

In search of the truth the TRC failed to reveal

Thembi Nkadimeng wants the state to force those who refused to co-operate to say what happened to her sister, writes **Tymon Smith**

EVEN a dog which has an owner is given a proper burial and that's all we are asking for... If you burnt her to ashes, take me to where you burnt her and I'll be satisfied. If you threw her into a river, tell which river it is and I'll be satisfied. If you dug her in a hole, tell me where the hole is and I'll give her a proper burial," pleaded the woman sitting in a press conference at Constitution Hill on Friday morning.

The folder in front of her was labelled "Executive Mayor", but it was not in her position as the executive mayor of Polokwane that Thembi Nkadimeng made her plea. She was addressing the media as the representative of her family who have been waiting 32 years to find out what happened to her sister, Nokuthula Simelane, a courier for the armed wing of the ANC, who was abducted by the security police from the basement parking of the Carlton Centre in September 1983.

After opening a case into her disappearance in 1996 and participating in the Truth and Reconciliation Commission and not receiving answers, Nkadimeng wants those responsible for her sister's abduction to say what they did with her body after torturing her for five weeks in

whether to prosecute those responsible for Simelane's disappearance or refer the matter to an inquest.

The four former members of the security branch implicated in the disappearance are Willem Coetzee, Anton Pretorius, Frederick Barnard Mong and Msebenzi Timothy Radebe. The former head of the security police's CI section, Willem Schoon, has been blamed for ordering the abduction and torture. Several of the perpetrators applied for and were granted amnesty for their part in Simelane's abduction and torture, but none of them admitted to her disappearance or murder.

Marjorie Jobson, head of the Khulumani Support Group, said the case was important as it would allow others who were searching for answers access to the legal processes put in place to assist them but which had so far failed them.

She said this was important

not only for the victims but for the country as a whole. "If you look at the levels of anger, especially among young people who are angry about the issues that have never been resolved, it is time for us to come clean on these issues."

The case is potentially groundbreaking as supporting affidavits from former national director of public prosecutions Vusi Pikoli and retired head of the priority crimes litigation unit, Anton Ackermann, accuse the government of political interference that made the prosecution of TRC-related cases almost impossible.

Pikoli quotes from a secret memo he wrote to then minister of justice Brigitte Mabandla in which he "concluded that there had been improper interference in relation to the TRC cases and that I had been obstructed from taking them forward. I complained that such interference impinged upon my conscience and my oath of office."

Pikoli received no reply to his memo and was suspended from office in 2007, with TRC cases being taken away from Ackermann soon afterwards.

In his affidavit, Ackermann says: "It is no coincidence that there has not been a single further prosecution since I was relieved of my duty."

Nkadimeng states in her affidavit that she does "not know why the new South African state has turned its back on victims who sacrificed so much, but it appears to me that this approach can only have been the product of a policy or decision to abandon these cases".

She adds: "This failure has served to defeat the purpose behind South Africa's historic compromises and has rendered largely meaningless the entire truth for amnesty programme. It has become an effective or de facto blanket amnesty. It stands as a betrayal of all of us who participated in good faith in the TRC process."

The affidavits of former TRC



REMINDERS: Sizakele Simelane at the statue of her daughter Nokuthula in Bethal

Picture: KEVIN SUTHERLAND

A further affidavit comes from private investigator Frank Dutton, a former policeman bestowed with the Order of the Baobab for his work during the violence in KwaZulu-Natal in the '90s. He was also the head of the Scorpions and worked on political disappearances in Bosnia, Sudan and East Timor. He was hired by the family to investigate Simelane's case. Dutton says he has "never experienced a case that has been subjected to the delays that this matter has".

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TRUTH SEEKERS: Alex Boraine and Archbishop Emeritus Desmond Tutu at the first hearing of the Truth and Reconciliation Commission in 1996

Picture: JON HRUSA

commissioners Alex Boraine and Dumisa Ntsebeza SC are equally critical of the government's failure with regard to the prosecution of TRC cases. Boraine says he has "noted with despair

that the SAPS and the NPA have done very little to pursue those cases in which amnesty was denied or not applied for. In fact, their performance must be described as abysmal. In my con-

sidered view, this can only have been the result of a concerted decision or policy to abandon these cases... Allowing perpetrators to escape all justice and accountability adds insult to

their [the victims'] injuries."

Ntsebeza, who investigated the Simelane case during the TRC, says in his affidavit: "The shameful political machinations that effectively stopped this investigation and others are contemptuous of the sacrifices made for the liberation of South Africa."

Asked if she was worried that the case might lead to a political backlash against her, Nkadimeng said she believed all South Africans, "whether an executive mayor or the president of the country, has the right to justice. It's a constitutional right."

She is determined that her family will get the answers they have been looking for. Her father died in 2001 without knowing what had happened to Nokuthula, and her mother, Sizakele Simelane, was too ill to appear at the press conference. However, Nkadimeng is "prepared to wait another 32 years". "In case it doesn't happen in my lifetime, I have a family. My daughter is 19 years old so I'm certain she will continue where mommy left off."

Hopefully, when Sizakele turns 75 on December 9, she will have more than just a birthday to celebrate.



MISSING: Nokuthula Simelane was never found



OUTRAGED: Dumisa Ntsebeza SC was a TRC commissioner

Forgotten by the state: apartheid's uncompensated thousands

TYMON SMITH

IN 1988, Khotso House was bombed by security police who were led by Eugene de Kock.

Former minister of state security Adriaan Vlok and former police commissioner General Johan van der Merwe applied for amnesty to the Truth and Reconciliation Commission for the bombing, in which 19 people were injured. Khotso House was targeted because it housed the office of the South African Council of Churches and other anti-apartheid groups.

Today a small, dreary office in this building still looks very much like it must have back in the '80s.

Eleven years after the commission's final report was handed to the president, members of the Khulumani Support Group — the country's largest organisation for victims of apartheid-era human rights violations — gathered here to talk about their troubles, and to find answers.

I met six members of the organisation, not all of whom went to the TRC hearings, not all of them among the 19 000

victims given reparations — but all recognised by the support group as part of its database of more than 100 000 victims of apartheid-era violations.

Most of them were unemployed and living in the same conditions in which they had lived during apartheid, when they were uprooted by the violence sweeping across the townships of Johannesburg and the East Rand in the late '80s and early '90s.

Although the commission recommended that victims be given an annual reparation of about R21 000 for five years, then-president Thabo Mbeki took the decision to pay each of the 19 000 recognised victims a once-off payment of R30 000, promising that the government would also put in place "programmes to provide medical benefits, educational assistance and provision of housing", and assuring the nation that the government was "convinced that, to the millions who spared neither life nor limb in struggle, there is no bigger prize than freedom itself, and a continuing struggle to build a better life for all".

The victims do not agree. Andrew Mbatha, whose son Jeffrey disappeared during violence in Kaitleng in 1993, is still trying to find out what happened to him. For him and many other victims, he said, "apartheid is not over. We also fought against it, to be free, but we are not free. We want the whole world to know that there are still many people who are under pressure in South Africa. They can't fight

I want to prosecute him, but I'm scared to open a case

for their rights."

Although the TRC is remembered as a miracle process by many outside South Africa, for those still searching for answers and for members of civil society involved in the battle to get those answers, the commission's final report was not meant to close the door on the process.

Instead it was a stepping stone towards the continuation of the commission's work to

help South Africa cross the historic bridge between its past and present.

It was announced last year that the R1.9-billion in the President's Fund would be released to pay reparations to 18 communities, but Khulumani and other organisations have questioned how the government decided on its selection of communities — especially as the TRC had identified 128 communities eligible for such reparations.

The support group has also been concerned that the money would be used to subsidise infrastructure projects that were the responsibility of government departments.

When it came to prosecutions of perpetrators of political violence who had either failed to apply for amnesty or been denied it, Mbeki was adamant that there would be "no general amnesty. Any such approach... would fly in the face of the TRC process and subtract from the principle of accountability."

In more than a decade there have been no successful prosecutions arising out of the commission hearings, and of the more than 400 cases handed

over by the commission to the National Prosecuting Authority, only 37 were deemed worthy of further investigation.

The Priority Crimes Litigation Unit charged with handling such cases has been severely hamstrung by political interference and diminished investigation capacity. In an affidavit, former head Anton Ackermann says he was "stopped from pursuing the investigation of the so-called political cases arising out of South Africa's past".

He was relieved of his duties following the suspension of then-national director of public prosecutions Vusi Pikoli in 2007. Pikoli said he was placed under pressure by former justice minister Brigitte Mabandla not to pursue the TRC cases, and claimed that there was an atmosphere of fear in the government — cultivated by former police commissioner Jackie Selebi — that the NPA would investigate members of the ANC for apartheid-era activities.

All of which was little solace to 70-year-old Thabo Shabangu, who did not get a chance to go to the TRC hearings and tell his

story of being shot by police in Thokozani in 1990.

According to Shabangu, the policeman who had shot him is still alive.

"I want to prosecute him, but I'm scared to open a case. The apartheid system changed us. We don't trust the police because they are the ones who used to kill us. I need a prosecution and my government must do something so that we can prosecute those

It seems the government is on the side of the perpetrators

people," he said.

Pule Sempe, a Khulumani member who was arrested, tortured and detained by police in 1986, said that one of the policemen responsible for his ordeal still lived around the corner from him in Carletonville, but never applied for amnesty.

"Our government says we must forgive and forget. I won't say they must be prosecuted, but they must be brought to

justice. I just want the truth and, when I hear the truth, then I can say: 'I forgive you'... It seems the government is on the side of the perpetrators.

"Luckily, the perpetrator is still alive, but I worry that if he leaves this world then there's no evidence of the torture I received," he said. The Missing Persons Task Team, established to find the remains of apartheid victims, has so far exhumed 94 sets of human remains — 74 of which have been returned to their families for reburial.

However, the task team was only sanctioned to investigate the 500 cases handed over by the commission — while Marjorie Jobson, director of Khulumani, said the organisation had a database of 6 800 cases. She said there had been no commitment from the state to investigate these cases, "because what they always use is the excuse that 'we only have to deal with issues presented to the [commission]'. This thing of political abductions was huge... [but] there's a huge lack of will to make this a core business of the NPA."

Elizabeth Mokoena, whose

husband disappeared in Sebokeng in 1993, told her story at the commission hearings.

"They promised to help but they didn't. I thought the government could help us to find those people who were missing. Until now the government hasn't done anything," she said.

Mbatha said he had given up hope that he would see his son again. "Too many years have passed and I see nothing that has happened for us. I'm still living in my mother's house. I'm 62, but I can't sleep. In the street they call me with my son's name. They ask me: 'Where's Jeffrey?' That causes me more pain."

"If I can get my son's bones, maybe I can feel better because I can take his bones and put them in the grave with his mother."

Leaving Khotso House after speaking to victims, it was hard not to feel that many people whose grievances were meant to be addressed by the commission have been victimised twice: once by the injustices of apartheid, and now by the lack of political will of the post-apartheid government.

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