAC and APLA members.
245. Six PAC members applied for amnesty for furthering the aims of a banned organisation between 1980 and 1990; for the recruitment of youths for military training, and for harbouring trained APLA cadres infiltrated into the country between 1980 and 1993. Satisfied that the offences committed were acts associated with a political objective and complied with the requirements of the Act, the Amnesty Committee granted amnesty to all the applicants.
246. Mr Patrick Mabuya Baleka [AM5929/97] applied for amnesty for the offence of high treason committed in or around September 1984. The particular offence constituted the subject matter of a high-profile political trial held at Delmas in which the applicant was acquitted. The Committee ruled that there could be no doubt that the charge of high treason related to the political conflicts of the past. Mr Patrick Baleka was accordingly granted amnesty [AC/2001/021].

PAC/ANC conflict

247. The Amnesty Committee received applications from four PAC members relating to offences committed in the course of localised conflict between members of the PAC and the ANC.
248. PAC member Sonnyboy Johannes Sibiyi [AM3381/96] applied for amnesty for the killing of Mr Vusumuzi Ephraim Dhludhlu at eMzinoni, Bethel in the Transvaal on 17 October 1992. He was convicted and sentenced to 15 years' imprisonment.
249. Sibiyi testified that he joined the PAC task force in 1991. He described his duties as the protection of PAC members and their homes. Soon after this, he was sent to the then Transkei for basic training under the auspices of APLA. After a short stay at Folweni near Durban, he was deployed to eMzinoni.

250. Sibiya described a situation of ongoing political conflict between PAC and ANC members in the area. He related a number of incidents in which people were killed, homes burnt and people forced to leave the township. He said that he took steps to try to report the problems caused by this conflict to APLA's Director of Operations, but was unable to contact him. He managed to get in touch with 'Mandla', APLA's regional commander for the Highveld area. He met with him in Embalenhle and, after explaining the situation to him, received orders to identify the ANC ringleaders and attack them in order to prevent further attacks on PAC people.
251. By the night of 15 October 1992, Sibiya had gathered sufficient information and went out in search of the ANC ringleaders. However, it was not until 17 October 1992 that he located Dhludhlu and another person in a shop. Both, he claimed, had been identified as ANC culprits. He testified that he called Dhludhlu over to him and, after trying to negotiate and reason with him, shot him dead.
252. Some years before, Dhludhlu had been a suspect in an attack on Sibiya's uncle's home, which resulted in the death of three members of his family. Sibiya, however, denied any suggestion that he had been motivated by feelings of revenge against Dhludhlu. Further to this, a member of the National Executive Committee (NEC) of the PAC, Mr Jabulani Khumalo, testified that there had been conflict between the PAC and ANC in the area from 1990 until 1992/93. He said that this conflict affected a number of areas, including eMzini. He was aware that APLA cadres were deployed in those areas where attempts at negotiation had failed to prevent further conflict. He said he had knowledge of these matters because he had been a PAC leader in the East Rand at the time.
253. The Committee accepted that Sibiya had acted on behalf of and in support of the PAC in the context of the conflict with the ANC and his conduct was held to be an act associated with a political objective. Satisfied that he had made full disclosure of all material facts and did not appear to have acted for personal gain, personal malice, ill-will or spite, The Committee granted Mr Sonnyboy Johannes Sibiya amnesty [AC/1998/0052].

APPLICATIONS REFUSED

254. As noted earlier, the Committee refused amnesty for forty-nine (24 %) of the 204 separate incidents placed before it. Out of forty-nine incidents of armed robbery, amnesty was refused to applicants in twenty-four cases (49 %). Out of twenty-eight incidents of attacks on the security forces, amnesty was refused in just two cases (7 %). Out of twenty-seven farm attacks, amnesty was refused in eight cases (30 %).

255. The reasons for the refusal of amnesty are as follows:

Absence of political motivation

256. Mr Stephen Vusumuzi Dolo [AM0320/96] applied for amnesty for malicious injury to property when he wrecked his cell at the Burgersdorp prison on 12 August 1992 in an apparent effort to force the authorities to allow him to join other awaiting-trial prisoners. He testified that he was suspicious of the motives of the prison authorities and believed they were keeping him separately in order to intimidate him.

257. The Amnesty Committee was not satisfied that the applicant's actions were aimed at furthering the political struggle and objectives of APLA and the PAC; they were more probably inspired by a personal motive of improving the conditions of his incarceration whilst awaiting trial. Accordingly, Mr Dolo was refused amnesty [AM0320/96].

Failure to prove political motive

258. Mr ZW Mgandela [AM7889/97] was refused amnesty [AC2000/072] for robbery, abduction and the unlawful possession of a firearm and ammunition. All these offences were committed on 27 November 1993 at the premises of a shop known as 'Pick Fit and Take' in Port Elizabeth. Mgandela claimed that he joined the PAC in 1978 and became a member of APLA after receiving training in the Transkei in 1992. Mgandela was unable to convince the Committee that he was an APLA cadre and that the robbery was an APLA operation. The applicant had scant knowledge of the then leadership of APLA and the PAC, and did not know who the APLA Director of Operations was.

259. Mr Paballo Ernest Pumulo [AM6634/97] was refused amnesty [AC/2000/132] for the killing of 70-year-old Mr Jacobus Petrus Ward and 39-year-old Mrs Emmarentia

Cornelia Ward on 21 December 1992, and for the attempted killing of 69-year-old Mrs Anna Wilhelmina Ward on the farm Emmaus in the district of Theunissen.

260. Pumulo professed to be a South African citizen, but could not produce any identity documents and later confessed that he was not in possession of any. He also testified to joining the PAC in Virginia in 1990. There was no PAC branch in Virginia and the only PAC members he was able to recall meeting were a certain 'Sebande', who recruited him, Rasta Moloto to whom he was introduced by 'Sebande' and Lebohang Mey and whom he met on one occasion before the incident. He had never attended a PAC meeting, could not give the motto of the PAC and could only vaguely refer to its aims and objectives.
261. Mr Page Hlalele Hlelesi [AM5020/97] was refused amnesty [AC/1998/0100] for the killing of Mrs Maria Janse van Nieuwenhuizen, an 83-year-old pensioner in Brakpan, on 6 May 1994.
262. At the time of his application, Mr Hlalele was serving a 40-year sentence for murder, attempted robbery with aggravating circumstances and the possession of arms. He told the Committee that he was a PAC supporter and that he had been recruited to the organisation by a Mr Moses Mogage in 1993.
263. Hlalele said that, in January 1994, Mogage had instructed him and three others to go to Brakpan to 'seek guns' since the movement needed arms and ammunition. The 'order' was only carried out in May 1994.
264. The Amnesty Committee found that, although the application complied with the formal requirements of the Act, it was not satisfied that the offences listed were associated with a political objective for the following reasons:
- a Hlelesi's affiliation to the PAC was not supported by his own or any other evidence. Throughout his evidence, he referred to himself as a 'new recruit' who had never received any training and who was going to establish 'a lot of things' about the PAC later.
 - b The offences were committed after the elections in April 1994. The applicant had not even cast his vote in the elections. He denied having known that the PAC had already suspended the armed struggle in January 1994, the year of the elections.
 - c The reason advanced by Hlelesi for committing these offences was 'to achieve freedom'. However, a new political dispensation was taking shape by 4 May 1994, when the offences were committed. His reason was therefore rejected by the Committee as false.

- d A considerable period of time had elapsed between the alleged instructions and his carrying them out.
265. The Committee concluded that the acts for which Hlelesi was applying for amnesty were common criminal acts committed for personal gain rather than political reasons.
266. Mr Phakamile Cishe [AM1272/96] and Mr Kwanele Msizi [AM199/96] were both refused amnesty for killing two policemen and an informer in an armed attack in Zwide township, Port Elizabeth, on 18 November 1990. Both applicants were convicted of these and other offences on 20 September 1991. They received the death sentence, later commuted to life imprisonment, for the three killings.
267. The Amnesty Committee found that the discrepancies and contradictions in the applicants' completed application forms impacted directly on their credibility. This, in turn, impacted substantially on the questions of political objective and full disclosure, which are requirements for amnesty in terms of the Act [AC/1998/0115].

Lack of full disclosure

Attack on Sophia and Gabriel Rossouw

268. Although APLA policy authorised robbery as a means of raising money, amnesty was denied to Mr Sithembiso Vanana [AM6540/97] for a robbery in which money was used for the personal benefit of the applicants and not the organisation.
269. Mr Vanana applied for amnesty for the killing of Mrs Jane Sophia Rossouw, aged 72 years, the attempted killing of Mr Casper Gabriel Rossouw, aged 81 years, robbery, housebreaking with the intent to steal, and theft of a motor vehicle. These offences were committed on the farm 'Sarahsdale' in the district of Dordrecht on 1 August 1993.
270. According to the applicant, the operation was planned in order to 'raise funds' to enable him to travel to the Transkei where he would receive basic APLA military training. He spoke to a Mr Nelson Gebe, an APLA cadre, about joining APLA. Gebe informed him that he would have to undergo military training in Transkei and that he (Gebe) knew a person in Butterworth who would be able to make the necessary arrangements.

271. Vanana, Gebe and one other person participated in the attack on the Rossouws. They were unsuccessful in finding either money or arms in the house and instead stole the Rossouws' motor vehicle and drove to the Transkei, where they stayed for at least six weeks. The applicant testified that he was unsuccessful in reaching the contact Gebe had told him would arrange for his training. Nor did they make any attempt to get in touch with any other members of the PAC or APLA in Transkei.
272. They sold the Rossouw's vehicle for R5 000 and used the money for their own benefit. They also robbed a bottle store and hijacked a motor vehicle. Soon after this, they were chased by the police, who shot at them. The applicant was hit and injured. He was arrested and detained in hospital where he received treatment.
273. The applicant escaped from hospital and went to Cape Town. Here, he and some others killed a Mr van Niekerk on a smallholding. The applicant was eventually arrested in the Cape Town area while robbing a shop.
274. The Amnesty Committee noted that there was:

no corroboration that the applicant was ever a member of the PAC. He states that he lost his membership card when being chased by the police in Transkei and there is no evidence before us, other than his assertion, that he is or was a member of the PAC. We are also of the view that the applicant's evidence that Gebe was an APLA cadre is both untruthful and improbable. Gebe has a criminal record which reflects that he has, from June 1973 to March 1988, had twenty-nine previous convictions and that he has on four occasions been declared an habitual criminal ... It is also apparent from applicant's own version, untrustworthy as it is, that the proceeds from the sale of the Rossouws' vehicle was used for the perpetrators own benefits and not for the benefit of any political organisation.

We are of the conclusion that the crimes committed by the applicant were committed for personal gain. [AC/2000/072.]

Failure to declare specific acts

275. The APLA High Command [AM7832/97] submitted an application for amnesty without specifying individual names in order to accept collective responsibility for 'any act, omission, offence or delict committed by members of the PAC as a result of which people died, others were injured and property was damaged'.

276. The Amnesty Committee found that an act, omission or offence had to be the subject matter of an application. Where no such act, omission or offence had been disclosed, the applicants did not comply with the requirements of the Act, as this would be tantamount to granting a general amnesty. The application was similar to the one submitted by members of the ANC,²¹² based on the declaration of responsibility.
277. Moreover, section 18 of the Act states that ‘any person’ who applies for amnesty will qualify. The APLA application was not signed by any person acting on behalf of the body cited as the applicant: in other words, no person was named as applicant. The application from the APLA High Command was accordingly refused [AC/2000/0101].
278. Similarly, amnesty was denied to a former APLA member who had become an *askari*. In his application, Mr Sello David Thejane [AM7942/97] failed to supply the names of the many activists he claimed to have assaulted and tortured [AC/2001/038].

COMMAND STRUCTURES

Political and military leadership

1960s: PAC National Working Committee/Task Force/Poqo

279. The PAC explained in its submission that the response of the government to the anti-pass campaign (the Sharpeville massacre) led to the ‘formation of rudimentary units comprising mainly task force members. Armed operations were carried out at Bashee, Paarl, Ntlonze and Queenstown between 1960 and 1962’. Poqo was formed in September 1961, following the formation of underground cells and the decision to embark on armed struggle and target police stations, post offices, power installations, fuel depots and various government buildings. In addition, white suburbs were selected as targets. Branches, theoretically consisting of no more than fifteen members, were set up. In larger branches, smaller cells were set up – with their own small committees and ‘task force’ leaders. The task force was made up of foot soldiers to be in a state of readiness at all times. Foot soldiers also served as the organisation’s police who stood guard during meetings.

212 See Chapter Two of this section.

280. While the PAC Disciplinary Code encouraged members to air their views 'and to agree or disagree with all or any member of the movement, including the leader ...', there were incidents where action was taken against those who disagreed openly with the leadership. No political education programme was provided for members. Such a programme would have helped members define who the enemy was, rather than inciting the membership to kill whites and their informers in a more general way. Where the enemy was not clearly defined, gross abuses of human rights were inevitable. Some of the violations committed by PAC or Poqo members took place during this period.

1962: Revolutionary Council

281. Mr Potlako Leballo (founding PAC national secretary and acting president in exile) set up the Revolutionary Council in Lesotho, which was to plan and execute the next phase of the PAC struggle to overthrow white domination and establish 'an Africanist socialist democracy' via Poqo cells.

282. In the late 1960s, the PAC established a base in exile, headquartered first in Lusaka, Zambia and later in Dar-es-Salaam in Tanzania. It established missions in eighteen countries and began a programme of military instruction for PAC members: first in the Congo alongside the FNLA²¹³ and later in Ghana and Algeria.

1968: Formation of APLA/PAC High Command and Military Commission

283. APLA was founded in exile in 1968 and the PAC planned for the infiltration of trained guerrillas into South Africa. After 1975, members of the APLA High Command were despatched to the frontline states to prepare an underground trail.

Late 1980s

284. From 1989, APLA cadres were infiltrated into the country and established as self-reliant, easily-manageable and controllable task force units of no more than three guerrillas. They consisted of a political commissar, whose brief was to make sure that all operations enhanced the PAC's political positions and ideology; a cadre in charge of securing logistics whenever needed, and a commander who was in charge of the military aspects of operations.

213 National Front for the Liberation of Angola

285. The political commissars were the first to be infiltrated to occupy certain positions inside the country, followed by the logistic personnel and then the commanders, who were 'the actual fighters'.
286. APLA based reconnaissance units all over the frontline states. Inside the country, however, the political commissars, whose task was generally to pave the way for the entry of the fighters, also had to do the major reconnaissance work. As part of APLA's all-round training, cadres were equipped to perform any tasks at any given time and situation. It was the commissars who had to answer to the Military Commission in the event of mishaps arising in the course of operations.
287. According to the testimony of Mr Vuma Ntikinca, an APLA operative in the Transkei at the time, this *modus operandi* made the APLA units:

more slippery, more mobile and more efficient in an encounter with a big army. These units were independent of each other. They selected their own targets and they did not face any dangers of their operations and movements being known by the enemy as a result of the capture of one cadre or the whole unit, or as a result of enemy infiltration at headquarters. These tiny units also had the advantage of depriving the enemy of the opportunity of using heavy weaponry. It was easier for us acquiring small and light weapons that suited the size of the units, which could not be easily detected. In the latter part of the operations, though, APLA forces had expanded into much bigger units which were now using rocket launchers such as RPG7s and other weaponry. (Interview with the Commission.)

288. The units were deployed in a manner that ensured that they had no contact with one another. They reported directly to APLA's headquarters in Tanzania after an operation had been carried out. If serious political repercussions arose from any one military operation, it was the political commissars who answered to the Military Commission, explaining any deviation from PAC ideology, strategy and programme.
289. Local commanders in small units were given a fair degree of autonomy in selecting targets, undertaking reconnaissance, procuring arms and establishing tactics for APLA operations. Once a target had been selected, however, a local commander would have to seek authorisation from a regional commander or some superior official. According to the evidence presented in amnesty hearings, this was generally done.

290. The operational planning of an attack was the task of the commander of the unit assigned to it. As will be clear from the operations described earlier in this chapter, a feature common to most was the fact that the foot soldiers were briefed on the details only moments before they were launched. They were deliberately kept in the dark and prevented by APLA's operational code from asking questions about the proposed attack. Nor were they at liberty to question the instructions they received. The Amnesty Committee repeatedly heard applicants say that it was not their place to question the instructions or the legitimacy of operations.
291. Applicant Andile Shiceka told the Committee that APLA soldiers on the ground had no capacity either to determine or influence policy. They were merely expected to obey orders. They did not participate in making or changing policy in respect of target selection, but simply followed instructions. Many applicants told the Committee that they would never have questioned the orders given to them. They had been trained never to question an order or instruction. A disciplined member of the army would simply carry out the order. Defying an order would be tantamount to 'mutiny' within the army ranks.

Early 1990s: APLA repossession units

292. Mr Patrick Thapelo Maseko [AM5918/97] told the Committee that, after receiving PAC training outside the country between 1983 and 1989, he re-entered the country as a member of APLA and was deployed to a repossession unit code-named 'Beauty Salon':

I was deployed inside the country with specific instructions to advance the struggle for the liberation of African people in all fronts. We were told that the PAC and APLA have no funds and therefore the cadres should be self-reliant. We were told that the targets will be chosen by us. This unit therefore was called 'Repossession Unit'. This was the first unit to be sent in the country for this purpose, though we were to conduct other operations. (Statement to the Commission.)

293. Maseko was involved in commanding at least twenty-eight operations. Initially, he reported to a man called Msiki in Botswana via a courier code-named 'General'. Later he reported to Mr Letlapa Mphahlele who had returned to South Africa as part of the APLA High Command after the unbanning of organisations in February 1990. He was expected to hand over to Msiki whatever had been

repossessed by the unit, with the exception of arms and ammunition, which he retained for further use by operatives. If the money obtained was less than R3 000, the unit used it to conduct further operations. According to the evidence before the Amnesty Committee, the 'Beauty Salon' unit was responsible for the theft of over R40 550. In 1991, over R532 000 was stolen.

Transkei operational bases

294. From operational bases secured in the Transkei, APLA conducted a series of attacks on civilian targets in the early 1990s. Operations in the Western Cape had particularly strong links to APLA structures in the Transkei. Weaponry was also sourced from the Transkei security forces. For example, the Amnesty Committee heard that the hand grenades used in the St James' and Heidelberg attacks originated from a batch of grenades supplied to the Transkei Defence Force. Transkei also provided refuge for APLA operatives after operations. In most attacks, APLA personnel from the Transkei were deployed in conjunction with locally-trained operatives, while local PAC structures provided logistical support to such operatives.

MOTIVES AND PERSPECTIVES

PAC/APLA perspectives

295. The PAC believed that its members were fighting a just war of liberation from white domination. Its definition of the enemy included all those identified as 'settlers' rather than 'Africans'. This meant that the distinction between civilian and non-civilian targets was not considered significant.
296. Most of the human rights violations attributed to APLA took place between 1990 and 1994 while negotiations and eventually the run up to elections were in progress.
297. The primary objective of the PAC and its armed wing APLA in the early 1990s was the overthrow of the apartheid regime. To that end, the PAC recruited young men into self-defence or, as the PAC termed them, 'task force' units.
298. APLA's first task was to wage an armed struggle against the security forces. While APLA's strategy in the 1980s had been to target security structures, 'a new strategy arose in the 1990s where civilians within the white community

were attacked'. White persons (male and female) came to be described as 'the underbelly of apartheid'. By attacking white civilians, APLA hoped to bring pressure to bear on the apartheid government and thereby expedite the liberation of the African masses.

299. Due to the logistical difficulties faced by APLA headquarters in Dar-es-Salaam, target selection was left to local commanders. However, evidence presented to the Commission revealed that, while internally-trained cadres were in a position to carry out better reconnaissance and thus avert detection and arrest, they faced the disadvantage of not having received the political education available to cadres in the exile camps. Consequently, strategic errors were made by these locally-trained operatives, for which the APLA leadership accepted full responsibility. However, the Commission was given no details of these errors.
300. The Amnesty Committee heard evidence that the PAC's armed struggle was essentially a guerrilla war directed against 'the then racist minority regime which was undemocratic and oppressive'. In order to conduct the armed struggle, APLA cadres were instructed to 'seek and attack the bastions and minions' of the regime with the ultimate objective of toppling it and returning the land to the majority of the African people. This was the general directive issued to commanders and units on the ground.
301. Applicant Phila Martin Dolo [AM 3485/96] told the Committee that the 'bastions and minions of the ... erstwhile regime' were, from the APLA perspective, members of the SADF, members of the SAP, reservists, and farmers, as they belonged to commando structures and occupied farms and white homes described as 'garrisons of apartheid'.
302. The aim of attacking white farmers, Dolo testified, was to drive them away in order 'to widen our territorial operational base which was aimed at eventually consolidating the liberated and repossessed land'.

My general instruction was to seek, identify and attack the enemy who was seen in the context of the above-stated bastions and minions of the regime, and also to train other cadres and command them in whatever operation that is being embarked upon. (East London hearing, 26 April 1999.)

303. Mr Andile Shiceka [AM5939/97] explained that the shift from targeting members of the security forces to targeting whites in general was not a major policy change. A precedent had been created by Poqo's targeting of whites:

[T]he attack on white civilians is not a new thing, when you look back at the history of PAC – the formation of Poqo on the 11th of September 1961. If you remember the attacks at Mbashe, Paarl and Komane, those comrades of those days were members of the PAC which was converted into APLA. They were attacking white civilians during those days; even history confirms that. Therefore I find it difficult for me when one of the panel members says we're shifting as to our targets. Instead of attacking security forces, we were attacking white civilians which I refer to as 'soft targets' ... That's the reason why I say I am confused when they say we have shifted in constituting targets because this started long ago. (Pietermaritzburg hearing, 11 February 1998.)

304. Mr Luvuyo Kulman [AM1638/96], who applied for amnesty for various attacks in Ficksburg, quoted Robert Sobukwe to underscore the point:

I want to make it clear that we did not attack whites because they were white; we attacked them because they were oppressors. Sobukwe, the founding President of the PAC, put it this way: 'In every struggle, whether national or class, the masses do not fight an abstraction. They do not hate oppression or capitalism. They concretise these and hate the oppressor, be he, the governor-general or a colonial power, the landlord or the factory owner, or in South Africa, the whites. But they hate these groups because they associate them with their oppression. Remove the association and you remove the hatred.' In South Africa then, once white domination has been overthrown and the white is no longer 'white boss' but is an individual member of society, there will be no reason to hate him and he will not be hated even by the masses. We are not anti-white therefore. We do not hate the European because he is white. We hate him because he is an oppressor. And it is plain dishonesty to say 'I hate the sjambok and not the one who wields it'. (Application to Commission and hearing at East London, 26 April 1999.)

Suspension of the armed struggle

305. After the lifting of the banning orders on the liberation movements on 2 February 1990, the PAC adopted a different strategic position to that of the ANC. While the ANC engaged almost immediately in 'talks about talks' with government representatives, the PAC told the Commission that it adopted a principled approach to negotiations and believed that 'one must negotiate from a position of strength'.

306. Its continuation of armed struggle – reaffirmed by the PAC’s national conference as late as December 1993 – was, however, an issue of contention within the organisation. Amnesty applicant Bongani Malevu [AM0293/96], who attended the conference, testified before the Amnesty Committee that the resolution on the armed struggle did not receive unanimous agreement. There was a split between those who felt that the struggle should continue and those who were opposed to armed attacks continuing during the run-up to the elections in April 1994.
307. In his January 1994 New Year’s message, and with the election only months away, APLA commander Sabelo Phama declared 1994 as the year of the ‘great offensive on all fronts’ and said that ‘the bullet and the ballot’ were to be used effectively in 1994. Mr Phama stated that political power without military and economic power would be meaningless and that APLA should double its efforts both politically and on the military front.
308. When shortly thereafter (on 16 January 1994), the PAC leadership announced a suspension of its armed struggle and a wish to participate in the negotiations for the new dispensation and in the pending general election, rebellion broke out inside the organisation. The PAC’s central Transkei secretary, Mr Mfanelo Skwatsha, called the leadership’s decision a ‘surrender’.

Perspectives of the survivors

309. For the most part, the survivors of the attacks opposed the applications for amnesty on the grounds that the acts themselves were not ‘political’ in character, but were motivated rather by personal interests and, in some cases, by racial hatred. Some victims appeared before the Amnesty Committee to make their case. Others declined to give testimony and stated that they were happy to leave matters in the hands of the Committee. Several victims and members of victims’ families declined to attend the hearings or to be involved in the amnesty process in any way. In a few instances, particularly those that involved high-profile attacks on civilians, survivors and victims chose to use the opportunity offered by hearings to challenge applicants directly and to ask them to account for what appeared to be errors of judgement, particularly in the selection of targets.
310. On the whole, applicants refused to apologise for attacks and lives lost, particularly where the victims had been members of the police or of white political

organisations, white civilians or white farmers. Yet many expressed remorse for the consequences of their actions, and the desire to be reconciled with the surviving victims of attacks or the families of deceased victims.

CONCLUSION

311. The Commission gave due attention to the response of the PAC to the findings of the Human Rights Violations Committee. However, the Commission is of the view that the evidence that has emerged through the amnesty process has done nothing to cause the Commission to change or moderate these findings in any way. On the contrary, on completion of the work of the Amnesty Committee, the Commission is able to confirm these findings, particularly those with regard to the activities of the PAC and APLA during the 1990s.²¹⁴ (...p442)

214 See Section 5, 'Findings and Recommendations' in this volume.